11-30-81
Vol. 46 No. 229
Pages 58059-58270

federal register

Monday
November 30, 1981

Highlights

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Highlights

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

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

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 201

Federal Seed Act Regulations; Changes in Botanical Names, Testing Methods and Certification Standards

Correction

In FR Doc. 81-31459 appearing on page 53634 in the issue of Thursday, October 29, 1981, make the following corrections:

(1) In § 201.51(b)(7), on page 53637, in the third line from the top of the third column, "Plantage" should have read "Plantago".

(2) In § 201.58(b)(2), on page 53639, in the 17th line from the top of the first column, "caryoposis" should have read "caryopsis".

(3) In the amendments to Table 2 of § 201.58(c), in the center column of page 53639—

a. In the 15th line, "doormant" should have read "dormant".

b. In the 23rd and 25th lines, "paspalum" should have read "Paspalum".

c. In the 27th line, "Gerardi" should have read "gerardi".

d. In the 33rd and 35th lines, "Dactyloides" should have read "dactyloides".

e. In the 37th line, "Ciliaris" should have read "ciliaris".

(4) In § 201.76 on page 53639, Table 5 contained errors and is republished below in its entirety for the convenience of the reader.

TABLE 5

Crop	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
Alfalfa:												
Nonhybrid	[1]4	[44, 49]600	1,000	0.1	[1]3	[5, 44, 49]300	400	0.25	[5, 21]1	[44, 49]165	100	1.0
Hybrid	[1]4	[49]1,320	[49]1,000	0.1					[5, 21]1	[5, 49, 44]165	[49]100	1.0
Barley:												
Nonhybrid	[1]1	[33]0	3,000	0.05	[1]1	[33]0	2,000	0.1	[1]1	[33]0	1,000	0.2
Hybrid	[30]1	[31, 32]660	3,000	0.05	[30]1	[31, 32]660	2,000	0.1	[30]1	[31, 32]330	1,000	0.2
Beans:												
Field and garden	[1]1	[32]0	2,000	0.05	[1]1	[32]0	1,000	0.1	[1]1	[32]0	500	0.2
Mung	[1]1	[33]0	2,000	0.1	[1]1	[33]0	1,000	0.2	[1]1	[33]0	500	0.5
Broadbean	[1]1	[33]0	2,000	0.05	[1]1	[33]0	1,000	0.1	[1]1	[33]0	500	0.2
Clover (all kinds)	[5, 9]5	[5, 16, 44]600	1,000	0.1	[5, 9]3	[5, 16, 44]300	400	0.25	[5, 9]2	[16, 44]165	100	1.0
Corn:												
Backcross	0	[16, 31]660	[16, 49]1,000	[16]0.1								
Inbred	0	[16, 31]660	[16, 49]1,000	[16]0.1								
Foundation single cross	0	[16, 31]660	[16, 49]1,000	[16]0.1								
Hybrid									0	[31, 32]660		0.5
Open-pollinated									0	[31, 32]660	200	0.5
Sweet									0	[31, 34]660		0.5
Cotton	0	[19]0	10,000	0.03	0	[19]0	5,000	0.05	0	[19]0	1,000	0.1
Cowpea	[1]1	[33]0	2,000	0.1	[1]1	[33]0	1,000	0.2	[1]1	[33]0	500	0.5
Crambe	[1]1	660	2,000	0.05	[1]1	[34]660	1,000	0.1	[1]1	[34]660	500	0.25
Crownvetch	[1]5	[5, 44]600	1,000	0.1	[1]3	[5, 44]300	400	0.25	[1]2	[5, 44]165	100	1.0
Flatpea	[1]4	[5, 44]600	1,000	0.1	[1]3	[5, 5, 44]300	400	0.25	[5, 21]1	[5, 44]165	100	1.0
Flax	[1]1	[33]0	5,000	0.05	[1]1	[33]0	2,000	0.1	[1]1	[33]0	1,000	0.2
Grasses:												
Cross-pollinated	5	[5, 16, 39]900	1,000	0.1	[1]1	[5, 16, 39]300	100	1.0	[1]1	[5, 16, 39]165	50	[47]2.0
Strains at least 80 percent apomictic and highly self-fertile species	5	[5, 16, 39]60	1,000	0.1	[1]1	[5, 16, 39]30	100	1.0	[1]1	[5, 16, 39]15	50	[48]2.0
Lespedeza	[1]5	[1]10	1,000	0.1	[1]3	[1]10	400	0.25	[1]2	[1]10	100	1.0
Millet:												
Cross-pollinated	[1]1	[49]1,320	[37]20,000	0.005	[1]1	[49]1,320	[37]10,000	0.01	[1]1	[49]660	[37]5,000	0.02
Self-pollinated	[1]1	[33]0	3,000	0.05	[1]1	[33]0	2,000	0.1	[1]1	[33]0	1,000	0.2
Mustard	4	1,320	2,000	0.05					2	[34]660	500	0.25
Oat	[1]1	[33]0	3,000	0.2	[1]1	[33]0	2,000	0.3	[1]1	[33]0	1,000	0.5
Okra	[1]1	1,320	[37]0	0.0	[1]1	1,320	[37]2,500	0.5	[1]1	825	[37]1,250	1.0
Onion	[1]1	5,280	[32]200	0.0	[1]1	2,640	[32]200	[32]0.5	[1]1	1,320	[32]200	[32]1.0
Pea, field	[1]1	[33]0	2,000	0.05	[1]1	[33]0	1,000	0.1	[1]1	[33]0	500	0.2
Peanut	[1]1	[35]0	1,000	0.1	[1]1	[32]0	500	0.2	[1]1	[35]0	200	0.5
Pepper	[1]1	[35]200	0	0.0	[1]1	[35]100	300	0.5	[1]1	[21]30	150	1.0
Rape:												
Cross-pollinated	4	[34]1,320	2,000	0.05					2	[34]330	500	0.25
Self-pollinated	4	[34]660	2,000	0.05					2	[34]330	500	0.25
Rice	[1]1	[39]10	10,000	0.05	[1]1	[39]10	5,000	0.1	[1]1	[39]10	1,000	0.2
Rye	[1]1	[18]660	3,000	0.05	[1]1	[18]660	2,000	0.1	[1]1	[18]660	1,000	0.2
Safflower	[1]2	1,320	10,000	0.01	[1]2	1,320	2,000	0.05	[1]2	1,320	1,000	0.1
Sainfoin	[1]5	[5, 44]600	1,000	0.1	[1]3	[5, 44]300	400	0.25	[1]2	[5, 44]165	100	1.0

TABLE 5—Continued

Crop	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
Sorghum:												
Nonhybrid	[7] 1	990	[37] 50,000	0.005	[7] 1	990	[37] 35,000	0.01	[7] 1	[39] 660	[37] 20,000	0.05
Hybrid seedstock	[7] 1	990	[37] 50,000	0.005								
Commercial hybrid									[7] 1	[21, 39, 51] 660	[37] 20,000	0.1
Soybeans	[32] 1	[33] 0	1,000	0.1	[33] 1	[33] 0	500	0.2	[33] 1	[33] 0	200	0.5
Sunflower:												
Nonhybrid	1	[41, 43] 2,640	200	0.02	1	[41, 43] 2,640	200	0.02	1	[41, 43] 2,640	200	[34] 0.1
Hybrid	1	[41, 43] 2,640	[35] 250	0.02					1	[41, 43] 2,640	[35] 250	[34] 0.1
Tomato	[7] 1	[35] 200	0	0	[7] 1	[35] 100	300	0.5	[7] 1	[35] 30	150	1.0
Tobacco:												
Nonhybrid	[36] 0	[37] 150	0	0.01	[36] 0	[37] 150	0	0.01	[36] 0	[37] 150	0	0.01
Hybrid									[36] 0	[36] 150	0	0.01
Trefoil, birdsfoot	[5] 5	[5, 44] 600	1,000	0.1	[3] 3	[5, 44] 300	400	0.25	[2] 2	[5, 44] 165	100	1.0
Triticale	[7] 1	[33] 0	3,000	0.05	[7] 7	[33] 0	2,000	0.1	[7] 1	[33] 0	1,000	0.2
Vetch	[5, 7] 5	[12, 44] 10	1,000	0.1	[5, 7] 3	[12, 44] 10	400	0.25	[5, 7] 2	[12, 44] 10	100	1.0
Vetch, milk	[5] 5	[5, 44] 600	2,000	0.05	[3] 3	[5, 44] 300	1,000	0.1	[2] 2	[5, 44] 165	200	0.5
Watermelon	[7] 1	[38] 2,640	[33] 0	0	[7] 1	[38] 2,640	[34] 0	0.5	[7] 1	[38] 1,320	[33] 500	1.0
Wheat:												
Nonhybird	[7] 1	[33] 0	3,000	0.05	[7] 1	[33] 0	2,000	0.1	[7] 1	[33] 0	1,000	0.2
Hybrid	[30] 1	[21, 33] 660	3,000	0.05	[30] 1	[21, 33] 660	2,000	0.1	[30] 1	[21, 33] 330	1,000	0.2

[1] The land must be free of volunteer plants of the crop kind during the year immediately prior to establishment and no manure or other contaminating material shall be applied the year previous to seeding or during the establishment and productive life of the stand.
[2] At least 2 years must elapse between destruction of indistinguishable varieties or varieties of dissimilar adaptation and establishment of the stand for the production of the Certified class of seed.
[3] Isolation distance for certified seed production shall be at least 500 feet from varieties of dissimilar adaptation.
[4] Isolation between classes of the same variety may be reduced to 25 percent of the distance otherwise required.
[5] This distance applies when fields are 5 acres or larger in area. For smaller fields, the distances are 900 feet and 450 feet for the Foundation and Registered classes, respectively.
[6] Fields of less than 5 acres require 330 feet.
[7] Requirement is waived if the previous crop was grown from certified seed of the same variety.
[8] Requirement is waived if the previous crop was of the same variety and of a certified class equal or superior to that of the crop seeded.
[9] Reseeding varieties of crimson clover may be allowed to volunteer back year after year on the same ground. If a new variety is being planted where another variety once grew, the field history requirements apply.
[10] No isolation is required for the production of hand-pollinated seed.
[11] When the contaminant is of the same color and texture, the isolation distance may be modified by (1) adequate natural barriers, or (2) differential maturity dates, provided there are no receptive silks in the seed parent at the time the contaminant is shedding pollen. In the case of inbred lines and foundation single crosses, these modifications may apply only for fertile seed production.
[12] Where the contaminating source is corn of the same color and texture as that of the field inspected, the isolation distance is 410 feet and may be modified by the planting of pollen parent border rows according to the following table:

MINIMUM NUMBERS OF BORDER ROWS REQUIRED

Minimum distance from contaminant	Field size, up to 20 acres	Field size, 20 acres or more
410	0	0
370	2	1
330	4	2
290	6	3
245	8	4
205	10	5
165	12	6
125	14	7
85	16	8
0	[1]	10

[1] Not permitted.

[13] Refers to off-type plants in the pollen parent that have shed pollen or to the off-type plants in the seed parent at the time of the last inspection.
[14] The required minimum isolation distance for sweet corn is 660 feet from the contaminating source, plus four border rows when the field to be inspected is 10 acres or less in size. This distance may be decreased by 15 feet for each increment of 4 acres in the size of the field to a maximum of 40 acres, and further decreased 40 feet for each additional border row to a maximum of 16 rows. These border rows are for pollen-shedding purposes only.
[15] Refers to off-type ears. Ears with off-colored or different textured kernels are limited to 0.5 percent, or a total of 25 off-colored or different textured kernels per 1,000 ears.
[16] The Merion variety of Kentucky bluegrass is allowed 3 percent.
[17] All cross-pollinating varieties must be 400 feet from any contaminating source.
[18] Isolation between diploids and tetraploids shall be a least 15 feet.
[19] Minimum isolation shall be at least 100 feet if the cotton plants in the contaminating source differ by easily observable morphological characteristics from the field to be inspected. Isolation distance between upland and Egyptian types shall be at least 1,320, 1,320, and 660 feet for Foundation, Registered, and Certified classes, respectively.
[20] These distances apply when there is no border removal. Border removal applies only to fields of 5 acres or more. Removal of a 9-foot border (after flowering) decreases the required distance for Foundation, Registered, and Certified seed to 600, 225, and 100 feet, respectively, for cross-pollinated species, and to 30, 15, and 15 feet, respectively, for apomictic and self-pollinated species. Removal of a 15 foot border (after flowering) allows a further decrease to 450, 150, and 75 feet, respectively, for cross-pollinated species.
[21] Isolation distances between two fields of the same kind may be reduced to a distance adequate to prevent mechanical mixture, if the sum of percentages of plants in bloom in both fields does not exceed 5 percent at a time when more than 1 percent of the plants in either field are in bloom.
[22] Refers to bulbs.
[23] Distance adequate to prevent mechanical mixture is necessary.
[24] Required isolation between classes of the same variety is 10 feet.
[25] The minimum distance may be reduced by 50 percent if different classes of the same variety are involved.
[26] The minimum distance may be reduced by 50 percent if the field is adequately protected by natural or artificial barriers.
[27] These ratios are for definite other varieties. The ratios for doubtful other varieties are:

	Foundation	Registered	Certified
Millet	1:10,000	1:5,000	1:2,500
Sorghum:			
Nonhybrid	1:20,000	1:10,000	1:1,000
Hybrid	1:20,000	[1]	1:1,000
Okra	None	1:750	1:500

[1] Not applicable.

[28] Whiteheart fruits may not exceed 1 per 100, 40 and 20 for Foundation, Registered, and Certified classes, respectively. Citron or hard rind is not permitted in Foundation or Registered classes and may not exceed 1 per 1,000 fruits in the Certified class.

[39] This distance applies if the contaminating source does not genetically differ in height from the pollinator parent or has a different chromosome number. If the contaminating source does (genetically) differ and has the same chromosome number the distance shall be 990 feet. The minimum isolation from grass sorghum or broomcorn with the same chromosome number shall be 1,320 feet.

[40] Requirement is waived for the production of pollinator lines if the previous crop was grown from a certified class of seed of the same variety. Sterile lines and crossing blocks must be on land free of contaminating plants.

[41] If the contaminating source is similar to the hybrid in all important characteristics, the isolation may be reduced by 66 feet for each pair of border rows of the pollinator parent down to a minimum of 330 feet. These rows must be located directly opposite or diagonally to the contaminating source. The pollinator border rows must be shedding pollen during the entire time 5 percent or more of the seed parent flowers are receptive.

[42] An unplanted strip at least 2 feet in width shall separate male sterile plants and pollinator plants in inter-planted blocks.

[43] Unless the preceding crop was another kind or unless the preceding soybean crop was planted with a class of certified seed of the same variety, or unless the preceding soybean crop and the variety being planted are of contrasting pubescence or hilum color, in which case, no time need elapse.

[44] May include not more than 0.04 percent purple or white seeds.

[45] Standards apply equally to seed parents and pollen parents which may include up to 1:1,000 plants each of the wild-type branching, purple or white-seeded plants.

[46] A new plant bed must be used each year unless the bed is properly treated with a soil sterilant prior to seeding.

[47] This distance is applied between varieties of the same type and may be waived if four border rows of each variety are allowed to bloom and set seed between the two varieties but are not harvested for seed. Isolation between varieties of different types shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[48] When male sterile and male fertile plants of the same type are planted adjacent in a field, this requirement may be waived; provided, four border rows of male sterile plants are allowed to bloom and set seeds. The seed from these border rows shall not be harvested as part of the certified lot of seed produced by the male sterile plants. When plants are of different types, the distance shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[49] Isolation between varieties shall be 100 feet if aerial seeded and 50 feet if ground broadcast.

[50] Isolation between millets of different genera shall be 6 feet.

[51] Does not apply to Helianthus similes, H. ludens, or H. agrestis.

[52] The ratio of male sterile (A) strains and pollen (B or C) strains shall not exceed 2:1.

[53] Parent lines (A and B) in a crossing block, or seed and pollen lines in a hybrid seed production field, shall be separated by at least 6 feet and shall be managed and harvested in a manner to prevent mixing.

[54] Distance between fields of certified classes of the same variety may be reduced to 10 feet regardless of the class or size of the fields.

[55] An isolation distance of 5,280 feet is required between oil and non-oil sunflower types and between either type and other volunteers or wild types.

[56] Detasseling, cutting, or pulling of the cytoplasmic male-sterile seed parent is permitted.

[57] All varieties of perennial ryegrass seed are allowed 3.0 percent.

[58] This distance applies for fields over 5 acres. For alfalfa fields of 5 acres or less that produce the Foundation and Registered seed classes, the minimum distance from a different variety or a field of the same variety that does not meet the varietal purity requirements for certification shall be 900 and 450 feet, respectively.

[59] There must be at least 10 feet or a distance adequate to prevent mechanical mixture between a field of another variety (or noncertified area within the same field) and the area being certified. The 165 feet isolation requirement is waived if the area of the "isolation zone" is less than 10 percent of the field eligible for the Certified class. The "isolation zone" is that area calculated by multiplying the length of the common border(s) with other varieties of alfalfa by the average width of the field (being certified) falling within the 165 feet isolation. Areas within the isolation zone nearest the contamination source shall not be certified.

BILLING CODE 1505-01-M

7 CFR Part 910

[Lemon Reg. 335]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 29–December 5, 1981. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 29, 1981.

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

SUPPLEMENTARY INFORMATION:

Findings.

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The Committee met again publicly on November 23, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is steady.

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

Information collection requirements (reporting or record keeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.635 is added as follows:

§ 910.635 Lemon Regulation 335.

The quantity of lemons grown in California and Arizona which may be handled during the period November 29, 1981, through December 5, 1981, is established at 235,000 cartons.

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

Dated: November 25, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-34376 Filed 11-27-81; 2:45 pm]

BILLING CODE 3410-02-M

7 CFR Part 981

Handling of Almonds Grown in California; Salable, Reserve, and Export Percentages for the 1981–82 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for marketable California almonds received by handlers during the 1981–82 crop year, which began July 1, 1981. This action is taken under the marketing order for almonds grown in

California to promote orderly marketing conditions.

EFFECTIVE DATES: July 1, 1981, through June 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, [202] 447-5697.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 25 handlers.

Information collection [reporting and recordkeeping] under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** [5 U.S.C. 553] in that: (1) This action finalizes percentages issued on an interim basis by the Department on August 27, 1981; (2) final approval of these percentages is needed promptly to dispel any uncertainties about the volume regulation for the 1981-82 crop year; (3) delaying the effective time of these percentages could foster market weakness and price instability and create disorderly marketing conditions; and (4) the current crop year began on July 1, 1981, and the percentages contained herein will automatically apply to all marketable almonds beginning with such date.

An emergency interim final rule was published in the September 1, 1981, issue of the **Federal Register** (46 FR 43824) establishing on an interim basis salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for the 1981-82 crop year. The action was taken pursuant to authority contained in the marketing agreement and Order No. 981, both as amended, regulating the handling of almonds grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The percentages were recommended by the Board at a marketing policy meeting held on July 29, 1981. At the request of the Secretary for reconsideration, the Board met again on August 18, 1981, and reaffirmed its initial recommendation. The Board concluded that unmanaged excessive supplies during the 1981-82 season would result in market weakness and price instability for California almonds.

The emergency rule solicited written comments until October 1, 1981, and over 1,200 were received. Comments were received from members of Congress, commerical users of almonds and organizations representing them, producers and handlers of almonds and organizations representing them, and consumers. Relevant comments will be discussed as they pertain to the subject matter.

In considering its recommendations, the Board noted the estimates it had made a year earlier for the 1980 crop. These estimates, and the actual results are as follows:

	Million pounds	
	Estimate (7/30/80)	Actual (6/30/81)
Production		
1. 1980 Crop	340.0	321.8
2. Loss & Exempt	25.5	16.7
3. Marketable Supply	314.5	305.1
Trade Shipments		
4. Domestic	100.0	95.5
5. Export	200.0	186.9
6. Total	300.0	282.4
Inventory Adjustment		
7. Carryover 7/1/80	74.3	79.0
8. Carryover 6/30/81	88.8	101.7
9. Adjustment	14.5	22.7
Salable/Reserve		
10. Salable Supply (6 plus 9)	314.5	305.1
11. Reserve Supply (3 minus 10)	0	0
12. Salable Percent (10 ÷ 3 × 100)	[1] 100	[1] 100
13. Reserve Percent (100% minus 12)	[1] 0	[1] 0

[1] Percent.

The Board's recommendation for the 1981-82 crop year was to make 75 percent of the 1981 marketable almond production available to meet projected normal domestic and export needs, and provide adequate carryover for the 1982-83 crop year. The estimate for total 1981-82 shipments exceeds actual 1980-81 crop year shipments by 15 percent. The 1981-82 salable and reserve percentages are based on the following Board estimates [kernel weight basis] for that crop year:

	Million pounds
Production	
1. 1981 Crop	450.0
2. Loss & Exempt	27.0
3. Marketable Supply	423.0
Trade Shipments	
4. Domestic	125.0
5. Export	200.0
6. Total	325.0
Inventory Adjustments	
7. Carryover 7/1/81	101.7
8. Estimated Carryover 6/30/82	94.0
9. Adjustment	(7.7)
Salable/Reserve	
10. Salable Supply (6 plus 9)	317.3
11. Reserve Supply (3 minus 10)	105.7
12. Salable Percent 10÷3×100)	[1] 75
13. Reserve Percent (100% minus 12)	[1] 25

[1] Percent.

The reserve of 25 percent must be withheld by handlers from normal domestic and export outlets to meet their reserve obligations. These reserve almonds would be: (1) Made available to handlers for sale to new or existing noncompetitive domestic and export outlets approved by the Board through agreements between the Board and handlers, and/or (2) held by handlers as a contingency reserve for possible later release to augment 1981-82 and/or 1982-83 salable supplies.

For the first option, development of new outlets is a long-term necessity for the industry because of anticipated larger crops in the near future. This objective is being actively pursued by the almond industry. To accomplish the second option, an increase in the salable percentage would be necessary. A recommendation for that purpose would need to be made prior to May 15, 1982.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable and reserve percentages for any crop year. This year, the Board included estimated exports in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal outlets under this action. Thus, an export percentage of 0 is established.

As discussed in the action published September 1, 1981, and reaffirmed in numerous comments, the industry is faced with the largest crop in its history, world-wide supplies, as caused by the larger than expected foreign almond crops, approximately twice world demand, and the adverse impact on U.S. exports from the declining value of European currencies in relation to the U.S. dollar. The interim action provided a marketable supply in excess of sales to domestic and foreign outlets in any prior year. That action was taken to provide needed supply and price

stability in the face of record world supplies. Also, it was designed to make available a supply of marketable almonds at maximum quantities that reasonably can be utilized in normal outlets during the 1981–82 season, while also providing an ample supply of almonds until the 1982 crop is available for market. The Board computed its recommended percentages at quantities providing the industry a substantial marketing challenge. Because uncertainty existed prior to the Department's September action, the domestic and export marketing goals will be difficult to reach. F.o.b. prices are substantially below those of a year ago. However, because the domestic and export markets are inelastic, further price reductions would not assist in substantial shipment increases or significantly reduce the surplus. In the absence of the volume regulation, market prices could be expected to be much lower than now established.

In addition, establishment of a reserve for the 1981–82 crop year gives the California almond industry time to: (1) Develop noncompetitive uses for almonds to increase consumption; (2) assess 1981 world crop prospects; and (3) keep track of any changes in currency exchange rates.

About one-sixth of the commentators supported a salable percentage of 100 percent and a reserve percentage of 0 percent. They contended that: (1) Growers would be paid for only 75 percent of the almonds they delivered if a reserve is in effect; (2) any returns to growers for reserve almonds will depend on if, when, and for what purpose, those almonds are sold; (3) the creation of a reserve will not increase grower prices and, in fact, will result in prices below those in existence without a reserve; (4) the 25 percent reserve adversely affects competition because the two largest almond handlers have almost all of the inventory of 1980 crop almonds; (5) domestic and export shipments will be unnecessarily restricted below what handlers could ship without volume regulation, particularly given the magnitude of the current and future California almond crops; (6) the reserve will place a financial burden on handlers; (7) with a slight decrease in f.o.b. prices, all almonds could be sold in the absence of regulation; and (8) a free trade policy is preferable to government intervention.

While Contentions (1) and (2) are true, there is no evidence that the reserve would result in lower grower returns than in the absence of a reserve, as argued in Contention (3). There were indications from both proponents and opponents that opening 1981 f.o.b. prices for California almonds were well below those for 1980 because world supplies were well in excess of the world almond consumption levels. Since grower prices are directly related to the f.o.b. prices handlers receive in the marketplace, 1981 grower returns will be below those for 1980.

With respect to these Contentions and Contentions (4) and (5), the objective of the order's volume provisions is to establish and maintain orderly marketing conditions and to stabilize prices for all California almonds. To achieve this, the burden of volume regulation must be applied equitably among all segments of the industry—large and small handlers alike. As indicated earlier, this action provides a marketable supply in excess of sales to domestic and export outlets in any prior year. Thus, supplies should be large enough to make shipments to domestic and export markets that will fully satisfy market needs.

With respect to (6), it is possible that some handlers may have to incur additional storage costs to meet their setaside obligations, but in all likelihood they would incur such additional costs irrespective of whether there is or is not a reserve. Without a reserve percentage, many handlers could experience difficulty in selling all of their almonds. Some handlers contend that they could sell all of the almonds received from their growers this year (Contention 7). This could be true if some small handlers priced their almonds below established market prices and others failed to offer competition, i.e., enter into a "price war". However, it would be unreasonable at this time to expect the entire California almond industry to market all of this year's production, even at the slightly lower production level now anticipated within the industry. That lower level still would represent the highest crop in history.

Marketing California's 1981 almond production will tax the imagination and marketing expertise of the entire industry, even with a reserve. Per capita consumption of almonds approximates 0.45 pounds annually, and it would be necessary to increase that amount substantially in order to absorb the 1981 excess production and predicted future excess California almond production. Experience has been that increases in per capita consumption of a product may be achieved over a long period of time, but not overnight, and then only through long and arduous efforts towards market expansion and development of new products and uses.

With respect to (8), this is the first time since 1976 that the almond industry has utilized the reserve and the first time since 1972 that a significant portion of the crop has been placed in the reserve. The action taken this season was to improve the market opportunities for growers, and to add order to an unstable marketing situation because of the dramatic increase in almond supplies. Further, the 1981–82 reserve could provide stability for the 1982 crop in the event that the California and world almond crops are substantially less than in 1981. Given the cyclical nature of almond production, there are some views within the almond industry that 1982 world almond production will be lower. For example, during the period 1966 through 1979, world almond crops fluctuated from year to year, and at no time were there two successive record large crops.

Several commentators favoring volume regulations noted that the market situation declined between the time the Board made its recommendation and when the Department approved it several weeks later on an interim basis. During that period, prices did decline and buyers were unwilling to make significant purchase commitments. For example, sales commitments for July and August totalled 93.7 million pounds as compared to 181.1 million pounds for the same period a year earlier. However, after the interim regulation was issued by the Department, the market began to stabilize and in September, handlers obtained sales commitments of 61 million pounds or 4.5 million pounds more than in September 1980.

The industry has now established a marketing pattern for the year and has begun actively distributing the crop to the trade. While prices are at lower levels than desired by the industry, a price level has been established, and should provide a basis for future positive marketing developments during the season including the development of noncompetitive outlets for the reserve. Maintaining adequate supplies and stable prices for almonds this season could provide additional time for the industry to develop long-run solutions necessary to market such large quantities of almonds. As stated previously, the trade indicates that the 1981 California almond crop is expected to be somewhat less than the Board estimate of 450 million pounds. However, it is too early to make a more accurate estimate of production and shipments. Consequently, it would be premature to increase the salable percentage and reduce the reserve

percentage established on an interim basis. As provided in § 981.48, this can later be considered when a more accurate and up-to-date production estimate is available.

Therefore, after consideration of all relevant matter and information presented, including that in the Emergency Interim Final Rule, the recommendations of the Board, the comments received, and other information, it is further found that the establishment of salable, reserve, and export percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The marketing percentages are as follows: (The following provisions will not appear in the Code of Federal Regulations)

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

§ 981.230 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1981.

The salable, reserve, and export percentages during the crop year beginning July 1, 1981, shall be 75, 25, and 0 percent, respectively.

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

Dated: November 24, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-34316 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1098

[Milk Order No. 98]

Milk in the Nashville, Tennessee, Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Nashville, Tennessee, Federal milk order. The suspension removes the requirement that a distributing plant have route disposition of at least 50 percent of combined receipts and diversions to qualify as a pool plant. This action was requested by a handler operating a distributing plant in the regulated area to assure that producers regularly supplying a portion of the market's fluid milk requirements continue to share in the proceeds of the market's Class I sales. The suspension is in response to a request for emergency action made at a public hearing held October 21–23, 1981, in Louisville, Kentucky, to consider amendments that would relax the pooling provisions of the order.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued September 4, 1981; published September 11, 1981 (46 FR 45354).

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

This action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who supply milk for the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Nashville, Tennessee marketing area.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

It is hereby found and determined that for the months of November 1981 through January 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

§ 1098.7 [Partially Suspended]

In § 1098.7(a) the words "not less than 50 percent of the" and the words "that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13."

Statement of Consideration

The suspension makes inoperative for November 1981 through January 1982 the provision that a distributing plant each month must dispose of at least 50 percent of its milk receipts as route disposition to qualify as a pool plant. The suspension was requested by Kraft, Inc., which operates a pool distributing plant regulated under the Nashville order.

This action affects the same provisions of the order that were suspended during May through August 1981. Kraft, Inc., requested that the previous suspension be extended through November 1981. The suspension was not continued because of conflicting viewpoints among interested parties concerning the advisability of the suspension during the fall months.

In June 1981, Kraft, Inc., petitioned the Department to change the pooling standards for distributing plants in the Nashville market. This request appeared as proposal No. 10 in the notice of hearing issued September 14, 1981 (46 FR 45354). At the hearing, a witness for Kraft, Inc., requested that the Department consider proposal No. 10 on an expedited basis. Testimony was taken on this request and November 13, 1981, was established as the deadline for submitting posthearing briefs on this issue, so that the Secretary would have the opportunity to determine the merits of the request on an expedited basis.

Whether or not the pooling provisions should be changed on a permanent basis by amendment is a matter to be determined after the hearing record and posthearing briefs have been fully reviewed. However, a preliminary review of this record indicates that some producers historically associated with the Nashville market may be adversely affected by any delay caused by the time needed to complete a thorough review of the record.

The Nashville order contains a base and excess payment plan for which September through January are the base-forming months. If the plant to which a producer ships milk does not qualify as a pool plant, the producer does not receive credit for those shipments toward building a base.

A witness for Kraft, Inc., testified at the hearing that several producers who regularly ship milk to Kraft's plant in Nashville and who have historically been associated with the Nashville market will lose base if the Kraft plant ceases to be a pool plant or if a significant amount of milk must be withheld from the pool to maintain the plant's pool plant status. Kraft's witness indicated that the company had kept certain loads of milk out of the pool in order to maintain the plant's pool status during September and October. Such depooling had been done on a rotating basis among producers to reduce the impact on individual producers.

It is unlikely that the record of this proceeding can be reviewed and a decision issued and made effective before the end of the base-forming period. If a decision is eventually reached to amend the pooling standards, it would be unfortunate to have producers to suffer a loss of base

because of the time required to complete the decision process. Suspending these provisions through the base-forming period would eliminate the possibility that producers historically associated with the Nashville market would lose their producer status because of the present pooling standards and thus not have their milk priced under the order. If a decision is made to deny the request to amend the pooling standards, these producers would be apprised of the decision before the next base-forming period and could make marketing adjustments in a more stable regulatory environment.

Accordingly, this temporary suspension will prevent further disorderly marketing conditions during the current base-forming period pending the issuance of a decision. Support for a temporary suspension was indicated in briefs filed by interested parties.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that milk of some producers who regularly supply the market could be excluded from the pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held October 21–23, 1981, where all interested parties had the opportunity to be heard on a proposal to change one of the performance standards for determining whether a distributing plant qualifies as a pool plant.

Therefore, good cause exists for making this order effective November 30, 1981.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of November 1981 through January 1982.

Effective Date: November 30, 1981.

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

Signed at Washington, D.C., on November 24, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 81-34312 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0361]

Regulation Y; Bank Holding Companies and Change in Bank Control; Issuance of Travelers Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has adopted a final rule as proposed on June 18, 1981, that adds the issuance of travelers checks to the list of nonbank activities permissible for bank holding companies. This action determines by regulation that the issuance of travelers checks is "closely related" to banking and thereby facilitates the application process for bank holding company applicants.

EFFECTIVE DATE: December 21, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Whiting, Senior Attorney (202/452–3779), or Susan Weinberg, Attorney (202/452–3707), Legal Division, or Sidney Sussan, Manager, Division of Banking Supervision and Regulation (202/452–2818), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8), states that bank holding companies may engage in those activities the Board has determined (by order or regulation) to be so closely related to banking or managing and controlling banks as to be a proper incident thereto." 12 U.S.C. 1843(c)(8).[1] In determining whether the issuance of travelers checks is "closely related" to banking the Board has taken into consideration the guidelines stated by the Court in *National Courier Association* v. *Board of Governors of the Federal Reserve System,* 516 F.2d 1229 (D.C. Cir. 1975):

(1) Banks generally have in fact provided the proposed services.

(2) Banks generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed service.

(3) Banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form.

On a number of occasions the Board by order has found the conduct of this activity by a particular bank holding company to be "closely related" to banking. *First Maryland Corporation,* 67 Federal Reserve Bulletin 579; *Seafirst Corporation,* 67 Federal Reserve Bulletin 517 (1981); *The Chase Manhattan Corporation,* 66 Federal Reserve Bulletin 937 (1979); *Citicorp,* 65 Federal Reserve Bulletin 666 (1979); *Republic of Texas Corporation,* 62 Federal Reserve Bulletin 630 (1976); and *BankAmerica Corporation,* 59 Federal Reserve Bulletin 544 (1973). In connection with its approval of these applications the Board noted that banks historically have engaged in the issuance of travelers checks as well as in the issuance of other, similar payment instruments. Accordingly, the Board concluded that the issuance of travelers checks by each of these bank holding companies was "closely related" to banking.

In June 1981, (June 24, 1981; 46 FR 32594) The Board published for comment a proposal to add the issuance of travelers checks to the provisions of Regulation Y. The comments received in response to the Board's notice of proposed rulemaking were overwhelmingly favorable. These comments cited both the historical precedent for permitting banks and bank holding companies to engage in the activity and the similarity of the issuance of travelers checks to the issuance of other instruments such as cashiers checks, letters of credit and sight drafts. In addition, it was frequently stated that permitting bank holding companies to issue travelers checks would reasonably be likely to result in public benefits. The travelers check industry is highly concentrated and it appears that additional entrants into the market may have some procompetitive effects. However, one commenter objected to adoption of the proposal and requested a hearing on the matter. The Board has reviewed the comments opposing adoption of the proposal and has found them to be without merit. Thus, the Board has denied the commenter's request for a hearing. Accordingly, the Board has found the issuance of the travelers checks to be "closely related" to banking within the meaning of the BHC Act and has adopted a final rule, authorizing bank holding companies to issue travelers checks, subject to Board approval of a specific proposal.

For the purposes of 5 U.S.C. 605(b) (The Regulatory Flexibility Act), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. Indeed, this rule should facilitate the

[1] In *Investment Company Institute* v. *Board of Governors of the Federal Reserve System,* 101 S. Ct. 973 (1981), the Court stated that, "(t)he Board's determination of what activities are 'closely related' to banking is entitled to the greatest deference".

application process for any company wishing to engage in the activity.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

This action is taken pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8) and 1844(b). In order to implement this rule, § 225.4(a)(13) of the Board's Regulation Y is revised to read as follows:

§ 225.4 Nonbanking activities.

(a) * * *

(13) The sale at retail of money orders having a face value of not more than $1,000 and the sale of U.S. Savings Bonds and the issuance and the sale of travelers checks.

* * * * *

Board of Governors of the Federal Reserve System, November 18, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-34179 Filed 11-27-81; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation is amending Part 329 of its regulations relating to interest on deposits. The amendments will enable insured nonmember banks to establish International Banking Facilities ("IBFs") in the United States on a competitive basis under the Federal Reserve Board's IBF program which becomes effective on December 3, 1981. The amendments are similar to the June 23 and November 9, 1981 amendments which were made by the Federal Reserve Board to its Regulation D (Reserve Requirements of Depository Institutions) and Regulation Q (Interest on Deposits) to facilitate the establishment of IBFs by other depository institutions.

Although the amendments are being issued in final form so that they will be in effect on the effective date for the establishment of IBFs under the Federal Reserve Board Program, FDIC will entertain comments regarding the amendments for 60 days following the publication of the amendments.

DATES: Effective date—December 3, 1981. Comments due: January 27, 1982.

ADDRESS: Comments should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. Written comments may be hand delivered to and reviewed in Room 6108 at the same address between 8:30 a.m. and 5:00 p.m. during work days.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, (202) 389-4237.

SUPPLEMENTARY INFORMATION: On June 23, 1981, the Federal Reserve Board amended its Regulation D and Regulation Q to establish a program by which international banking facilities ("IBFs") can be established by depository institutions in the United States beginning December 3, 1981. Under the program, an IBF will, among other things, be able to accept deposits from foreign residents or other IBFs and the deposits will be exempt from reserve requirements and interest rate limitations. Further, IBFs will be able to offer to foreign nonbank residents large denomination time deposits with a minimum maturity or required notice period before withdrawal of only two business days.

In order to establish uniform provisions with respect to IBFs and to permit insured nonmember banks to operate IBFs in the same manner as other depository institutions, FDIC amends Part 329 to conform with the amendments that were made to Regulations D and Q by the Federal Reserve Board on June 23 and November 9, 1981. The Part 329 amendments:

(1) Amend § 329.1(a) to exclude IBF deposits from the definition of demand deposits;

(2) Amend § 329.1(b) to include IBF deposits within the meaning of time deposits;

(3) Amend § 329.1 to add new paragraphs (h), (i) and (j) that incorporate into Part 329 the Regulation D and Q definitions of the terms "international banking facility," "international banking facility time deposit or IBF time deposit," and "international banking facility extension of credit" or "IBF loan"; and

(4) Amend §§ 329.6(a) and 329.7(b)(2) to exclude IBF deposits from the interest rate limitations.

FDIC does not anticipate the number of insured nonmember banks establishing IBFs will significantly exceed the number of these banks which now have overseas branches. At present, approximately twenty-five (25) of the banks have such branches.

The proposed amendments are issued in the form of a final rule, subject to modification based on comments received within sixty (60) days after publication of the amendments. The FDIC Board of Directors has concluded that it is necessary to issue the amendments in this manner so that insured nonmember banks may be able to establish IBFs on a competitive basis on December 3, 1981, the date the Federal Reserve Board IBF program becomes effective.

The amendments are issued under section 18(g) of the Federal Deposit Insurance Act which authorizes FDIC to regulate the payment of interest on deposits by insured nonmember banks. Since only a few insured nonmember banks are expected to establish IBFs, the FDIC Board of Directors has certified that the amendments will not have any significant economic impact on a substantial number of small entities. Consequently, the analysis requirements of the Regulatory Flexibility Act are not applicable.

PART 329—INTEREST ON DEPOSITS

In view of the above, 12 CFR Part 329 is amended as follows:

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828); sec. 303, Pub. L. 96-221, 94 Stat. 146. (12 U.S.C. 1832).

2. Section 329.1 is amended by revising paragraphs (a) and (b) and adding paragraphs (h), (i) and (j) to read as follows:

§ 329.1 Definitions.

(a) *Demand deposits.* The term "demand deposit" includes every deposit which is not a "time deposit," "international banking facility time deposit," or "savings deposit," as defined below.

(b) *Time deposits.* The term "time deposits" means "time certificates of deposit," "international banking facility time deposits" and "time deposits, open account" as defined below.

* * * * *

(h) *International banking facility or IBF.* The term "international banking facility" or "IBF" means a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time

deposits and international banking facility extensions of credit.

(i) *International banking facility time deposit or IBF time deposit.* The term "international banking facility time deposit" or "IBF time deposit" means a deposit, placement, borrowing or similar obligation represented by a promissory note, acknowledgement of advance, or similar instrument that is not issued in negotiable or bearer form, and

(1) (i) That must remain on deposit at the IBF at least overnight; and

(ii) That is issued to

(A) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;

(B) Any office located outside the United States of a foreign bank;

(C) A United States office or a non-United States office of the entity establishing the IBF;

(D) Another IBF; or

(E) An institution whose time deposits are exempt from interest rate limitations under Section 329.3(g) of this part; or

(2) (i) That is payable

(A) On a specified date not less than two business days after the date of deposit;

(B) Upon expiration of a specified period of time not less than two business days after the date of deposit; or

(C) Upon written notice that actually is required to be given by the depositor not less than two business days before the date of withdrawal;

(ii) That represents funds deposited to the credit of a non-United States resident or a foreign branch, office, subsidiary, affiliate, or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations provided that such funds are used only to support the operations outside the United States of the depositor or of its affiliates located outside the United States; and

(iii) That is maintained under an agreement or arrangement under which no deposit or withdrawal of less than $100,000 is permitted, except that a withdrawal of less than $100,000 is permitted if such withdrawal closes an account.

(j) *International banking facility extension of credit or IBF loan.* The term "international banking facility extension of credit" or "IBF loan" means any transaction where an IBF supplies funds by making a loan, or placing funds in a deposit account. Such transactions may be represented by a promissory note, security, acknowledgement of advance, due bill, repurchase agreement, or any other form of credit transaction. Such credit may be extended only to:

(1) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;

(2) Any office located outside the United States of a foreign bank;

(3) A United States or a non-United States office of the institution establishing the IBF;

(4) Another IBF;

(5) An institution whose time deposits are exempt from interest rate limitations under Section 329.3(g) of this part; or

(6) A non-United States resident or a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations provided that the funds are used only to finance the operations outside the United States of the borrower or of its affiliates located outside the United States.

3. Paragraph (a) of § 329.6 is revised to read as follows:

§ 329.6 Maximum rates of interest payable on time and savings deposits by insured nonmember banks other than insured nonmember mutual savings banks.

(a) *Deposits of $100,000 or more and IBF time deposits.* There is no maximum rate of interest presently prescribed on any time deposit of $100,000 or more or on IBF time deposits.

* * * * *

4. Paragraph (b)(2) of § 329.7 is revised to read as follows:

§ 329.7 Maximum rates of interest or dividends payable on deposits by insured nonmember mutual savings banks.

* * * * *

(b) * * *

(2) *Time deposits of $100,000 or more and IBF time deposits.* There is no maximum rate of interest or dividends presently prescribed on any time deposit of $100,000 or more or on IBF time deposits.

* * * * *

By Order of the Board of Directors November 23, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-34229 Filed 11-27-81; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 81-AWA-7]

Revocation of Area High Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes area high routes within the conterminous United States. Most area navigation equipped aircraft are using area navigation in the high altitude en route system on a random route basis and little or no use has been made of the area high fixed route structure. Revocation of these area navigation routes permits elimination of its associated navigation chart series and allows funds allocated for those chart series to be shifted into other charting areas to the benefit of system users.

EFFECTIVE DATE: January 21, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On July 6, 1981, the FAA proposed to amend § 75.400 of the Federal Aviation Regulations (14 CFR Part 75) to revoke all the area high routes within the conterminous United States (46 FR 34810). Concurrently, the associated chart series would be eliminated. For the present, all designated waypoint data would be retained in FAA's National Flight Data Center's data base for possible future needs. Future area navigation routes, if required, would be depicted on existing conventional navigation chart series, similar to those depicted for Alaska. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. Section 75.400 was republished on January 2, 1981 (46 FR 848).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) revokes all existing area high routes within the conterminous United States. Since most aircraft use area

navigation in the en route system on a random use basis direct between two points, little use is made of the fixed area navigation route structure.

Discussion of Comments

Although there were no objections to the proposed revocations, several comments advocated system capability to permit greater use of random route operations. Another commenter endorsed the revocations provided new procedures in favor of flexible random routes are issued before the routes are revoked. The FAA believes these comments have merit. Action has been initiated to develop terminal area arrival/departure fixes on en route charts and to publish these fixes in the Airport Facility Directory to better serve airspace users who wish to use area navigation on random routes direct between two points. In addition, area navigation use in the ATC system is a matter of early priority in our National Airspace Review (NAR) effort. Moreover, since there is insufficient use being made of the area navigation high altitude route structure to justify its retention on a cost/benefit basis, a delay in revoking the routes and their associated charts series, pending completion of efforts being initiated, is not considered cost productive.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me, § 75.400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 848), and amended (45 FR 85441 and 46 FR 24170), is further amended, effective 0901 GMT, January 21, 1982, by revoking the following area navigation routes:

1. J800R New York, NY, to Los Angeles, CA
2. J801R Los Angeles, CA, to New York, NY
3. J802R New York, NY, to Oakland, CA
4. J803R Mina, NV, to Sparta, NJ
5. J805R Gateway Hemlock, OR, to Woodstock, IL
6. J806R Robbinsville, NJ, to Gateway Hemlock, OR
7. J810R South Bend, IN, to New York, NY
8. J811R Chicago, IL, to Miami, FL
9. J812R Miami, FL, to Chicago, IL
10. J815R Washington, DC, to Atlanta, GA
11. J819R Boston, MA, to Chicago, IL
12. J820R Chicago, IL, to Boston, MA
13. J836R Chicago, IL, to Cincinnati, OH
14. J842R Dallas-Fort Worth, TX, to New York, NY
15. J843R New York, NY, to Dallas-Fort Worth, TX
16. J851R San Francisco, CA, to Los Angeles, CA
17. J853R Los Angeles, CA, to Phoenix, AZ
18. J855R Dallas, TX, to San Francisco, CA
19. J861R El Paso, TX, to Los Angeles, CA
20. J862R Jacksonville, FL, to Pittsburgh, PA
21. J863R New York, NY, to Atlanta, GA
22. J864R Chicago, IL, to Washington, DC
23. J865R Washington, DC, to Chicago, IL
24. J875R Atlanta, GA, to Memphis, TN
25. J880R Jacksonville, FL, to Cleveland, OH
26. J883R Gopher, MN, to New York, NY
27. J884R New York, NY, to Gopher, MN
28. J886R Chicago, IL, to REDOO
29. J887R REDOO to Chicago, IL
30. J896R Chicago, IL, to Philadelphia, PA
31. J900R San Francisco, CA, to Seattle, WA
32. J903R Los Angeles, CA, to Tucson, AZ
33. J906R Los Angeles, CA, to Ogden, UT
34. J907R Hobby, TX, to Los Angeles, CA
35. J912R Dallas-Fort Worth, TX, to Chicago, IL
36. J914R Dallas-Fort Worth, TX, to New Orleans, LA
37. J917R San Francisco, CA, to Phoenix, AZ
38. J918R Hobby, TX, to New Orleans, LA
39. J919R El Paso, TX, to San Antonio, TX
40. J920R Great Falls, MT, to Salt Lake City, UT
41. J924R Los Angeles, CA, to Seattle, WA
42. J929R Atlanta, GA, to Hobby, TX
43. J932R New Orleans, LA, to Memphis, TN
44. J933R Dallas, TX, to Los Angeles, CA
45. J934R Dallas-Fort Worth, TX, to Atlanta, GA
46. J937R ALCOA to Chicago, IL
47. J938R Chicago, IL, to BEBOP
48. J939R Chicago, IL, to Seattle, WA
49. J940R Seattle, WA, to Chicago, IL
50. J941R Dallas-Fort Worth, TX, to Las Vegas, NV
51. J945R CAMEL to DINTY
52. J948R New Orleans, LA, to Oklahoma City, OK
53. J949R Oklahoma City, OK, to Houston, TX
54. J952R New York, NY, to Hobby, TX
55. J953R New Orleans, LA, to New York, NY
56. J957R Jacksonville, FL, to Washington, DC
57. J958R Washington, DC, to Jacksonville, FL
58. J959R Miami, FL, to Detroit, MI
59. J961R DINTY to PARIA
60. J964R Coaldale, NV, to BEBOP
61. J966R ALCOA to Mina, NV
62. J967R CLUKK to Mina, NV
63. J974R Washington, DC, to Los Angeles, CA
64. J976R Seattle, WA, to Gopher, MN
65. J981R Los Angeles, CA, to Washington, DC
66. J983R Miami, FL, to New Orleans, LA
67. J984R Hobby, TX, to Miami, FL
68. J985R San Antonio, TX, to Phoenix, AZ
69. J990R Phoenix, AZ, to Bridgeport, TX
70. J993R John F. Kennedy Airport, NY, to Miami, FL
71. J994R John F. Kennedy Airport, NY, to Orlando, FL
72. J995R Dulles International Airport, VA, to Miami, FL

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on November 12, 1981.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 81-34230 Filed 11-27-81; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 376

[SPR-180]

Amendment of Flight Patterns of Helicopter Operators; Elimination of Rule

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates an obsolete rule requiring certain helicopter carriers to file and obtain approval of their flight patterns. This action is at the CAB's initiative.

DATES: Adopted: November 12, 1981; Effective: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Ordinarily a certificated air carrier is authorized to provide air transportation only between points named in its certificate. The Board has on occasion granted "area exemptions" to certain certificated helicopter operators. Such an exemption allowed a helicopter operator to provide service within a defined area as long as its flight pattern was approved by the Board. The rules in 14 CFR Part 376 set out procedures for filing and Board action on amendments of the flight patterns.

The Board is eliminating Part 376 because it has become obsolete. There are currently no certificated helicopter operators that are providing air

transportation pursuant to area exemptions. Moreover, under section 1601(a)(1)(C) of the Federal Aviation Act, the Board will not have authority after December 31, 1981, to specify terminal and intermediate points in air carriers' certificates for domestic transportation. An area exemption would then be superfluous because it would add nothing to the unlimited route authority that a helicopter carrier would already have under its certificate.

Because the elimination of Part 376 will have no substantive effect, the Board finds that notice and public procedure are unnecessary and contrary to the public interest, and that this action may become effective less than 30 days after publication in the **Federal Register.**

PART 376—AMENDMENT OF FLIGHT PATTERNS OF HELICOPTER OPERATORS [REMOVED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Chapter II by removing Part 376, *Amendment of Flight Patterns of Helicopter Operators.*

(Secs. 204, 405, 416, 1001, 1005, Pub. L. 85-726, as amended; 72 Stat. 743, 760, 771, 788, 794; (49 U.S.C. 1324, 1375, 1386, 1481, 1485))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-34327 Filed 11-27-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 81-292]

Importation of Crude Petroleum From Canada; Duty-Free Entry

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for the duty-free entry of crude petroleum, including reconstituted crude petroleum and crude shale oil, imported from Canada subject to a commercial exchange agreement between U.S. and Canadian refiners. The amendment is being made pursuant to legislation already enacted by the Congress which is intended to assure a continued supply of Canadian crude petroleum at the lowest cost to U.S. refiners located in the northern United States, near the Canadian border.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Herbert Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5307).

SUPPLEMENTARY INFORMATION:

Background

At present, petroleum refiners located in the northern United States near the Canadian border rely heavily upon crude petroleum imported from Canada for use in their operations. Due to a lack of pipelines and other factors, Canada is the most economical source of sufficient quantities of crude petroleum for these refiners. The Canadian Government has imposed export quotas on crude petroleum, severely curtailing these exports to the United States. Nevertheless, that Government has continued to supply crude petroleum to refiners in the United States in excess of export quotas in exchange for an equivalent quantity of domestic crude petroleum from the United States.

Because allowing Canadian crude petroleum to be entered without the payment of any Customs duty would remove one economic barrier to such exchanges, and to assure a continued supply of Canadian crude petroleum at the lowest cost to U.S. refiners, by an Act of November 8, 1977 (Pub. L. 95-159, Sec. 2, 91 Stat. 1269), Congress amended the headnotes to Schedule 4, Part 10, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). As amended, the TSUS provides that crude petroleum, including reconstituted crude petroleum and Canadian crude shale oil, imported from Canada subject to: (1) A commercial exchange agreement between U.S. and Canadian refiners; and (2) certain other specified criteria, may be entered free of duty.

Part 10, Customs Regulations, is being amended to ensure that these exchanges will continue.

In accordance with Pub. L. 95-159, this amendment was prepared after consultation with the Secretaries of Commerce and Energy.

Inapplicability of Notice and Delayed Effective Date Provisions

Because the amendment merely conforms the Customs Regulations to changes made to the tariff schedules by Pub. L. 95-159, which already are in effect, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are found to be unnecessary, and pursuant to 5 U.S.C. 553(d)(B), a delayed effective date is not required.

Inapplicability of Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354 (5 U.S.C. 601, *et seq.*)), the Secretary of the Treasury has determined that the amendment set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

It is presumed that in considering Pub. L. 95-159, the Congress determined that the benefits accruing from the legislation would outweigh any burdens on the affected parties. Because any effects that were contemplated, either expressly or necessarily by the underlying legal authority are considered to flow from that authority and not from the regulation, the regulation is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from small entities through comments, either formal or informal.

Executive Order 12291

Because this will not result in a "major" rule as defined by section 1(b) of Executive Order 12291, the regulatory analysis and review prescribed by section 3 of the Executive Order is not required.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Departments of Commerce and Energy participated in its development.

Amendment to the Regulations

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Part 10, Customs Regulations (19 CFR Part 10), is amended by adding a new § 10.179 to read as follows:

Canadian Crude Petroleum

§ 10.179 Canadian crude petroleum subject to a commercial exchange agreement between United States and Canadian refiners.

(a) Crude petroleum (as defined in Schedule 4, Part 10, Headnote 4(a), Tariff Schedules of the United States (19 U.S.C. 1202)) produced in Canada may be admitted free of duty if the entry is

accompanied by a certificate from the importer establishing that:

(1) The petroleum is imported pursuant to a commercial exchange agreement between United States and Canadian refiners which has been approved by the Secretary of Energy;

(2) The petroleum is imported pursuant to an import license issued by the Secretary of Energy;

(3) An equivalent amount of domestic or duty-paid foreign crude petroleum on which the importer has executed a written waiver of drawback, has been exported to Canada pursuant to the export license and previously has not been used to effect the duty-free entry of like Canadian products; and,

(4) An export license has been issued by the Secretary of Commerce for the petroleum which has been exported to Canada.

(b) The provisions of this section may be applied to:

(1) Liquidated or reliquidated entries if the required certification is filed with the district director at the port where the original entry was made on or before the 180th day after the date of entry; and

(2) Articles entered, or withdrawn from warehouse, for consumption, pursuant to a commercial exchange agreement.

(c) Verification of the quantities of crude petroleum exported to or imported from Canada under such a commercial exchange agreement shall be made in accordance with import verification provided in Part 151, Subpart C, Customs Regulations (19 CFR Part 151, Subpart C).

(R.S. 251, as amended; sec. 624, 46 Stat. 759, 77A Stat. 14, Sec. 2, 91 Stat. 1269 (5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11) 1624))

William T. Archey,

Acting Commissioner of Customs.

Approved: October 26, 1981.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 81-34324 Filed 11-27-81; 8:45 am]

BILLING CODE 4810-22-M

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19 CFR Part 134

[T.D. 81-290]

Country of Origin Marking

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations, relating to the scope of country of origin marking requirements, by including a cross reference to a section in another part of the Customs Regulations which describes procedures for falsely marked importations.

EFFECTIVE DATE: December 28, 1981.

FOR FURTHER INFORMATION CONTACT: Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20029 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Section 134.0, Customs Regulations (19 CFR 134.0), outlines the scope of country of origin marking requirements and exceptions of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking provisions of the Tariff Schedules of the United States (19 U.S.C. 1202). Section 134.0 also indicates that the provisions regarding false or misleading markings as to the country of origin are set forth under Part 134, as well as the consequences and procedures to be followed if imported articles are not legally marked.

Although Part 134 does contain the provisions and procedures governing imported articles not legally marked (19 CFR 134.51), the provisions and procedures concerning false markings are not found in Part 134, § 134.0 notwithstanding. The procedures involving falsely marked articles are set forth in § 11.13, Customs Regulations (19 CFR 11.13), which prohibits importation of articles which bear, or the containers of which bear, false designations of origin or false descriptions or representations. Such falsely designated or falsely described articles are subject to detention by Customs.

To prevent readers from being misled, this document revises § 134.0 to indicate that the provisions relating to falsely marked importations are found in § 11.13.

Notice and Public Procedure Unnecessary

Because this minor amendment is informational in nature and essentially procedural, pursuant to 5 U.S.C. 553(b)(B), notice and public participation thereon are unnecessary.

Executive Order 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis has been prepared.

In addition, it has been determined that the amendment is not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

Drafting Information

The principal author of this document was Robert J. Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

PART 134—COUNTRY OF ORIGIN MARKING

Amendment to the Regulations

Section 134.0, Customs Regulations (19 CFR 134.0), is revised to read as follows:

§ 134.0 Scope

This part sets forth regulations implementing the country of origin marking requirements and exceptions of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking provisions of the Tariff Schedules of the United States (19 U.S.C. 1202). The consequences and procedures to be followed when articles are not legally marked are set forth in this part. The consequences and procedures to be followed when articles are falsely marked are set forth in § 11.13 of this chapter. Special marking and labeling requirements are covered elsewhere.

(R.S. 251, as amended, secs. 304, 624, 46 Stat. 687, as amended, 759, 77A Stat. 14, 80 Stat. 379; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11) 1304, 1624))

William T. Archey,

Deputy Commissioner of Customs.

Approved: November 9, 1981.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 81-34320 Filed 11-27-81; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 141

[T.D. 81-291]

Entry of Merchandise; Special Invoice Requirements for Certain Articles of Steel

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to special invoice requirements for certain articles of steel to identify 32 designated articles of steel by American Iron and Steel Institute ("AISI") category numbers.

EFFECTIVE DATE: December 28, 1981.

FOR FURTHER INFORMATION CONTACT:
Irene Barrack, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202 566-8235).

SUPPLEMENTARY INFORMATION:

Background

When § 141.89, Customs Regulations (19 CFR 141.89), was amended on February 13, 1978, by T.D. 78-53 (43 FR 6065), to require that a special invoice be presented to Customs for each shipment of certain articles of steel having an aggregate purchase price over $2500, the articles were listed in the document both by the AISI category number and by letter designation. Section 141.89(b)(2) lists the 32 articles of steel only by letter designations (A-FF). It is a common practice in the steel industry, both in the United States and abroad, to identify these articles of steel by AISI category numbers (1-32) and not by letter designations. All printed materials referencing these items identify them by the AISI category numbers.

In order to eliminate a possible source of confusion to readers, Customs is redesignating the articles of steel listed in the present § 141.89(b)(2) by AISI category numbers under a new subparagraph (i).

Notice and Public Procedure Unnecessary

Because this minor amendment is informational in nature and essentially procedural, pursuant to 5 U.S.C. 553(b)(B), notice and public participation thereon are unnecessary.

Executive Order 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis has been prepared.

In addition, it has been determined that the amendment is not subject to the provisions of Pub. L. 96-354, the Regulatory Flexibility Act (5 U.S.C. 601-612), because publication of a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other law.

Drafting Information

The principal author of this document was Robert J. Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

PART 141—ENTRY OF MERCHANDISE

Section 141.89(b)(2), Customs Regulations (19 CFR 141.89(b)(2)), is amended by revising it to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

* * * * *

(b) * * *

(2) The following articles of steel are subject to the special invoice requirements of § 141.89(b)(1):

(i) Category Number and Products:

(1) Ingots, blooms, billets, slabs, etc.
(2) Wire rods.
(3) Structural shapes, plain 3 inches and over.
(4) Sheet piling.
(5) Plates.
(6) Rail and track accessories.
(7) Wheels and axles.
(8) Concrete reinforcing bars.
(9) Bar shapes under 3 inches.
(10) Bars, hot rolled, carbon.
(11) Bars, hot rolled, alloy.
(12) Bars, cold finished.
(13) Hollow drill steel.
(14) Welded Pipe and tubing.
(15) Other Pipe and tubing.
(16) Round and shaped wire.
(17) Flat wire.
(18) Bale ties.
(19) Galvanized wire fencing.
(20) Wire nails.
(21) Barbed wire.
(22) Black plate.
(23) Tin plate.
(24) Terne plate.
(25) Sheets, hot rolled.
(26) Sheets, cold rolled.
(27) Sheets, coated including galvanized.
(28) Sheets, coated, alloy.
(29) Strip, hot rolled.
(30) Strip, cold rolled.
(31) Strip, hot and cold rolled-alloy.
(32) Sheets other, electric coated.

(R.S. 251, as amended, sec. 407, 42 Stat. 18; secs. 481, 484, 624, 46 Stat. 719, 722, as amended, 759, 77A Stat. 14, Tariff Schedules of the United States (General Headnote 11) (19 U.S.C. 66, 173, 1202, 1481, 1484, 1624))

William T. Archey,
Deputy Commissioner of Customs.

Approved: November 9, 1981.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 81-34321 Filed 11-27-81; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF STATE

Office of the Secretary

22 CFR Part 22

[Docket No. SD-172; Departmental Reg. 108.813]

Change in Fees for Consular Services

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Schedule of Fees for consular services performed in foreign countries and in the United States is being revised primarily to clarify certain descriptions of services and to present new requirements for: (a) Surcharges related to fee services and (b) collections for transportation and other expenses when appropriate and necessary.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT:
Ronald K. Somerville, (202) 632-3528.

SUPPLEMENTARY INFORMATION: This revision of the Schedule of Fees was published as a proposed rule on October 2, 1981, (46 FR 48884). No public comments on the proposed rule have been received.

Dated: November 20, 1981.

Richard T. Kennedy,
Under Secretary for Management.

Accordingly, Part 22 of Title 22 of the Code of Federal Regulations is revised as set forth below.

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

Sec.
22.1 Schedule of fees.
22.2 Requests for services in the United States.
22.3 Remittances in the United States.
22.4 Requests for services, Foreign Service.
22.5 Remittances to Foreign Service posts.
22.6 Refund of fees.
22.7 Collection and return of fees.
22.8 Effective date.

Authority: Secs. 3, 4, 63 Stat. 111, as amended (22 U.S.C. 811a; 2658; 22 U.S.C. 2651; 5 U.S.C. 483a; 22 U.S.C. 1201); E.O. 10718, 22 FR 4632; 3 CFR, 1954-1958 Comp. page 382.

§ 22.1 Schedule of fees.

Item number	Fee
Passport and Citizenship Services	
1. Execution of application for passports	$5.00
2. Examination of passport application executed before a foreign official	$5.00
3. Issuance of passport (22 U.S.C. 214)	$10.00
(Item No. 4 vacant)	
5. Issuance of card of identity	$5.00

Item number	Fee
6. Execution of application for and issuance of passport.	
(a) To officers or employees of the United States proceeding abroad or returning to the United States in the discharge of their official duties, or members of their immediate families (22 U.S.C. 214).	No fee.
(b) To American seamen who require a passport in connection with their duties aboard an American flag-vessel (22 U.S.C. 214).	No fee.
(c) To widows, children, parents, brothers, or sisters of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214).	No fee.
(d) To employees of the American National Red Cross proceeding abroad as a member of the Armed Forces of the United States (10 U.S.C. 2602(c)).	No fee.
(e) Peace Corps Volunteers and Volunteer Leaders, who are deemed to be employees of the United States for purposes of exemption from passport fees (22 U.S.C. 2504(a)).	No fee.
7. Amendment to passport:	
(a) To show current or new information	No fee.
(b) To correct administrative error	No fee.
(c) To extend time limitation	No fee.
8. Verification of passport	No fee.
9. Execution of application for registration	No fee.
10. Execution of affidavit in regard to American birth in connection with application for passport or citizenship determination.	No fee.
11. Administering the oath of allegiance to a native-born American woman who lost her citizenship.	No fee.
12. For delivery to the applicant of a certified copy of an executed form:	
(a) Of repatriation of a native-born American woman whose marital status with an alien terminated prior to January 13, 1941.	$4.00.
(b) Of repatriation of a native-born American woman under sec. 324 of the Immigration and Nationality Act (8 U.S.C. 1435).	$4.00.
(c) Of repatriation under the act of July 20, 1954 (8 U.S.C. 1438 supp.) of a person who while a citizen of the United States lost his citizenship by voting in Japan between September 2, 1945 and April 27, 1952, inclusive.	$4.00.
13. Documents relating to births, marriages or deaths of American citizens abroad where reported to a Foreign Service post:	
(a) Registration of birth of American citizen, including furnishing one copy of Form FS-240 "Report of Birth Abroad of a Citizen of the United States of America" and Form FS-545, "Certification of Birth".	$13.00.
(b) "Certificate of Witness to Marriage" in quadruplicate (Exempt from charges of Item 93 and Item 94).	$55.00.
(c) Authentication of original documents of marriage, per copy.	$4.00.
(d) "Report of Death of an American Citizen" and sending one copy each to legal representative and to closest known relative or relatives.	No fee.
[Certified copies of the above documents may be obtained from Passport Services, Correspondence Branch, Department of State, Washington, D.C. 20524, $4.00 per copy]	$4.00.
14. Documents from passport files and related records (except as specified in Item 13):	
(a) For file search	$8.00.
(b) For duplicating by photocopy or other such means, per each copy of each page.	$0.20.
(c) For certifying of a true copy	$2.00.
(d) For certifying by letter under official seal a statement or extract from passport files or a statement that no record of a passport file can be located (plus $8 search charge 14a).	$2.00.
15. Any service described in Item 14 when:	
(a) Required for official use by an agency of the Federal Government or of any of the States or their subdivisions or of the District of Columbia, or of any of the territories and possessions of the United States.	No fee.
(b) Performed in response to a subpoena or other order of a court. (However, fees are chargeable when the service is for the benefit of a party in interest and a court order or subpoena is issued in an individual's behalf.	No fee.
(c) Performed in providing to a party in interest, a copy of the transcript of a hearing held before a panel, board, or other authority of the Department.	No fee.
16. Granting an exception under 22 CFR 53.2(h) of Travel Control Regulations.	$60.00.
17. Instant Photo Service, where offered by a Foreign Service post for each pair of identical photographs.	$7.00.
(Item Nos. 18 and 19 vacant)	
Visa Service For Aliens	
20. Furnishing and verification of application for immigrant visa, including duplicate copy.	$5.00.
21. Issuance of each immigrant visa	$20.00.
22. Furnishing and verification of application and issuance of nonimmigrant visa. (Fees prescribed in Appendices B, C, and E, Part IV, FAM, Vol. 9 of Department of State, as amended from time to time).	Reciprocal.
23. Furnishing and verification of application and issuance of nonimmigrant visa to:.	
(a) An alien proceeding solely in transit to and from the headquarters district of the United Nations under the provisions of section 11 of the Agreement between the United Nations and the United States of America regarding the headquarters of the United Nations (61 Stat. 756).	No fee.
(b) An official representative of a foreign government, or an international or regional organization of which the U.S. is a member..	No fee.
(c) An alien participating in a U.S. Government program..	No fee.
24. Visa or supplemental visa of alien crew list: (If Item 93 is applicable, only one Surcharge shall be applied per group served on the same visit).	
(a) Up to 40 crew members	$35.00.
(b) 41 to 100 crew members	$60.00.
(c) 101 to 200 crew members	$86.00.
(d) Over 200 crew members	$152.00.
25. Revalidation or transfer of a nonimmigrant visa.	Reciprocal.
(Item Nos. 26 through 29 vacant)	
Services Relating to Vessels and Seamen	
30. Noting marine protest, when required by a master of a foreign or an undocumented vessel.	$9.00.
31. Extending marine protest, when required by a master of a foreign or an undocumented vessel..	$52.00.
32. Protest of master against charterers or freighters, when required by a master of a foreign or an undocumented vessel.	$8.00
33. Shipment or discharge of seaman on undocumented vessel, each seaman (If Item 93 is applicable, only one Surcharge shall be applied per group served on the same visit).	$5.00.
34. Recording of bill of sale of vessel purchased abroad, taking of application for provisional certificate of registration or certificate of American ownership, and investigation.	$40.00.
35. Issuance of provisional certificate of registry of certificate of American ownership.	$30.00.
36. Services under this tariff (unless designated "no exceptions") when performed for American vessels or for American seamen (22 U.S.C. 1186).	No fee.
(Item Nos. 37 through 44 vacant)	
Notarial Services and Authentications	
45. Administering an oath and certificate thereof.	$4.00.
46. Taking the acknowledgement of the execution of a document and certificate thereof.	$4.00.
47. Certifying under official seal that a copy or extract made from an official or a private document is a true copy. For certifying each copy of each page.	$2.00.
48. Certifying to official character of a foreign notary or other offical (i.e., authenticating a document).	$4.00.
49. Administering oaths, taking acknowledgements, or supplying authentications, in connection with application for letters patent or registration of trademarks, or with the assignment or transfer of rights thereunder.	$4.00.
50. Administering an oath and certificate thereof for petition for immediate relative, nonimmigrant finance(e), temporary worker, nonimmigrant intracompany transferee, or preference immigrant status.	$4.00.
51. Administering oaths or taking acknowledgements, or authenticating the signatures of officials, in connection with kinsmen's petitions for wages and effects of deceased seamen of the American merchant marine (46 U.S.C. 627).	$13.00.
52. For affidavit of petitioner or his agent on documents or evidence to be presented to the Federal Government.	$4.00.
53. Authenticating a Federal, State or Territorial seal, or certifying to the official status of an officer of the United States Department of State or of a foreign diplomatic or consular officer accredited to or recognized by the United States Government, or any document submitted to the Department for that purpose	$4.00.
(Item No. 54 vacant).	
55. Noting of a negotiable instrument for want of acceptance or payment, certifying to protest and giving notice to issuer and endorsers when requested to do so.	$10.00.
(Item Nos. 56 through 57 vacant)	
58. Services under the heading, "Notarial Services and Authentications" when rendered:	
(a) In connection (except those related to applications for passports or immigrant visas) with the execution of forms or documents required by and to be presented to any department or agency of the Federal Government.	No fee.
(b) In connection with the assignment and transfer of United States bonds or other Federal financial obligations or the execution of powers of attorney therefor to collect interest thereon.	No fee.
(c) In connection with the execution of forms or documents required by and to be presented to the States and their subdivisions, the District of Columbia, or any of the territories or possessions of the United States.	No fee.
(d) In the execution of tax returns for filing with the Federal or State Governments or political subdivisions thereof.	No fee.
(e) To claimants and beneficiaries and their witnesses, in connection with Federal, State and municipal allotment, pension, retirement, insurance, medical compensation, or like benefits.	No fee.
(f) To American citizens, while outside the United States, in preparation of ballots to be used in any primary, general or other public elections in the United States or in territories under their jurisdiction.	No fee.
(g) For official non-commercial use by a foreign government or by an international agency of which the Government of the United States is a member.	No fee.
(h) To an official of a foreign government in circumstances where furnishing the service is an appropriate or reciprocal courtesy.	No fee.
(i) To U.S. Government personnel and Peace Corps volunteers or their dependents officially stationed or traveling in a foreign country.	No fee.
59. Affidavit on preparation and packing of remains.	No fee.
60. Consular mortuary certificate	No fee.

Item number	Fee
(Item Nos. 61 through 65 vacant)	
66. Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party as contemplated by 18 U.S.C. 3495.	$16.00
67. Providing seal and certificate for return of letters rogatory executed by foreign officials.	
(Item No. 68 vacant)	
Services Relating to the Taking of Evidence	
69. In taking depositions or executing commissions to take testimony:	
(a) For the services of a diplomatic or consular officer, per hour or fraction thereof.	$90.00.
(b) For the services, if required, of a staff member of the Foreign Service as interpreter, stenographer or typist per hour or fraction thereof.	$35.00.
[Services of (a) and (b) above are exempt from charges of Item 93, but not of Item 94].	
Decedents and decedents' estates	
70. Taking into possession under 22 U.S.C. 1175 the personal estate of any citizen who shall die within the limits of a consular district, and arranging for inventory, sale, and final disposition thereof according to law.	No fee.
71. Services as described under Item No. 70 above when performed in the case of a deceased employee of the United States.	No fee.
72. For placing or removing official seal on estates of decedents; for disbursing funds supplied by relatives and others; for forwarding to legal representative or other authorized person of securities and other instruments not negotiated (or not negotiable) by the consular officer, or evidence of bank deposits of the decedent; or for releasing on the spot against memorandum receipt and without occasion either for safekeeping on official accountability or for consular inventory and appraisal, to the legal representative or other authorized person in the country, of personal property taken into nominal possession for the explicit purpose of transfer of custody.	No fee.
73. Arrangements for shipping or other disposition of remains.	No fee.
(Item No. 74 vacant)	
Copying and Recording	
75. For typing a copy of document or extract of a document. (For each 200 words or part thereof).	$3.00.
76. For photocopying or otherwise duplicating a document, per copy of each page. (This fee does not apply to such customary activities as issuance of copies of records: (1) from supplies kept for distribution, such as press releases and information leaflets; (2) as part of normal and generally reciprocal services performed by the post's library or the library of the Department at the request of similar agencies or institutions; or (3) in lieu of or as exclosures to letters with the purpose of saving costs in preparing mail.).	$0.20.
(Item Nos. 77 through 81 vacant)	
Examination Services	
82. Supervising or proctoring an examination at the request of an agency or instrumentality of the Federal or a State Government by a consular or other officer, including completion of a certificate without seal. (For each hour or fraction thereof, unless the cost is reimbursable to the Department of State by an agency or instrumentality of the Federal or a State government; (Service is exempt from charges of Item 93, but not of Item 94).	$90.00.
Exemption for Federal Agencies and Corporations	
83. Any and all services (unless above designated "No exceptions") performed for the official use of the Government of the United States or of any corporation in which the Federal Government or its representative shall own the entire outstanding capital stock.	No fee.
Other Consular Services	
84. Preparing and sending interested Party Messages for the primary benefit of non-government individuals, organizations or groups:	
(a) From a Foreign Service post to the Department of State.	$15.00.
(b) From the Department of State to a Foreign Service post.	$15.00.
(c) From a Foreign Service post to another Foreign Service post.	$15.00.
85. Making an interested Party toll telephone call. (See bracketed instruction on collections under Item 94).	Cost.
86. U.S. Selective Service Registration in a foreign county.	No fee.
87. Distribution of U.S. Treasury checks to Federal beneficiaries.	No fee.
88. Searching for and forwarding a document requested from a Foreign Service post by a non-government individual, organization or group (for each document).	$8.00.
(Items Nos. 89 and 90 vacant)	
91. Collection of fees by a Foreign Service post for: services performed by Department of State offices within the United States under this Schedule of Fees; services performed under 22 C.F.R. 614 (Freedom of Information Services).	No fee.
92. Setting up and maintaining a trust account for one year or less to transfer funds to, or in behalf of, an American in need in a foreign county.	$15.00.
Surcharges	
93. Surcharges for services rendered away from office or after duty hours in the United States or in a foreign country are required for all "Fee" services listed above when performed at the request of an interested party unless specifically exempted, but are not required for "No fee" services nor for instances of common disaster (i.e., ship wrecks, air crashes, etc.) or evacuations. However, whether employees can be made available to perform duties away from office or after duty hours will be determined by the Consul General, the supervising consular officer, or the Passport Agency Director after considering workload priorities for the staff concerned. The following Surcharges, when required, are added to the regular fee.	
(1) American employee	$20.00.
(2) Foreign Service National employee	$10.00.
Transportation and Other Expenses	
94. Transportation and other expenses necessarily being incurred by officers or other employees of U.S. Passport Agencies or American Consular Posts in foreign countries shall be collected on an estimated cost basis from the persons requesting the performance of "Fee" services listed above unless specifically exempted. Transportation and other expenses may also be collected for "No fee" or any other consular services when the Consul General, the supervising consular officer, or the Passport Agency Director concerned determines that collections for these purposes are appropriate and necessary. For example: the service of assisting in the recovery of loss or stolen vehicles, boats or planes may call for coverage of such expenses; or special estate settlement, handling or disposition services requested by the next of kin or legal representative of the decedent may require unusual travel or other special expenses. [Collections under Item 85 and Item 94 shall not be considered as part of the official fees but shall be recorded as refunds to the post allotment and accounted for as such. If there is uncertainty as to the extent or timing of expenses, a trust account, per Item 92 above, may be established with payment(s) made as performance of the service progresses].	Cost.

§ 22.2 Requests for services in the United States.

(a) *Requests for records.* Requests by the file subject of the individual's authorized agent for services involving U.S. passport applications and related records, including consular birth, marriage and death records and authentication of other passport file documents, shall be addressed to Passport Services, Correspondence Branch, Department of State, Washington, D.C. 20524. Requests for consular birth records should specify if a Consular Report of Birth (Form FS 240, or long form) or Certification of Birth (Form DS 1350, or short form) is desired. Advance remittance of the exact fee is required for each service.

(b) *Authentication services.* Requests for Department of State authentication of documents other than passport file documents must be accompanied by remittance of the exact total fee chargeable and addressed to the Authentication Officer, Department of State, Washington, D.C. 20520.

§ 22.3 Remittances in the United States.

(a) *Type of Remittance.* Remittances shall be in the form of: (1) check or bank draft drawn on a bank in the United States; (2) money order—postal, international or bank; or (3) U.S. currency. Remittances shall be made payable to the order of the Department of State. The Department will assume no responsibility for cash which is lost in the mail.

(b) *Exact payment of fees.* Fees must be paid in full prior to issuance of requested documents. If uncertainty as to the existence of a record or as to the number of sheets to be copied precludes remitting the exact fee chargeable with the request, the Department of State will inform the interested party of the exact amount required.

§ 22.4 Requests for services, Foreign Service.

Officers of the Foreign Service shall charge for official services performed abroad at the rates prescribed in this schedule, in coin of the United States or at its representative value in exchange (22 U.S.C. 1202). For definition of representative value in exchange, see § 23.4 of this chapter. No fees named in this schedule shall be charged or collected for the official services to American vessels and seamen (22 U.S.C. 1186). The term "American vessels" is defined to exclude, for the purposes of this schedule, undocumented American vessels and the fees prescribed herein shall be charged and collected for such undocumented vessels. However, the

fees prescribed herein shall not be charged or collected for American public vessels, which includes any vessel owned or operated by a U.S. Government department or agency and engaged exclusively in official business on a non-commercial basis. This schedule of fees shall be kept posted in a conspicuous place in each Foreign Service consular office, subject to the examination by all persons interested therein (22 U.S.C. 1197).

§ 22.5 Remittances to Foreign Service posts.

Remittances to Foreign Service posts from persons in the United States in payment of offical fees and charges or for the purpose of establishing deposits in advance of rendition of services shall be in a form acceptable to the post, drawn payable to the American Embassy (name of city), American Consulate General (name of city) or American Consulate (name of city), as the case may be. This will permit cashing of negotiable instruments for deposit in the Treasury when not negotiated locally. See § 23.2 of this Chapter.

(a) *Time at which fees become payable.* Fees are due and payble prior to issue or delivery to the interested party of a signed document, a copy of a record, or other paper representative of a service performed.

(b) *Receipt for fees; register of services.* Every officer of the Foreign Service responsible for the performance of services as enumerated in the Schedule of Fees for Consular Services, Department of State and Foreign Service (§ 22.1), shall give receipts for fees collected for the official services rendered, specifying the nature of the service and numbered to correspond with entries in a register maintained for the purpose (22 U.S.C. 1192, 1193, and 1194). The register serves as a record of official acts performed by officers of the Foreign Service in a governmental or notarial capacity, corresponding in this regard with the record which notaries are usually expected or required to keep of their official acts. See § 92.2 of this chapter.

(c) *Deposits to guarantee payment of fees or incidental costs.* When the amount of any fee is determinable only after initiation of the performance of a service, or if incidental costs are involved, the total fee and incidental costs shall be carefully estimated and an advance deposit required, subject to refund of any unused balance to the person making the deposit.

§ 22.6 Refund of fees.

Fees which have been collected for deposit in the Treasury are refundable: (a) as specifically authorized by law (see 22 U.S.C. 214a concerning passport fees erroneously charged persons excused from payment, 22 U.S.C. 216 concerning passport fees in cases where the appropriate representative in the United States of a foreign government refuses a visa, and 46 U.S.C. 8 concerning fees improperly imposed on vessels or seamen); (b) when the principal officer at the consular post where the fee was collected (or the officer in charge of the consular section at a combined diplomatic/consular post) finds upon review of the facts that the collection was erroneous under applicable law; and (c) where determination is made by the Department of State with a view to payment of a refund in the United States in cases which it is impracticable to have the facts reviewed and refund effected by and at the direction of the responsible consular office. See § 13.1 of this chapter concerning refunds of fees improperly exacted by consular officers who have neglected to return the same to the Treasury.

§ 22.7 Collection and return of fees.

No fees other than those prescribed in the Schedule of Fees, § 22.1, or by or pursuant to an act of Congress, shall be charged or collected by officers of the Foreign Service for official services performed abroad (22 U.S.C. 1201). All fees received by any officer of the Foreign Service for services rendered in connection with the duties of office or as a consular officer shall be accounted for and paid into the Treasury of the United States (22 U.S.C. 99 and 812). For receipt, registry, and numbering provisions, see § 22.5(b). Collections for transportation and other expenses necessary for performance of services or for Interested Party toll telephone calls shall be refunded to post allotment accounts and made available for meeting such expenses.

§ 22.8 Effective date.

The charges established become effective November 30, 1981 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

[FR Doc. 81-34374 Filed 11-27-81; 8:45 am]

BILLING CODE 4710-06-M

Bureau of Consular Affairs

22 CFR Part 41

[Dept. Reg. 108.812]

Nonresident Alien Mexican Border Crossing Cards; Correction

AGENCY: Department of State.

ACTION: Final rule; correction.

SUMMARY: This document adds two words which were inadvertently omitted from the final rule relating to Mexican border crossing cards, which appeared at page 54729 in the **Federal Register** of Wednesday, November 4, 1981. It also corrects typographical errors contained in that same publication.

FOR FURTHER INFORMATION: Gerald M. Brown, Chief Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs. (202) 632-1900.

SUPPLEMENTARY INFORMATION:

§ 41.128 [Corrected]

Accordingly, the words "or expired" are added immediately after the word "valid" in the text of the Summary and in § 41.128(b)(2); the "a" in the word "Boarder" appearing in the introductory heading is removed and the "(g)" in the sixth line of the text of instructions is changed to "(f)".

Dated: November 17, 1981.

Gerald M. Brown,

Chief, Legislation and Regulations Division, Visa Services.

[FR Doc. 81-33676 Filed 11-27-81; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 208

[ER 1110-2-241]

Flood Control Regulations; Use of Storage Allocated for Flood Control and Navigation Purposes

AGENCY: Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation prescribes policy for controlling storage and discharge of waters from reservoirs for flood control or navigation. Appendix A has been revised providing pertinent data for projects which are subject to this regulation. This regulation is intended to establish an understanding between project owners, operating agencies and the Corps of Engineers

with regard to certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Earl Eiker, Chief, Water Control/Quality Section, Office, Commander, U.S. Army Corps of Engineers, Department of the Army, Washington, DC 20314 (202) 272-0234.

SUPPLEMENTARY INFORMATION:

Note.—The Commander has determined that this rule is not a "major rule" proposal requiring preparation of a regulatory impact analysis under Executive Order 12291.

Dated: November 16, 1981.

James W. Ray,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

PART 208—FLOOD CONTROL REGULATIONS

§ 208.11 [Amended]

Accordingly 33 CFR 208.11 is amended by revising the table in paragraph (e) as follows:

LIST OF PROJECTS

[Pertinent project data]

Project name[1]	State, county and stream[1]	Exclusive-use					Multiple-use					Project owner[2]	Authorizing legislation[2]
		Flood control/navigation					Flood control/navigation						
		Storage (1,000 AF)	Elevation limits (feet, m.s.l.)		Area (acres)		Storage (1,000 AF)	Elevation limits (feet, m.s.l.)		Area (acres)			
			Upper	Lower	Upper	Lower		Upper	Lower	Upper	Lower		
Alpine Dam	IL, Winnebago, Keith Cr	0.6	796.0	764.0	52	0						City of Rockford, IL	PWA Proj.
Agency Valley Dam & Res	OR, Malheur, N. Fork Malheur R						60.0	3,340.0	3,263.2	1,900	0	USBR	PL 68-292.
American Fall Dam & Res	ID, Power, Snake River						1,700.0	4,343.2	4,295.6	56,100	0	USBR	FERC 2259.
Anderson Ranch Dam & Res.	ID, Elmore, S. Fk. Boise River						423.2	4,196.0	4,043.0	4,740	1,150	USBR	Act of 1939 53 Stat 1187.
Arrowrock Dam & Res	ID, Elmore, Boise River						286.6	3,216.0	2,967.0	3,100	200	USBR	Act of 1902 32 Stat 388.
Bear Cr Dam	MO, Marion Rails, Bear Cr	8.7	546.5	520.0	540	0						City of Hannibal, MO	PL 83-780.
Bear Swamp Pumped Storage.	MA, Franklin, Deerfield R Trib											New England Pwr Co	Fed Pwr Act.
Big Dry Creek and Div	CA, Fresno, Big Dry Cr & Dog Cr	16.2	425.0	393.0	1,530	0						Reclamation Board of CA	PL 77-228.
Bocu Dam & Res	CA, Nevada, Little Truckee R					41	5,605.0	5,596.4	980	873		USBR	PL 81-289, PL 68-292.
Bonny Dam & Res	CO, Yuma, S. Fork Republican R	128.8	3,710.0	3,672.0	5,036	2,042						USBR	PL 78-534.
Boysen Dam & Res	WY, Fremont, Wild River	146.0	4,732.0	4,725.0	22,100	19,560	146.1	4,725.0	4,717.0	19,560	16,955	USBR	PL 78-534.
Brownlee Dam & Res	OR, Baker, ID, Washington, Snake River						980.3	2,077.0	1,976.0	13,840	6,650	Idaho Pwr Co	FERC No 1971-C.
Bully Cr Dam & Res	OR, Malheur, Bully Creek						31.6	2,523.0	2,456.8	1,082	140	USBR	PL 86-248.
Camanche Dam & Res	CA, San Joaquin, Mokelumne R						200.0	235.5	205.1	7,600	5,507	East Bay Mun Util Dist	PL 86-645.
Canyon Ferry Dam & Lk	MT, Lewis, Clark, Missouri R						799.1	3,797.0	3,770.0	34,435	24,126	USBR	PL 78-534.
Cedar Bluff Dam & Res	KS, Trego, Smoky Hill River	191.9	2,166.0	2,144.0	10,790	6,869						USBR	PL 78-534.
Clark Canyon Dam & Res	MT, Beaverhead, Beaverhead River	79.1	5,560.4	5,546.1	5,903	5,160	50.4	5,546.1	5,535.7	5,160	4,496	USBR	PL 78-534.
Del Valle Dam & Res	CA, Alameda, Alameda Cr	37.0	745.0	703.1	1,060	710	1.0	03.1	702.2	710	700	CA Dept of Wtr Rsc	PL 87-874.
Don Pedro Dam & Lk	CA, Tuolumne, Tuolumne R						340.0	830.0	802.0	12,900	11,260	Modesto & Turlock Irr	PL 78-534.
East Canyon Dam & Res	UT, Morgan, East Canyon Creek						48.0	5,705.5	5,577.0	684	127	USBR	PL 81-273.
Echo Dam & Res	UT, Summit, Weber River						74.0	5,560.0	5,450.0	1,455	0	USBR	PL 81-273.
Emigrant Dam & Res	OR, Jackson, Emigrant Cr	39.0	2,241.0	2,131.5	801	80						USBR	PL 83-606.
Enders Dam & Res	NB, Chase, Frenchman Cr	30.0	9,127.0	3,112.3	2,405	1,707						USBR	PL 78-534.
Folsom Dam & Lk	CA, Sacramento, American R						400.0	466.0	427.0	11,450	9,040	USBR	PL 81-356.
Friant Dam & Millerton LK	CA, Fresno, San Joaquin River						390.0	578.0	466.3	4,850	2,101	USBR	PL 75-392, PL 76-868.
Gaston-Roanoke Rapids Dam Res.	NC, Northhampton, Halifax, Roanoke R	63.0	203.0	200.0	22,500	20,300						VA Elec & Pwr Co	Fed Pwr Act.
Glen Elder Dam & Waconda Lk.	KS, Mitchel, Solomon R	722.3	1,488.0	1,455.6	33,682	12,602						USBR	PL 78-534, PL 79-526.
Glendo Dam & Res	WY, Platte, N. Platte R	271.9	4,653.0	4,653.0,	17,986	12,365						USBR	PL 78-534.
Grand Coulee Dam, FDR Lk.	WA, Okanogan, Grant, Columbia R						5,185.5	1,290.0	1,208.0	82,280	45,592	USBR	PL 89-561.
H. Neely Henry	AL, Calhoun, St. Clair, Coosa River						49.7	508.0	502.5	11,235	7,632	Alabama, Pwr Co	PL 83-436.
Heart Butte Dam & Lk Tschida.	ND, Grant, Heart River	150.0	2,094.5	2,064.5	6,625	3,400						USBR	PL 78-534.
Hells Canyon Dam & Res	OR, Wallowa, ID, Adams, Snake River						11.7	1,688.0	1,683.0	2,380	2,280	Idaho Pwr Co	FERC No 1971-A.
Hoover Dam & Lake Mead	NV, Clark, AZ, Mohave, Colorado R	1,500	1,229.0	1,219.6	162,700	156,500	15.8	1,219.6	1,083.0	156,500	83,500	USBR	PL 70-642.
Hungry Horse Dam & Res	MT, Flathead, S. Fork Flathead R	2,982.0	3,560.0	3,336.0	23,800	5,400						USBR	PL 78-329.
Indian Valley Dam & Res	CA, Lake, N. Fork Cache Creek						40.0	1,486.0	1,474.7	3,975	3,749	Yolo Cty Fl Cont & Wtr	PL 84-984 Cons Dist.
Jamestown Dam & Res	ND, Stutsman, James River	185.4	1,454.0	1,432.7	13,206	2,555	6.6	1,432.7	1,429.8	2,555	2,085	USBR	PL 78-534.
Kerr Dam, Flathead Lk	MT, Lake, Flathead R						1,219.0	2,893.0	2,883.0	125,560	120,000	Montana Pwr Co	FERC No 5.
Keyhole Dam & Res	WY, Crook, Belle Fourche River	140.2	4,111.5	4,099.3	13,686	9,294						USBR	PL 78-534.
Kirwin Dam & Res	KS, Phillips, N. Fork Solomon R	215.1	1,757.3	1,729.3	10,840	5,073						USBR	PL 78-534.
Lemon Dam & Res	CO, La Plata, Florida R						39.0	8,148	8,023	622	62	USBR	PL 84-485
Lewis M. Smith Dam & Res	AL, Walker, Culman, Sipsey Fork Black Warrior River.	280.0	522.0	510.0	25,700	21,200						Alabama Pwr Co	Fed Pwr Act.
Little Wood	ID, Blain, Little Wood River	30.0	5,237.3	5,127.8	574	0						USBR	PL 84-993.

LIST OF PROJECTS—Continued

(Pertinent project data)

Project name[1]	State, county and stream[1]	Exclusive-use					Multiple-use					Project owner[2]	Authorizing legislation[3]
		Flood control/navigation					Flood control/navigation						
		Storage (1,000 AF)	Elevation limits (feet, m.s.l.)		Area (acres)		Storage (1,000 AF)	Elevation limits (feet, m.s.l.)		Area (acres)			
			Upper	Lower	Upper	Lower		Upper	Lower	Upper	Lower		
Logan Martin Dam & Res	AL, Talladega, Coosa River	245.3	477.0	465.0	26,310	15,260						Alabama Pwr Co	PL 83-436.
Los Banos Dam & Detention.	CA, Merced, Los Banos Cr						14.0	353.5	327.8	619	467	USBR	PL 86-488.
Lost Creek Dam & Res	UT, Morgan, Lost Creek						20.0	6,005.0	5,912.0	365	93	USBR	PL 81-273.
Lovewell Dam & Res	KS, Jewell, White Rock Cr	50.5	1,595.3	1,582.6	5,025	2,986						USBR	PL 78-534.
Markham Ferry Dam, Lake Wash E. Hudson.	OK, Mayes, Grand Neosho River	244.2	636.0	619.0	18,000	10,900						Grand R Dam Authority	PL 76-476.
Mayfield Dam & Res	WA, Lewis, Cowlitz River						21.4	425.0	415.0	2,070	1,825	City of Tacoma	FPC No 2016-A.
Medicine Cr Dam Harry Strunk Lk.	NB, Frontier, Medicine Cr	52.2	2,386.2	2,366.1	3,465	1,850						USBR	PL 78-534.
Mossyrock Dam Davisson Lk.	WA, Lewis, Cowlitz River						1,397.0	778.5	621.5	11,800	5,000	City of Tacoma	FERC No 2016-B.
Navajo Dam & Res	NM, San Juan, Arriba, Rio, San Juan R						1,036.1	6,085.0	5,990.0	15,610	7,400	USBR	PL 84-485.
New Exchequer Dam & Lake.	CA, Tuolumne, Merced River						400.0	867.0	799.7	7,110	4,649	Merced Irr	PL 86-645.
New Melones Dam & Lk	CA, Tuolumne, Calaveras, Stanislaus R						450.0	1,088.0	1,049.5	12,500	10,900	USBR	PL 87-874.
Norton Dam Res	KS, Norton, Prairie Dog Cr	98.8	2,331.4	2,304.3	5,316	5,316						USBR	PL 78-534.
Ochoco Dam & Res	OR, Crook, Ochoco Creek	51.4	3,136.2	3,048.1	1,150	120						USBR	PL 84-992.
Oroville Dam & Lake	CA, Butte, Feather River						750.0	900.0	848.5	15,800	13,346	CA Dept of Wtr Rsc	PL 85-500.
Owbow Dam & Res	OR, Baker, ID, Adams, Snake River						5.0	1,805.0	1,800.0	1,165	1,115	Idaho Pwr Co	FERC No 1971-B.
Pactola Dam & Res	SD, Pennington, Rapid Creek	34.0	4,621.5	4,580.2	1,232	860						USBR	PL 78-534.
Palisades Dam & Res	ID, Bonneville, Snake River	1,202.0	5,620.0	5,452.4	16,100	2,170						USBR	PL 81-864.
Paonia Dam & Res	CO, Gunnision, Muddy Creek						17.0	6,447.5	6,373.0	334	120	USBR	PL 80-177, PL 84-485.
Pineview Dam & Res	UT, Weber, Odgen River						110.0	4,900.0	4,818.0	2,874	0	USBR	PL 81-273.
Platoro Dam & Res	CO, Conejos, Conejos R	6.0	10,034.0	10,027.5	947	920	54.0	10,027.5	9,911.0	920	0	USBR	PL 78-640.
Priest Rapid Dam & Res	WA, Grant, Columbia R						44.0	488.0	481.0	7,100	6,500	Grant County PUD No 2	FERC No 2114-A.
Pineville Dam & Res	OR, Crook, Crooked Cr	153.0	3,234.8	3,112.0	2,990	120						USBR	PL 84-992.
Prosser Cr & Res	CA, Nevada, Prosser Cr						20.0	5,741.2	5,703.7	745	334	USBR	PL 84-858.
Pueblo Dam & Res	CO, Pueblo, Arkansaw R	27	4,898.7	4,893.6	5664	5350	66.0	4,893.6	4,880.6	5,350	4,641	USBR	PL 87-590
Red Willow Dam, Hugh Butler Lk.	NB, Frontier, Red Willow	48.9	2,604.0	2,581.8	2,662	1,629						USBR	PL 78-534, PL 85-783.
Ririe Dam & Res	ID, Bonneville, Willow Cr						99.0	5,119.0	5,023.0	1,560	360	USBR	PL 87-874.
Rocky Reach Dam Lk Entiat.	WA, Chelan, Columbia R						37.0	707.0	703.0	9,600	0	Chelan Cnty PUD No 1	FERC No 2145.
Ross Dam & Res	WA, Whatcom, Skagit R						530.5	1,602.5	1,475.0	6,000	2,168	City of Seattle	FERC No 553-C.
Sanford Dam & Lk Meredith.	TX, Hutchison, Canadian R	462.1	2,965.0	2,941.3	21,640	17,320						USBR	PL 81-896.
Savage River Dam & Res	MD, Garrett, Savage R						16.0	1,468.5	1,400.0	366	127	Upper Potomac R Commission.	PL 78-534.
Shadehill Dam & Res	SD, Perkins, Grand R	217.7	2,302.0	2,272.0	9,900	4,800						USBR	PL 78-534.
Shasta Dam & Lake	CA, Shasta, Sacramento R						1,300.0	1,067.0	1,018.6	29,570	23,694	USBR	PL 75-392.
Smith Mtn & Leesville Dam & Res.	VA, Bedford, Compbell, VA, Pittsylvania, Roanoke River.						(*)	(*)	(*)	(*)	(*)	Appalachian Pwr Co	Fed Pwr Act.
Stampede Dam & Res	CA, Sierra, Little Truckee R						226.5	5,948.7	5,942.1	3,430	3,230	USBR	PL 84-858.
Trenton Dam & Res	NB, Hitchcock, Republican R	133.8	2,773.0	2,752.0	7,975	4,974						USBR	PL 78-534.
Twitchell Dam & Res	CA, Santa Barbara, Cuyama River	89.0	651.5	623.0	3,690	2,650						USBR	PL 83-774.
Upper Baker Dam, Baker Lk.	WA, Whatcom, Baker River						220.6	724.0	655.0	4,890	0	Puget Sound Pwr Light Co	PL 89-298, FERC 2150-B.
Vallecito Dam & Res	CO, La Plata, Los Pinos R						115.4	7,665	7,600	2,723	693	USBR	PL 61-288, PL 68-292.
Wanapum Dam & Res	WA, Grant, Columbia R						151.6	571.5	560.0	14,400	9,600	Grant Cnty PUD No 2	FERC No 2114-B.
Wanship Dam & Rockport	UT, Summit, Weber River						61.0	6,037.0	5,930.0	1,077	121	USBR	PL 81-273.
Warm Springs Dam & Res	OR, Malheur, Middle Fork Malheur R						191.0	3,406.0	3,327.0	4,600	90	50% Vale Irr 50% USBR	
Waterbury Dam & Res	VT, Washington, Little River	27.2	617.5	592.0	1,330	890						State of VT	PL 78-534.
Weiss Dam & Res	AL, Cherokee, Coosa River	397.0	574.0	564.0	50,000	30,200						Alabama Pwr Co	PL 83-436.
Wells Dam Lk Paterns	WA, Douglas, Columbia R						74.0	799.0	711.0	10,700	7,700	Douglas Cnty PUD No 1	FERC No 2149.
Webster Dam & Res	KS, Rocks, S. Fork Solomon R	183.4	1,923.7	1,892.45	8,480	3,766						USBR	PL 534 78-2.
Yellowtail Dam & Bighorn Lk.	MT, Big Horn, Bighorn R	259.0	3,657.0	3,640.0	17,298	12,685	250.0	3,840.0	3,614.0	12,685	7,410	USBR	PL 78-534.

[1] Res—Reservoir; Lk—Lake; Div—Division; R—River; Cr—Creek.
[2] USBR—United States Bureau of Reclamation; Irr—Irrigation District; Mun—Muncipal; Fl—Flood; Rsc—Resources.
[3] PL—Public Law; HD—House Document; FERC—Federal Energy Regulatory Commission (formerly Federal Power Commission (FPC)).
[4] No specific FC/Nav. storage allocation.

[FR Doc. 81-34222 Filed 11-27-81; 8:45 am]
BILLING CODE 3710-06-M

POSTAL SERVICE

39 CFR Part 10

International Mail; New Agreement With Canada

AGENCY: Postal Service.

ACTION: New air rates for parcel post and AO to Canada.

SUMMARY: A new agreement governing the exchange of mail between the United States and Canada becomes effective January 1, 1982. This agreement introduces air parcel post service for parcels weighing at least 1 pound but no more than 66 pounds; the Postal Service is establishing a rate schedule for this service.

Letters, letter packages, and regular printed matter will have a maximum weight limit of 4 pounds. Because the 4 pound weight limit does not apply to certain categories of printed matter, the Postal Service is establishing an *air* AO rate schedule for such mail weighing more than 4 pounds.

EFFECTIVE DATE: 12:01 a.m., January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Marsha Springmann, (202) 245–4518.

SUPPLEMENTARY INFORMATION: To implement the new agreement with Canada referred to in the Summary, the Postal Service, under the authority of 39 U.S.C. 407, establishes the following rates for air parcel post and air AO service to Canada. These rates will be published in the Postal Service's International Mail Manual, incorporated by reference in 39 CFR § 10.3.

(39 U.S.C. 401, 403, 404(a)(2), 410(a))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

PARCEL POST

[Air-Canada[1]]

Weight steps				
Over		Through		Rate
Lbs.	Ozs.	Lbs.	Ozs.	
1	0	1	8	$3.07
1	8	2	0	3.57
2	0	2	8	3.86
2	8	3	0	4.33
3	0	3	8	4.80
3	8	4	0	5.27
4	0	4	8	5.75
4	8	5	0	6.21
5	0	6	0	7.15
6	0	7	0	8.09
7	0	8	0	9.03
8	0	9	0	9.98
9	0	10	0	10.93
10	0	11	0	11.87

PARCEL POST—Continued

[Air-Canada[1]]

Weight steps				
Over		Through		Rate
Lbs.	Ozs.	Lbs.	Ozs.	
11	0	12	0	12.81
12	0	13	0	13.75
13	0	14	0	14.69
14	0	15	0	15.63
15	0	16	0	16.57
16	0	17	0	17.51
17	0	18	0	18.45
18	0	19	0	19.40
19	0	20	0	20.34
20	0	21	0	21.28
21	0	22	0	22.22
22	0	23	0	23.16
23	0	24	0	24.10
24	0	25	0	25.04
25	0	26	0	25.98
26	0	27	0	26.92
27	0	28	0	27.86
28	0	29	0	28.81
29	0	30	0	29.75
30	0	31	0	30.69
31	0	32	0	31.64
32	0	33	0	32.58
33	0	34	0	33.52
34	0	35	0	34.46
35	0	36	0	35.40
36	0	37	0	36.34
37	0	38	0	37.28
38	0	39	0	38.23
39	0	40	0	39.17
40	0	41	0	40.11
41	0	42	0	41.05
42	0	43	0	41.99
43	0	44	0	42.93
44	0	45	0	43.87
45	0	46	0	44.81
46	0	47	0	45.75
47	0	48	0	46.69
48	0	49	0	47.64
49	0	50	0	48.58
50	0	51	0	49.52
51	0	52	0	50.46
52	0	53	0	51.40
53	0	54	0	52.35
54	0	55	0	53.29
55	0	56	0	54.23
56	0	57	0	55.17
57	0	58	0	56.11
58	0	59	0	57.06
59	0	60	0	58.00
60	0	61	0	58.94
61	0	62	0	59.88
62	0	63	0	60.82
63	0	64	0	61.76
64	0	65	0	62.70
65	0	66	0	63.64

[1] Rates effective 12:01 a.m., January 1, 1982.

NOTE.—Maximum weight limit for air parcels is 66 pounds except for parcels addressed to members of the Canadian armed forces which may not exceed 22 pounds in weight.

Each parcel must be endorsed AIR, AIRMAIL, or PAR AVION, or bear a label to that effect. Air parcels to Canada must *not* be endorsed *Priority*.

Each parcel mailed to Canada must bear one Form 2966-A, *Parcel Post Customs Declaration—United States of America*.

OTHER ARTICLES (AO)

[AIR (includes all printed matter, matter for the blind, and small packets)[1]]

Weight steps		
Over	Through	Canada
Ounces		
0	1	$0.20
1	2	.37
2	3	.54
3	4	.71
4	5	.88
5	6	1.05

OTHER ARTICLES (AO)—Continued

[AIR (includes all printed matter, matter for the blind, and small packets)[1]]

Weight steps		
Over	Through	Canada
6	7	1.22
7	8	1.39
8	9	1.56
9	10	1.73
10	11	1.90
11	12	2.07
12	16	2.58
16	24	3.07
24	32	3.57
Pounds		
2.0	2.5	4.06
2.5	3.0	4.56
3.0	3.5	5.05
3.5	4.0	5.55
4.0	4.5	6.05
4.5	5.0	6.54
5.0	6.0	7.53
6.0	7.0	8.52
7.0	8.0	9.51
8.0	9.0	10.51
9.0	10.0	11.50
10.0	11.0	12.49
11.0	12.0	13.48
12.0	13.0	14.47
13.0	14.0	15.46
14.0	15.0	16.45
15.0	16.0	17.44
16.0	17.0	18.43
17.0	18.0	19.42
18.0	19.0	20.42
19.0	20.0	21.41
20.0	21.0	22.40
21.0	22.0	23.39
22.0	23.0	24.38
23.0	24.0	25.37
24.0	25.0	26.36
25.0	26.0	27.35
26.0	27.0	28.34
27.0	28.0	29.33
28.0	29.0	30.33
29.0	30.0	31.32

Direct sack to one addressee (M bag): Minimum 15 pounds; Maximum 66 pounds; Per pound or Fractions.

[1] Rates effective 12:01 a.m., January 1, 1982.

NOTE.—Maximum weight limit for regular printed matter is *4* pounds.

Maximum weight limit for books, sheet music, catalogs, and directories is *11* pounds; for small packets *1* pound.

Packages or bundles of publishers' periodicals mailed to Canada by publishers or registered news agents may weigh up to *30* pounds. When mailed by other than publishers or news agents the weight limit is *4* pounds.

Each item must be endorsed AIR, AIRMAIL, or PAR AVION, or bear a label to that effect. Air AO to Canada must *not* be endorsed *Priority*.

[FR Doc. 81-34223 Filed 11-27-81; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 6 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive

changes, such as the use of folders, "pop-ups", and multilayer materials in copies of second-class publications, have previously been published in the **Federal Register** both in the proposed rule and the final rule stages. Other changes, such as the new rates and fees, were considered in public hearings and also published in the **Federal Register.**

EFFECTIVE DATE: July 7, 1981.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (See 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 6, dated July 7, 1981. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 6 covers the minor changes not previously described in final rules published in the **Federal Register.**

Summary of Changes

Note.—Issue 6 contains all DMM revisions published between January 8, 1981 and the new rates which were announced in Special Postal Bulletin 21319 (10–6–81). The rates announced in Special Postal Bulletin 21319 are effective November 1, 1981.

1. * * *

2. The following revisions in text were also published in Special Bulletin 21290 (3–20–81):

a. * * *

b. References to Publication 42 are changed to refer to the new *International Mail Manual* (IMM). This change is reflected in Sections 111.2, 111.19, and 141.4; Subchapter 450, and Sections 941.2, 941.39, and 941.42.

c.–s. * * *

3. The following revisions were published in other issues of the Postal Bulletin as indicated:

a. Section 113.123 (a) and (b) are deleted, to permit increased use of MSC managers' judgment in establishing new branches (PB21301, 6–4–81).

b. Section 115.95 is deleted to reflect termination of Canal Zone Postal Service effected by the Panama Canal Act of 1979 (PB21284, 2–12–81).

c. Section 119.1 is revised to update the list of registered trademarks and service marks and to clarify instructions on their use (PB21291, 3–26–81).

d. * * *

e. Section 141.121, requiring the use of stamps of the highest suitable denomination, is deleted (PB21297, 5–7–81).

f. Section 144.311 is revised to clarify regulations concerning the initial setting of postal meters (PB21304, 6–25–81).

g. Section 144.492 is revised to include the term *Carrier-Route Presort* as an authorized postage marking (PB21294, 4–16–81).

h. Part 145 is revised to allow rounding to the nearest cent when computing postage on permit imprint mail and to remove the requirement that permit imprints be obliterated when another means of prepaying postage is used (PB21297, 5–7–81).

i. Section 147.12 is revised to remove the 48-hour limit on correcting mistakes in purchasing stamps, envelopes, and postal cards (PB21302, 6–11–81).

j. Section 147.26 is renumbered and new sections 147.26 and 147.27 are added to specify procedures regarding postage refund applications (PB21301, 6–4–81).

k. * * *

l. * * *

m. Section 153.22 is revised to eliminate gender-related language (PB 21297, 5–7–81).

n. * * *

o. Sections 159.45(b) and 159.5 are revised to reflect new procedures for processing loose mail from a BMC, to require that money orders be used to return funds over $10 reclaimed from loose or dead mail, and to reflect changes in dead mail branch assignments (PB21286, 2–26–81; PB21289, 3–19–81; PB21302, 6–11–81; PB21304, 6–25–81).

p. Exhibit 367.24 is revised to correct several Area District Center ZIP Codes (PB21282, 1–29–81).

q. * * *

r. * * *

s. * * *

t. Parts 461–465 are revised and reorganized to specify that second-class publications must bear a publication name on the front page and contain an identification statement, and to specify that firm packages must show the subscriber's name and address (PB21284, 2–12–81).

u. * * *

v. Section 724.34 is deleted to clarify policies permitting mailers to enclose third-class materials with matter mailed at special fourth-class rates (BP21285, 2–19–81; PB21298, 5–14–81).

w. * * *

x. Sections 911.5 through 911.935 are deleted and are replaced by DM–901, Registered Mail.

y. Section 914.42 is revised to include instructions for the acceptance of COD articles at nonpersonnel rural units and rural routes (PB21304, 6–25–81).

z. Part 917 is revised to reflect changes in regulations governing business reply mail, to correct errors in an earlier issue, and to revise the facing identification mark (FIM) specifications to conform with other sections (PB21284, 2–12–81; PB21301, 6–4–81).

aa. Section 941.161a is revised to reduce to 30 days the waiting period for processing replacement money orders (PB21302, 6–11–81).

bb. Sections 951.133 (a) and (b), and 952.16 (a) and (b) are revised to state new verification requirements for processing applications for lockbox and caller service (PB21303, 6–18–81).

cc. * * *

4. Section 123.3 and part 124 are revised to clarify the responsibilities of postal employees in determining mailability of materials (PB 21291, 3–26–81; PB 21292, 4–2–81; PB 21303, 6–18–81):

a. Part 124 is reorganized for use with Publication 52, *Acceptance of Hazardous, Restricted or Perishable Matter*, and part 124 is rewritten to clarify that the transportation of hazardous materials in interstate commerce is regulated by the U.S. Department of Transportation under comprehensive regulations. Most hazardous materials which might be presented for mailing fall within the "Other Regulated Material" (ORM) hazard class established by the Department of Transportation in Title 49, Code of Federal Regulations. Most mailable hazardous materials are treated in a subclassification of the ORM class, *Consumer Commodities* (ORM–D). Because many mailers are familiar with the ORM system, the Postal Service has, wherever consistent with postal statutes, adopted similar requirements with respect to acceptable preparation and quantities of mailable hazardous materials. This practice continues under revised Part 124.

b. Section 124.1 is revised to ensure proper responses to questions concerning mailability and to ensure compliance with mail security regulations when nonmailable matter is discovered in the mails.

c. The general requirements of Section 124.21 are transferred to 124.14, since they apply to hazardous, restricted and perishable articles now covered in three separate sections.

d. Section 124.23 is revised to recognize that hazardous material warning labels are not required on mailings within the ORM limits. Specific labeling requirements (etiologic agents and magnetized material) are included in the appropriate sections.

e. Section 124.33 is revised to reflect the marking, labeling, and shipper's certification requirements applied by 49 CFR to flammable liquids, solids and oxidizers, and to update the regulations on combustible liquids and safety matches.

f. Section 124.34 is added to cover corrosive liquids and solids in accordance with previous postal practices and 49 CFR, ORM–D regulations.

g. Section 124.35 is revised to accord with current postal practices concerning mailing compressed gases and with 49 CFR definitions and container and marking requirements.

h. Section 124.36 is revised to more accurately reflect the restrictions on mailing poisons applied by Title 18, United States Code, Section 1716, and to incorporate previous postal practices and 49 CFR, ORM–D regulations providing definitions, container and marking requirements.

i. Section 124.37 is revised to provide more information on the exclusion of labeled radioactive material in Publication 6, *Radioactive Materials.*

j. Section 124.39 is added to incorporate ORM requirements applicable to dry ice and magnetized items.

k. Section 124.4 is added to reference substances and articles the mailing of which is restricted by postal statutes.

l. Sections 124.5 and 124.6 are renumbered to more closely correspond to sections in Pub. 52.

m. Section 124.6 is revised to exclude from the mails live spiders and turtles, and turtle eggs.

5. Additional minor editorial revisions are made where necessary to clarify existing regulations and procedures and to conform to published revisions. Among these revisions are the following:

a. Section 136.3 is revised to correct a printing error.

b. Section 137.273c is deleted and Sections 137.273d-f are renumbered accordingly.

c. Section 143.11 is revised to clarify the fact that precanceled commemorative stamps are not available.

d. Section 322.32d is revised to change the reference to Part 663 to 667.

e. Section 322.4 is revised to specify the rate for mailing nonconforming cards.

f. Section 424.2 is revised to allow news agents to distribute copies of second-class publications to requestors.

g. Section 424.4 and Part 426 are revised to clarify that nonsubscriber rates are the same as regular rates.

h. Subchapter 450 is revised to include references to 422.6 and 464.2.

i. Part 482 is revised to correct references to Forms 3503, 3541, and 3541-A.

j. Part 493 is revised to reinstate language inadvertently omitted, requiring payment of the transient rate on returned copies of second-class publications.

k. Parts 692 and 693 are revised to eliminate the name of the fourth-class rate.

l. Section 941.86 is revised to correct a printing error.

6. Late changes:

a. * * *

b. Section 144.524 is added to allow metered mail to be deposited at the area mail processing center serving the post office where the meter is licensed (PB21305, 7-2-81).

c. Section 6232.12c is revised to clarify procedures for preparing third-class 5-digit presort level rate mailings (PB21306, 7-9-81; PB21319, 10-6-81).

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	FEDERAL REGISTER publication
* * * * *		
6	July 7, 1981	46 FR ——,

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001-3011, 3201-3218, 3403-3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81-34243 Filed 11-27-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-1960-8]

Approval and Promulgation of Implementation Plans, Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this action is to approve a revision to the Colorado State Implementation Plan (SIP) submitted by the Governor of Colorado and received by EPA on January 6, 1981. The revision was prepared to meet Section 172(b)(3) of the Clean Air Act as amended in 1977 (the Act). This requires the application of Reasonably Available Control Technology (RACT) to Group II stationary sources of Volatile Organic Compounds (VOC) as specified under EPA's Group II Control Technique Guidelines (CTG).

EPA is also revoking a number of ozone control strategy regulations promulgated by EPA under the Clean Air Act of 1970 since SIP revisions submitted by the State, in response to the Act, include control strategies which supersede or replace the earlier EPA promulgations. On July 8, 1981 (46 FR 35302) EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received.

DATES: This rulemaking is effective December 28, 1981.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

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

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

Colorado Department of Health, Air Pollution Control Division, 4210 E. 11th Avenue, Denver, Colorado 80220

Written comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: William Bernardo, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-6131.

SUPPLEMENTARY INFORMATION: Section 172(b)(3) of the Clean Air Act requires the application of RACT to stationary sources of VOC in areas in the State of Colorado which have not attained the National Ambient Air Quality Standard for ozone. A 1979 SIP revision was required to include RACT on those categories for sources for which EPA had published CTG prior to January 1978. On June 5, 1980, Colorado submitted an amended Regulation No. 7 covering Group I sources which EPA felt represented RACT. EPA approved the amended Regulation No. 7 on March 13, 1981 (46 FR 16687).

Colorado was required to revise its SIP in 1980 to include RACT on those categories of sources for which EPA had published CTG's between January 1978, and January 1979 (See 43 FR 21673 (May 19, 1978), 44 FR 50371 (August 28, 1979)). On January 6, 1981, the State of Colorado submitted a revised Regulation No. 7 which addressed the following nine Group II categories:

1. Section VI—Petroleum liquid storage in external floating roof tanks.
2. Section VI—Leaks from gasoline tank trucks.
3. Section VIII—Leaks from petroleum refinery equipment.
4. Section IX—Coating of miscellaneous metal parts and products.
5. Section XII—Perchloroethylene dry cleaning systems.
6. Section XIII—Graphic Arts.
7. Section XIV—Pharmaceutical synthesis.
8. Rationale—Flat wood paneling.
9. Rationale—Pneumatic rubber tire manufacturing.

EPA believes that portions of the revised Regulation No. 7 adequately address RACT and the supplemental comments received on August 20, 1981, will remedy deficiencies identified by EPA in the proposed rulemaking on July 8, 1981 (46 FR 35301). Specifically, the supplemental comments stated that the emission reduction the State will require for the coating of miscellaneous metal parts (IX M 2dii) will be the equivalent of low solvent coating and not 60 percent as specified in the regulations until this part of the regulation will be changed.

EPA is also revoking a number of ozone control strategies promulgated prior to enactment of the Clean Air Act

Amendments of 1977, including 40 CFR 52.331 (control of dry cleaning solvent evaporation); 52.332 (degreasing operations); 52.333 (organic solvent usage); 52.334 (storage of petroleum products); 52.335 (organic liquid loading); 52.336 (gasoline transfer vapor control); 52.337 (control of evaporative losses from the filling of vehicular tanks); and 52.338 (federal compliance schedules). EPA believes revocation of these control strategies is appropriate since these control strategies have been superseded by equally effective measures developed by the State to comply with the requirements of Part D of the Clean Air Act as amended. EPA further believes that Congress intended for state and local governments to assume the primary responsibility for developing and implementing necessary control strategies because such agencies are in a better position to determine the best way to achieve compliance with clean air goals. Furthermore, under section 110(c) of the Clean Air Act, EPA may only promulgate strategies if the SIP submitted by the State does not meet the requirements of the Act. EPA believes the SIP revisions submitted by Colorado on June 5, 1980 and January 6, 1981, requiring RACT for Group I and Group II sources of volatile organic compounds adequately address the applicable requirements of the Clean Air Act. Therefore, the prior EPA promulgations are now duplicative and inappropriate.

EPA is also revoking transportation control strategies promulgated by EPA for the State of Colorado prior to enactment of the Clean Air Act Amendments of 1977, including 40 CFR 52.339 (monitoring transportation control) and 52.340 (review of new (indirect) sources and modifications). On January 1, 1979 and February 6, 1980, the State submitted SIP revisions in response to the Clean Air Act as amended in 1977 addressing transportation control strategies. On October 5, 1979, and August 1, 1980, EPA approved these SIP revisions. See 44 FR 57401 and 45 FR 51199. In 1976 EPA indefinitely suspended all federally promulgated indirect source review provisions. See 40 CFR 52.22(b)(16)(1980). In addition, section 110(a)(5) of the Clean Air Act as amended severely restricted EPA's authority to promulgate indirect source review programs. Since EPA has already fully approved the transportation control related elements of the SIP submitted by the State of Colorado and has approved the remaining necessary ozone control strategies, the above mentioned strategies, which were previously promulgated by EPA, are duplicative of existing state and local regulatory requirements and no longer necessary or appropriate.

Therefore, EPA is today approving Colorado Regulation No. 7 submitted on January 6, 1981, and is revoking outdated EPA regulations which appear in 40 CFR 52.331 through 52.340.

EPA has determined that the Colorado SIP revision is consistent with section 172(b)(6) of the Act.

EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under state law or regulation and EPA approval poses no additional regulatory burden; and

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

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

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

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 in not Major because it imposes no new requirements. It only approves requirements adopted by the State. This action was submitted to the Office of Management and Budget for review as required byExecutve Order 12291.

(Section 110, Clean Air Act (42 U.S.C. 7410).

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

Dated: November 6, 1981.

Anne M. Gorsuch,

Administrotor.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart G—Colorado

1. In § 52.320 paragraph (c)(24) is added as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(24) Provisions to meet the requirements of Section 110 and 172 of the Clean Air Act, as amended in 1977, regarding control of Group II VOC sources were submitted on January 6, 1981, and the supplemental information received on August 20, 1981.

§ 52.331 [Removed]

2. Section 52.331 *Control of dry cleaning solvent evaporation* is removed.

§ 52.332 [Removed]

3. Section 52.332 *Degreasing operations* is removed.

§ 52.333 [Removed]

4. Section 52.333 *Organic solvent usage* is removed.

§ 52.334 [Removed]

5. Section 52.334 *Storage of petroleum products* is removed.

§ 52.335 [Removed]

6. Section 52.335 *Organic liquid loading* is removed.

§ 52.336 [Removed]

7. Section 52.336 *Gasoline transfer vapor control* is removed.

§ 52.337 [Removed]

8. Section 52.337 *Control of evaporative losses from the filling of vehicular tanks* is removed.

§ 52.338 [Removed]

9. Section 52.338 *Federal compliance schedules* is removed.

§ 52.339 [Removed]

10. Section 52.339 *Monitoring transportation controls* is removed.

§ 52.340 [Removed]

11. Section 52.340 *Review of new sources and modifications* is removed.

[FR Doc. 81-34311 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A4-FRL 1973-6]

Approval and Promulgation of Implementation Plans; Kentucky, Approval of 1979 Ozone Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves the State Implementation Plan (SIP) revisions submitted by the Kentucky Department for Natural Resources and Environmental Protection for the Boone, Campbell and Kenton Counties ozone nonattainment area. This action was proposed on July 10, 1981 (46 FR 35684). These revisions correct deficiencies in the transportation control measures (TCM) portion of the plan for all three counties and the auto emission inspection/maintenance (I/M) portion of the plan for Boone County only. EPA approves the I/M portion of the Boone County SIP. The disapproval (45 FR 62810, September 22, 1980) of the plan for Campbell and Kenton Counties, and the attendant construction moratorium, will remain in effect there because the plan does not contain provisions for an I/M program. With this approval of the Boone County portion of the SIP, the construction moratorium which had been in effect in the county is hereby lifted.

DATES: The actions are effective on November 30, 1981.

ADDRESSES: Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

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

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

Library, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365

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

SUPPLEMENTARY INFORMATION: On January 25, 1980 (45 FR 6092), EPA conditionally approved the Part D ozone SIP for the Northern Kentucky (Boone, Campbell, and Kenton Counties) nonattainment area. The conditions involved two areas: (i) Legal authority for an I/M program, and (ii) commitments to implement and enforce various TCMs and to analyze other TCMs as required by section 108(f) of the act. These conditions are discussed in more detail in the January 25, 1980, **Federal Register.** Corrections of these deficiencies were required by June 30, 1980 and June 1, 1980, respectively.

It was anticipated that the Kentucky General Assembly would enact legal authority for a state-run I/M program during its 1980 session. However, although an I/M bill was passed by the Kentucky Senate, it was voted down in the House. Thus, the General Assembly adjourned on April 15, 1980, without enacting any I/M legal authority. EPA and the Kentucky Department for Natural Resources (KDNREP) explored other means to enact an I/M program for the counties in time to meet the June 30 deadline. The only remaining alternative appeared to be the adoption and implementation of an I/M program by the county governments. Only Boone County expressed any interest in this approach, and on July 11, 1980, an I/M ordinance was enacted by the Boone County Fiscal Court. The Campbell and Kenton County governments refused to take any action to implement the program locally. Because the deadline had passed and no action had been taken to correct the deficiencies noted in the conditional approval for Campbell and Kenton Counties and no action appeared imminent, EPA disapproved the ozone SIP for Campbell and Kenton Counties on September 22, 1980 (45 FR 62866).

EPA policy at the time required disapproval of the SIP for the entire nonattainment area in a state if an acceptable plan had not been submitted, even though an acceptable plan has been submitted for a political subdivision within the nonattainment area. In addition, at that time the Boone County I/M ordinance and TMC commitments had not yet been officially submitted as SIP revisions. For these reasons, the Boone County portion of the plan was disapproved also, although it was recognized that Boone County would likely have an approvable plan. The disapproval of the SIP triggered a moratorium on the issuance of permits for new or modified major hydrocarbon sources, as required by section 110(a)(2)(I) of the Act. On September 22, 1980, (45 FR 62850) EPA proposed modification of its policy to allow the lifting of the permit moratorium in a political subdivision which has an approved plan, even if there is not an approved plan for the entire nonattainment area. Final action on this change in policy was published on August 17, 1981 (45 FR 41496). Kentucky has submitted as SIP revisions the Boone County I/M ordinance and an implementation schedule adopted by the county. Also submitted were letters of commitment by the appropriate state and local agencies to implement and enforce previously adopted TCMs and to analyze additional TCMs under Section 108(f). These submittals were made on November 19, 1980. Approval of these SIP revisions was proposed on July 10, 1981 (46 FR 35684) and 340 days were allowed for public comment. No comments were received on the proposal.

EPA judges that these submittals satisfy all the conditions of approval outlined in the January 25, 1980 **Federal Register,** with the exception of legal authority for I/M in Campbell or Kenton Counties. The Boone County I/M ordinance provides for annual inspection of all motor vehicles licensed in the county, beginning no later than December 31, 1982, and provides penalties for nonconforming vehicles. The program will utilize a central inspection facility. The schedule for I/M program implementation which was submitted on November 19 is no longer valid because certain interim milestones have not been met. At EPA's request, the county has adopted a new schedule which revises all the outdated milestones. This new schedule includes all the milestones presented in the July 17, 1978, I/M policy memorandum from David G. Hawkins to the Regional Administrators. This schedule was submitted as a SIP revision by KDNREP on October 9, 1981. EPA finds this new schedule to be satisfactory. EPA also finds that the requirement of a valid I/M implementation schedule has been met.

The ordinance provides that the emission standards for the I/M program will be compatible with Federal requirements. EPA interprets this to mean that the county I/M program will satisfy the requirement for minimum program effectiveness as specified in the July 17, 1978, I/M policy memorandum. It is expected that regulations will be adopted which will demonstrate that the Boone County I/M program will achieve the required emission reductions (25% using MOBILE 1 or 35% using MOBILE 2) in light duty vehicle emissions. The demonstration must included as part of the 1982 SIP revisions as required by the SIP policy published January 22, 1981 (46 FR 7182).

The TCM commitment letters contain commitments from the appropriate agencies to: (i) implement and enforce TCMs identified in the SIP; (ii) examine the long-term as well as short-term air quality benefits from the TCM projects identified in the SIP; and (iii) analyze all section 108(f) measures and justify not adopting any measures found infeasible.

Action: EPA approves the Boone County portion of the Kentucky ozone SIP. EPA finds good cause to make this action effective immediately since the county is now under a new source construction moratorium. Making the approval effective immediately allows the lifting of this moratorium

immediately. The Boone County I/M program is approved. EPA also approves the TCM portion of the ozone SIP for Campbell and Kenton Counties. This will mean that all portions of the ozone SIP for these two counties will be approved except for the portions relating to I/M. The permit moratorium for these two counties remains in effect.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 27, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12991, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement for regulatory impact analysis. The actions taken today are not major because they only approve state actions. They impose no new regulatory requirements. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12991.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the SIP approvals under section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Furthermore, it lifts Federal restrictions now in place.

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

(Sec. 110 and 172 of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7502)

Dated: November 19, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart S—Kentucky

1. In § 52.920, paragraph (c) is revised by adding subparagraphs (21) and (27) as follows:

§ 52.920 Identification of plan.

* * * * *

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

(21) Boone County Inspection/Maintenance ordinance and transportation control measures for Boone, Campbell, and Kenton Counties, submitted on November 19, 1980, by the Kentucky Department for Natural Resources and Environmental Protection.

* * * * *

(27) Revised Boone County Inspection/Maintenance schedule submitted on October 9, 1981 by the Kentucky Department for Natural Resources and Environmental Protection.

2. In § 52.930, paragraph (b)(1) is revised to read as follows:

§ 52.930 Control Strategy: Ozone

* * * * *

(b) Part D—disapproval (1) Campbell and Kenton Counties nonattainment area. The 1979 SIP revisions for these two counties are disapproved because the Commonwealth failed to submit evidence of legal authority to implement a vehicle inspection and maintenance program as required under section 172(b)(11)(B) of the Clean Air Act. No major new or modified sources of volatile organic compounds can be built in these two counties by virtue of the provisions of section 110(a)(2)(I) of the Clean Air Act.

[FR Doc. 81-34118 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL 1969-7]

Approval and Promulgation of Implementation Plans for Kentucky, North Carolina, South Carolina, and Davidson and Hamilton Counties in Tennessee; Lead Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As required by section 110 of the Clean Air Act and the promulgation of a National Ambient Air Quality Standard for Lead on October 5, 1978 (43 FR 46246), the Commonwealth of Kentucky and the States of North Carolina, South Carolina, and Davidson and Hamilton Counties in Tennessee have submitted for approval to EPA State Implementation Plans (SIPs) for lead. The lead SIPs provide for the attainment of the National Ambient Air Quality Standard (NAAQS) for lead in all areas of the Kentucky, North Carolina, South Carolina, and Davidson and Hamilton Counties in Tennessee. EPA hereby approves these SIPs. Copies of the SIPs are available to the public as noted below. This action will be effective January 27, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective January 27, 1982.

ADDRESSES: Written comments should be addressed to Drew Peake of EPA Region IV's Air Program Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky, North Carolina, South Carolina and Tennessee may be examined during normal business hours at the following locations:

Division of Air Pollution Control, Kentucky Department for Natural Resources and Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601

North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611

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

Division of Air Pollution Control, Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

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

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Drew Peake at the EPA Region IV address above or call 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On October 5, 1978, National Ambient Air Quality Standards (NAAQS) for lead were promulgated by the Environmental Protection Agency (EPA) (43 FR 46246). Under section 110(a)(1) of the Clean Air Act (the Act), States must within nine months after promulgation of NAAQS submit a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of the NAAQS within the State. The Commonwealth of Kentucky, the States of North Carolina and South Carolina, and Davidson and Hamilton Counties in Tennessee have developed

and submitted SIPs for the attainme the lead NAAQS. The plans include a strategy for attainment of the lead NAAQS in all parts of Kentucky, North Carolina, South Carolina, and Davidson and Hamilton Counties in Tennessee and show attainment of the NAAQS by October 31, 1982.

The basic requirements for a SIP in general are outlined in section 110(a)(2) of the Clean Air Act and EPA regulations at 40 CFR Part 51, Subpart B. Specific requirements concerning lead air quality data, emission inventory for lead, control strategies for lead, etc., are outlined in 40 CFR Part 51, Subpart E.

On December 18, 1980, the Kentucky Department for Natural Resources and Environmental Protection submitted the Kentucky lead SIP to EPA for approval. The North Carolina Department of Natural Resources and Community Development submitted the North Carolina lead SIP to EPA on May 2, 1980. On May 1, 1980, the South Carolina Department of Health and Environmental Control submitted the South Carolina lead SIP to EPA for approval. The Davidson County and Hamilton County, Tennessee lead SIPs were submitted on August 19, 1981.

EPA also finds that the States' approved SIPs for the other criteria pollutants contain regulations satisfying other general SIP requirements which have not received specific mention in this notice. EPA finds that these regulations can be incorporated into the States' lead SIPs. Therefore, EPA approves the lead plans as satisfying all of the requirements in section 110(a)(2) of the Act and 40 CFR Part 51, Subpart B.

Action: EPA today approves the Kentucky, North Carolina, South Carolina, and Davidson and Hamilton Counties, Tennessee lead SIPs. This is being done without prior proposal because the SIPs are noncontroversial, are based on accepted procedures, have limited impact, and no comments are expected. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action, and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 27, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only demonstrates that the lead NAAQS can be attained by the statutory deadline.

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 burden on sources.

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

Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky and for the States of North Carolina, South Carolina, and Tennessee was approved by the Director of the **Federal Register** on July 1, 1981.

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

Dated: November 18, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart S—Kentucky

1. In § 52.920, paragraph (c) is amended by adding subparagraph (23) as follows:

§ 52.920 Identification of plan.

* * * * *

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

* * *

(23) Implementation plan for lead, submitted on May 7, 1980, by the Kentucky Department for Natural Resources and Environmental Protection.

Subpart II—North Carolina

2. In § 52.1770, paragraph (c) is amended by adding subparagraph (29) as follows:

§ 52.1770 Identification of plan.

* * * * *

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

* * *

(29) Implementation plan for lead, submitted on May 2, 1980, by the North Carolina Department of Natural Resources and Community Development.

Subpart PP—South Carolina

3. In § 52.2120, paragraph (c) is amended by adding subparagraph (20) as follows:

§ 52.2120 Identification of plan.

* * * * *

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

* * *

(20) Implementation plan for lead, submitted on May 1, 1980, by the South Carolina Department of Health and Environmental Control.

Subpart RR—Tennessee

4. In § 52.2220, paragraph (c) is amended by adding subparagraph (40) as follows:

§ 52.2220 Identification of plan.

* * * * *

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

* * *

(40) Davidson County and Hamilton County implementation plans for lead, submitted on August 19, 1981, by the Tennessee Department of Public Health.

[FR Doc. 81-34291 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 62

[Docket No. AH201PA; A-3-FRL 1986-6]

Pennsylvania Plan for Controlling Sulfuric Acid Mist

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves Pennsylvania's plan for controlling sulfuric acid mist emissions from existing sulfuric acid production facilities. Pennsylvania's plan was submitted pursuant to the requirements for section 111(d) of the Clean Air Act. This action will be effective 60 days

from the date of this notice unless critical comments are received within 30 days that would require EPA to reconsider this action.

DATES: This action is effective on January 27, 1982.

ADDRESSES: Written comments should be submitted to the following address: Environmental Protection Agency, Region III, Air Media & Energy Branch, Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: Gregory D. Ham (3AH11)

Copies of Pennsylvania's submittal and accompanying support documentation are available for inspection during normal business hours at the above-listed and the following locations:

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2063, Harrisburg, PA. 17120, ATTN: Mr. James Hambright

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

The Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Gregory Ham, Environmental Scientist (3AH11) at the EPA Region III address cited above or by telephone at (215) 597-2745.

SUPPLEMENTARY INFORMATION: The Secretary of the Pennsylvania Department of Environmental Resources (DER) submitted to EPA the Commonwealth's plan for controlling sulfuric acid mist from existing sulfuric acid mist production facilities. The plan is required by section 111(d) of the Clean Air Act. It was originally submitted as part of the Part 52 plan, and is today being approved as satisfying the requirements of 40 CFR Part 60, Subpart B. The Secretary stated that the public hearing requirements were satisfied with the original submittal.

On August 17, 1981, DER submitted an emissions inventory for the six sulfuric acid mist plants in Pennsylvania. This inventory included information on plant location, emissions, and control devices at each plant, and satisfies the requirements of Appendix D of 40 CFR Part 60.

Pennsylvania's regulation for existing sulfuric acid production units limits emissions to 0.5 lb. acid mist per ton of H_2SO_4, and is equivalent to the performance standard established under Section 111(d). This regulation is included in Chapter 129, Section 12 of Pennsylvania's Air Resources Regulations. The test methods for determining compliance with this regulation are included in Chapter 139.4(10) of the Pennsylvania Air Resources Regulations.

Final Action

EPA has determined that the plan submitted by the Commonwealth of Pennsylvania to control sulfuric acid mist from existing sulfuric acid production units meets the requirements of section 111(d) of the Clean Air Act and the provisions of Part 60 of 40 CFR, Chapter I. Therefore, the Administrator is approving this plan as submitted.

The public should be advised that this action will be effective January 27, 1982. However, if on or before December 28, 1981, any critical comments are received that would require EPA to reconsider this action, it will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action and establish a comment period.

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

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

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

(42 U.S.C. 7411(d)

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

Dated: November 20, 1981.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

* * * * *

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

1. Section 62.9600 *Identification of plan,* should be amended by the addition of the following new paragraph (b):

§ 62.9600 Identification of plan.

* * * * *

(b) Plan for Sulfuric Acid Mist Emissions from Existing Sulfuric Acid Plants in the Commonwealth of Pennsylvania, submitted on May 30, 1978 and supplemented on August 17, 1981.

[FR Doc. 81-34117 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-3-FRL 1986-4]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the State of Maryland

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Maryland has requested that Washington County be redesignated from "does not meet primary standards" to "cannot be classified or better than national standards" with respect to ozone (O_3). The State justifies the redesignation request on the fact that the four "exceedences" of the national ambient air quality standard (NAAQS) for ozone recorded during a three-year period from April, 1977 to March, 1980 were based on improper quality assurance procedures. EPA agrees with the State's conclusions and by this notice, redesignates Washington County as "cannot be classified or better than national standards." EPA also corrects an erroneous statement with regard to the Administrator's recent approval of a redesignation action for the State of

Maryland with regard to carbon monoxide.

EFFECTIVE DATE: This action will be effective on January 27, 1982 unless notice is served within 30 days that someone wishes to submit adverse or critical comments.

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

Maryland Air Management Administration, 201 West Preston Street, Baltimore, MD 21201, Attn: Mr. George P. Ferreri

U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106

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

The Office of the Federal Register, 1100 L St., N.W., Room 804, Washington, D.C. 20408

All comments should be addressed to: Mr. Henry J. Sokolowski, P.E. (3AH12), Chief, MD-DE-DC Metro Section, U.S. Environmental Protection Agency, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Attn: 107MD-4

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597-8392, Attn: 107MD-4.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1981, the State of Maryland submitted to EPA a request for redesignation, under section 107 of the Clean Air Act, with respect to ozone. The State has requested that Washington County, currently designated as "does not meet primary standards," be redesignated as "cannot be classified or better than national standards."

The State submitted additional information on August 14, 1981 to justify this redesignation request, contending that the four "exceedences" of the national ambient air quality standard (NAAQS) for ozone that were recorded during the most recent three-year period for which air quality data was available (April, 1977—March, 1980) should be considered invalid because of a quality assurance problem. The nature of the problem is that the one ozone monitor located in the County was improperly calibrated at the time that these four "exceedences" were recorded (June 15-17, 1977 and June 20, 1978). Thus, the State contends that these "exceedences" represent values that would not be indicative of actual ambient levels of ozone in Washington County. The remainder of the data showed no other "exceedences." Operation of this monitor has since been discontinued.

EPA Evaluation

EPA has reviewed the ozone data collected on June 15-17, 1977 and June 20, 1978 and agrees with the State's contention that these air quality data are invalid. EPA believes that the calibration technique used by the State of Maryland on these dates would result in spurious ozone values that would not accurately represent actual ambient ozone levels. Therefore, EPA concludes that the air quality "exceedences" recorded in the aforementioned dates are invalid and should not be used as a basis for determining the attainment status for Washington County with respect to ozone.

EPA Actions

Based on the above evaluation, EPA approves the redesignation of Washington County, Maryland from "does not meet primary standards" to "cannot be classified or better than national standards" with respect to ozone. In accordance with this action, the chart contained in 40 CFR 81.321 amended to reflect the change in designation status. As a result of this redesignation action, Maryland will no longer be required to implement a Part D nonattainment ozone plan for Washington County.

EPA also corrects an erroneous statement pertaining to the Adminstrator's approval of revised redesignations from "does not meet primary standards" to "cannot be classified or better than national standards" for carbon monoxide (CO) for the cities of Hagerstown and Cumberland, 41 FR 43156 (1981). It should be noted that both the air quality data recorded by the State of Maryland and the NAAQS for CO are measured in terms of *milligrams* per cubic meter (mg/m^3) rather than *micrograms* per cubic meter (ug/m^3) as described in the aforementioned notice. This erroneous description of the CO air quality data does not affect the Administrator's approval of the revised redesignation for Hagerstown and Cumberland with respect to CO.

The public is advised that this action will be effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that SIP approvals under sections 107 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before January 27, 1982.

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

Dated: November 20, 1981.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations, § 81.321 is amended by revising the "O_x" chart to read as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

§ 81.321 Maryland.

* * * * *

Maryland—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR—Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X
Cumberland-Keyser Interstate AQCR		X

[FR Doc. 81-34114 Filed 9-27-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6075

[U-49399]

Utah; Modification of Executive Order 5327

Corrections

In FR Doc. 81-33371 appearing on page 56786 in the issue of Thursday, November 19, 1981, make the following corrections:

(1) On page 56786, in the heading, the Executive Order number, "5347" should have appeared as set forth above.

(2) On page 56787, first column, second line from the bottom should read as follows:

"T. 13 S., Rs. 18, 19 E.,"

and in the second column, ninth Township down, now reading:

"T. 1415 S., R. 23 E.,"

Should read:

"T. 14 S., R 23 E."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-145C, Amdt. No. 172-66]

Listing of Hazardous Materials

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Notice of denial of petitions for reconsideration.

SUMMARY: On March 19, 1981, the Materials Transportation Bureau (MTB) issued a final rule, entitled "Listing of Hazardous Materials" (46 FR 17738), as required by section 306(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), listing as hazardous materials under the Hazardous Materials Transportation Act (HMTA) certain materials defined as "hazardous substances" under section 101(14) of CERCLA. On April 20, 1981, MTB received petitions for reconsideration of that rule from the National Tank Truck Carriers, Inc. (NTTC) and the American Trucking Association, Inc. (ATA), jointly, and from the American Association of Railroads (AAR) urging that the final rule be amended to require that shipments of the listed materials comply with the hazardous materials shipping paper requirements. By this notice, the MTB denies the petitions for reconsideration and sets forth the reasons for that denial.

FOR FURTHER INFORMATION CONTACT: Douglas Anderson, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, S.W., Washington, D.C. 20590, telephone (202) 755-4972.

SUPPLEMENTARY INFORMATION:

Notice of Denial of Petitions for Reconsideration

On March 19, 1981, the MTB issued a final rule, entitled "Listing of Hazardous Materials" (46 FR 17738), as required by section 306(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), listing as hazardous materials under the Hazardous Materials Transportation Act (HMTA) certain materials defined as "hazardous substances" under section 101(14) of CERCLA. On April 20, 1981, MTB received petitions for reconsideration of that rule from the National Tank Truck Carriers, Inc. (NTTC) and the American Trucking Association, Inc. (ATA), jointly, and from the American Association of Railroads (AAR). Since the petitions raise similar issues, they have been consolidated for purposes of this notice.

The petitioner's principal objection to the final rule is that the rule did not subject the listed materials to the Hazardous Materials Regulations (HMR). Specifically, the petitioners assert that section 306(a) of CERCLA requires that the shipping paper requirements of the HMR apply to the listed materials. They argue, that, since section 306(b) of CERCLA exempts carriers from liability under section 107 of that Act prior to the effective date of the listing required by section 306(a), Congress must have intended that carriers be given actual notice that they are transporting listed materials in order to be subject to liability under CERCLA, and that the HMR shipping paper requirements be the means for providing such notice. Furthermore, they argue, since section 102 of CERCLA establishes a statutory reportable quantity (RQ) for the listed materials of one pound until the Environmental Protection Agency (EPA) establishes a different quantity, MTB must designate the listed materials as "hazardous substances", as defined in the HMR, and assign them an RQ of one pound, thereby requiring the preparation of shipping papers for all shipments containing one pound or more of listed materials.

MTB disagrees with this interpretation of the effect of section 306. While the legislative history is silent on whether Congress intended section 306 to require the application of the HMR to the listed materials, MTB expressed its understanding of Congressional intent in the preamble to the final rule:

> The purpose of these provisions (sections 306(a) and (b)) is twofold: First, to assure coordination of the implementation of CERCLA (as it relates to transportation) with the administration of the HMTA so as to avoid regulatory inconsistencies and overlaps; and, second, to provide *reasonable* notice, through the HMTA regulatory system, to transporters of hazardous substances that they are subject to the liability and other provisions of CERCLA. (Emphasis added)

Clearly, the first purpose is accomplished by the final rule; with respect to the listed materials that are not otherwise subject to the HMR, a framework has been established whereby, at such time as EPA establishes RQ's for those materials, MTB can subject them to the appropriate level of regulation under the HMR, including shipping paper requirements.

The second purpose is also accomplished to the extent reasonable. As a result of the final rule, carriers are aware that the listed materials are subject to CERCLA and that they may be held liable for release of those materials. To the extent that carriers know, or can determine, whether they transport these materials, this information is useful to them. As discussed in the preamble to the final rule, to go beyond this by requiring the preparation of shipping papers for all shipments of listed materials in quantities exceeding one pound would, in the view of MTB, be unwarranted, unreasonable, and contrary to the Department's goal of minimizing paperwork burdens.

It should be noted that, on the same day that CERCLA (Pub. L. 96-510) received final approval (December 11, 1980), another law, the "Paperwork Reduction Act of 1980", (Pub. L. 96-511) was approved in which Congress forcefully expressed the same goal: "The purpose of this chapter is—(1) to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons; * * *" (44 U.S.C. 3501). No information presented in the petitions outweighs these considerations in such a way as to alter MTB's previous conclusion.

In MTB's opinion, it was the intent of Congress in enacting section 306 that, once DOT has listed the materials subject to CERCLA as hazardous materials, DOT retain the discretion provided by the HMTA to determine whether, and to what extent, those materials should be regulated. A brief examination of DOT's authority under the HMTA clarifies that distinction. Section 104 of the HMTA provides, in part, "Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of materials in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material." Section 105(a) provides, in part, "The Secretary may issue * * * regulations for the safe transportation in commerce of hazardous materials." Therefore, the effect of section 306(a) of CERCLA is, in effect, to remove the Secretary's discretion under section 104 of the HMTA by requiring him to "list" (or "designate") "hazardous substances" (as defined by CERCLA) as "hazardous materials" under the HMTA. Section 306(a) does not, however, in any way purport to affect the Secretary's discretion under section 105(a) of the HMTA to regulate those materials.

MTB cannot infer from completely silent legislative history that Congress intended so significant a change to the regulatory authority established by the HMTA as to remove the Secretary's discretion to determine whether, and to what extent, to regulate hazardous materials. To the contrary, it was evidently Congress' desire to preserve the Department's regulatory authority in this area and to assure that CERCLA would not overlap or conflict with that authority that led to the adoption of section 306. If if were to be concluded that Congress intended to remove the Secretary's discretion in determining whether to apply the HMR shipping paper requirements to the listed materials, there would be no basis for concluding that Congress did not also intend to remove his discretion in determining whether to apply other requirements of the HMR, such as packaging and labeling requirements. It is far more logical to conclude that Congress intended that the Secretary exercise his discretion in determining the appropriate degree of regulation under the HMTA.

In its petition, the AAR takes exception to an example cited in the preamble to the final rule to demonstrate the vast increase in paperwork requirements if MTB were to apply those requirements to all shipments containing at least one pound of listed materials: "For example, every shipment of galvanized steel containing more than one pound of zinc would require a hazardous materials shipping paper." (46 FR 17738) The AAR's objection appears to be based on the incorrect assumption that zinc is a "hazardous substance" (as defined in CERCLA) only because, in certain forms, it is a hazardous waste. To the contrary, zinc is also a CERCLA "hazardous substance" because it is a toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act. (46 FR 17744) In fact, many other common materials, which have never been considered to be hazardous in transportation, are CERCLA hazardous substances because they have been listed under section 307(a) (e.g., asbestos, chromium, copper, lead, mercury, nickel, and silver). Therefore, the example cited in the preamble is correct, and an appreciation for the tremendous paperwork burden that would result from an automatic extension of the shipping paper requirements to these essentially innocuous shipments strengthens MTB's opinion that Congress did not intend to achieve such a result by implication from section 306 of CERCLA.

Therefore, it is MTB's conclusion that section 306 of CERCLA does not require the application of the HMR shipping paper requirements to the listed materials, and that, as a matter of Departmental discretion under section 105(a) of the HMTA, it would be inappropriate at this time to apply those requirements to those materials that are not otherwise subject to them. For the foregoing reasons, the petitions for reconsideration are denied.

(49 U.S.C. 1803, 1804; 49 CFR 1.53, Appendix A to Part 1)

Issued in Washington, D.C., on November 23, 1981.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 81-34322 Filed 11-27-81; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Correction of the List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The Service hereby corrects certain technical errors in the list of species included in Federal regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

EFFECTIVE DATE: November 30, 1981.

ADDRESS: Please send correspondence concerning this notice to the office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION: The Service issued a notice on September 4, 1981, (46 FR 44660) announcing recent changes in the list of species included in Appendices I, II and III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This list was incorporated in the Code of Federal Regulations to make it readily accessible to the public.

The present notice announces corrections to the list published on September 4, 1981. The changes noted below serve to correct certain misspellings and to bring the published list into conformity with the appendices as established by agreement of the nations that are party to CITES. Because the corrections are intended only to accurately inform the reader, this document is not a rule as defined in 5 U.S.C. 553. For the same reason, the Regulatory Flexibility Act and Executive Order 12291 do not apply. Similarly, the Service finds good cause that this document shall be effective immediately and that advance notice and public comment are unnecessary.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service amends Parts

23 of Title 50 of the Code of Federal Regulations as follows:

The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

§ 23.33 [Amended]

Amend § 23.23 by revising the list of species as follows:

2. Under CLASS MAMMALIA, revise the scientific name of "Dugongs, Manatees" to read: Order Sirenia.

3. Under CLASS MAMMALIA, Order Artiodactyla, add the following entries in alphabetical order:

Species	Common Name	Appendix	Date listed
*	* *	*	*
Capra falconeri jerdoni.	Straight-horned markhor.	I	7/1/75.
Cephalophus monticola.	Blue duiker	II	7/1/75.
Vicugna vicugna.	Vicuna	I	7/1/75.

4. Under CLASS MAMMALIA, Order Artiodactyla, revise the scientific name of "Chialtan markhor" to read: *C. falconeri chialtanensis.*

5. Under CLASS MAMMALIA, Order Artiodactyla, revise the scientific name of "Barbary deer" to read: *C. elaphus barbarus.*

6. Under CLASS MAMMALIA, Order Artiodactyla, revise the date listed for *Tragelophus spekei* to read: 2/26/76.

7. Under CLASS AVES, add "Order Pelecaniformes:" immediately above the entry for *Fregata andrewsi,* which is incorrectly listed under Order Procellariiformes.

8. Under CLASS AVES, Order Galliformes, add "(all parts and derivatives)" after the scientific name of *Agriocharis ocellata.*

9. Under CLASS AVES, revise the entry for "Order Psittaciformes" to read:

Species	Common Name	Appendix	Date listed
*	* *	*	*
Order Psittaciformes: All species except those in Appendix I or with earlier date in Appendix II and except *Melopsittacus undulatus, Nymphicus hollandicus* and *Psittacula krameri.*		II	6/6/81.

10. Under CLASS AVES, Order Psittaciformes, revise the scientific name of "Red-necked parrot" to read: *Amazona arausiaca.*

11. Under CLASS AVES, Order Passeriformes, revise the scientific name of "Rodriguez Island warbler" to read: *Dasyornis brachypterus longirostris.*

12. Under CLASS REPTILIA, Order Squamata, transpose the entire entries for *"E. subflavus"* and *"Eunectes notaeus".*

13. Under PHYLUM ARTHROPODA, Class Insecta, revise the scientific name of "Birdwing butterflies" to read: *Ornithoptera* spp.

14. Under PLANT KINGDOM, Family Araliaceae, revise the appendix listing of *Panax quinquefolius* to read: II.

15. Under PLANT KINGDOM, Family Meliaceae, revise the scientific name of "Cabana, Mexican mahogany" to read: *Swietenia humilis* (timber).

16. Under PLANT KINGDOM, revise the scientific name for the family of "Palms" to read: Family Palmae (Arecaceae).

* * * * *

Dated: November 19, 1981.

J. Craig Potter,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-34163 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 46, No. 229
Monday, November 30, 1981

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 411

[Amdt. No. 2]

Grape Crop Insurance Regulations; Mediterranean Fruit Fly Damage

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation proposes to amend the Grape Crop Insurance Regulations effective with the 1982 crop year by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 27, 1982 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Melvin E. Sims, Chairman of the Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Melvin E. Sims, Chairman of the Federal Crop Insurance Corporation (FCIC), has determined that (1) this action is not a major rule as defined by Executive Order No. 11291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*) and other applicable law.

The information gathering and recordkeeping requirements of the regulations to which this revision applies (7 CFR Part 411—Grape Crop Insurance Regulations) have been approved by the Office of Management and Budget (OMB) under the following control numbers:

RMS OMB NBR
0563–0001
0563–0003
0563–0007

The title and number of the Federal Assistance Program to which this revision applies is: Title—Crop Insurance; Number 10.450. This action will not have a significant impact specifically on area and community development; therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Under the authority contained in the Federal Crop Insurance Act, as amended, FCIC proposes to amend the Grape Crop Insurance Regulations (7 CFR Part 411) as published in the **Federal Register** at 45 FR 62019–62026 (September 18, 1980), effective with the 1982 crop year, by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss.

It has been determined that this action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under Secretary's Memorandum No. 1512–1 (June 11, 1981). That review will be completed prior to the sunset review date of May 30, 1985.

Proposed Rule

PART 411—GRAPE CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), FCIC proposes to amend the Grape Crop Insurance Regulations, 7 CFR Part 411, effective with the 1982 and succeeding crop years, in the following instance:

1. The authority citation for 7 CFR Part 411 is revised to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516).

2. Paragraph 1(a) of the "Terms and conditions" of the Grape Crop Insurance Policy (7 CFR 411.7(d)) is amended as follows:

§ 411.7 The application and policy.

* * * * *

(d) * * *

Grape Crop Insurance Policy

Terms and Conditions

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, fire, or direct Mediterranean fruit fly damage occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

Direct Mediterranean fruit fly damage shall be actual physical damage to the grapes which, as determined by the Corporation, causes such grapes to be considered unmarketable or have a value of less than $50 per ton), and shall not include unmarketability of such grapes as a result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: November 23, 1981.

Approved by:

Melvin E. Sims,
Chairman.

[FR Doc. 81-34315 Filed 11-27-81; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 439

[Amdt. No. 1]

Almond Crop Insurance Regulations; Mediterranean Fruit Fly Damage

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance proposes to amend the Almond Crop Insurance Regulations effective with the 1982 crop year by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss, and clarifying production to count for unmarketable almonds. This action promulgated under the authority

contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than Janaury 27, 1982 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Melvin E. Sims, Chairman of the Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202–447–3325.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Melvin E. Sims, Chairman of the Federal Crop Insurance Corporation (FCIC), has determined that (1) this action is not major rule as defined by Executive Order No. 11291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The information gathering and recordkeeping requirements of the regulations to which this revision applies (7 CFR Part 439—Almond Crop Insurance Regulations) have been approved by the Office of Management and Budget (OMB) under the following control numbers:

RMS OMB NBR
0563–0001
0563–0003
0563–0007

The title and number of the Federal Assistance program to which this revision applies is: Title-Crop Insurance; Number 10.450. This action will not have a significant impact specifically on area and community development; therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Under the authority contained in the Federal Crop Insurance Act, as amended, FCIC proposes to amend the Almond Crop Insurance Regulations (7 CFR Part 439) as published in the **Federal Register** at 45 FR 73629–73634 (November 6, 1980), effective with the 1982 crop year, by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss and by adding a subsection in Terms and Conditions (8(d)) to clarify production to count for unmarketable almonds.

It has been determined that this action does not constitute a review as to need, currency, clarify, and effectiveness of these regulations under Secretary's Memorandum No. 1512–1 (June 11, 1981). That review will be completed prior to the sunset review date of May 30, 1985.

Proposed Rule

PART 439—ALMOND CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), FCIC proposes to amend the Almond Crop Insurance Regulations, 7 CFR Part 439, effective with the 1982 and succeeding crop years, in the following instance:

1. The authority citation for 7 CFR Part 439 revised to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

2. Paragraph 1(a) of the "Terms and conditions" of the Almond Crop Insurance Policy (7 CFR 439.7(c)) is amended as follows:

§ 439.7 The application and policy.

* * * * *

(c) * * *

Almond Crop Insurance Policy

Terms and Conditions

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, fire, or direct Mediterranean fruit fly damage occurring within the insurance period, subject to any exceptions, exclusions, or limitations with respect to causes of loss shown on the actuarial table.

Direct Mediterranean fruit fly damage shall be actual physical damage to the almonds which, as determined by the Corporation, causes such almonds to be considered unmarketable, and shall not include unmarketability of such almonds as a result of a quarantine, boycott, or refusal to accept the almonds by any entity without regard to actual physical damage to such almonds.

§ 439.7 [Amended]

3. Paragraph 8 of the "Terms and conditions" of the Almond Crop Insurance Policy (7 CFR 439.7(c) is amended by adding at the end thereof the following:

* * * * *

(d) No production will be counted for almonds which the Corporation determines cannot, due to an insurable cause, be marketed.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: November 23, 1981.

Approved by:

Melvin E. Sims,

Chairman.

[FR Doc. 81-34317 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 19

Proposed Customs Regulations Amendments Relating to Use of Container Stations After Transportation In-Bond

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend various sections of the Customs Regulations relating to container stations, to provide that bonded carriers may transport containerized cargo in-bond to container stations at ports of destination. Presently, the regulations may be interpreted so as to restrict the use of container stations for imported merchandise brought into a port by an importing carrier only to facilities within the port of arrival after complying with appropriate procedures. Although a bonded carrier may transport containerized cargo to its own facility at a port of destination, this interpretation precludes the delivery of the in-bond merchandise to a container station at the port of destination.

DATE: Comments must be received on or before January 27, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Entry aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202–566–5765); Bond aspects: William D. Lawlor, Carriers, Drawback and Bonds Division (202–566–5856); Operations aspects: Thomas J. Hargrove, Cargo Processing Division (202–566–5354); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

A container station is a secured area within the United States into which containers of merchandise may be moved for the purpose of opening the containers and delivering the contents before any entry is filed with Customs or duty is paid. A container station is important because it serves as a central location at a port for processing containerized merchandise which otherwise could not be handled timely at the dock, wharf, pier, or bonded carrier's terminal.

Sections 19.40 through 19.49, Customs Regulations (19 CFR 19.40–19.49), provide the procedures for the establishment and use of container stations. The pertinent regulations presently provide that a container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director, upon the filing of an application and posting of a bond by a prospective container station operator, and approval of the application by the district director of Customs. Containerized cargo may be moved from the place of unlading to a designated container station before the filing of an entry for the merchandise. The container station operator may file an application for the transfer of a container intact to the station. Approval of the application by the district director shall serve as a permit to transfer the container and its contents to the station. The importing carrier remains jointly and severally liable with the container station operator for the proper delivery of the merchandise until it is "permitted" in accordance with subpart A of Part 158, Customs Regulations (19 CFR Part 158). The regulations also provide that except when the container station operator is moving the merchandise to his own station by his own vehicle, the merchandise may be transferred to a container station only by a bonded cartman (see 19 CFR 112.1(b)), or bonded carrier.

A problem has arisen because Part 19 may be interpreted so as to restrict the use of container stations for imported merchandise brought into a port by an importing carrier only to facilities within the port of arrival after complying with appropriate procedures. Although a bonded carrier may transport containerized cargo to its own facility at a port of destination, this interpretation precludes the placement of the in-bond merchandise in a container station at the port of destination.

Customs realizes that the same conditions which existed at a port of arrival before the establishment and use of container stations there also exist when containerized cargo is transported in-bond to a port of destination from the port of arrival in the United States. The bonded carrier's terminal at the port of destination may be unable to process containerized cargo timely and may be unable to provide adequate facilities to permit Customs examination of the imported merchandise, thereby causing a great inconvenience and expense in storage charges to the importer. Alternatives to processing containerized cargo at the carrier's terminal include moving the entire container to a general order warehouse (see 19 CFR 127.1), public stores, or the importer's premises for examination.

Therefore, the same rationale for the use of a container station for containerized cargo arriving directly at a port of arrival applies to the delivery of containerized cargo transported in-bond to a container station at a port of destination. The container station would serve as a centralized location for processing in-bond merchandise at the port of destination. Bonded carriers would be permitted to transport merchandise directly to these stations rather than holding the containers at their own facilites.

In addition to benefiting the importing community, Customs would benefit from the proposed regulatory change. The workload would be concentrated at centralized facilities which are already staffed by Cutoms officers. Furthermore, container stations, unlike common carrier terminals, are required to meet Customs physical cargo security standards.

Accordingly, this document proposes to amend §§ 19.40, 19.41, 19.43, and 19.44, Customs Regulations (19 CFR 19.40, 19.41, 19.43, 19.44), to permit containerized cargo transported in-bond to be delivered to a container station at a port of destination.

Proposed Changes

1. It is proposed to amend § 19.40 to provide that a container station, independent of either a bonded carrier or importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon complying with the necessary requirements. It is also proposed to amend the format of the Containerized Cargo Bond (Term) set forth in § 19.40 to permit a container station operator to receive containerized cargo at specified locations from a bonded carrier after transportation in-bond.

2. It is proposed to amend § 19.41 to provide that containerized cargo also may be received directly at the container station from a bonded carrier after transportation in-bond before the filing of an entry of merchandise therefor or the permitting thereof, as provided in subpart A of Part 158. The phrase "filing of an entry" in present § 19.41 means the filing of one of the types of entry of merchandise such as consumption, warehouse, or temporary importation under bond entry. This phrase is not intended to mean transportation entries. Therefore, to avoid any confusion, it is proposed to add the phrase "of merchandise" after the word "entry" in § 19.41.

3. It is proposed to amend § 19.43 to provide that, in addition to the locations presently specified, an application (i.e., permit to transfer) also may be filed at the bonded carrier's facility for merchandise transported in-bond.

4. It is proposed to amend § 19.44 to clarify the responsibilities of the importing carrier and container station operator, and provide for the new responsibilities of the bonded carriers.

Containerized Cargo Bond (Term)

It is anticipated that the final rule would become effective 60 days after the date of its publication in the **Federal Register**. Containerized Cargo Bonds (Term) already on file with Customs need not be terminated by the effective date of the final rule unless the principal desires to take advantage of the Customs Regulations, as amended. In that event, a new Containerized Cargo Bond (Term) in the amended format would be executed and submitted to the district director for approval before the effective date of the final rule. The existing bond would be terminated.

Containerized Cargo Bonds (Term) which are executed and submitted after the effective date of the final rule would be in the amended format.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sec. 448, 46 Stat. 714, as amended (19 U.S.C. 1448), sec. 450, 46 Stat. 715, as amended (19 U.S.C. 1450), sec. 484, 46 Stat. 722, as amended (19 U.S.C. 1484), sec. 499, 46 Stat. 728, as amended (19 U.S.C. 1499), sec. 551, 46 Stat. 742, as amended (19 U.S.C. 1551), sec. 552, 46 Stat. 742 (19 U.S.C. 1552), sec. 565, 46 Stat. 747, as amended (19 U.S.C. 1565), sec. 623, 46 Stat. 759, as amended (19 U.S.C. 1623), sec. 624, 46 Stat. 759 (19 U.S.C. 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

E.O. 12291

The proposed amendments do not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared for this regulatory project.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*), the Secretary of the Treasury has determined that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

However, the public is invited to submit comments on the extent of the impact of the proposed amendments on small entities.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendments

It is proposed to amend Part 19, Customs Regulations (19 CFR Part 19), in the following manner.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. It is proposed to revise the introductory paragraph of § 19.40, Customs Regulations (19 CFR 19.40), the first "Whereas" clause of the Preamble to, and Condition 5 of, the Containerized Cargo Bond (Term) which follow § 19.40 to read as follows:

Container Stations

§ 19.40 Establishment of container stations.

A container station, independent of either the importing carrier or bonded carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a district director upon the filing of an application therefor and its approval by the district director and the posting, in the sum of $25,000 or such larger amount as the district director shall determine, of a bond in the following format:

Port of _____
No. _____

United States Customs Service Containerized Cargo Bond (Term)

* * * * *

Whereas, the above-bounden principal has requested, or will request, permission to remove imported containers, truck trailers, lift vans or vehicles (hereinafter referred to as containers) containing merchandise or baggage (hereinafter referred to as merchandise) from the place of unlading from an importing vessel, vehicle or aircraft of the ———, for transportation to the ——— termial(s) at ———, or to receive such containers at said location from a bonded carrier after transportation in-bond, for a period beginning on the ——— day of ———, 19——, and ending on the ——— day of ——, 19——, both days inclusive; and

* * * * *

(5) And if pursuant to proper permit by the district director of Customs the above-bounden principal shall remove imported containers from the place of unlading from importing vessels, vehicles, or aircraft and land, place, or store any merchandise in the containers in the above-mentioned termial(s) of the principal or on lighters, piers, landing places, or spaces adjoining thereto, or such other places permitted by the district director on special request made by the principal hereon, or shall receive such containers at said location from a bonded carrier after transportation in-bond, and shall retain such merchandise in the containers at such places until a permit for the removal thereof is granted, and, in the event that any such merchandise in the containers shall be removed therefrom before proper permits have been issued, shall pay all duties, taxes, charges, and excations accruing on any part of the merchandise in the containers so removed; or in the event the merchandise in the containers so removed is free of duty, shall pay as liquidated damages an amount equal to the value of such merchandise contained in the containers, the damages on any one shipment not to exceed $500 (it being understood and agreed that the amount to be collected in either case shall be based upon the quantity and value of such merchandise in the containers as determined by the district director, and that the decision of the district director as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, taxes, charges, and exactions also shall be binding on all parties to this obligation; it is further understood and agreed that liability under this instrument attaches for all shortages whether discovered before or after the filing of any form of entry);

* * * * *

2. It is proposed to revise § 19.41, Customs Regulations (19 CFR 19.41), to read as follows:

§ 19.41 Movement of containerized cargo to a container station.

Containerized cargo may be moved from the place of unlading to a designated container station, or may be received directly at the container station from a bonded carrier after transportation in-bond, before the filing of an entry of merchandise therefor or the permitting thereof (see Subpart A of Part 158 of this chapter) for the purpose of breaking bulk and redelivery of the cargo.

3. It is proposed to revise § 19.43, Customs Regulations (19 CFR 19.43), to read as follows:

§ 19.43 Filing of application.

The application, listing the containers by marks and numbers, may be filed at the customhouse or with the Customs inspector at the place where the container is unladen, or for merchandise transported in-bond, at the bonded carrier's facility, as designated by the district director.

4. It is proposed to revise § 19.44, Customs Regulations (19 CFR 19.44), to read as follows:

§ 19.44 Carrier responsibility.

(a) If merchandise is transferred directly to a container station from an importing carrier, the importing carrier shall remain liable under the terms of its bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(b) If merchandise is transferred directly from a bonded carrier's facility to a container station or is delivered directly to the container station by a bonded carrier, the bonded carrier shall remain liable under the terms of its bond for the proper safekeeping and delivery of the merchandise until it is formally receipted for by the container station operator.

(c) In either case under paragraph (a) or (b) of this section, the importing carrier and the bonded carrier, as applicable, shall be responsible for assuring that the provisions of Subpart A, Part 158 of this chapter, relating to quantity determinations, and discrepancy reporting and accountability are followed.

(d) The importing carrier and the bonded carrier, as applicable, shall

indicate concurrence in the transfer of the merchandise either by signing the application for transfer or by physically turning the merchandise over to the operator.

(e) The importing carrier and the bonded carrier, as applicable, shall be responsible for ascertaining that the person to whom a container is delivered for transfer to the container station is an authorized representative of the operator.

(f) The importing carrier and the bonded carrier, as applicable, shall furnish an abstract manifest showing the bill of lading number, the marks and numbers of the container, and the usual manifest description for each shipment in the container.

William T. Archey,

Deputy Commissioner of Customs.

Approved: October 26, 1981.

John M. Walker, Jr.,

Assistant Secretary of Treasury.

[FR Doc. 81-34325 Filed 11-27-81; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 101

Proposed Change in the Field Organization of the Customs Service

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the Customs Regulations to change the field organization of the Customs Service by extending and redefining the geographical boundaries of the Puget Sound, Washington, Customs port of entry. The proposed geographical limits of the consolidated port of entry would encompass all of the area within the present port of entry limits of Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, and Tacoma, Washington. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before January 27, 1982.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Joseph O'Gorman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202 566-8157).

SUPPLEMENTARY INFORMATION:

Background

The limits of the consolidated Customs port of entry of Puget Sound were extended in 1979 by T.D. 79-169 (44 FR 34478). However, since that time, there have been numerous requests for Customs services by businesses which have established outside of the current port limits. To keep pace with the expanding needs of Customs-related activities in the Puget Sound port of entry and to provide better service to importers, carriers, and the public, Customs proposed to further extend the port limits. Under the proposal, the geographical boundaries of the port would be extended to include the limits of the Port of Seattle, which includes the Seattle corporate limits, plus an extension by section, township, and range.

The proposed amendment would eliminate specific reference to the Ports of "Kenmore Air Harbor" (District 30, Port 18 in Annex A to the Tariff Schedules of the United States (TSUS)), and "Renton Municipal Airport and Seaplane Base" as set forth in T.D. 79-169.

The geographical limits of the proposed consolidated port of entry would encompass all of the area within the present port of entry limits of Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay Olympia, Port Angeles, Port Townsend, and Tacoma, Washington.

As extended, the geographical boundaries of Puget Sound, Washington, port of entry would be redefined as follows:

The ports of Seattle (section 35, Township 27 North, Range 3 East, West Meridian; sections 1, 2, 11, through 14, inclusive, 24, 25, 26, 34, 35, and 36, Township 26 North, Range 3 East, West Meridian; Township 26 North, Range 4 East, West Meridian; Township 26 North, Range 5 East, West Meridian; sections 1, 2, 3, 9 through 16, inclusive, 21 through 27, inclusive, and 36, Township 25 North Range 3, East, West Meridian; Township 25 North, Range 4 East, West Meridian; Township 25 North, Range 5 East, West Meridian; sections 2, 9 through 16, inclusive, 22 through 27, inclusive, 34, 35, and 36, Township 24 North, Range 3 East, West Meridian; Township 24 North, Range 4 East, West Meridian; Township 24 North, Range 5 East, West Meridian; sections 1, 2, 11, 12, 13, 24, 25, 26 and 36 Township 23 North, Range 3 East, West Meridian; Township 23 North, Range 4 East, West Meridian; Township 23 North, Range 5 East, West Meridian; sections 1 through 17, inclusive, Township 22 North, Range 4 East, West Meridian; and sections 1 through 18, inclusive, Township 22 North, Range 5 East, West Meridian), Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend; and the territory in Tacoma beginning at the intersection of the westernmost city limits of Tacoma and The Narrows and proceeding in an easterly, then southerly, then easterly direction along the city limits of Tacoma to its intersection with Pacific Highway (U.S. Route 99), then proceeding in a southerly direction along Pacific Highway to its intersection with Union Avenure Extended and continuing in a southerly direction along Union Avenue Extended to its intersection with the northwest corner of McChord Air Force Base, then proceeding along the northern, then western, then southern boundary of McChord Air Force Base to its intersection, just west of Lake Mondress, with the northern boundary of the Fort Lewis Military Reservation, then proceeding in an easterly direction along the northern boundary of the Fort Lewis Military Reservation to its intersection with Pacific Avenue, then proceeding in a southerly direction along Pacific Avenue to its intersection with National Park Highway, then proceeding in a southeasterly direction along National Park Highway to its intersection with 224th Street, East, then proceeding in an easterly direction along 224th Street, East, to its intersection with Meridian Street, South, then proceeding in a northerly direction along Meridian Street to the northern boundary of Pierce County, then proceeding in a westerly direction along the northern boundary of Pierce County to its intersection with Puget Sound, then proceeding in a generally southwesterly direction along the banks of the East Passage of Puget Sound, Commencement Bay, and The Narrows to the point of intersection with the westernmost city limits of Tacoma, including all points and places on the southern boundary of the Juan de Fuca Strait from the eastern port limits of Neah Bay to the western port limits of Port Townsend, all points and places on the western boundary of Puget Sound, including Hood Canal, from the port limits of Port Townsend to the northern port limits of Olympia, all points and places on the southern boundary of Puget Sound from the port limits of Olympia to the western port limits of Tacoma, and all points and places on the eastern boundary of Puget Sound and contiguous waters from the port limits of Tacoma north to the southern port limits of Bellingham, all in the State of Washington.

Amendments to the Regulations

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), would be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR

103.8(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

This proposed amendment does not meet the criteria for a "major" regulation as defined by section 1(b) of E.O. 12291. Accordingly, the regulatory impact analysis prescribes by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601, *et seq.*), the Secretary of the Treasury has determined that, if promulgated, the regulation set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, this regulation is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this proposal may have a limited effect upon some small entities in the Puget Sound area, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (46 FR 9336).

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: October 26, 1981.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 81-34319 Filed 11-27-81; 8:45 am]

BILLING CODE 4810-22-M

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19 CFR Part 134

Marking Imported Bolts, Nuts, and Rivets With Their Country of Origin

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a notice published in the **Federal Register** on August 10, 1979 (44 FR 47103), which proposed to amend the Customs Regulations to delete bolts, nuts, and rivets from the list of imported articles exempted from the country of origin marking requirements. Adoption of the proposal would have required bolts, nuts, and rivets to comply with marking requirements in order to be imported into the United States.

After analysis of the comments received in response to the proposal and further review of the matter, Customs has determined that the proposal should not be adopted.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Samuel Orandle, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Unless expressly excepted, all articles of foreign origin imported into the United States are required by section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), to be marked in a conspicuous place in a legible, indelible, and permanent fashion so as to indicate, in English, to the ultimate purchasers in the United States, the country of origin of the articles. Among the exceptions to the country of origin marking requirements are articles which the Secretary of the Treasury, pursuant to public notice published in the Treasury Decisions before July 1, 1939, determined "were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin * * *" (19 U.S.C. 1304(a)(3)(J)). Under 19 U.S.C. 1304(a)(3)(J), notice that bolts, nuts, and rivets were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during the period to be marked to indicate their country of origin was given in T.D. 49896 (4 FR 2509). The full list of articles exempted from marking requirements under 19 U.S.C. 1304(a)(3)(J) is set forth in § 134.33, Customs Regulations (19 CFR 134.33), referred to as the "J-List."

On June 8, 1978, the Treasury Department received a petition which alleged that bolts, nuts, and rivets were not imported into the United States in substantial quantities from 1932 to 1936 and, therefore, should not be exempted from country of origin marking requirements.

After review of the evidence in the petition, Customs published a notice in the **Federal Register** on August 10, 1979 (44 FR 47103), proposing that imported bolts, nuts, and rivets be removed from the "J-List" maintained in section 134.33.

Interested parties were given until October 9, 1979, to submit written comments concerning the proposal. The period of time for the submission of comments was extended until November 9, 1979, by a notice published in the **Federal Register** on October 10, 1979 (44 FR 58527). As discussed below, a majority of the numerous comments received opposed the proposal.

Discussion of Comments

A number of commenters assert that the test in this matter is not whether the imports are or are not substantial in comparison to U.S. production nor whether they represent a substantial portion of the domestic market. Several note that prior decisions removing articles from the "J-List" do not refer to such a test. Furthermore, the figures presented were considered by experts in 1939 and here is no need to revoke that decision now because the statistical evidence submitted by the petitioner does not establish clearly that bolts, nuts, and rivets were not imported in substantial quantities during the 5-year period in question.

The commenters further suggest that the Secretary of the Treasury is without authority to amend the "J-List" unless it is judicially proven that previous decisions regarding the "J-List" are demonstrated to be arbitrary, capricious, or an abuse of discretion. They contend that without knowledge of the Secretary's thought process in determining to place bolts, nuts, and rivets on the "J-List," Customs should not now, 40 years later, reverse the decision that the merchandise was imported in substantial quantities.

Other commenters, however, are of the opinion that implementation of the proposal would correct an error in originally placing fasteners on the "J-List" because the facts indicate that

they were not imported in substantial quantities from 1932 to 1936.

Customs is of the opinion that these comments raise the primary questions which must be addressed in determining whether bolts, nuts, and rivets should be removed from the "J-List."

We agree that the issue is not whether imports are substantial in comparison to U.S. domestic production nor whether they comprise a substantial portion of the domestic market. We also agree that decisions made by the Secretary regarding this matter in 1939 should not be overturned unless they are arbitrary, capricious, or an abuse of discretion. However, we do not believe that this requires a judicial determination.

It must be presumed as a matter of law that the Secretary complied with statutory requirements in promulgating the "J-List," including a lawful determination that the classes or kinds of articles on the list were imported in substantial quantities during the period in question. While this presumption is rebuttable, Customs must require a strict standard of proof when asked to overturn an act of the Secretary taken in contemporaneous implementation of a statute 40 years ago.

A decision to remove bolts, nuts, and rivets from the "J-List" at this time would imply that the Secretary's action initially placing them on the list was improper. The courts have long given considerable weight to the judgement of administrative agencies charged with the interpretation and enforcement of statutes, especially when the judgement has been exercised contemporaneously with the enactment of the statute.

It is argued both that removal of bolts, nuts, and rivets from the "J-List" is necessary to carry out the intent of Congress and that removal would violate the intent of Congress in enacting country of origin marking requirements. Customs is of the opinion that the Secretary's decision to include nuts, bolts, and rivets on the "J-List" was reasonable and in accordance with the intent of Congress.

Some commenters suggest that practical problems which may arise if the proposal is implemented would, among others, include: difficulties inscribing long names to such small articles; cosmetic objections to marking items where the country of origin would be visible on the final product; and, the inability to mark certain articles because it would impair the precision and function of the finished product.

Other commenters contend that all products should be marked to give consumers freedom of choice in making purchasing decisions.

We agree that practical problems could arise if the proposal were implemented. However, the nature and extent of such problems is impossible to predict. We do not agree that all products should be marked. The law provides exceptions to country of origin marking requirements—*e.g.*, the "J-List."

Additional commenters note that even if the proposal were adopted, other exceptions to the marking requirements would be or should be applicable to certain types of bolts, nuts, and rivets.

Section 304(a)(3), Tariff Act of 1930 (19 U.S.C. 1304(a)(3)), provides exceptions to the country of origin marking requirements. The section contains 11 exceptions, including the "J-List." It is possible that bolts, nuts, and rivets could still qualify for one of the other exceptions if the proposal were adopted.

Commenters also observe that implementation of the proposal would: (1) Impose an additional burden on foreign manufacturers; (2) increase the cost of production for foreign manufacturers; (3) increase the price of imported bolts, nuts, and rivets; (4) impose a nontariff barrier which may have an adverse effect on international trade; and, (5) increase the administrative burden on the Customs Service, Court of International Trade, and other Government agencies due to increased requests for other exceptions to the country of origin marking requirements.

Others believe that: (1) Customs should allow a single symbol or logo to be substituted for the country of origin; (2) country of origin marking would be duplicative and perhaps confusing where fasteners are already marked with the manufacturer's name; (3) only U.S. goods need to be marked with the country of origin; (4) the proposal is merely an attempt to protect the domestic fastener industry; and, (5) marking only the packages containing the merchandise would provide adequate notice of the country of origin to the ultimate purchaser.

Although these comments are not entirely on point, Customs believes that certain concerns are valid and that some of the problems which could arise as a result of adoption of the proposal are real. Other observations are speculative or do not provide Customs with sufficient information to address the issues presented. Some have no basis in law, and others are contrary to the purpose of the country of origin marking requirements.

Because of its decision in this matter, Customs does not believe it is necessary to address each of these comments.

Action

Withdrawal of Proposal

In view of the foregoing, Customs has determined that the proposed change should not be adopted. Accordingly, the notice published in the Federal Register on August 10, 1979 (44 FR 47103), proposing to amend section 134.33, Customs Regulations, to remove bolts, nuts, and rivets from the "J-List," is withdrawn.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: November 20, 1981.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 81-34318 Filed 11-27-81; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

38 CFR Part 1

Privacy Act of 1974; Access to Records

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration is proposing to amend one of its regulations which governs access by an individual to records pertaining to the individual, which are maintained by the Veterans Administration (VA). The regulation sets forth special procedures, currently provided for in VA manuals, to be used in cases where an individual seeks access to records pertaining to him or her and the granting of such access would result in harm to the individual's mental or physical health. Additionally, the Veterans Administration is proposing to rearrange the provisions of 38 CFR 1.577 and 1.579 so that the first section will be concerned with access to records by individuals and the second section will be concerned with amendment of records.

This action is deemed necessary due to the confusion which exists in the current application and understanding of the VA regulations which are involved.

Through this action we will be able to clarify the VA regulations involved and thus better inform the public of their

rights with regard to records pertaining to them that are maintained by the VA.

DATES: Comments must be received on or before December 28, 1981. It is proposed to make this change effective the date of final approval.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be made available for public inspection only at the Veterans Administration Central Office, Veterans Service Unit in room 132 of the above address between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until January 12, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Dangoia, (202–389–2269).

SUPPLEMENTARY INFORMATION: In proposing these regulations, consideration has been given to the provisions of Executive Order 12291. The proposed regulations, which will affect individuals seeking access to or amendment of their own records, will not have any impact on the economy and will not affect commercial businesses or any other organizations in any way. Since the proposed regulations have no economic impact, they are considered nonmajor for purposes of the Executive Order. Furthermore, the Administrator of the VA hereby certifies that these proposed regulations will not, if promulgated, have significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612. Pursuant to 5 U.S.C. 605(b), these proposed regulations are therefore exempt from the regulatory analysis requirements of sections 603 and 604. The reason for this certification is that the proposed regulations will impact only on individuals, primarily VA beneficiaries who are seeking access to their own records or amendment of those records. There will be no direct impact on any small entities from these proposed regulations. There is no Catalog of Federal Domestic Assistance Number involved.

Approved:

Robert P. Nimmo,

Administrator.

November 19, 1981.

PART 1—GENERAL PROVISIONS

38 CFR Part 1 is amended as follows:

1. Section 1.576 is amended to revise paragraph (c)(4) to read as follows:

§ 1.576 General policies, conditions of disclosure, accounting of certain disclosures, and definitions.

* * * * *

(c) * * *

(4) Inform any person or other agency about any correction or notation of dispute made by the agency in accordance with § 1.579 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

* * * * *

2. In § 1.577, paragraphs (b), (c), (d) and (e) are revised, and a new paragraph (f) is added to read as follows:

§ 1.577 Access to records.

* * * * *

(b) Any individual will be notified, upon request, if any Veterans Administration system of records named contains a record pertaining to him or her. Such request must be in writing, over the signature of the requester. The request must contain a reasonable description of the Veterans Administration system or systems of records involved, as described at least annually by notice published in the **Federal Register** describing the existence and character of the Veterans Administration's system or systems of records pursuant to § 1.578(d). The request should be made to the office concerned (having jurisdiction over the system or systems of records involved) or, if not known, to the Director or Veterans Services Officer in the nearest Veterans Administration regional office, or to the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. Personal contact should normally be made during the regular duty hours of the office concerned, which are 8:00 a.m. to 4:30 p.m., Monday through Friday for Veterans Administration Central Office and most field stations. Identification of the individual requesting the information will be required and will consist of the requester's name, signature, address, and claim, insurance or other identifying file number, if any, as a minimum. Additional identifying data or documents may be required in specified categories as determined by operating requirements and established and publicized by the promulgation of Veterans Administration regulations. (5 U.S.C. 552a(f)(1)).

(c) The department or staff office having jurisdiction over the records involved will establish appropriate disclosure procedures and will notify the individual requesting disclosure of his or her record or information pertaining to him or her of the time, place and conditions under which the Veterans Administration will comply to the extent permitted by law and Veterans Administration regulation. (5 U.S.C. 552a(f)(2)).

(d) Access to sensitive material in records, including medical and psychological records, is subject to the following special procedures. When an individual requests access to his or her records, the Veterans Administration official responsible for administering those records will review them and identify the presence of any sensitive records. Sensitive records are those that contain information which may have a serious adverse effect on the individual's mental or physical health if they are disclosed to him or her. If, on review of the records, the Veterans Administration official concludes that there are sensitive records involved, the official will refer the records to a Veterans Administration physician, other than a rating board physician, for further review. If the physician who reviews the records believes that disclosure of the information directly to the individual could have an adverse effect on the physical or mental health of the individual, the responsible Veterans Administration official will then advise the requesting individual: (1) That the Veterans Administration will disclose the sensitive records to a physician or other professional person selected by the requesting individual for such redisclosure as the professional person may believe is indicated, and (2) in indicated cases, that the Veterans Administration will arrange for the individual to report to a Veterans Administration facility for a discussion of his or her records with a designated Veterans Administration physician and for an explanation of what is included in the records. Following such discussion, the records should be disclosed to the individual; however, in those extraordinary cases where a careful and conscientious explanation of the information considered harmful in the record has been made by a Veterans Administration physician and where it is still the physician's professional medical opinion that physical access to the information could be physically or mentally harmful to the patient, physical access may be denied. Such a denial situation should be an unusual, very infrequent occurrence. When denial of a request for direct physical access is made, the responsible Veterans Administration official will: (1) Promptly advise the individual making the request of the denial; (2) state the reasons for the denial of the request (e.g., 5 U.S.C. 552a(f)(3), 38 U.S.C. 3301(b)(1)); and (3)

advise the requester that the denial may be appealed to the Administrator of Veterans Affairs and of the procedure for such an appeal. (5 U.S.C. 552a(f)(3))

(e) Nothing in 5 U.S.C. 552a, however, allows an individual access to any information compiled in reasonable anticipation of a civil action or proceeding. (5 U.S.C. 552a(d)(5))

(f) Fees to be charged, if any, to any individual for making copies of his or her record, excluding the cost of any search for and the review of the record, will be as follows:

(1) Photocopy reproductions from all types of copying processes, each reproduction image . . . . $.05.

(2) Where the Veterans Administration undertakes to perform, for any other person, services which are very clearly not required to be performed under section 552a, title 5, United States Code, either voluntarily or because such services are required by some other law (e.g., the formal certification of records as true copies, attestation under the seal of the Veterans Administration, etc.), the question of charging fees for such services will be determined by the official or designee authorized to release the information under 38 CFR 1.556, in the light of the Federal user charge statute, 31 U.S.C. 483a, any other applicable law, and the provisions of 38 CFR 1.526(i) and 1.555(h). (5 U.S.C. 552a(f)(5))

3. In § 1.579, the title is revised, paragraphs (a), (b), (c) and (d) are revised and paragraph (e) is removed to read as follows:

§ 1.579 Amendment of records.

(a) Any individual may request amendment of any Veterans' Administration record pertaining to him or her. Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date or receipt of such request, the Veterans' Administration will acknowledge in writing such receipt. The Veterans' Administration will complete the review to amend or correct a record as soon as reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal public holidays) unless unusual circumstances preclude completing action within that time. The Veterans' Administration will promptly either:

(1) Correct any part thereof which the individual believes is not accurate, relevant, timely or complete; or

(2) Inform the individual of the Vetrerans' Administration refusal to amend the record in accordance with his or her request, the reason for the refusal, the procedures by which the individual may request a review of that refusal by the Administrator or designee, and the name and address of such official. (5 U.S.C. 552a(d)(2))

(b) The department or staff office having jurisdiction over the records involved will establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Veterans' Administration of an initial adverse Veterans' Administration determination, and for whatever additional means may be necessary for each individual to be able to exercise, fully, his or her rights under 5 U.S.C. 552a.

(1) Headquarters officials designated as responsible for the amendment of records or information located in Central Office and under their jurisdiction include, but are not limited to: Administrator; Deputy Administrator, as well as other appropriate individuals responsible for the conduct of business within the various Veterans' Administration Departments and Staff Offices. These officials will determine and advise the requester of the identifying information required to relate the request to the appropriate record, evaluate and grant or deny requests to amend, review initial adverse determinations upon request, and assist requesters desiring to amend or appeal initial adverse determinations or learn further of the provisions for judicial review.

(2) The following field officials are designated as responsible for the amendment of records or information located in facilities under their jurisdiction, as appropriate: The Director of each Center, Domiciliary, Medical Center, Outpatient Clinic, Regional Office, Supply Depot, and District Counsels. These officials will function in the same manner at field facilities as that specified in the preceding subparagraph for headquarters officials in Central Office. (5 U.S.C. 552a(f)(4))

(c) Any individual who disagrees with the Veterans' Administration's refusal to amend his or her record may request a review of such refusal. The Veterans' Administration will complete such review not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review and make a final determination unless, for good cause shown, the Administrator extends such 30-day period. If, after review, the Administrator or designee also refuses to amend the record in accordance with the request the individual will be advised of the right to file with the Veterans' Administration a concise statement setting forth the reasons for his on her disagreement with the Veterans' Administration's refusal and also advise of the provisions for judicial review of the reviewing official's determination. (5 U.S.C. 552a(g)(1)(A))

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (c) of this section, the Veterans' Administration will clearly note any part of the record which is disputed and provide copies of the statement (and, if the Veterans' Administration deems it appropriate, copies of a concise statement of the Veterans' Administration's reasons for not making the amendments requested) to persons or other agencies to whom the disputed record has been disclosed. (5 U.S.C. 552a(d)(4))

4. Section 1.580 is revised to read as follows:

§ 1.580 [Amended]

(a) Upon denial or a request under 38 CFR 1.577 or 1.579, the responsible Veterans' Administration official or designated employee will inform the requester in writing of the denial, cite the reason or reasons and the Veterans' Administration regulations upon which the denial is based, and advise that the denial may be appealed to the Administrator.

* * * * *

(38 U.S.C. 210(c))

[FR Doc. 81-34279 Filed 11-27-81; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 775

National Environmental Policy Act (NEPA); Amendment of Categorical Exclusions

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend certain categorical exclusions [1] in the Postal Service's NEPA regulations, which were adopted in November 1979. During the almost two year period since adoption, the Postal Service has found that four of the categorical exclusions need to be expanded to conform them to actual conditions. The categorical exclusions that need expansion deal

[1] Certain kinds of actions normally do not have a significant impact on the environment. Accordingly, they are "categorically excluded" from the class of actions which require an environmental assessment or an environmental impact statement.

specifically with (1) certain limited size new construction; (2) limited expansion or improvement of an existing facility; (3) purchase or lease of a limited size existing building; and (4) disposition of unimproved land. In each of the above exclusionary areas, it was found that there was very little significant environmental impact in actions much more extensive than those excluded. Accordingly, it appears that the exclusions should be expanded.

DATE: Comments must be received on or before December 30, 1981.

ADDRESS: Written comments should be sent to the General Manager, Project Analysis Division, Real Estate and Buildings Department, U.S. Postal Service, Washington, D.C. 20260–6400. Copies of all written comments will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 4141, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Royal Rasmussen, (202) 245–4354.

SUPPLEMENTARY INFORMATION: Since 1979 the Postal Service has continually analyzed, both at Headquarters and in the field, information about the preparation of environmental assessments. We believe the evidence shows that four of the categorical exclusions are too limited. For example, the categorical exclusion of new construction, including lease-construction, of 10,000 or less, net square feet, seems unduly limited in light of the fact that 92 percent of the new construction projects, with twice as much net square footage as those categorically excluded, did not encounter a need for an environmental assessment. As to the 8 percent that required an assessment, there were extraordinary circumstances in each case.

The second category studies excludes expansions or improvements of existing facilities where the gross square footage is not increased by more than 20 percent and the site size is not increased substantially. We analyzed projects where the gross square footage was not increased by more than 40 percent. Of that group we found only one project that required an environmental assessment, and in that case there were extraordinary circumstances.

The third category excludes the purchase or lease of an existing building containing 20,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved. We analyzed projects in this category where the buildings contained up to 50,000 net square feet of space, and in none of the projects were there any environmental problems. In addition to proposing an increase to 50,000 in the net square feet of space, we are proposing to exclude the purchase or lease of an existing building of any size if currently occupied by the Postal Service, where a substantially enlarged operation is not involved.

We are also proposing to amend the fourth category, which excludes an acre or less of unimproved land in an urban area and five acres or less of unimproved land in a rural area. In none of our land dispositions were there any environmental concerns. Accordingly, we propose to exclude the disposal of all unimproved land.

The Postal Service envisions the following benefits from expanding the categorical exclusions: (1) Elimination of unwarranted environmental work, which would save many employee manhours for work on other projects; (2) reduction of contractor costs for environmental studies and reports; and (3) possible completion of projects more quickly and consequent realization of operating savings due to the use of new facilities. While these categorical exclusions are proposed to be expanded, we retain the command in the rules that "the responsible [postal] officials must be alert to unusual conditions that would require an environmental assessment or an encironmental impact statement." 39 CFR 775.4(b). See also 39 CFR 775.6(a)(1).

Under 39 U.S.C. 410(a), the Postal Service is exempt, with specified exceptions not including NEPA, from Federal laws dealing with public property, works, employees, or funds, including the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553(b), (e)). Nevertheless, the Postal Service invites comments on the following proposed revisions of title 39, Code of Federal Regulations:

PART 775—ENVIRONMENTAL PROCEDURES

In § 775.4, paragraphs (b)(1), (2), (3), and (5) are revised to read as follows:

§ 775.4 Typical classes of action.

* * * * *

(b) * * *

(1) New construction, including lease-construction, of 20,000, or less, net square feet.

(2) Expansion or improvement of an existing building where the gross square footage is not increased by more than forty percent, and the site size is not increased substantially.

(3) Purchase or lease of an existing building containing 50,000, or less, net square feet of space where a new or substantially enlarged occupancy is not involved and purchase or lease or an existing building of any size that is currently occupied by the Postal Service where a substantially enlarged operation is not involved.

* * * * *

(5) Disposal of unimproved land.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 81-34225 Filed 11-27-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-1971-2]

Approval and Promulgation of Implementation Plans; Arizona Plan Revision: Sulfur Oxides Control Strategy and Regulations for Existing Nonferrous Smelters

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Arizona State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor's designee on September 20, 1979. The revisions consist of a demonstration of good engineering practice (GEP) stack height for the 1,000 foot stack at the ASARCO copper smelter in Hayden, Arizona, and rules entitled *Finding of no violation*, and *Standards of performance for existing primary copper smelters*. The intended effect of these revisions is to meet the requirements of Sections 110 and 123 of the Clean Air Act, as amended in 1977 and replace the federally promulgated sulfur dioxide control regulations applicable to the Arizona smelters. These sections of the Act pertain to implementation plans and stack heights, respectively. In addition, the copper smelter rules were amended slightly by the State SIP revisions submitted on January 14 and September 10, 1980.

The ASARCO GEP demonstration and the air pollution control regulations have been evaluated for conformance with the requirements of the Clean Air Act. This notice provides a description of the ASARCO GEP demonstration and the two rules, summarizes the Clean Air Act requirements, compares the elements of

the SIP submittal to those requirements, and proposes approval, conditional approval or disapproval of each portion of the submittal. EPA is also proposing to extend the attainment dates for sulfur oxides and rescind the federally promulgated sulfur dioxide control regulations applicable to the Arizona copper smelters once the State has satisfied the conditional approval items outlined in this notice.

DATES: Comments may be submitted on or before January 27, 1982.

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

Copies of the proposed revisions and EPA's associated evaluation reports are contained in document file No. AZ-MPR-1 and are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

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

Arizona Department of Health Services, Bureau of Air Quality Control, Southern Regional Office, 5055 East Broadway, Suite C-209, Tucson, AZ 85711

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

FOR FURTHER INFORMATION CONTACT: Wallace Woo, Chief, Stationary Source Section, Air Programs Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region 9, (415) 974-8210, FTS 454-8210.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 1972 (37 FR 10849), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator disapproved the Arizona SIP for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide in the Phoenix-Tucson Intrastate Air Quality Control Region and the Arizona portion of the Arizona-New Mexico Southern Border Interstate Air Quality Control Region. The Administrator's disapproval was based on the fact that the plan did not provide for the attainment and maintenance of the NAAQS for sulfur dioxide in these regions. On May 30, 1972, the Governor of Arizona submitted a proposed SIP revision[1] incorporating regulations for the control of sulfur dioxide from existing copper smelters, and on July 27, 1972 (37 FR 15081), the Administrator published his decision to disapprove those regulations. That decision was based on several factors. One major factor was that the regulations were not specific in a number of areas, which made it impossible to judge whether or not the regulations would have assured attainment and maintenance of the NAAQS. In addition, the regulations did not require constant control of emissions from copper smelters to achieve the NAAQS for sulfur dioxide. Instead of constant emission controls, the Arizona regulations allowed the use of supplementary control systems (SCS) on a permanent basis to achieve the NAAQS.[2]

On July 27, 1972 (37 FR 15096), the Administrator proposed regulations for the control of sulfur dioxide emitted by all the existing smelters in Arizona. The amount of control required for the attainment and maintenance of the NAAQS was based on the available air quality data from the State of Arizona and diffusion model estimates. Because public comments and analysis indicated that the air quality data were questionable, the regulations proposed on July 27, 1972 were not finalized. Instead, EPA established a monitoring network, and collected air quality data at 23 sites in the vicinity of the seven copper smelters located in Arizona. Data were collected from these sites between July 1973 and November 1974.

Using these air quality data, new regulations were proposed by the Administrator on October 22, 1975 (40 FR 49362). The proposed regulations required the constant control of emissions from each smelter such that both the primary and secondary NAAQS would be met.

During 1976, the State of Arizona solicited comments from EPA on tentative SIP revisions for sulfur dioxide control at existing smelter locations. EPA responded to the State with detailed comments on the tentative SIP revisions. On January 7, 1977, the State submitted to EPA sulfur dioxide regulations for existing nonferrous smelters as proposed SIP revisions, but these regulations were subsequently withdrawn in May 1978. The State initiated this action since the Clean Air Act was amended in mid-1977, and the State needed to reevaluate the proposed SIP revisions under the new requirements.

In August 1977, Congress amended the Clean Air Act. Certain of these amendments changed and clarified the statutory requirements applicable to primary nonferrous smelters. Section 110(a)(2)(B) of the amended Act requires the SIP to include emission limitations and other such measures as are necessary to ensure attainment and maintenance of the NAAQS. In section 302(k), Congress made clear that those emission limitations must be achieved by the use of constant emission control technology alone. The use of any dispersion techniques to meet national standards is prohibited, except as provided in sections 119 and 123.

Section 119 of the 1977 Clean Air Act Amendments established a new enforcement mechanism, the primary nonferrous smelter order (NSO), which permits a smelter to defer compliance with its SIP sulfur dioxide emission limitation, if several conditions are satisfied. If the smelter can demonstrate that it is unable to afford the adequately demonstrated technology which would enable it to comply with its SIP emission limitation for sulfur dioxide, and if it meets other requirements of section 119 and applicable regulations, then the smelter may receive an NSO. Under an NSO, certain interim requirements must be met. These requirements include the use of dispersion-dependent techniques, the evaluation and control of fugitive emissions, research and development on additional sulfur oxide control measures, and the assumption of legal liability by the smelter for violations of the sulfur dioxide NAAQS. In addition, a smelter receiving an NSO must use an interim level of continuous emission reduction technology. The first NSO issued to a smelter may not extend beyond January 1, 1983. In addition, if certain conditions are met, a second NSO may be issued, but may not extend beyond January 1, 1988. However, compliance with the SIP sulfur dioxide emission limitations necessary to attain the NAAQS is merely postponed. The smelter remains responsible for compliance with the limitations solely

[1] In this notice, the term "proposed SIP revision" used in this context does not mean that the regulations were not final as matter of Arizona law, but that they were proposed for inclusion in the Federal SIP.

[2] By using a supplementary or intermittent control system (SCS or ICS), emissions are varied according to meteorological dispersion conditions (i.e., the source reduces emissions during periods of poor dispersion). The use of a tall stack which exceeds "good engineering practice" as defined by Section 123 of the Clean Air Act could also disperse emissions over a wide geographic area. Such dispersion techniques do not limit total emissions into the atmosphere on a continuous basis.

Constant emission controls, however, diminish the overall atmospheric loading of pollutants either by continuously preventing pollutants from being generated or removing pollutants from waste gas on a continuous basis.

through the use of constant controls upon expiration of the NSO(s). EPA published regulations governing the issuance of the first NSO on June 24, 1980 [45 FR 42536], but has not yet published regulations for the second NSO.

Section 123 of the Clean Air Act Amendments denies credit for the dispersion of pollutants from any stack built after December 31, 1970 whose height exceeds the GEP formula stack height, unless the owner or operator of the source demonstrates that the stack is of good engineering practice (GEP) height.

Congress defined GEP stack height as:

"* * * The height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as the result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator)." [Clean Air Act, section 123(c)]

Section 123 also prohibits any other dispersion techniques, such as supplementary control systems (SCS), which may reduce the required degree of emission limitations, unless the dispersion techniques were implemented before December 31, 1970. Regulations to implement section 123 were proposed by EPA on January 12, 1979 (44 FR 2608).

On January 4, 1978 (43 FR 755), EPA promulgated a sulfur dioxide emission limitation regulation for the seven Arizona smelters. The published regulation was based on requirements of the Clean Air Act Amendments, as well as testimony and comment received during the public hearing on the October 1975 proposed rulemaking. On February 17, 1978 (43 FR 6945), EPA delayed the effective date of this regulation pending publication of final section 119 NSO regulations. The implementation of the January 4, 1978 promulgated regulation was deferred to ensure that the affected smelters would have an opportunity to apply to EPA for NSOs prior to the effective date of any SIP requirements. EPA promulgated regulations for the first NSO on June 24, 1980 (45 FR 42536), but the effective date of the January 4, 1978 regulations is still stayed.

Between January and May, 1978, all five Arizona smelting companies and the State of Arizona responded to the EPA promulgated regulation by filing section 307 challenges to EPA's emission limitations in the Ninth Circuit Court of Appeals. The smelting companies and the State of Arizona also filed Administrative Petitions for Reconsideration and Revision with EPA regarding the January 4, 1978 regulation. The Ninth Circuit Court has repeatedly stayed action on the section 307 challenges pending the outcome of EPA's response to the Petitions for Reconsideration and Revision and/or EPA action on Arizona's September 20, 1979 SIP revision. During late 1978 and early 1979, the State of Arizona again solicited comments from EPA on another tentative SIP revision for sulfur dioxide control at existing copper smelters. This tentative SIP revision contained emission limitations calculated through a new technique called multipoint rollback (MPR). The purpose of developing MPR was to establish emission limitations which would reflect the highly variable smelter operations and emissions while protecting the NAAQS. EPA responded to the State with detailed comments on the tentative SIP revision.

Concurrent with the State's development of the new sulfur dioxide emission limitations for copper smelters, ASARCO, Inc. was developing a study to demonstrate good engineering practice (GEP) stack height for the 1000 foot stack at their smelter in Hayden, Arizona. Since this stack was first put into operation in October 1974, the exemption provisions in section 123 did not apply. ASARCO contracted with North American Weather Consultants to conduct this study and the final results were submitted to the State in July 1979.

On August 9 and 10, 1979, the State conducted a public hearing on the proposed sulfur dioxide emission limitation regulations and the ASARCO GEP stack height demonstration in Phoenix and Tucson, Arizona. Based on testimony and comments received at the hearing, as well as previous technical analysis, the proposed sulfur dioxide regulations were revised. In September 1979, the State adopted both a determination of GEP stack height for the ASARCO smelter and the sulfur dioxide regulations for all the smelters. The State subsequently submitted these to EPA as proposed SIP revisions on September 20, 1979.

On January 14, 1980, the State submitted regulations to implement NSOs. Included in these proposed SIP revisions are amendments to the sulfur dioxide regulations submitted September 20, 1979 which make reference to the new State NSO regulations. In addition, the January 14, 1980 SIP revision submittal repeals the old version of Appendix 7 and replaces it with a completely different version of Appendix 7 dealing with Nonferrous Smelter Order applications. However, EPA will propose no action on the January 14, 1980 submittal, since it is inappropriate for EPA to act on State NSO regulations as SIP revisions under section 110 of the Clean Air Act. On September 10, 1980 the State submitted a proposed SIP revision which, among other things, modified the attainment date for the September 20, 1979 sulfur dioxide regulations. EPA is proposing conditional approval of this change to the attainment date, as discussed below.

Description of Proposed SIP Revisions

On September 20, 1979, the Director of the Arizona Department of Health Services (ADHS), the Governor's official designee, submitted the following as proposed SIP revisions to EPA:

1. *State Implementation Plan Determination of "Good Engineering Practice" Stack Height.*

The State also submitted two documents in support of the SIP determination of GEP stack height:

A Wind Tunnel Investigation of Good Engineering Practice (GEP) Stack height at the ASARCO Smelter, Hayden, Arizona. North American Weather Consultants, Report No. SBAQ-79-10. Prepared for ASARCO, Inc., July 1979. 24 pages and a 16mm movie.

Evaluation of "Good Engineering Practice" Stack Height at the ASARCO Smelter, Hayden, Arizona—A Physical Modeling Study.

Colorado State University, Report No. CER79-80RLP-JEC2. Prepared for North American Weather Consultants, July 1979. 98 pages.

These documents contain the technical details of a fluid modeling investigation and the resulting GEP stack height demonstration. Additional clarifying information was received by EPA from ASARCO and its consultants as follows:

(1) "Responses to EPA Comments on ASARCO Good Engineering Practice (GEP) Study," North American Weather Consultants, July 1980.

(2) "Responses to Questions Concerning ASARCO Good Engineering Practice (GEP) Study," North American Weather Consultants, G. Taylor & R. L. Peterson, August 1980.

(3) Internal ASARCO memo of July 3, 1980 concerning Hayden plant emission rates.

2. *Arizona Department of Health Services Rules and Regulations for Air Pollution Control.*

R9-3-309. Finding of no violation.

R9-3-515. Standards of performance for existing primary copper smelters.

These rules are contained in a document entitled *Ultimate Sulfur Dioxide Emission Limits for Arizona Coper Smelters,* dated September 1979. In addition to the proposed SIP

revisions, the document contains a Technical Support Statement on the application of multi-point rollback (MPR) in establishing the sulfur dioxide emission limits. Amendments to R9–3–515 were submitted by Arizona on January 14 and September 10, 1980.

Discussion of Action

I. ASARCO, Inc. GEP Stack Height Demonstration

On September 20, 1979, the State submitted the ASARCO study demonstrating GEP for the 1000 foot stack at its Hayden smelter to EPA. The State also submitted its SIP determination that this study was an adequate demonstration of GEP. Therefore, the ASARCO stack was granted full dispersion credit by Arizona in calculating the sulfur dioxide limits for Hayden contained in the Multi-Point Rollback (MPR) SIP revision.

Discussion

EPA has reviewed the ASARCO study for consistency with section 123 of the Clean Air Act as amended, EPA's proposed stack height regulations (44 FR 2608, January 12, 1979), and EPA's draft fluid modeling guideline documents.[3]

Section 123 of the Act prohibits the use of dispersion tehniques to attain the NAAQS unless these techniques were implemented before December 31, 1970, or, in the case of tall stacks, it can be shown that a stack higher than the GEP formula is needed to prevent excessive concentration of the pollutant from occurring in the immediate vicinity of the source as a result of atmospheric downwash, eddies or wakes.

The proposed EPA regulations for implementation of section 123 require that emission limits and constant control technology be used in attaining the NAAQS, rather than the additional dispersive effect of that portion of a stack which exceeds GEP. The proposed EPA regulations also require administrative procedures such as providing for public notification of the fluid modeling GEP demonstration and an opportunity for a public hearing.

The draft EPA fluid modeling guidelines for demonstrating GEP require that actual and modeled values of meteorological, stack, emission, and terrain conditions be comparable, and that the fluid modeling results be verified by empirical (Gaussian) diffusion modeling.

[3] *Guideline For Use Of Fluid Modeling To Determine Good Engineering Practice Stack Height*, Draft for Public Comment: EPA–450/4–79–015, EPA, June 1979. *Guideline For* Draft for Public Comment, EPA–450/4–79–0167, EPA, June 1979. *Guideline For Determination Of GEP Stack Height*, Draft EPA–450/4–80–023, EPA, September 1980.

Findings

EPA has reviewed the ASARCO GEP demonstration study for consistency with both the general criteria discussed above and the technical requirements contained in the draft EPA guidance documents. Several deficiencies were initially found to exist in the ASARCO GEP demonstration, and the initial EPA evaluation report dated February 27, 1980 recommended disapproval. However, additional information submitted by ASARCO and its contractors, and revised EPA stack height guidelines resulted in a second evaluation report dated July 6, 1981 which recommended approval.

Proposed Action

As a result of the above findings, it is concluded that the proposed Arizona SIP revision of GEP stack height for the ASARCO, Inc. copper smelter's 1000 foot stack at Hayden does demonstrate that a 1000 foot stack is GEP stack height, as it is necessary to prevent violations of the NAAQS resulting from downwash caused by nearby structures or terrain features. Therefore, EPA is proposing to approve the ASARCO GEP stack height demonstration. A final decision on the GEP stack height demonstration will be made based on the regulations and/or draft regulations in effect at the time the decision is made. A decision is necessary so that EPA may take appropriate action on the emission limits for Hayden, Arizona adopted by Arizona in their September 20, 1979 SIP revision, as discussed in the next section of the notice.

More detail concerning EPA's proposed action can be found in *Evaluation of the September 20, 1979 Arizona SIP Revision on the ASARCO, Inc., Hayden, AZ, Good Engineering Practice (GEP) Stack Height Investigation/Demonstration* (February 27, 1980) and in *Final Evaluation of Arizona SIP Revision for the ASARCO GEP Stack Height Study* (July 6, 1981) contained in EPA's document file No. AZ–MPR–1.

II. Sulfur Dioxide Stack Emission Limits for Arizona Copper Smelters Based on Multi-Point Rollback

EPA has reviewed the Arizona sulfur dioxide emission limitation regulations submitted by the State on September 20, 1979 for acceptability under the Clean Air Act and 40 CFR Part 51. In addition, a comparision was made with the Januray 4, 1978 EPA promulgated regulation for the control of sulfur dioxide emissions from copper smelters contained in 40 CFR 52.125, *Control strategy and regulations: Sulfur oxides.* Since Arizona had not submitted an approvable regulation, EPA promulgated this regulation to ensure the attainment and maintenance of the NAAQS.

Discussion of the Multi-Point Rollback (MPR) Technique

Multi-point Rollback is a new approach to controlling the variable sulfur dioxide emissions of nonferrous smelters. Since MPR has never been applied to smelters, there are some issue and questions that remain unresolved. In the following discussion the Agency intends to lay out the methodology of MPR and then discuss the components of the method which need to be closely reviewed in order to assure that the NAAQS for sulfur dioxide are attained and maintained. This discussion may also facilitate public comment on MPR given that this method is new and very technical.

Comparison of Single Point Rollback and Multi-Point Rollback: By definition, MPR is a proportional rollback technique. Therefore, its application is founded upon the assumption that emissions and ambient concentrations are proportional for a given set of dispersion conditions. Thus, a reduction in emissions would be expected to result in a comparable reduction in ambient concentrations. Based upon this assumption, the NAAQS can be achieved if emissions are reduced by the ratio of the corresponding ambient concentration to the air quality standard. In this respect, MPR is similar to the "single-point" rollback procedure used by EPA to establish the January 4, 1978 EPA-promulgated sulfur dioxide emission limits for Arizona copper smelters (43 FR 755).

However, the presumption in the single point rollback approach is that the highest recorded ambient sulfur dioxide concentration can be related to a single emission rate. More importantly, to protect the NAAQS, this emission rate associated with the "worst case" ambient concentration must be rolled back by the ratio of the "worst case" ambient concentration to the ambient standard, and established as a maximum "never to be exceeded" emission rate.

MPR differs from proportional rollback in two basic areas: choice of design value (or rollback factor), and choice of emissions to be reduced.

The rollback factor or design value used in MPR can be determined by: (1) Picking the maximum concentration observed; or (2) fitting the cumulative frequency distribution (from observed data) to an appropriate functional form and calculating an expected once-per-

year maximum value. Although the first approach is easier, the second approach is desirable in terms of minimizing random measurement errors and accounting for missing values in the period of record. Additionally, it provides the capability to estimate a maximum pollutant concentration for a particular averaging time. This maximum concentration (design value) occurs at a frequency of 1/n, where n is equal to the number of potential values in the period of data accumulation. As with single-point rollback, it is necessary to calculate rollback factors for all applicable NAAQS averaging periods. The largest rollback factor calculated is used to establish the allowable emission limits.

The second area where MPR differs from single-point rollback is in the choice of emissions to be reduced in establishing emission limits. Where single-point rollback attempts to reduce that emission rate which is attributed to the second highest measured ambient concentration,[4] MPR uses the rollback factor discussed above to reduce each and every emission which occurred over the period of data accumulation (i.e., an emission profile). The smelter must operate at or less than any point on this frequency distribution (or emission profile) to achieve the NAAQS. In order to do this, an emission profile must be developed for each smelter for this period of time. Ideally, the emission profile is developed entirely from actual measured data. Where data limitations precluded this, then the available data must be used to fit a distribution. The approach used by Arizona is discussed elsewhere in this notice.

MPR Application—Arizona

In applying MPR in Arizona, data limitations required that the approach be slightly modified. In particular, lack of continuous emission measurements at all smelters required that the cumulative frequency distributions for emissions be estimated using sulfur balance data and by assuming a particular functional form for the distribution. Using this functional form and estimates of the mean and variability in emission rates, distributions were developed. A more detailed discussion of this approach is provided in the technical evaluation report to this rulemaking notice.

The State's analysis of the data (assisted by the University of Arizona) is divided into two basic categories: Hayden smelters, and non-Hayden smelters. The reasons for this division are that the Hayden smelters, ASARCO and Kennecott, both impact the same air basin, both have continuous emissions monitoring (CEM) data, and sufficient meteorological data is available to separate the impact of fugitive emissions from stack emissions. The non-Hayden smelters are single, isolated point sources of sulfur dioxide, have only sulfur balance data on emissions, and the impact of fugitive emissions on the ambient monitors are not separable from those of stack emissions.

Hayden Smelters

Due to the physical relationship of the smelter stacks in Hayden to the Montgomery Ranch ambient monitor, and the availability of meteorological data, the State concluded that it is possible to separate the impact of fugitive emissions on the monitor from stack emissions. The purpose of making this distinction is to enable a more realistic stack emission limit to be calculated. The fugitive emissions could then be handled in a separate evaluation, as required by the new sulfur dioxide regulation discussed in the next section.

The State examined meteorological data obtained from the Joint Control Center in Hayden to define stack versus fugitive and low-level emission impacts on the Montgomery Ranch ambient monitor.[5] Those ambient concentrations not attributable to main stack emissions were then dropped from the ambient data base used to derive the design value for the main stack(s).

Derivation of the Hayden design value was made using the remaining ambient monitoring data. A cumulative frequency distribution of 3-hour average concentrations was developed in accordance with the methodology explained earlier.

Several extra steps were required to develop the ASARCO and Kennecott emission limitations. Only two calendar years of CEM data could be considered: 1975 and 1976. (Before 1975, continuous emission monitors had not been installed, and after 1976, the data are known to be contaminated by the operation of SCS). Given these two years, the theoretical method of developing emission profiles could not be used. A complete year of good quality 1975 CEM data were not available and the 1976 CEM data were possibly contaminated by SCS operation. To overcome these problems, the State examined both the sulfur balance data and the CEM data.

Although the 1976 CEM data did not appear to be significiantly affected by SCS operations, the annual averages from the 1975 sulfur balance data were used in developing the Hayden emission profiles as preliminary calculations indicated these would result in slightly more stringent emission limitations.

The use of 1975 sulfur balance data to calculate sulfur dioxide stack emission limits necessitated an adjustment to eliminate fugitive emissions from the sulfur balance data, and emission profiles had to be developed. To accomplish this, it was assumed that the general shape of the emission profile remained the same from 1975 to 1976, since the smelter configurations were constant. Based on this assumption, a mathematical function (a Gamma distribution) was used to describe the 1976 emission profile curve. The amount of variability in a Gamma distribution is described by a parameter called the shape factor. This shape factor was calculated from the 1976 data and then used with the 1975 annual average (after subtracting fugitive emissions) to develop an emission profile.

The emission limitations for ASARCO and Kennecott were calculated by analyzing a combined emission profile for the Hayden area, since the shape factors for the two smelters were very close. The rollback factor was applied to the combined emission profile to obtain an emission limit curve. This combined emission limit curve was redefined into two curves by reducing the combined curve on the ratio of 45:55. This 45:55 ratio was previously calculated by the State as the air shed allocation for Kennecott and ASARCO, respectively, based on production capability. This is also the same ratio used by EPA in the January 4, 1978 regulation.

Non-Hayden Smelters

Air quality analyses at the non-Hayden smelters (Inspiration, Magma, and the three Phelps Dodge smelters at Ajo, Douglas, and Morenci), showed that the 3-hour average would require the most stringent reduction in emissions, except in the case of Phelps Dodge, Ajo, where the 24-hour average was the most stringent. The predicted maximum ambient concentration from each smelter was then used to calculate the rollback factor. As discussed previously, the rollback factor is that value, $^{c}max/^{c}std$ used to reduce each point on the emission profile to obtain the emission limit.

Since the non-Hayden smelters had no CEM data, a method of deriving

[4] When EPA applied proportional rollback to the Arizona smelters in its January 4, 1978 regulations, the highest measured ambient concentration was used to represent the actual second highest reading, since the monitors were not located at the points of maximum expected air quality impact and slightly less than a full year of ambient data was available.

[5] The low-level emissions are from the 100 foot Kennecott tail gas stack.

emission profiles had to be developed. Since the CEM data from the Hayden smelters were found to fit a Gamma distribution, it was assumed that the smelter emission profiles could be represented by a Gamma distribution. The profiles could then be developed, given a point on the curve and a shape factor which would define the amount of variability. As with the Hayden smelters, the point on the emission profile curves used to fit a Gamma distribution was the annual average emission rate calculated from sulfur balance data.

Since CEM data were not available, examination of smelter configurations and emissions indicated that shape factors could be estimated based on the amount of sulfur fixation capability.

Based on this theory, the shape factors for the non-Hayden smelters were estimated. The resultant shape factors, along with the annual averages (from sulfur balance data), were used to generate emission profiles for each smelter.

The emission limits were then calculated applying the appropriate rollback factor to each emission profile.

Findings

The EPA review of the MPR technique has determined that the Arizona approach represents a rollback technique designed to allow no more than one exceedance of the NAAQS and no violations for the period of data accumulation. In this respect the approach conforms with Agency guideline requirements for attainment demonstrations. However, the proposed acceptance of the application of MPR to single, isolated point sources such as copper smelters represents a change in Agency policy. As discussed earlier, with MPR the protection of the short-term NAAQS is accomplished by rolling back an entire emission distribution without attempting to relate the short-term emission rate responsible for the highest ambient concentration to that highest embient concentration. Previously, Agency policy has required that an adequate demonstration of attainment of a short-term NAAQS must roll-back a single short-term emission rate. Further, the "rolled-back" emission rate must then be established as "never to be exceeded" emission limit. Thus, the action proposed today constitutes a change to previous Agency policy concerning the use of proportional rollback for single, isolated, variable point sources.

Proposed Action

The September 20, 1979 submittal of R9-3-309, *Finding of no violation,* amends a version of R9-3-309 submitted on January 4, 1979. This amendment exempts all sources except smelters from compliance with SIP emission limitations during periods of excess emissions, resulting from a startup, shutdown or malfunction of pollution control equipment as long as certain conditions are satisfied. Since EPA has not yet completed its evaluation of the appropriateness of this regulation for all sources, EPA will not propose action on R9-3-309 at this time. This rule will be addressed in a future **Federal Register** notice.

The following discussion details EPA' proposed action on R9-3-515, *Standards of performance for existing primary copper smelters,* submitted September 20, 1979 (and amended on January 14 and September 10, 1980), which uses MPR to establish sulfur dioxide stack emission limits.

R9-3-515(A) defines the sources to which the provisions of this rule are applicable. EPA is proposing to approve this definition, since it is essentially equivalent to that contained in EPA's promulgated regulation, 40 CFR 52.125(d).

R9-3-515(B), "Particulate emissions limitations," stays the effect of rule R9-3-502(A) until December 31, 1979, and requires each smelter operating under an operating permit to operate existing particulate control equipment at maximum feasible efficiency during the stay period. EPA proposes to take no action on this rule, since the stay period has expired.

R9-3-515(C), "Sulfur dioxide emission limitations," defines both specific sulfur dioxide emission limitations for each of the existing Arizona primary copper smelters, as well as general requirements applicable to all smelters. The approvability of each subsection is discussed below.

R9-3-515(C)(1) defines the date for the smelters to achieve compliance with the emission limitations as three years from the effective date of the section or December 31, 1982, whichever is earlier. The September 10, 1980 Arizona SIP revision amended the introductory paragraph of R9-3-515(C)(1) such that the final compliance date was changed from December 31, 1982 to October 1, 1983. This compliance date is approvable under section 110(a)(2) of the Act, because it is within three years of the date of approval of the plan. Since EPA's 1978 SIP regulations have not gone into effect, EPA is treating Arizona's submission as the initial SIP for purposes of the attainment date requirement of section 110(a)(2). EPA is therefore also proposing to change the attainment dates from January 4, 1981 to October 1, 1983 for sulfur oxides in the Phoenix-Tucson and Southeast Arizona Intrastate Air Qualify Control Regions [40 CFR 52.131].

R9-3-515(C)(1) also contains the emission limitations, as required under section 110(a)(2)(B) of the Act for the following seven copper smelters:

Magma Copper Company, San Manuel Division, San Manuel, AZ;

Inspiration Consolidated Copper Company, Miami, AZ;

Phelps Dodge Corporation, New Cornelia Branch, Ajo, AZ;

Phelps Dodge Corporation, Douglas Reduction Works, Douglas, AZ;

Phelps Dodge Corporation, Morenci Branch, Morenci, AZ;

ASARCO, Inc., Hayden Smelter, Hayden, AZ; and

Kennecott Corporation, Ray Mines Division, Hayden, AZ.

The emission limitations are specified in terms of 3-hour average cumulative occurrence limits, and an annual average emission limit, for each smelter.

However, the regulations do not specifically state that emissions during periods of malfunction, startup and shutdown will not be excluded when determining compliance with the cumulative occurrence and/or annual average emission limits. The theory of MPR requires, and Arizona has previously stated that they intend that all emissions will be used to determine compliance regardless of the operating conditions at the smelter. Arizona has also indicated a willingness to include a specific provision in this paragraph that clarifies their intention regarding periods of startup, shutdown and malfunction. Therefore, EPA is also proposing conditional approval of R9-3-515(C)(1) based on Arizona's willingness to submit an appropriately revised version of this regulation by April 15, 1982.

R9-3-515(C)(2) defines the method of determining compliance during the initial 365-day period under this regulation. EPA proposed approval of R9-3-515(C)(2) as this provision is necessary for enforcement of the emission limits during the first year of implementation and is in accordance with the requirements of 40 CFR 51.15(a)(1) and 40 CFR 51.22.

R9-3-515(C)(3) defines the method of determining compliance after the initial 365-day period of this regulation. This provision is necessary for enforcement of the emission limits after the first year of implementation, but it is not fully in accordance with the requirements of 40 CFR 51.15(a)(1) and 40 CFR 51.22. EPA proposes conditional approval of R9-3-515(C)(3). The conditional approval is

based on Arizona's willingness to modify the annual average compliance determination requirements from once per month to once per day. This change is necessary in order to ensure that each smelter operates in compliance with the emission profile at all times, as the multipoint rollback theory demonstrates is necessary to ensure attainment and maintenance of the NAAQS for sulfur dioxide. EPA is requiring that these changes be submitted as SIP revisions by April 15, 1982.

R9–3–515(C)(4) requires the smelter to install, calibrate, maintain, and operate continuous emissions monitoring systems. This subsection also requires the smelter to meet a compliance schedule for installation of these monitors, as well as performance and data recovery specifications. The compliance schedules are at least as stringent as those contained in 40 CFR 52.125(d)(5). However, the 95 percent data recovery requirement could result in enforcement problems and smelter operations in excess of the allowable emission profile for 5 percent of the year. Emissions in excess of the allowable emission profile would increase the probability of violating the NAAQS. In addition this paragraph could be interpreted such that captured fugitive emissions are not required to be monitored. EPA proposes to conditionally approve R9–3–515(C)(4), because of these problems, and because Arizona has indicated a willingness to modify the regulations to require continuous emission monitoring of captured fugitive emissions and to include regulatory incentives/requirements which strive for 100 percent continuous emission monitoring data recovery. EPA is proposing to require that these changes be submitted as SIP revisions by April 15, 1982.

R9–3–515(C)(5) contains requirements for continuous emissions monitoring recordkeeping. EPA proposes conditional approval of R9–3–515(C)(5) as it is approximately equivalent to 40 CFR 52.125(d)(5)(vii). However, the annual average recordkeeping and reporting requirements need to be amended such that they are consistent with the amended requirements of R9–3–515(C)(3). Arizona has indicated a willingness to make these changes. EPA is proposing to require that these changes be submitted as SIP revisions by April 15, 1982.

R9–3–515(C)(6) requires each smelter to develop a compliance schedule for meeting the emission limitations specified in R9–3–515(C)(1). The compliance schedule must contain the specified increments of progress. EPA proposes approval of R9–3–515(C)(6), since the compliance schedule and increments of progress are equivalent to those contained in 40 CFR 52.125(d)(4).

R9–3–515–(C)(7) sets interim emission limitations based on current emissions control capability at the smelters. Compliance is to be determined through sulfur balance. EPA proposes no action on R9–3–515(C)(7), since the interim emission limits do not demonstrate attainment and maintenance of the standards, and therefore are not required or approvable as part of an SIP under section 110(a)(2) of the Clean Air Act.

R9–3–515(C)(8) requires each of the smelters to conduct a fugitive emissions evaluation. Should this evaluation conclude that fugitive emissions have the potential to cause or significantly contribute to violations of the ambient sulfur dioxide standards in the vicinity of the smelter, then the State must adopt regulations for fugitive emission limitations or other appropriate measures. Should a smelter demonstrate that it must undergo major modification or process changes to comply with emission limitations under R9–3–515(C)(1), and that these changes will virtually eliminate the impact of fugitives on air quality, then the smelter may not have to conduct the fugitive evaluation study. EPA proposes approval of R9–3–515(C)(8) as these requirements are a strengthening of the EPA promulgated regulation. However, EPA cannot fully approve the control strategy for each smelter town until such time as Arizona either demonstrates that fugitive controls are not required to attain and maintain the NAAQS for SO_2, or submits regulations specifying the fugitive controls that are required to attain and maintain the NAAQS for SO_2 (along with the appropriate control strategy demonstration).

For five of the six smelter towns it is not currently known whether fugitive emission controls will be required. However, at Hayden fugitive emission controls are clearly required, based on Arizona's treatment of the ambient air quality data. At Hayden, the ambient air quality data was split into two groups: fugitive influenced and stack/fugitive influenced. The stack/fugitive influenced data were used to develop the MPR regulations for the ASARCO and Kennecott stacks. However, no control strategy or regulations were developed based on the fugitive influenced data. Since this data shows that fugitive emissions must be reduced by a factor of 3.19 in order to attain the NAAQS for SO_2, an additional fugitive emission control strategy is clearly required in order to reduce the fugitive emissions at ASARCO and Kennecott by a factor of 3.19.

Therefore, EPA is proposing conditional approval of the control strategies for each smelter town. Arizona has indicated a general willingness to address the impact of fugitive emissions at each smelter town under provisons of R9–3–515(C)(8). EPA is proposing to require that the fugitive emissions control strategy and regulations for all 6 smelter towns be submitted as SIP revisions by December 31, 1982. These regulations must require compliance by three years after the date of EPA's approval of the plan now being proposed by Section 110(a)(2) of the Act.

R9–3–515(C)(9) requires the smelters to continue to calibrate, operate, and maintain ambient sulfur dioxide monitoring equipment for a period of three years past the compliance date. However, paragraph (C)(9) refers to Appendix 7 [Requirements for a Supplementary Control System (SCS)] for monitor operation and maintenance requirements. EPA cannot approve SCS requirements under Section 110 of the Act, since section 123 prohibits credit for SCS operation for attainment and maintenance of the NAAQS except under certain temporary circumstances. Finally, R9–3–515(C)(9) was amended by the State's Nonferrous Smelter Order regulations which were submitted on January 14, 1980 as proposed SIP revisions. The provisions of Appendix 7 were completely changed by this submittal. Therefore, EPA is proposing conditional approval for R9–3–515(C)(9) at this time. EPA will approve this paragraph when the reference to the specific ambient monitoring operation and maintenance requirements is clarified and made equivalent to the EPA requirements of 40 CFR Parts 50 and 58, and appendices.

Rule R9–3–515 [paragraphs (C)(7) and (C)(9)] also contains references to Appendices 7 [Requirements for a Supplementary Control System (SCS)] and 8 [Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions]. These appendices have been previously submitted to EPA as proposed SIP revisions on January 7, 1977, but action has been deferred at the request of the Governor. In addition, the January 14, 1980 SIP revision submital repeals the January 7, 1977 version of Appendix 7 and replaces it with a completely different version entitled "Instructions and Forms for Submission of Data and Information Pertaining to Eligibility for a Nonferrous Smelter Order (NSO)." The SCS and monitoring requirements are now contained in the

NSO regulations in rule R9–3–704. Until otherwise notified EPA proposes to continue to defer action on Appendices 7 and 8.

More detail on the reasons for the above recommendations concerning rule R9–3–515 can be found in *EPA Evaluation Report on the Approvability of the September 20, 1979 Arizona SIP Revision on the Arizona Copper Smelter Sulfur Dioxide Stack Emission Limitations* (August 1981) contained in EPA's document file No. AZ–MPR–1.

In addition to the actions proposed above on rule R9–3–515, EPA is proposing to rescind the following portions of the Federally promulgated regulation for Arizona copper smelters if Arizona satisfies all conditional approval items: 40 CFR 52.125(d) *Regulation for control of sulfur dioxide emissions (Phoenix-Tucson Intrastate and Southeast Arizona Intrastate Regions):* Paragraphs (d)(1) through (d)(6). This would rescind the EPA-promulgated requirements on the seven copper smelters for which EPA is today proposing new requirements; and 40 CFR 52.125(e) *Deferral of effectiveness.* This would rescind the EPA-promulgated deferral of the effective date of 40 CFR 52.125(d).

Issues

The proposed Arizona SIP revision involves the use of a new approach to setting emission limitations. EPA has reviewed the technical validity of MPR as well as the regulatory aspects of this type of emission limiting regulation. During the review process, several major issues have been raised.

Since there is no clear answer to these issues, a discussion of the issues is presented in this notice so that the public may have the opportunity to comment on these issues.

Attainment and Maintenance of the NAAQS

EPA's primary concern is the ability of MPR to provide for attainment and maintenance of the NAAQS. An examination of the proposed emission limitations for each of the copper smelters indicates that each smelter is provided with both an annual average emission limit and cumulative occurrence limits for three-hour averaging times. These cumulative occurrence limits range from a once-per-year occurrence to about 2500 occurrences per year. The highest number of occurrences are allowed slightly above the annual average emission rate while the once-per-year limit is normally allowed at about four times the annual average rate. Intermediate emission rates are dispersed among the remaining occurrence limits.

These allowable emission rates were derived by the State using the rollback procedure previously described. They were included in the control strategy to account for the high variability inherent in sulfur dioxide emissions from copper smelters. The attainment demonstration relies upon the representativeness of the period of data accumulation (particularly the dispersion characteristics) and the low probability that high emissions will occur on "poor dispersion days" to assure attainment of the NAAQS.

In contrast to the MPR approach, the single point rollback approach utilized by EPA in the January 4, 1978 promulgation on Arizona smelters attempts to locate the worst combination of dispersion and emissions in the period of data accumulation. The emissions conciding with this event were then rolled back by the ratio of the corresponding ambient concentration to the NAAQS. Only by establishing the resultant emission limit as a maximum rate (never to be exceeded) did EPA consider the NAAQS to be adequately protected. Understandably, during periods of good dispersion, there was potential for "over-control." Conversely, if the worst case conditions had not been identified, a potential for "under-control" existed. Regardless, the resultant EPA emission limits were generally more stringent than the State's MPR limits, particularly with regard to the short-term emission rates.

In this rulemaking notice, EPA is proposing to conditionally approve the Arizona multi-point rollback SIP revision. As noted above, however, instead of attempting to account for the worst foreseeable combinations of emissions and dispersion conditions in setting emission limitations to prevent NAQS violations, Arizona's attainment demonstration presumes that the probability that high emissions will coincide with poor dispersion is acceptably low. EPA is continuing to study this question, and anticipates placing further analysis on the issue in the rulemaking file before taking final action on today's proposed conditional approval. Additionally, the SIP requires three years of ambient monitoring after implementation of controls. Should this monitoring reveal air quality problems, the State has committed to rectify any deficiencies in the strategy.

Continuous Emission Monitor Reliability

Another issue raised during the review process is the ability to operate continuous emission monitors in such a fashion as to be reliable for enforcement of the emission limitations. Due to the nature of the MPR-derived emission limitations, the traditional stack test cannot be used to determine compliance other than to validate the continuous monitors. Therefore, it is essential that a high quality performance level be maintained for each of the required emission monitors. For this reason, Arizona has provided both operational performance specifications and data recovery requirements for each continuous emissions monitoring system.

Some doubts have been expressed as to the ability of the current continuous emission monitors to perform as required by this proposed SIP revision. It is the State's opinion that the currently available monitors can be operated to meet the requirements of R9–3–515(C), particularly given the regulatory incentive to do so. If a smelting company believes that currently available monitors will not meet the data recovery requirements, then extra precautions may be needed. Three possible options are: (a) Install and operate duplicate monitoring systems, (b) provide back-up systems which could be operated in place of a broken or malfunctioning monitor, or (c) develop a better monitor.

Since compliance with MPR emission limits is based on consideration of one year of CEM data, the CEM performance and data recovery requirements are extremely important. In order to emphasize the seriousness of violating any of the monitor performance or data recovery specifications required in R9–3515(C), Arizona has committed to amend its regulations to require that spare monitors and/or critical spare parts be available for quick replacement of any monitor which malfunctions.

Ambient Air Quality Data

The use of air quality data from the existing monitoring network has also been questioned, since the monitors may not be located at points of maximum concentration. This could mean that ambient sulfur dioxide concentrations in excess of the NAAQS could occur at other unmonitored locations, even though the smelter is operating in compliance with the calculated emission limitations.

Location of air quality monitors at sites of maximum concentration is a difficult, if not impossible task because of many practical concerns (e.g., securing a land lease, or supplying a monitor with power in possibly remote locations). In the development of EPA's

January 4, 1978 promulgated regulation, a similar problem with monitor locations was found to exist, and so the highest (rather than the second highest) occurring ambient air quality concentration monitored in the field of monitors was used to determine a rollback factor. Although this approach has not been used in the Arizona analysis of air quality, a comparable approach has been used. The Arizona method of determining a rollback factor is to determine a predicted maximum ambient concentration which will occur once per year based on actual data from that monitor registering the highest readings. In this way, a value even higher than the highest actual monitored concentration could be used for the rollback factor. This was in fact the case at the Magma and Phelps Dodge, Morenci smelters.

Total Atmospheric Loading

Concern has been expressed in the Agency that the MPR limits can result in higher total sulfur dioxide emissions than permitted by the EPA promulgated limits. Although this is not necessarily germane to the requirements of sections 110 and 172 of the Act, it may be a consideration in the Agency efforts to meet the requirements of section 169A (Visibility Protection for Federal Class I Areas) of the Act. Because of differences in the forms of the EPA and Arizona emission limitations, (6 hour and annual averaging periods, respectively) direct comparisons of total emission rates require that the smelters be treated as constant emitting sources. This is obviously a misrepresentation of these sources. Nevertheless, using this approach it can be shown that total *allowable* sulfur dioxide emissions under the proposed SIP revision are about 12 percent higher than the current EPA limits. This difference can be shown to be as much as 300 percent when certain assumptions are made regarding the *actual* emissions permitted by EPA's maximum emission rate. Specifically, it is agreed that the smelter will have to emit (on the average) at levels much lower than the EPA allowable emission rate in order to ensure that peak emissions do not exceed the allowable limit. Arizona has argued that this may be unduly stringent, and it is this argument that is the basis for the development of the MPR technique for calculating emission limits for a variable emission source.

The Agency has considered this issue and determined that, overall, significant positive emission reduction will result from the MPR SIP revision. Where paper relaxations appear to result, these differences are small enough that they could be attributable to the different base years used by EPA and Arizona for their respective control strategy calculations. At Hayden, dispersion from the 1,000 foot tall ASARCO stack, rather than the two 250 and 300 foot tall stacks previously used, probably accounts for most of the apparent relaxation between EPA's and Arizona's limits.

General Criteria for the Use of Multipoint Rollback

As a result of the intensive review of the proposed Arizona Multipoint Rollback SIP revision, EPA has developed a list of eight general criteria which should be satisfied if EPA is to approve any SIP revision based on MPR. EPA believes that after correction of all conditional approval items, the September 20, 1979 Arizona SIP revision will satisfy the eight general criteria. They are listed below along with a brief indication of why the Arizona SIP revision currently satisfies (or will satisfy) each condition.

1. Ambient air quality monitoring data and emission data must meet acceptable quality assurance criteria.

Data records must be of sufficient length to reasonably describe atmospheric dispersion conditions and their frequencies. To the extent possible, ambient data must also reflect locations of maximum expected air quality impact. Running average concentrations shall be used to determine both the location of the limiting case site and the limiting case averaging period (i.e., 3-hour or 24-hour).

Arizona has assembled the necessary quality assurance data and submitted it to EPA. It is currently under review by EPA. Further, one year of ambient data was used for each smelter analysis, the ambient monitoring network used by Arizona was similar to that used by EPA for its January 4, 1978 promulgation (the maxumum impact monitor was the same as used by EPA for five out of the six smelter towns), and running averages were used in all cases.

2. Neither ambient data nor emission data can be influenced by dispersion techniques, i.e., supplementary control system or stack heights greater than good engineering practice (GEP).

A fundamental assumption in the theory of multipoint rollback is that emissions and dispersion are independent. Therefore, any use of supplementary control systems (SCS) during the period of data accumulation would make that data suspect for use in an MPR control strategy. The use of non-GEP stack heights is prohibited by Section 123 of the Act. None of the ambient data used by Arizona was influenced by SCS operation, and the ASARCO 1000 foot stack is being proposed as GEP stack height. All other smelter main stacks were "grandfathered" under the provisions of section 123(a).

3. Ambient data concentration distributions shall be developed for all possible discrete averaging periods (e.g., for 3-hour at 12 a.m., 3 a.m., 6 a.m., 1 a.m., 4 a.m., 7 a.m., 2 a.m., 5 a.m., 8 a.m.). The rollback factor shall be based upon the highest once-per-year maximum concentration provided by these distributions.

Arizona has done this for all relevant 3-hour distributions. Arizona has not, however, used this approach for the Ajo smelter, which is limited by the 24-hour standard, rather than the 3-hour standard. EPA has requested Arizona to make whatever revisions are necessary to correct this problem along with the other revisions discussed in this notice.

4. Baseline emission profiles should be based upon continuous emission measurement (CEM) data. Where it is not initially possible to do so, then profiles must be based upon conservative assumptions. Allowable emission profiles must ultimately be verified by CEM data.

The Arizona smelter baseline emission profiles were not based on continuous emission monitoring (CEM) data, but were calculated from annual average emissions (based on sulfur balance data) and assumed shape factors. EPA believes that Arizona used conservative assumptions in developing the smelter emission profiles. Further, Arizona has committed to future verification of these profiles based on actual CEM data. This will occur during the next two to three years as the smelters install CEM devices.

5. To represent a fully acceptable demonstration of attainment, measures adequate to ensure that fugitive emissions will not violate the NAAQS must be incorporated directly into the control strategy.

Arizona's regulations require a study to determine the air quality impacts of fugitive emissions at each smelter. These studies will be conducted in the next 12 to 18 months. EPA will not fully approve any smelter control strategy until the state has demonstrated that there are no significant fugitive emission impacts, or submitted regulations adequate to demonstrate attainment and maintenance of the NAAQS.

EPA is proposing to require that Arizona submit a fugitive emissions control strategy and regulations for each smelter town by December 31, 1982.

6. Regulations should require that continuous emission monitors measure at least 95 percent of the hours in which emissions occur. CEM downtime should be minimized by providing an incentive to sources to strive for 100 percent data recovery. This may be accomplished by reducing cummulative occurrence limits by the percent missing data or other comparable approaches.

The Arizona MPR regulations currently require 95% CEM data recovery. Further, Arizona has agreed to provide additional incentives/ requirements in its regulations so that sources will strive for 100% data recovery.

7. Regulations shall not exempt malfunctions from either the emission profile determination or the ultimate emission limitations.

This criteria is consistent with the theoretical basis for MPR in that the entire emission distribution for the period of data accumulation is rolled back by the reduction factor. It was Arizona's stated intention (as provided in their SIP) not to exempt emissions during periods of malfunction from either the baseline emission profile, or the ultimate emission limitation profile compliance determination. In fact, Arizona's regulation R9-3-309, *Finding of no violation,* contains a provision which requires that malfunction emissions are not excluded when determining whether a smelter is in compliance with its MPR ultimate emission limitation profile.

Further, EPA is proposing to require that Arizona include a more explicit statement in R9-3-515(C)(1) which specifically states that emissions during periods of malfunction, startup and shutdown will not be excluded when determining compliance with the MPR emission limits.

8. If the data base permits that the control strategy be developed in a probabilistic manner, then the control strategy must consider the probability that the source causes a violation any where rather then simply at the worst site. Concurrently, the probability for a violation of the NAAQS must be shown to be consistent with Agency policy in effect at that time.

EPA is proposing conditional approval of the Arizona SIP control strategy as a rollback demonstration whereby the entire emissions distribution rather than a single emission rate has been reduced by a level necessary to allow no more than one exceedance of the NAAQS and no violations for the period of analysis. Although the Agency recognizes that the MPR approach may not be as conservative as EPA's single-point approach in assuring attainment and maintenance of the NAAQA in Arizona, no attempt is being made to quantify any probabilities for a violation. It is the Agency's opinion that data limitations preclude Arizona from responding to this criterion in any meaningful manner. Therefore, the proposed action is not based upon conformance with this criterion.

Benefits

The effective date of the currently approved SIP, i.e., the federally promulgated emission limitations, has been indefinitely deferred since February of 1978. By this proposed action, EPA can effectively return to Arizona the primary responsibility for the program for control of sulfur dioxide emissions from copper smelters. Additionally, the proposed SIP revision appears to be a strengthening of the EPA regulations in that it requires fugitive emissions evaluations and controls.

Conditional Approval Procedure

Conditional approval requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines eventually promulgated. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the SIP, or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the SIP. I the SIP is disapproved, EPA's January 4, 1978 Arizona smelter regulations would be reimposed.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and the EPA's January 4, 1978 smelter regulations are in effect.

Public Comments

Under Section 10 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions (including rule deletions) as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region 9 Office. The EPA Region 9 Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the regulations and/or control strategy. EPA is further interested in receivng comments on the specified dates for the State to submit the corrections, in the event of conditional approval.

The EPA invites comments on the September 20, 1979 SIP submittal, as amended, any identified deficiencies, and whether these revisions should be approved, conditionally approved or disapproved, especially with respect to the requirements of sections 110 and 123 of the Clean Air Act.

Comments received on or before January 27, 1982 will be considered. Comments received will be available for public inspection at the EPA Region 9 Office and the EPA Public Information Reference Unit.

The Administrator's decision to approve, conditionally approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of the Clean Air Act and 40 CFR Part 51 Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Regulatory Process

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) that the attached rule will not have a significant economic impact on a substantial number of small entities.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The miscellaneous SIP approvals announced today are not "major" because they approve state actions or preserve the status quo. They impose no new regulatory requirements.

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

(Secs. 110, 123 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7423 and 7601(a)))

Dated: August 13, 1981.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 81-34293 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-5-FRL-1994-6]

Illinois; Availability of Illinois State Solid Waste Management Plan and Request for Public Comment; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On October 15, 1981, the U.S. Environmental Protection Agency (U.S. EPA) announced receipt of the adopted Illinois State Solid Waste Management Plan and requested comments on the Plan by November 16, 1981 (46 FR 50810). In response to a request for an extension of time for the filing of comments, the comment period is extended to December 4, 1981.

DATE: Comments must be received by: December 4, 1981.

ADDRESSES: Comments should be submitted to: Judy Kertcher, Chief, Regulatory Analysis and Information Section, Waste Management Branch, U.S. Environmental Protection Agency, Region V, 111 W. 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. Environmental Protection Agency, Region V, 111 W. Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6142.

Dated: November 18, 1981.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 81-34299 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 773

[OPTS-47004B; TSH-FRL 1996-6]

Dichloromethane, Nitrobenzene, and 1,1,1-Trichloroethane Proposed Test Rule; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is extending the comment period for the proposed test rule for dichloromethane, nitrobenzene, and 1,1,1,-trichloroethane published in the **Federal Register** of June 5, 1981 (46 FR 30300) to give interested persons additional time to comment on testing requirements for this rule. The date for the public meeting on the proposed test rule has also been changed.

DATES: All comments on the proposed rule should be submitted on or before Feburary 1, 1982. The public meeting is scheduled for February 16, 1982.

ADDRESS: Written comments should bear the document control number OPTS-47004B and should be submitted in triplicate to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection in Rm. E-107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

If the February 16, 1982 meeting is held, the location will be announced at a later date.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

For further information on arranging to participate in the public meeting, see Unit II. below.

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 1981 (46 FR 30300), EPA issued a proposed test rule for dichloromethane, nitrobenzene, and 1,1,1,-trichloroethane under section 4 of TSCA. The comment period for this proposed test rule will be extended 60 days (from November 30, 1981, to February 1, 1982) to give interested persons additional time to comment on testing requirements for this rule. A notice providing further information will be forthcoming at a later date.

II. Public Meeting

EPA has rescheduled the December 15, 1981, public meeting to February 16, 1982, to allow an opportunity for oral presentation of comments on the June 5, 1981, proposed rule. Persons who wish to attend the meeting or present comments at the meeting should call the Industry Assistance Office at the telephone numbers given above. While the meeting will be open to the public, active participation will be limited to those persons who arrange to present comments and to designated EPA participants. Persons who wish to attend the meeting should call the Industry Assistance Office before making travel plans because the meeting will not be held if members of the public do not wish to make oral comments.

The Agency will transcribe the meeting and will include the written transcript in the public record of the test rule. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

(Sec. 4, Pub. L. 94-469, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: November 20, 1981.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81-34373 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-31-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

Agenda of Proposed Regulatory Activity

AGENCY: General Services Administration.

ACTION: Semiannual agenda; Supplemental.

SUMMARY: This document announces additional proposed regulatory actions that GSA plans for the 6-month period from November 1981 to April 1982. The agenda entries were developed under the guidelines in Executive Order 12291, Federal Regulation (46 FR 13193, Feb. 19, 1981). GSA's purpose in publishing the agenda is to allow interested persons an opportunity to participate in the early stages of the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Anthony Artigliere, Acting Chief, Directives Management Branch (202-566-0666).

SUPPLEMENTARY INFORMATION: GSA published its semiannual agenda of proposed regulatory activity on October 30, 1981 (46 FR 53708), and indicated that additional entries for the Public Buildings Service would be published in today's **Federal Register.** This document lists the remaining proposed regulatory actions for the Public Buildings Service.

Dated: November 18, 1981.

Ray Kline,

Deputy Administrator of General Services.

PUBLIC BUILDINGS SERVICE

1. Final rules expected to be issued.

a. Federal Space Management (41 CFR Part 101–17) (Temporary Regulation).

(1) *Description.* This regulation will suspend those portions of Part 101–17, Assignment and Utilization of Space, of the Federal Property Management Regulations which require priority consideration to locating Federal agencies in central business areas. This regulation will be effective upon publication in the **Federal Register** and will expire September 1, 1982, unless canceled sooner.

(2) *Legal basis.* Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

(3) *Contact point.* Paul H. Herndon, III, Director, Space Management Division, Office of Space Management (202–566–1875).

(4) *Major rule.* No.

(5) *Expected issue date.* December 31, 1981.

b. Improved use of Federal space facilities (41 CFR Part 101–17).

(1) *Description.* This final rule will provide Federal agencies with guidelines to use in establishing programs to improve their utilization of space and with criteria for developing and implementing programs to achieve economies in space utilization. This regulation is intended to reduce the total space utilization rate, which will result in significant annual cost savings.

(2) *Legal basis.* Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

(3) *Contact point.* Paul H. Herndon, III, Director, Space Management Division, Office of Space Management (202–566–1875).

(4) *Major rule.* No.

(5) *Expected issue date.* December 31, 1981.

c. Space requirements worksheet (41 CFR Part 101–17).

(1) *Description.* This final rule will require Federal agencies to submit GSA Form 1476, Space Requirements Worksheet, with Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is required.

(2) *Legal basis.* Sec. 205(c), 63 Stat 390; 40 U.S.C. 486(c).

(3) *Contact point.* Paul H. Herndon, III, Director, Space Management Division, Office of Space Management (202–566–1875).

(4) *Major rule.* No.

(5) *Expected issue date.* December 31, 1981.

2. Proposed rules expected to be issued.
None.

3. Regulations to be reviewed.

a. Federal Space Management (41 CFR Part 101–17).

(1) *Description.* Federal Property Management Regulations, Amendment D–76, Location in Central Business Areas. This regulation requires priority consideration to locating Federal agencies in central business areas (CBA). On August 16, 1978, the President signed E.O. 12072, which required that in meeting space needs in urban areas, first consideration be given to the CBA. Because of questions about the cost of this regulation, on May 11, 1981, the Director, Office of Management and Budget, requested GSA to delay all moves being made solely in compliance with the EO and reassess the EO's economic and operational impact. Pending completion of the review of the EO, the CBA requirements in the FPMR are being suspended. (See item 1a of this agenda.)

(2) *Legal basis.* Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

(3) *Contact point.* Paul H. Herndon, III, Director, Space Management Division, Office of Space Management (202–566–1875).

(4) *Major rule.* No.

(5) *Expected issue date.* September 30, 1982.

b. Vehicle parking facilities (41 CFR Part 101–20).

(1) *Description.* This regulation will codify the priorities contained Temporary Regulation D–65 for assigning parking spaces. This regulation will be effective upon publication in the **Federal Register.**

(2) *Legal basis.* Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

(3) *Contact point.* Paul Herndon, III, Director, Space Management Division, Office of Space Management (202–566–1875).

(4) *Major rule.* No.

(5) *Expected issue date.* June 30, 1982.

[FR Doc. 81-34242 Filed 11-27-81; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100 and 3110

Oil and Gas Leasing: Increase in Filing Fees Accompanying Noncompetitive Oil and Gas Lease Applications and Rental Increase for Simultaneous Oil and Gas Leases; Extension of Comment Period.

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period.

SUMMARY: The comment period for the proposed rulemaking published in the **Federal Register** of October 29, 1981 (46 FR 53645) which would raise noncompetitive oil and gas lease application filing fees and simultaneous oil and gas lease rentals is extended from November 30 to December 15, 1981.

DATE: Comment period extended to December 15, 1981.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rob Cervantes, (202) 343–7722.

SUPPLEMENTARY INFORMATION: On October 29, 1981, the Department proposed a change in regulations to increase the filing fee for onshore noncompetitive oil and gas leasing from the present $25 level to $75 and to increase the rental rate for simultaneously-drawn leases from the present $1 per acre per year to $3 per acre per year after the first 5 years of the lease term. At that time the Department requested the Office of Management and Budget (OMB) to waive the requirement for a Regulatory Impact Analysis (RIA) in view of the fact that the Department had already completed a supporting analysis of both rule changes. OMB has denied the request and will consider, as a preliminary RIA, the supporting analysis already completed and made available to the public on request. A final RIA, which will include full analysis of public comments, will be completed before the final rulemaking.

Because of these decisions, final rulemaking will not be possible prior to the January simultaneous drawing. Therefore, to provide additional opportunity for public input, the period for accepting comments is extended to December 15, 1981. All comments

received between October 29, 1981, and December 15, 1981, will be considered.

Dated: November 27, 1981.

Garrey E. Carruthers,

Assistant Secretary, Land and Water Resources.

[FR Doc. 81-34442 Filed 11-27-81; 10:10 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 81-768; FCC 81-524]

Random Selection Technique for Choosing Among Mutually Exclusive Applicants for Initial Telecommunications Licenses

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The NPRM is necessary to implement the discretionary authority contained in the recent amendments to section 309(i) of the Communications Act. 47 U.S.C. 309(i). This authority permits the Commission to implement a random selection technique for choosing among mutually exclusive applicants for initial telecommunications licenses.

This rulemaking intends to set up a general structure for a lottery including procedures, administration and preferences for groups or individuals that are underrepresented in the ownership of telecommunications facilities. This general rule structure will be the basis for specific, detailed rules for certain classes of telecommunications services that will be addressed in subsequent rulemakings.

DATES: Comments must be submitted by December 14, 1981, and reply comments by December 29, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Randy Thomas, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 1 of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, General Docket No. 81-768.

Adopted: November 5, 1981.

Released: November 17, 1981.

Introduction

1. Public Law No. 97-35, the Omnibus Budget Reconciliation Act of 1981, was signed into law by President Reagan on August 13, 1981. This statute amends section 309 of the Communications Act of 1934, 47 U.S.C. 309, by adding a new subsection (i)(1) that states:

> If there is more than one applicant for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining the qualifications of each such applicant under section 308(b), shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

2. Public Law No. 97-35 further adds a new subsection 309(i)(3)(A) stating that:

> The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection, groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences.

3. In addition, new subsection 309(i)(4)(A) specifies that:

> The Commission, not later than 180 days after the effective date of this subsection, shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit * * *[1]

4. Therefore, this *Notice of Proposed Rule Making* initiates our proposals for instituting a system of random selection or lotteries in place of comparative hearings for many instances involving mutually exclusive competing license applications. This *Notice* proposes only rules for initial license applications, and is not concerned with license renewals.[2] The Commission is already considering the possibility of using a lottery for the Multipoint Distribution Service in a separate *Notice of Inquiry and Proposed Rule Making* in CC Docket No. 80-116.[3] Specific detailed proposals regarding the use of lotteries for broadcast and common carrier services will be addressed in later proceedings. Because of the short deadline required by the statute, we do not intend to grant extensions of time to any commenters in this proceeding.

5. There are a number of compelling reasons for preferring to choose the winner in a broadcasting "contest" using a lottery. First, an efficient random selection system would allow much faster processing at greatly reduced costs. Even if it would be possible for the Commission to pick the "best" applicant, the public is ill-served by a selection process that takes years and costs thousands or even millions of dollars in legal and administrative costs. The public may be better served by a qualified although "less" desirable applicant who gets on the air five years sooner through a lottery than the "best" applicant who would commence operations only after a lengthy and costly hearing. Second, there is the crucial assumption that the Commission is able to pick the applicant that will best serve the public. Any attempt to choose the "best" applicant must be based upon promises made by applicants, evidence from competitors and reasoned guesses concerning future performance. Moreover, the Commission, which must determine the applicant that will best serve the public interest, is often far removed from and unfamiliar with the public that the applicant intends to serve. In addition, since broadcast station licenses may be assigned to any qualified party after the three year non-trafficking period, the applicant initially selected may not be the long service provider in any case. Finally, any comparative determination is inherently "static" in the sense that it takes into account specific proposals at a particular period of time, but can not possibly measure the applicants' abilities to change with changing public demands. For all of these reasons it may be exceedingly difficult for the Commission to select the applicant that will best serve the desires of consumers.

6. There may well be differences among the promises made by qualified applicants. However, whatever technical differences may exist, all applicants still must conform to our basic technical requirements. Such differences are therefore generally minor. Also, we do not normally compare programming proposals in a broadcast comparative hearing.[4]

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[1] 95 Stat. 736 (August 13, 1981).

[2] For the purposes of this discussion, we anticipate that proposals for "major changes" will be treated as initial service requests for lottery purposes in those services to which lottery licensing procedures will be applied.

[3] FCC 80-141, adopted March 19, 1980; released May 2, 1980; 45 FR 29335 (May 2, 1980).

[4] Programming proposals are considered only in the unusual circumstances that one applicant has promised a particular type of programming, such as Spanish language programming, that would promote diversity by addressing the needs (particularly for non-entertainment programming) of a significant segment of the population that previously had not been addressed. In general, the Commission has consciously attempted to refrain from making programming judgments. The Supreme Court has upheld the Commission's determination that it is in the public interest for the Commission to refrain from scrutinizing licensee decisions to change program formats in reference to consumer wants even where a unique format is lost. Thus court sanction has been given to the general Commission belief that it is best to leave programming decisions

Continued

Moreover, as the number and variety of programming sources increases, the reason to be overly concerned about any particular broadcast licensee becomes less and less important. Both the Commission and the courts have explicitly recognized that in today's increasingly competitive markets radio broadcasting licensees are forced to be responsive to the wants of the public.[5] Similarly, the competition in the provision of video services by conventional and subscription television, cable television, MDS and potential competition from low power television [6] and Direct Broadcast Satellites [7] has created incentives and will continue to create incentives for broadcasting stations to be more and more responsive to the desires of their viewers.[8] Further supplements to the large menu of broadcasting services includes video cassette recorders, and video disc players. Indeed, market forces rather than Commission decisions are most likely to cause broadcasting licensees to provide services that consumers desire.

7. For these reasons, we believe that lotteries are generally preferable to comparative hearings.[9] In related proceedings we shall specifically propose modifications to the Commission's rules to allow lotteries instead of hearings to choose among competing applicants in certain broadcasting and common carrier services. Those proceedings will deal with specific details of implementing a lottery for the various services.

Applications Which Will Be Subject to a Lottery

8. There are at least three approaches for determining which competing applications shall be subject to a lottery. First, the Commission could use lotteries to choose among competing applications in all FCC-licensed services. This would effectively eliminate comparative hearings among mutually exclusive applications in the future. Second, the Commission could specify a list of services subject to a lottery in all mutually exclusive cases.[10] Third, the Commission could make the decision to use a lottery on an *ad hoc* basis after it received specific competing applications. For example, the Commission could identify characteristics such as the conditions that must exist in particular markets or services (e.g., technical conditions, the degree of competition, or the inability to distinguish meaningfully among competing applicants) that would trigger a lottery for applicants in that service or market.

9. We currently prefer the second option that specifies those communications services immediately subject to a lottery process, while holding out the option of applying lotteries to other services in the future. We believe there may be services or particular circumstances when a comparative hearing would be preferable to a lottery and thus we do not wish to apply a lottery to all services at this time. However, we might also wish to use the *ad hoc* approach in certain instances. This would mean that the Commission or its staff on delegated authority would make an *ad hoc* determination whether or not to hold a lottery each time it received two or more competing applications. For example, it is possible that we may wish to favor an application that would much more efficiently use the radio frequency spectrum than some other application, all other things being equal. This might be a particularly significant issue for new untried services in which neither industry agreements nor Commission rules specify technical spectrum efficiency requirements. In such case, a Bureau Chief might be given the authority to consider separately on its own merits an application, which offers significant additional services with no increase in spectrum use, although we suspect that the number of such cases may be quite limited.[11] In suggesting this type of proposal we recognize that there might be a number of problems with an *ad hoc* approach. For example, some competing applications in the same service and even in the same city might be subject to a lottery while others were subject to a comparative hearing. Such decisions could also create substantial uncertainty among potential applicants as well as the appearance of unfairness and lack of procedural due process. The result might be a substantial increase in litigation with a decrease in possible savings to both license applicants and the Commission. Because the factors bearing on whether to adopt an *ad hoc* approach and what factors would trigger a lottery under an *ad hoc* approach may well differ among the various services, however, those questions will be examined in the separate proceedings proposing lotteries for specific services.

10. There are certain specific services in which there are now or soon may be many competing applications. In these particular services, we tentatively are of the opinion that a lottery would be the simplest, least costly, fastest and hence most efficient way to resolve the problem of selecting among many competing applications. For example, the Commission has received over 5000 low power TV applications, the vast majority of which appear to be mutually exclusive. If the Commission decides to implement a low power TV service, a lottery system will have to be used if the service is to begin operation expeditiously. Indeed, the conference report that accompanied the statutory language authorizing the use of lotteries states:

> The conferees are particularly concerned with the delay that will result if comparative proceedings are used to award licenses for low power television service. The Commission has already received over 5,000 applications, most of which are, or will be, mutually exclusive with other applications. Unless alternate procedures are devised, the Commission will have geometric increase in comparative hearings and many years of delay in action on these applications. The conferees note that a matter such as this is ideally suited for the application of random selection procedures. By authorizing the Commission to apply random selection to any license application already submitted, but not yet designated for hearing, it will be possible

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to the licensees. *See, F.C.C. v. WNCN Listeners Guild*, 49 U.S.L.W. 4306 (March 24, 1981); 49 R.R. 2d 271 (1981); Also, *see Policy Statement on Comparative Broadcast Hearings* 1 F.C.C. 2d 393 (1965)

[5] *Notice of Inquiry and Notice of Proposed Rule Making in The Matter of the Deregulation of Radio*, BC Docket No. 79–219, 44 FR 57836 (1979); and *Report and Order* in BC Docket No. 79–219, 46 Fed. Reg. 13858 (1981). *See also: F.C.C. v. WNCN Listeners Guild*, 49 U.S.L.W. 4306 (March 24, 1981); 49 R.R. 2d 271 (1981).

[6] The Commission has proposed a new low power television service that might result in numerous new television outlets. *Notice of Proposed Rulemaking* in BC Docket No. 78–253, 45 FR 69178 (October 17, 1980).

[7] The Commission has proposed a new direct broadcast satellite service. *Notice of Proposed Policy Statement and Rulemaking* in Gen. Docket No. 80–603, FCC 81–181, (June 1, 1981).

[8] For a discussion of the kinds of competitive video media outlets, *See Staff Report on: Policies for Regulation of Direct Broadcast Satellites* Florence O. Setzer, Bruce A. Franca and Nina W. Cornell, FCC, Office of Plans and Policy (September, 1980).

[9] While our principal reason for favoring lotteries over comparative hearings is that lotteries are faster and less costly, some commentators have also argued that a lottery is inherently more "fair". *See*, Hank Greely, "The Equality of Allocation by Lot," *Harvard Civil Rights Civil Liberties Law Review* 12 (Winter, 1977), at 113–141.

[10] If this option were used exclusively, mutually exclusive applications in any services not covered by such a list would go to comparative hearings rather than a lottery. However, applications in services not covered by that list might become subject to a lottery in the future if circumstances dictated.

[11] For example, in the main broadcast services, the bandwidth, assumed antenna height and transmitter power as well as modulation and signal shape are narrowly constrained. In such circumstances, the likelihood of an applicant using the radio spectrum much more efficiently than another is small.

to process low-power television applications rapidly on a random selection basis.[12]

11. Similarly, the fact that over 400 competing applications have been received for MDS licenses any many competing applications have been received for public land mobile radio licenses in the largest cities suggests that lotteries may be appropriate in those instances.

12. We are proposing an initial list of suggested candidate services wherein mutually exclusive, qualified applicants for an initial license or permit may participate in a lottery to determine who receives the grant. The candidate services are:

Most Broadcasting Services including:
- Advertiser Supported Television
- Subscription Television
- Noncommercial Television
- Low Power Television
- TV and FM Translators in the Broadcast Auxiliary Service
- AM Radio (Commercial and Noncommercial)
- FM Radio (Commercial and Noncommercial)

Two Common Carrier Services:
- Multipoint Distribution Service
- Some Mobile Radio Services

Four Private Radio Services:
- Aeronautical Advisory Stations in the Aviation Services (UNICOM stations)
- Stations on Land in the Maritime Services (Public Coast Stations)
- Private Operational Fixed Microwave Service
- Private Land Mobile Services, including Specialized Mobile Radio Systems (SMR's)

13. This listing is intended to make the public aware of those services we view as potential candidates for a lottery system. However, this docket is not designed to determine which services will be subject to lotteries. We intend that comments in this docket should be limited to the general procedures for implementing the lottery as detailed below. The question of which services will actually be eligible for a lottery will be examined in separate proceedings. The services that were included in this list of candidates were selected for several reasons. First, we have chosen those services that have or are most likely to receive many competing applications in the near future. In each of the broadcasting services listed we already have a substantial number of competing applications. For example, on September 24, 1981, we had designated for hearing 172 mutually exclusive TV applications in 53 cases, 57 mutually exclusive AM radio applications in 18 cases, and 216 mutually exclusive FM radio applications in 82 cases. In addition, as we mentioned previously, we have already received over 5000 low power TV applications, the vast majority of which are mutually exclusive with one another.

14. We have included all existing broadcasting services that provide service directly to the public in this list.[13] We also have over 400 mutually exclusive MDS applications. The reasons for including MDS were discussed in CC Docket 80-116, *supra* note 3.

15. In contrast, in the past, comparative hearings have not been a major problem in the Private Radio Bureau. In most of the Private Radio Services, licensees do not receive exclusive use of a frequency, but instead must share the frequency with other licensees. However, exclusive assignments are made for Aeronautical Advisory Stations in the Aviation Services (UNICOM stations) and for Stations on Land in the Maritime Services (Public Coast Stations). In these services, comparative hearings have occasionally been necessary to choose among competing applicants. A lottery system should therefore facilitate the selection of qualified licensees in these two services. Comparative hearings have not been necessary in other Private Radio Services. Applicants have traditionally been licensed on a first-come, first-served basis. Frequency coordination techniques have also been employed to accommodate conflicting claims for these frequencies. However, increased demand for private communication systems could force the Private Radio Bureau to begin conducting comparative hearings on numerous competing applications or scarce spectrum. In that eventuality, selection by lottery may be preferable and the Private Radio Bureau may consider a separate lottery rulemaking at that time.

16. In the future we may add a number of additional specific services to this initial list of lottery candidates. These services may be considered in subsequent rulemaking proceedings as the need for lotteries in additional services is established and as the Commission gains experience administering lotteries.

17. By specifying potential services in which a lottery may be used, we believe we will create the minimum amount of uncertainty for applicants concerning the rules under which their applications may be handled, and whether or not their application will be placed into a lottery.

18. In the near future we plan to release additional rulemakings to consider what specific broadcast and common carrier services shall be subject to a lottery. At a later date, depending upon the nature of the comments filed in this proceeding, the Private Radio Bureau may also initiate a separate lottery rulemaking. In those rulemakings we will ask whether this is the appropriate initial list of services that should be subject to a lottery.

19. In addition, as discussed in paragraphs 8 and 9 above subsequent rulemakings will seek comments on other possible characteristics that might trigger a lottery, such as threshold numbers of competing applicants necessary before a lottery is used, or whether it would be possible to draw distinctions depending upon whether the applciations are for broadcasting, common carrier, or private radio services, or whether they are well established or brand new services.

20. Finally, the legislation directs the Commission to establish a preference for underrepresented groups in instances where lotteries are used, but it is silent with respect to preferences in comparative hearings. Since the legislation authorizing a lottery was silent on preferences in comparative hearings, and because of lack of past precedent, we believe it is appropriate to continue not to provide such preferences in common carrier and private radio hearings. Moreover, as we note below at n. 20, it is questionable whether Congress intended for the preference to apply to common carrier and private radio lottery selections.

Qualifications Necessary to Enter a Lottery

21. Public Law No. 97-35 adds a new section 309)i)(2) that states the following:

> The determination of the Commission under paragraph (1) with respect to the qualifications of applciants for an initial license or construction permit shall be made after notice and opportunity for a hearing, except that the provisions of Section 409(c)(2) shall not apply in the case of any such determination.

22. The Conference report further states that:

> The legislation provides that the Commission is to determine, prior to conducting any random selection procedure, that each applicant who is to be included in the random selection meets the minimum or basic qualifications set forth in section 308(b) of the Act. It is the firm intention of the

[12] Omnibus Budget and Reconciliation Act of 1981, *Conference Report*, H.R. Rep. No. 97-208, 97th Cong. 1st. Sess., (July 29, 1981), at 897.

[13] We have only excluded auxiliary broadcast services which provide serices to the broadcaster rather than the public, e.g., auxiliary broadcast services such as studio to transmitter links.

conferees that section 309(i)(2) requires the Commission to conduct at most a "paper" hearing in making a determination of minimum qualifications rather than a trial-type hearing. See *U.S.* v. *Florida East Coast Railway Co.*, 410 U.S. 224, 238–246 (1973). The conferees direct that the Commission expedite its determination of minimum qualifications in order that the random selection proceeding itself not be delayed. The Commission could, for instance, delegate authority to determine such qualifications to the appropriate Bureau Chief. The provisions of section 409(c)(2) of the Act shall not apply to the Commission's determination of minimum qualifications.[14]

23. A central question that will influence the operation of a lottery is what qualifications are necessary to enter a lottery. For example, if the minimum qualifications necessary to enter a lottery are very simple to meet, then we can anticipate many more applications than would be received if comparative hearings were held instead. The number of applications already received by the Commission for low power television licenses suggests that many different individuals and groups will apply for a license if the license might be valuable and there are few barriers on who may apply. In contrast, by setting very restrictive minimum qualifications such as the necessity of making a difficult technical, financial and legal showing, the number of applicants to enter a lottery would probably be far smaller, but the standards might unreasonably restrict the number of potential applicants.

24. We propose *not* to deal with the qualifications issue in this docket. The existing requirements for a radio license are very different in the various broadcasting, common carrier, private radio, and cable television antenna relay services. For the time being existing license qualification requirements in each service will continue in force. However, we plan to institute separate proceedings in the near future with respect to broadcast and common carrier services, and in those proceedings we will define the minimum qualifications necessary to apply for a license and be selected through a lottery. Those rulemakings will also specify how and at what stage in the process qualifications will be reviewed. The Commission is already proposing to modify its character requirements [15] and the results of that proceeding may also affect our minimum qualifications requirements, in the various services.

[14] *Omnibus Budget Reconciliation Act of 1981, Conference Report*, H.R. Rep. No. 97–208, 97th Cong., 1st Sess., July 29, 1981, at 896–897.

[15] *Notice of Inquiry* in Gen Docket No. 81–500, 47 FR 40899 (August 13, 1981).

Definition of Underrepresented Group or Organization

25. Public Law No. 97–35 indicates that a "signifiant preference" is to be given to "groups or organizations or members of groups or organizations which are underrepresented in ownership of telecommunications facilities or properties." [16]

26. The House Conference Report (on H.R. 3982) identifies the intended recipients of the preferences stating

> "[I]t is the firm intention of the conferees that ownership by minorities, such as Blacks and Hispanics, as well as by women, and ownership by other underrepresented groups, such as labor unions and community organizations is to be encouraged through the award of significant preferences in any such random selection proceedings.[17]

27. Thus, it appears that Congress' intent is that the Commission establish a system or preferences wherein the threshold for entry is the "underrepresented" nature of a given societal group in the ownership of telecommunications facilities.[18] Such a preference scheme would appear to be consistent with the view that diversifying ownership of mass media is important in promoting competition in the economic and ideologic marketplaces. We seek comment on the correctness of this interpretation of the intent of Congress, and the extent to which it would be consistent with the First Amendment. We also seek comment as to whether Congress' intent to promote diverse ownership of telecommunications entities was designed to remedy economic or ideological underrepresentation or both.

28. In floor debate on Pub. L. 97–35, Rep. Wirth, Chairman of the House Telecommunications Subcommittee, in explaining the intent of the conferees, made clear that Congress desired to provide us with significant latitude as to the particulars of the preference system to be established. Mr. Wirth stated that while "it is the firm intent of the conferees * * * that if random selection is used, the applicants which are underrepresented in the ownership of telecommunications properties must be given significant preference," it was also the case that "the FCC could use different procedures and different preferences for different types of uses of the electromagnetic spectrum, as the public interest requires." *Congressional Record*, July 31, 1981, at H 5811–H 5812. The broad discretion delegated to us by the Congress requires that a series of determinations be made in the context of this rulemaking in order to implement the random selection system as rapidly as possible.

29. Foremost among these is the determination of which groups are "underrepresented" in the ownership of telecommunications facilities. As a threshold matter, we believe that Congress' enumeration of minorities, women, labor unions and community organizations as being among the "underrepresented" constitutes a sufficient finding for the inclusion of these goups.[19] It does not, however, provide the requisite specificity by which we might readily identify particular labor unions or community organizations qualified to receive a preference; thus we propose that these groups make an affirmative showing of underrepresentation to the Commission in order to receive a preference. Thus, we solicit comment on the following issues:

(a) What documentation the Commission should require of specific labor unions and community organizations to show that they are eligible for the underrepresented preference.

(b) What groups, other than labor unions and community organizations, might fall within the category of the "underrepresented" for the purposes of assigning preference, and the basis on which determinations as to the bona fides of such groups might be made;

[16] 47 U.S.C. 309(i)(3)(A).

[17] H.R. Rep. No. 97–208, at 987 (1981).

[18] An alternative view, drawing upon the Congressional emphasis as to the "underrepresentation" of minorities and women set out in the Conference Report, is that the program which we have been instructed to establish has been enacted to remedy the underrepresentation in telecommunications ownership which has resulted from past discrimination. In this view, Congress' specific designation of minorities and women as groups to be given preference establishes classes of applicants based on race and gender, an action which is only in accord with the commands of the equal protection component of the due process clause of the Fifth Amendment if intended to remedy past discrimination. A "rational and sensible" construction of Congress' intent would then suggest that groups other than minorities and women should be similarly treated; that is, absent a finding of past discrimination and resultant disadvantage, such groups would not be granted a preference. See, in this regard, *Statutes and Statutory Construction* (Sutherland, 4th ed.), at § 45.12. A literal reading of the statute and legislative history, however, would suggest that this interpretation would not be consistent with the intent of the Congress. We solicit comments on this point.

[19] We propose that, in addition to Blacks and Hispanics, it is appropriate to include within the term "minorities" those minority groups which the Commission has previously found to be underrepresented in mass media ownership due to past discrimination. These are: American Indians, Alaska Natives, Asians and Pacific Islanders. See *Minority Ownership of Broadcast Facilities*, FCC EEO-Minority Enterprise Division, December, 1979, at 5, n.1; *Storer Broadcasting Company*, 87 F.C.C. 2d 190 (1981).

(c) Whether, as to any given groups which might obtain a preference, findings of "underrepresentation" should be made on a national, regional, or market basis;

(d) Whether the same groups should receive the same preferences in broadcasting, common carrier, and the private radio services, or the basis on which we might make differentiations as to the preferences to be given in each service.[20]

30. We propose that minority and women applicants may self-certify themselves as eligible for a preference, and only when there are substantial questions of fact would a paper hearing be held to further scrutinize this determination. However, other organizations such as labor unions and community organizations will be required to submit sufficient information based on the criteria finally adopted, to prove that they are entitled to a preference because of a past history of being underrepresented in ownership of telecommunication facilities. Such information must be submitted prior to any specific lottery in which they wish to claim a preference.

31. These are the major problems we now foresee in determining how unions and groups and the members are to be qualified for a preference. It is possible that our perception of the problems may not anticipate all the potential difficulties we may have to deal with. We request comment on these issues.

[20] In this connection we note that the rationale for giving minority applicants comparative credit in broadcasting services—diversity of programming—has not traditionally been applied by the Commission to common carrier or private radio services. A broadcaster has discretion in what it transmits. Ownership of broadcast facilities by minorities may be a significant way of fostering the inclusion of minority views in the area of programming. The common carrier licensee, on the other hand, offers channels to customers on a just, reasonable and not unduly discriminatory basis in accordance with tariffs filed with the Commission. The customer, not the licensee, provides the information to be transmitted over the facilities. Since the carrier only provides the pipeline, the question is raised whether the minority status of the carrier affects diversity. Similarly, private radio licenses are generally available to anyone on an eligibility basis. Private radio licensees do not broadcast information to the public at large. The Conference Report states that:

"It is the intention of the conferees in establishing a random process that the *objective of increasing the number of media outlets* owned by such persons or groups be met." [Emphasis added] *Conference Report*, at 897.

There are no "media outlets" in either the common carrier or private radio services. Thus, there is some question as to whether Congress intended to include common carriers and private radio services within the requirement for significant preferences. To some extent, this would depend on the congressional purpose in requiring preferences as discussed in para. 27. We solicit comments on this question.

Qualification and Certification of Underrepresented Status of Corporations and Other Legal Entities

32. The previous section treats the problem of definition of underrepresented groups for purposes of administering a lottery. We next wish to describe the requirements that a sole proprietorship, partnership, corporation or trust arrangement must meet in order to be entitled to an underrepresented preference.

33. To qualify for status as an underrepresented incorporated applicant the applicant must provide the Commission with proof that underrepresented individuals or groups own a majority of the proposed telecommunications facilities or firm. We propose that over 50 percent ownership by an underrepresented group or members of such groups be required for an applicant to qualify for underrepresented status.[21] This approach is consistent with past actions concerning minority preferences. It also simplifies administration of the lottery. It is the intent of this section that the over 50 percent ownership requirement can be met by aggregated ownership interests of different types of underrepresented groups. For example, a broadcaster could show that the applicant corporation was owned 30% by Black, 20% by Hispanic and 10% by White female shareholders. The combined preference ownership, in this hypothetical example exceeds the over 50 percent ownership requirement. Although this approach does not lead to a unified minority voice, arguably the applicant would be sensitive to the needs of its various minority owners. We request comments on whether this proposed approach of allowing the aggregation of minority groups best serves the public interest and Congressional intent. We also request comments on whether an ownership requirement other than the proposed over 50% requirement would be more suitable.

34. We propose that in a partnership the over 50 percent rule be calculated only with respect to general partners and that limited partners should not be included in any calculation to determine if the organization is entitled to a preference.

35. This approach would not, however, appear workable if applied to large, publicly-held corporations. Therefore, another alternative we are considering is to disallow preferences except for those corporations that qualify as "small business corporations" as defined by section 1371 of the Internal Revenue Code.[22] For purposes of implementing this alternative we would use the tax code, regulations, and case precedent relating to Subchapter S corporations. We solicit comment, and alternative proposals, on all aspects of the question of how best to treat corporate applicants for purposes of implementing the statutorily-prescribed preference, including, but not limited to, the question of whether or not some definition other than that contained in Subchapter S might be appropriate, and whether corporate assets, sales or profitability would provide a better benchmark than that we have suggested.

36. Finally, with regard to trust situations, we elicit comment on whether a distinction should be made between the minority status of the trustee or the beneficiary of the trust. Our tentative judgment is that only the underrepresented status of the beneficiary should be counted. We solicit comment on this proposal.

37. In any event, pursuant to the authority contained in new § 309(i)(3)(B) of the Communications Act the Commission shall in its discretion request further evidence of an applicant's underrepresented status. When the Commission accounces those applicants who meet the qualifications for a particular lottery, it will also provide public notice of the qualified applicants who will receive an underrepresented preference. We propose that any applicant may petition the Commission for reconsideration of a

[21] This is in accord with the Commission policy of issuing a tax certificate only where minority ownership is in excess of 50%. *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979, 983 (1978).

[22] In general, that statute defines the term "small business corporation" as a domestic corporation that is not a member of an affiliated group and that does not have (1) more than 15 shareholders; (2) as a shareholder a person (other than an estate and certain trusts) who is not an individual; (3) non-resident alien as a shareholder; and (4) more than one class of stock. 26 U.S.C. § 1371. We do not propose that such entities be required to make a Subchapter S election for tax purposes, but only that they be eligible for such an election. One tax authority has stated that the following types of trusts can be shareholders in a Subchapter S corporation: A trust that is entirely a grantor trust; a trust primarily created as a voting trust; or any trust, but only as to stock transferred to it under the terms of a will and only for 60 days beginning with the day of the transfer. *The Subchapter S Election for Small Business Corporations*, (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1980) at 7. However, for taxable years beginning after December 31, 1981, the Economic Recovery Tax Act of 1981" raises the maximum number of shareholders permitted in a Sub S corporation from 15 to 25 and permits certain trusts, in addition to grantor trusts, voting trusts and certain testamentary trusts, to become shareholders in such corporations." *Handbook on the Economic Recovery Tax Act of 1981*, (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1981) at para. 125.

denial of underrepresented status or the granting of such status to another applicant. Specific details of this process will be provided in later rulemakings. We request comment on whether some other method of handling preference denials would be more appropriate.

Apportioning the Preference for Underrepresentation

38. This section describes our proposals concerning the size of the preferences to be awarded to any group entitled to a preference. We propose two alternatives: either that all underrepresented groups be given the same preference or alternatively that greater preference be awarded to those groups found to have been underrepresented as a result of past discrimination, than to groups which are not "underrepresented" for this reason. We first discuss the basis of this proposal, and then consider the mechanics of the random selection system.

39. As the Commission Minority Ownership Task Force has found, at the time the Communications Act was adopted minorities were "isolated from the mainstream of American life by decades of discrimination and disadvantage."[23] The Commission task force observed that, as to ownership of broadcast stations, in 1978 minorities remained "acutely underrepresented," with less than one percent of all broadcast properties controlled by minority individuals.[24]

40. The Commission acknowledged the findings of the task force in adopting its *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 F.C.C.2d 979 (1978). We concluded that an increase in minority ownership would inevitably enhance the diversity of control of the use of the broadcast spectrum. In reviewing the Minority Ownership Task Force Report, we quoted its finding that:

> Despite the fact that minorities constitute approximately 20 percent of the population, they control fewer than one percent of the 8,500 commercial radio and television stations currently operating in this country. Acute underrepresentation of minorities among the owners of broadcast properties is troublesome in that it is the licensee who is ultimately responsible for identifying and serving the needs and interests of his audience. Unless minorities are encouraged to enter the mainstream of the commercial broadcasting business, a substantial proportion of our citizenry will remain underserved, and the larger non-minority audience will be deprived of the views of minorities.[25]

Furthermore, the Minority Task Force in its Report to the Commission goes on to state that:

> "[C]enturies of discrimination have isolated racial minorities from society in general not only by substantially different attitudes and experience, but also by continued economic disadvantage * * * [and] if inequities of the past are to be corrected they must be treated by measures that go beyond mere 'neutrality'.[26]

41. In our *Policy Statement*, we further noted that despite our previous actions in issuing equal employment opportunity guidelines, assigning merit to minority applicants in comparative hearings, expediting processing of minority applications, and granting waivers of Commission rules to minority applicants,[27] there still exists a "dearth of minority ownership in the broadcasting industry."[28]

42. In order to remedy what we found to be the "extreme disparity between the representation of minorities in our population and in the broadcasting industry,"[29] we initially implemented our minority ownership policy through the use of tax certificates and "distress sales."[30] The Commission decided that (1) "tax certificates" would be issued to advance minority ownership where the prospective purchaser or assignee had significant minority ownership interest, and (2) stations designated for hearing on revocation or qualifications issues, would be allowed to sell at a "distress sale" price to an applicant with a significant minority ownership interest.[31] In that policy statement, the Commission defined several terms. For purposes of issuing the tax certificates, it defined *significant minority interest* to be "minority ownership in excess of 50% or controlling."[32] That statement also defined minority.[33] Furthermore, the policy was intended to give expedited processing to parties seeking relief, under either the "tax certificate" or "distress sale" policies. Congress' apparent intent that preference is to be given to minorities parallels our own findings in the broadcast area, and is consistent with other recent Congressional enactments designed to remedy the inequities in commerce which have resulted from past discrimination. We believe that if special preference is not given to minorities, and to women, the award of preference to these groups may well be so diluted, in the lottery context as to actually thwart the effort which the Commission has made in recent years to advance minority ownership, as well as the effort Congress has recently made to advance participation in business by minorities and women.[34]

43. Our view that award of special preference to remedy the effects of past discrimination would not offend the equal protection component of the due process clause of the Fifth Amendment is drawn largely from our reading of *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980) and *Regents of the University of California* v. *Bakke*, 438 U.S. 265 (1978). Although the action in question may result in grants of licenses of minority applicants which might otherwise have gone to others, we believe that under *Fullilove* that result is appropriately to be viewed as a consequence of the remedial preference. Indeed, a remedial

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[23] *Report on Minority Ownership in Broadcasting*, FCC Minority Ownership Task Force Report, (May 17, 1978), at 3.

[24] *Id.* at 8–9.

[25] *Statement of Policy on Minority Ownership of Broadcast Facilities*, note 21, *supra*, at 981 (1978).

[26] *Report on Minority Ownership in Broadcasting*, *at 8–9*. The Report basically offers two public interest grounds for FCC authority: (1) fostering diversity of programming and (2) eliminating the effects of discrimination.

[27] *E.g., In re Applications of WPIX, Inc., et al.*, 66 FCC 2d 381, 43 R.R. 2d 278 (1978); *In re Applications of New Continental Broadcasting, Inc., et al.*, F.C.C. Docket 79-305, adopted April 17, 1979, (45 FR 67227, November 23, 1979), and 45 R.R. 2d 698 (1979); *In re Application of Riverside Amusement Park Co., Inc.*, 69 FCC 2d 1040, 43 R.R. 2d 423 (1978).

[28] Note 21, *supra*.

[29] Note 21, *supra*, at 982.

[30] Note 21, *supra*. A tax certificate enables the seller of the broadcast property to defer capital gains taxation on the sale. The Commission is authorized under Section 1071 of the Internal Revenue Code, 26 U.S.C. § 1071, to issue such certificates if this is deemed necessary to effectuate a new policy regarding the ownership and control of broadcast stations. The price of the station under the distress sale policy may be no more than 75 percent of fair market value. *Lee Broadcasting Corporation*, 76 F.C.C. 2d 462, 463–464 (1980).

[31] Note 21, *supra*.

[32] Note 21, *supra* at 983. Also, *e.g., Northland Television, Inc.*, 72 FCC 2d 51 (1979); *Max M. Lean, Inc.*, 73 FCC 2d 796, *Tuscola Broadcasting, Co.*, 77 FCC 2d 160 (1980); *Lee Broadcasting, Corp., supra, GBE, Inc.*, 85 FCC 2d 991 (1981). (The Commission has approved some 18 distress sales—4 for television station transfers).

[33] The Commission defined *minority* as those of Black, Hispanic Surnamed, American Eskimo, Aleut, American Indian and Asiatic American Extraction. See note 21, *supra* at 980, note 8. Subsequently, the Commission redefined its racial and ethnic minority category to be "American Indian or Alaska Native, Asian or Pacific Islander, Black—not of Hispanic origin, and Hispanic" so as to conform with the Office of Management and Budget's (OMB) revised "Race and Ethnic Standards for Federal Statistics and Administrative Reporting". *In the Matter of Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395*, 70 FCC 2d 1466, 45 RR 2d 56 (1979); *see Revised Exhibit F: "Race and Ethnic Standards for Federal Statistical and Administrative Reporting*, (May 12, 1977), Office of Federal Statistical Policy and Standards (OFSPS) Department of Commerce.

[34] Further, it may well be that the failure to award such special preference to minorities would be contrary to the mandate of the Court of Appeals in *TV-9, Inc.* v. *FCC*, 495 F. 2d 929 (D.C. Cir. 1973), *cert. denied*, 419 U.S. 986 (1974), and *Garrett* v. *FCC*, 513 F. 2d 1056 (D.C. Cir. 1975).

preference system as approved in *Fullilove* is not, the Court, found, inconsistent with the teaching of *Bakke*. In *Bakke*, the Court invalidated a medical school admissions program which set aside a specific number of places for minorities and also utilized a different admissions standard for minorities than for other applicants. The Court, in an opinion by Justice Powell, overturned the program because there was no finding of past discrimination at the medical school justifying this race-conscious remedial program, and because, although it was not inappropriate to consider race as a factor in admissions, the medical school has established an unnecessary quota system. The program which the Commission proposes does not share the attributes of the program rejected in *Bakke*. See, also, *Opinion of the General Counsel*, 44 R.R. 2d 907 (1978).

44. Although governmental classifications by gender are not subject to the same level of judicial scrutiny as is applied to those based on race, gender-based classifications must "serve important governmental objectives and must be substantially related to the achievement of those objectives." *Orr v. Orr* 440 U.S.C 268, 279 (1979); *Califano v. Webster*, 430 U.S. 313, 316–317 (1977); *Craig v. Boren*, 429 U.S. 190, 197 (1976). Reduction of any disparity between men and women in telecommunications ownership as a result of discrimination against women may well be recognized as such an important governmental objective. *See*, in this regard, *Califano v. Webster, supra*, at 317. However, were the classification not enacted as compensation for past discrimination, it would be invalid. *Id. See, also, Schlesinger v. Ballard*, 419 U.S. 498 (1975). In adopting the minority ownership policy, we commented that while our actions were "limited to minority ownership because of the weight of the evidence on the issue, other clearly definable groups, such as women, may be able to demonstrate that they are eligible for similar treatment."[35] The Commission has not, however, determined as yet that ownership of broadcast stations by women is significantly disproportionate to the presence of women in the general population.[36] Therefore, we have thus far declined to include women in the program established to advance minority ownership.[37] The Broadcast Bureau is currently conducting a study of women's ownership of broadcast facilities.[38] We will make every effort to conclude work on that study so that its results may be utilized in taking final action in this proceeding. It appears that the language of the *Conference Report* provides a sufficient finding that underrepresentation of women is such that a substantial preference should be awarded.

45. We also proposed that an applicant who qualifies as a member of two or more underrepresented groups (for example an individual who is Hispanic and female) will receive just a single and not a multiple preference. This type of applicant would receive the highest preference to which it is entitled. This approach assures that the applicant receives a significant, but not inappropriately disproportionate preference and it also simplifies the administration of the lottery. We solicit comment, however, on whether the statute or the public interest requires that applicants representing more than one underrepresented group be given a greater preference than those representing only one. As an initial matter, we also propose to give the same preference to underrepresented applicants regardless of the telecommunications service involved. However, since concern about ownership by underrepresented groups has traditionally focused only on broadcast media,[39] we request comment on whether the underrepresented preference should be greater there than in non-broadcast services should we ultimately determine that preferences should apply in lotteries held for non-broadcast licensing purposes.

46. As to weighting in the lottery, one possible option would be to allow a fixed relative increase of 2 to 1 for all underrepresented applicants.[40] This approach assures the individual underrepresented applicant a (proposed 2 to 1) relative advantage over every other applicant without such a preference. Alternatively, we could implement a 4 to 1 preference for minority group members, a 3 to 1 preference for women (presuming a lower degree of "underepresentation") and a 2 to 1 perference for labor unions, community organizations and other underrepresented groups. We believe either approach would satisfy the statutory requirement that the preference be significant and would be consistent with the common usage of the word preference as a relative and not absolute concept.[41] We elicit comment as to the relative advantages and disadvantages of each proposed method, as well as any other proposals on weightings other than those we have suggested.

47. We also seek comment on the standards by which multilevel preferences should be assigned to the various preferred groups. In addition, we seek comment on how such a scheme would operate if preferred groups of differing preference levels aggregated their ownership (e.g., 30% Black, 20% Hispanic, 10% White Female). We also seek comment on how individuals might be counted for preference purposes if they are members of two or more groups (e.g., would a Hispanic women be entitled to a 4 to 1 or a 3 to 1 preference.)

48. A particular consideration that those addressing this issue should have in mind is that a fixed relative preference does not give a fixed absolute increase in probability of winning to an individual or to all underrepresented applicants. As the number of competing non-preference applicants increases, the actual increase in probability of winning attributable to the preference would decline. We seek comments on whether the statute or public interest require that underrepresented interests receive a minimum absolute preference. If so, how could the Commission choose such a preference? Should underrepresented applicants get a certain percentage of the probability of winning, e.g., one-quarter, one-third, or one-half of the probability of winning? This would make the significance of the preference dependent on the relative number of underrepresented applicants. This

[35] Note 21, *supra*, at 984. The Commission stated that while our immediate concern was with broadcasting, ". . . it is expected that in the future attention will also be directed towards improving minority participation in such services as cable television and common carrier."

[36] We have found, however, that women have been historically discriminated against in employment. *Equal Employment Program*, 32 F.C.C. 2d 708, 709 (1971).

[37] *Wuenschel Broadcasting Company*, 74 F.C.C. 2d 389 (1979).

[38] FCC Contract No. 359, with East Lansing Research Associates entitled "Study to Provide Basic Information on Female Ownership of Radio and TV Stations".

[39] *Statement of Policy on Minority Ownership*, note 21, *supra*.

[40] *Infra*, para. 49, discusses our proposal for conducting the lottery. The proposed 2 to 1 preference would be granted by giving each certified eligible preference applicant two numbered balls in the container, whereas each nonpreference applicant would receive only one ball.

[41] See definition 2a of "preference" in *Webster Third New International Dictionary*—Unabridged at 1787 that defines "preferences" as: "the act of preferring or the state of being preferred: choice or estimation above another: higher valuation or desirability." Preferences such as those being discussed herein must "work the least harm possible to other innocent persons competing for the benefit," *Bakke, supra*, at 308. (Opinion of Justice Powell).

number would be unknown in advance, might change (perhaps increase) dramatically and would undoubtedly vary by type of service and geographic region of the U.S. This approach might have the adverse consequence of requiring the Commission to ascertain minority ownership by local geographical areas. Thus, any attempt to control exactly the outcome probability could be exceedingly complex, if not impossible, as well as time consuming and expensive to the Commission. Likewise, a fixed absolute percent *per applicant* would suffer from similar problems. For example, in that case if the number of underrepresented applicants exceeded a certain number, they would collectively be entitled to more than 100 percent probability of winning, which is of course not possible. For these reasons we believe that an approach that would give an absolute preference to underrepresented applicants appears to be unworkable. We request comment on this analysis and whether there exists a more appropriate preference system that we have not discussed.

Lottery Procedures

49. This section of the *Notice of Proposed Rule Making* seeks to elicit comments on the outline of the appropriate process for conducting any system of random selection that the Commission may wish to administer pursuant to the authority contained in 47 U.S.C. § 309(i)(1). Among the issues that we must consider are the timing of the lottery process, the method of conducting the lottery, and who will conduct the lottery. The details on the administrative procedures prior to designating applications for a lottery as well as the appeal right of applicants will be covered in detail in other proceedings.

50. The first procedural issue is at what date applications for a license shall become subject to lottery procedures rather than a comparative hearing. We propose that at the time we issue any *Report and Order* in the appropriate proceeding that makes any services or classes of applications subject to a lottery, all mutually exclusive applications not yet designated for a hearing and all future applications shall become subject to the lottery procedures. We seek comments on this proposal.

51. Another general procedural issue is the method by which the random selection will be made. As a matter of policy we prefer a system that is truly random, simple, trustworthy and not subject to tampering. There are several alternatives available including a computer assisted random number generator, random drawing of numbered balls or slips of paper from a container, or use of a table of random numbers. Of all the options, our preference is to use the random drawing of numbered balls from a container. The method is simple, understandable, inexpensive and appears not to be prone to tampering or rigging.[42] This system should gain public trust and confidence. We seek comments on this proposal and request comments and criticisms on the benefits and disadvantages of such a system. Except in very special circumstances, we prefer not to use a computer because we believe that it may not be as understandable to the public. We desire a lottery procedure that is understood and does not have the mystique that may accompany a computer assisted process.

52. We propose to hold only a single drawing for each set of mutually exclusive applications. Alternatively, we could draw two, three or even all the numbers from a container in order from among each set of competing applications. The advantage of holding several or many drawings would be that if the initial winner were later found to be unqualified as a result of petitions to deny or other information, the runner up would already be known and would automatically become the winner (unless and until he were disqualified).

53. On the other hand, the disadvantages of holding several drawings are also clear. Since the runner-up would become the winner if he could get the winner disqualified, he would have a very strong incentive to employ every possible lawful procedure available to disqualify the winner. Such activity would slow down the lottery process and increase its overall costs. For these reasons, we propose to only draw a single winner. Nevertheless, we request comments on this analysis.

54. The final procedural issue to be discussed is who will be the Commission official designated for conducting the lottery. It seems desirable that a Commission official sufficiently removed from the licensing Bureaus be responsible for conducting the random selection process, because there might be an appearance of impropriety if a Commission official closely associated with the licensing Bureaus conducted the lottery. Possible disinterested Commission officials include the Chairman, Commissioners, Administrative Law Judges, Managing Director, Security Officer or the Secretary. We favor either the Security Officer or the Secretary of the Commission as the official responsible for conducting the lottery. We solicit comments on whether some other Commission employee would be more appropriate to conduct the lottery and safeguard the equipment. Would it be preferable to establish a committee of Commission employees to administer the lottery? In the alternative, would it be preferable to hire an outside firm such as a national auditing and accounting firm to conduct the lottery in order to ensure its integrity as well as provide the necessary resources for the many separate lottery drawings that might take place? We request comments on the costs and benefits of using in-house versus outside personnel to conduct the lottery.

Conclusions

55. The purpose of this *Notice of Proposed Rule Making* is to develop a process of random selection from among qualified mutually exclusive license applicants that would be substantially faster and less costly than comparative hearings. In addition, it is intended to provide preferential treatment to certain underrepresented individuals or organizations. If our proposals would simply result in substituting hearings on minimum qualifications and the right to a preference for the existing comparative hearing process, the public will have gained little, if any, benefit. Thus, we are especially interested in proposals that would meet appropriate due process standards but at the same time simplify the procedural delays in authorizing service and minimize the potential for comparative hearings and court challenges. We solicit comments on all aspects of this proceeding, including but not limited to, legal, economic and procedural issues.

56. Authority for this proposed rulemaking is contained in Section 1, 3, 4 (i) and (j), 303, 309(i) and 403 of the Communications Act of 1934, *as amended* [47 U.S.C. 1 *et seq.*] Pursuant to applicable procedures set forth in §§ 1.415 and 1.410 of the Commission's Rules, interested parties may file comments on or before December 14, 1981, and reply comment on or before December 29, 1981. All relevant and timely comments will be considered by the Commission before final action is

[42] *But see, The Washington Post*, 20 September 1980, p. A-2 wherein it was reported that the Pennsylvania State lottery was rigged by someone injecting liquid into some of the ping-pong balls. The balls with no liquid weighed less than the others and thus had a much higher probability of floating to the top of the air machines used in the drawing. It was later reported in *The Washington Post*, 22 May 1981, p. A-22, that the Pennsylvania lottery's former emcee and a suspended lottery official were convicted of rigging the lottery that generated a $3.5 million payout.

taken in this proceeding. It is our firm intention not to grant any extensions of time on the comment and reply deadlines. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of 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.

57. 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 must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *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 to 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.

58. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*) (1981).

59. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus eleven copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. For information on this proceeding, contract Randy Thomas in the Office of Plans and Policy (202) 632-6990.

(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—Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et. seq.*, the Commission issues the following initial regulatory flexibility analysis.

Reason for Action and objective

The proposed action may allow lotteries to be used instead of comparative hearings to choose among mutually exclusive competing applications for a license. This proposal also grants a significant preference to certain groups and individuals that have been underrepresented in the ownership of telecommunication facilities in the past. This action is expected to greatly lower the cost and speed the process of granting licenses in mutually exclusive cases.

Legal Basis

The authority for this proposed rulemaking is contained in Sections 1, 3, 4 (i) and (j), 303, 309 and 403 of the Communications Act of 1934, as amended (47 U.S.C. 1, *et seq.*)

Small Entities Affected

The proposed action will substitue lotteries for comparative hearings as a way to choose among mutually exclusive competing applicants. It will also give a preference to minorities, women and other underrepresented groups.

Existing and potential applicants for FCC licenses range in size from single individuals and small partnerships to large multi-million dollar corporations. This proposal is expected to decrease the legal and administrative costs of applying for a license. Hence many small businesses and non-profit organizations which have not applied for licenses in the past may see this as a opportunity to enter the communications business and may now apply for licenses. Therefore, we expect that we may have many more applicants for some kinds of licenses them we did in the past.

Specific Alternatives That Could Accomplish the Same Objectives

At least two alternatives exist to the lottery proposal. One would be to retain the present costly and slow comparative hearing process. Another alternative to using lotteries to choose among applicants for licenses would be to auction off those licenses to the highest bidder. However, the Commission does not appear to have statutory authority to hold an auction. We are seeking a better alternative to comparative hearings. Hence, there is no known alternative to holding lotteries at the present time.

Relevant Federal Rules That May Conflict, Duplicate or Overlap the Proposed Rule

The proposed action involves modifying a number of Commission rules; to our knowledge there are no Federal rules that conflict with, duplicate or overlap the proposals made in this Notice.

Reporting, Record-keeping, and Compliance Requirements

There are no such requirements associated with this proposal.

Appendix B—Proposed New Regulations

PART 1—PRACTICE AND PROCEDURE

In Part 1, the following new §§ 1.2001, 1.2002, and 1.2003 are added:

§ 1.2001 Random selection.

Whenever two or more applications in the following services are found to be mutually exclusive the applications shall be designated for random selection. The following services shall be included: (a list of the services will be supplied later).

§ 1.2002 Under representation in ownership.

(a) In all lotteries held pursuant to § 1.2001 of this subpart, any applicant that can show over 50 percent ownership by a group or member(s) of a group that is underrepresented in the ownership of telecommunications facilities shall be entitled to ——— the probability of winning the lottery as any applicant that can not show over 50 percent ownership by such an underrepresented group or members of such a group.

(b) For purposes of this section, an underrepresented group shall be defined to include the following minority groups: Blacks, Hispanics, American Indians, Alaska Natives, Asians, Pacific Islanders.

Underrepresented groups shall also be defined to include: Women, Labor Unions, Community Organizations.

(c) In addition, other groups or members of such groups may also be certified by the Commission as being "underrepresented" if they can make a convincing showing that they are underrepresented in the ownership of telecommunications facilities. Such showing must be made prior to any lottery proceeding. "Underrepresented" status must be established through separate rulemaking proceedings.

(d) For purposes of § 1.2002(a), ownership by different underrepresented groups may be aggregated in order to satisfy the over 50 percent ownership requirements. However, no person may be counted as representing more than one underrepresented group event if he or she is a member of more than one underrepresented group.

(e) For purposes of §§ 1.2002(a), 1.2002(b) and 1.2002(c) only corporations that could qualify as a Subchapter S "small business corporation" of the Internal Revenue Code (26 U.S.C. 1271) shall be eligible to qualify for a preference.

§ 1.2003 Drawing process.

All lotteries shall be held at a time and place to be announced in advance by the Commission, and all lottery drawings shall be open to the public. The Commission shall take such steps as are necessary to the conduct of the lottery and ensure the integity of the lottery process.

Appendix C—Chapman Radio and Television Co: An Example of a and Long Costly Comparative Hearing

The *Chapman Radio and Television Co.* is illustrative of the unnecessary delay, expense and complexity of comparative hearing proceedings. In 1966 the Commission designated for hearing the competing applications to construct a new UHF TV station to operate on channel 21 in the Birmingham, AL area. The Hearing Examiner released an initial decision in 1968, 19 FCC 2d 185, 14 RR 2d 6, indicating a preference for Alabama Television's application. The three unsuccessful applicants filed exceptions to that Initial Decision. After analysis of staffing, financial qualification, diffusion of media control, and best practicable service to the public, the Review Board affirmed the award of the construction permit to Alabama Television, after extended reasoning.

One of the losing applicants petitioned for reconsideration on standard comparative issues. The Board affirmed its earlier decision and denied the petition for reconsideration in November 1969. 20 FCC 2d 624, 17 RR 2d 1028 (1969). In 1970, the Commission remanded the case to the Hearing Examiner to reopen the record for further hearing because a principal of Alabama Televisioin allegedly refused to permit the burial, in a cemetery controlled by him, of a black soldier killed in Vietnam. The Commission specified that candor, ascertainment, and EEO issues be scrutinized to determine the effect, if any, on the qualifications of Alabama Television. 24 FCC 2d 282, 19 RR 2d 589 (1970).

Later in 1970, a competing applicant, WBMG, petitioned the Commission to enlarge the issues to determine whether Alabama Television possessed the basic or comparative qualifications to be a Commission licensee for failure to keep its pending application currently accurate and complete as required by § 1.65 of the Commission's Rules. The Review Board denied the petition. 25 FCC 2d 855, 20 RR 2d 411 (1970). WBMG again petitioned the Commission to enlarge the issues against Alabama Television for failure to update its application to indicate that one of its principals had been convicted in federal court on four counts of criminal extortion. The Review Board granted the petition to enlarge. 26 FCC 2d 432, 20 RR 2d 552 (1970).

The Review Board received an appeal from a competing applicant, BBC, to permit it to amend its application to reflect assignment of interest by a principal stockholder to a non-profit black college. The Review Board accepted the Broadcast Bureau's recommendation and denied the petition as untimely and for failure to allege error in the Examiner's decision. 26 FCC 2d 891, 20 RR 2d 977 (1970).

BBC petitioned the Commission again to enlarge the issues to include the alleged failure of the WBMG applicant to disclose a change in network affiliation and an allegedly conflicting application for channel 42 in Birmingham. The Review Board (member Berkemeyer not participating) denied the petition to enlarge. 27 FCC 2d 23, 20 RR 2d 1144 (1971).

A Commission Hearing Examiner in April of 1971 affirmed the Review Board's earlier decision to grant the channel 21 construction permit to Alabama Television and denied motions of opponent applicants on EEO and misrepresentation allegations. However, in 1972 the Commission was asked to decide a petition by two applicants and members of the Black Caucus of the House of Representatives to institute a § 403 inquiry into the record of civil rights compliance by Alabama Television. The Commission dismissed the petition. 34 FCC 2d 299, 23 RR 2d 649 (1972). This decision was reversed in March of 1972 when the Review Board reopened the record and remanded the proceeding to the hearing examiner for further hearing under the equal employment opportunity issue to determine the significance of a civil judgment against two of Alabama Television's principals for alleged violations of the 1968 Civil Rights Act. 34 FCC 2d 159, 24 RR 2d 51 (1972).

Again in 1972 two applicants, BBC and WBMG, petitioned to enlarge the issues against Alabama Television. The Review Board denied the joint petition. 38 FCC 2d 508, 25 RR 2d 1187 (1972). The Review Board did, however, accept a petition by BBC to enlarge the issues against Alabama Television for its failure to update its application to show that three of its principals cumulatively owned a 37.5 percent interest in a cable TV system that operated in the applicant's service area. 38 FCC 2d 868, 26 RR 2d 149 (1972).

In March of 1973, Alabama Television's application for the construction permit was dismissed on its own motion; similarly, WBMG received permission to withdraw its application in September 1973. The Review Board, in a July 1974 decision, granted the long-contested construction permit to BBC and denied Chapman's application. 47 FCC 2d 775, 30 RR 2d 1089 (1974). Not to be deterred, Chapman then filed an application for a review of the Board's decision and a petition to reopen the record, including financial and other qualifying issues against BBC. In a Remand Order, 57 FCC 2d 76 (1975) the Commission, *inter alia*, granted Chapman's petition to reopen the record and remanded the case for further hearing.

In a 1979 proceeding before the Commission, an Administrative Law Judge's 1977 decision to grant the construction permit to Chapman was affirmed with certain modifications. 70 FCC 2d 2063, 45 RR 2d 239 (1979). The concluding statement of the Commission noted that there were several factors contributing to the lengthy, tangled proceeding that lasted for 13 years: The need for full hearings on issues pertaining to all applicants; hearings on the public interest questions; delay created by the applicant's themselves; and the Commission's own administrative processes.

The separate statement of Commissioners White and Washburn were more critical of the protracted proceeding that (at that point) lasted for 13 years. As the Commissioners so aptly stated, the comparative hearing process is "in urgent need of drastic reform" and "* * * it ought not take 13 years, 10 opinions, and an unknown amount of expensive legal talent (both public and private) to determine who should be permitted to construct a television station * * *." 70 FCC 2d 2063, 45 RR 2d 239, 252 (1979). Moreover, the Commissioners observed that the proceeding had resulted in "* * * too much reasoning and too little decision making. It also suggests that we are awash in due process." *Id.*

In a Memorandum Opinion and Order the Commission dismissed BCC's petition to reconsider its earlier decision awarding the contested license to Chapman. 46 RR 2d 752 (1979). At this time, no further appeals in the proceeding have been filed. It is expected that the station will begin operation in late 1981.

Separate Statement of Chairman Mark S. Fowler re: Lottery Procedures

Although I have voted in favor of this item, I have not done so without some misgivings. No one can seriously dispute that the current comparative hearing process is largely a counterproductive exercise in futility or that the Commission cannot hope to administer high-volume licensing programs without a more efficient procedure for selecting licensees. Most would agree that a carefully crafted lottery procedure would be an eminently satisfactory substitute to comparative licensing procedures. But I cannot see how this lottery statute, as presently written, accomplishes this result. Instead of resolving our procedural problems, the lottery legislation may present us with a whole new set of problems.

It will not—indeed I need not—catalog these problems in detail; a careful reading of the Notice of Propose Rulemaking will highlight them in bold relief. I do wish, however, to emphasize my concern over the wellspring of many of these problems: the provision requiring that preferences be extended to groups and individuals who are underrepresented in the ownership of telecommunications facilities.

I have considerable concern with the proposition that a lottery is the appropriate vehicle for administering a program of perferences, regardless of which individuals or classes the preference is intended to benefit. In my mind, a lottery is best used as a simple and fair way of selecting a licensee from among equally qualified applicants. Nor do I think that the present statutory lottery preference is an effective way of increasing the ownership of telecommunications facilities by those found to have been disadvantaged by past discrimination. Our present tax certificate and distress sale policies, as well as the efforts of the Commission's new advisory committee on financing for minority entrepreneurs, are much more direct and effective means of broadening minority ownership of media outlets than a few more chances in a lottery that may well be so diluted with "underrepresenteds" as to render any real preference meaningless.

This Commission desperately needs lotteries, and *not* as a procedure of last resort. In saying this, I know I confront the argument that sound public policy demands retention of some form of the comparative process to assure that the "best" applicant is picked, or that certain individuals and groups are assured a true preference in the licensing process. However, in my experience the comparative process has not assured either result.

I need not cite the many comparative cases that illustrate that the qualities that determine who the "best" applicant is are often so elusive that only a Commission hard-pressed to make a distinction among applicants on some palpable basis seems capable of seeing them. Nor has the comparative hearing process addressed the problem of minority ownership. Under the current system of comparative hearings, the number of minority licensees is nowhere near proportionate to minority group representation in the overall population.

A lottery that affords all basically-qualified applicants an equal chance of winning would, I believe, produce a statistically better probability that the percentage of minority licensees will come to approximate the percentage of minority representation overall. The ease of entry provided by the lottery will bring this about. Entering the current comparative hearing process can be prohibitively costly. A comparative hearing can wind up costing both the applicants and the tax payers many thousands of dollars, and the applicant embarking on the hearing has no assurance that he will end up the winner. There is no way of calculating how many potential licensees, particularly minorities, may have been effectively discouraged from applying for licenses or from prosecuting their applications by the tremendous impediments of delay, expense, and uncertainty. Not only will the lottery remove these very real barriers to entry, it will also permit the ultimate winner to sink his money into the licensed facility rather than into the sometimes bottomless well of the Commission's processes. The American people will be the immediate beneficiaries of this transformation of sheer risk capital to less speculative, more tangible investment capital.

For these reasons I believe that lotteries can and should be used by the Commission in selecting licensees in many of its services. I know my judgment may not reflect the traditional, more theoretical, approach to this issue, but I have a pragmatic view that arises from my experience as a private practitioner. Having observed the very real drawbacks of the comparative process from this perspective, I find no comfort in the proposition that the comparative process makes it "look" like we are making sound public policy determinations when in fact the results are often quite the opposite.

In terms of the general process of evaluating an applicant's qualifications in the context of a lottery selection procedure, it would be preferable to permit the Commission to perform its qualifications review after the lottery but prior to the grant to the construction permit.[1] This would ensure that permittees and licensees would be fully qualified but would enable the Commission to make the most effective use of its resources.

To accomplish this result, section 309(i) (1) should be amended to read:

"If there is more than one applicant for any initial license or construction permit which will involve any use of the electromagnetic spectrum, the Commission shall have authority to grant such license or permit through a system of random selection. Such license or permit shall be granted only to an applicant who the Commission has determined to be qualified under section 308(b)."

This change will enable the Commission to save $1.5 million per year in processing costs and to use lotteries in the low power television service.

It is my sincere hope that Congress will quickly revise this statute and give the Commission the authority to implement a lottery system that will, in fact as well as in theory, enable us to make expeditious licensing decisions that are in the public interest.

Concurring Statement of Commissioner Joseph R. Fogarty

In Re: Amendment of Part 1 of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings—Notice of Proposed Rule Making.

I previously stated that—

* * * I believe it axiomatic that *resolution by lottery or chance is the very antithesis of the system of rational, principled determination which has been the hallmark of administrative law and process.*[2]

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[1] All applications would still be subject to minimal review for completeness prior to being accepted for filing.

[2] *Low Power Television Broadcasting*, Separate Statement of Commissioner Joseph R. Fogarty, Concurring in Part, 82 FCC 2d 82, 87 (1960) [Original emphasis].

Nonetheless, by passage of the Omnibus Reconciliation Act of 1981,[3] Congress conferred discretionary authority on this Commission to use random selection or lotteries to choose among mutually exclusive applications in initial licensing cases.[4] This *Notice* begins the proceeding required for the application and implementation of this discretionary authority.

At the outset, I want to emphasize that the Commission did not get precisely what it wanted by way of lottery authority. The FCC sought full, unfettered discretion to order lotteries unencumbered by diversification of ownership policy or other public interest considerations. Congress, however, has said that the Commission may utilize random selection methods, but only if it pays attention to concerns of media diversity by awarding lottery preferences to underrepresented groups, such as minorities, women, labor unions, and community organizations. While there may be considerable discomfiture with this Congressional directive in some Commission quarters, the mandate is nonetheless binding.[5] In authorizing the Commission's use of lotteries, Congress did not completely abandon the public interest standard. Either the Commission may proceed by comparative hearing, which according to agency and judicial precedent must consider media ownership diversity, or it may resort to lottery, provided the same policy of ownership diversification is promoted through a preference system. This Congressional intend recognizes—properly so, in my judgment—that as we move toward more deregulation of licensee conduct in reliance on marketplace forces and competition, diversification of ownership at the entry level becomes all the more critical.

The specific issues of implementation will not be easy to resolve. Development of the requisite framework and criteria for awarding preferences for underrepresentation is fraught with conceptual and practical difficulty. The question of basic qualifications raises a regulatory (and deregulatory) paradox: If basic qualifications to enter the lottery are only minimal, spurious "claim stake" applications may be invited with subsequent trafficking issues the result; if basic qualifications are too refined, the need to resolve prelottery issues by extended paper or oral hearings may undercut the benefits of expedition upon which the random selection process is predicated. The fundamental question—to lottery or not to lottery—can only be addressed on a service-by-service basis paying due regard to balancing the often competing values of expedition on the one hand and "best practicable service" to the public on the other. Where a decision in favor of spectrum licensing by lottery is made, section 307(b) concerns regarding the "fair, efficient, and equitable distribution" of facilities and service "among the several States and communities" become all the more paramount.

Some services, such as Low Power Television, are ripe candidates for lottery due to the large number of applications pending, the open-ended nature of the service(s) proposed, and the relatively small investment required to prosecute a *bona fide* application to construction and operation.

Other services, such as Cellular Mobile Radio Telephone, which require high capital investment and great technical expertise and dedication, certainly do not appear to be proper subjects for lottery. The Commission's lottery authority is discretionary and should not be exercised where a more rational and deliberate mode of decision-making would better serve the public interest in making "available, so far as possible, to all the people of the United States, a rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities at reasonable charges," as mandated by Section 1 of the Communications Act. I hope that the action proposed here does not presage an attempt later to allocate cellular service channels via a lottery. Such an allocation would be contrary to the intent of Congress. During Senate debate on the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, the following colloquy took place between Senators Goldwater and Packwood:

MR. GOLDWATER * * * The conference agreement expands the Commission's discretion to use the lottery to the grant of any license for use, not only of broadcast frequencies that become available, but for nonbroadcast frequencies as well. This represents a substantial change from the Senate position, and I understand that the application of the lottery mechanism to the grant of broadcast frequency applications serve many purposes which are not necessarily applicable in nonbroadcast cases.

I assume, therefore, that the Commission will exercise its discretion to use this mechanism carefully and gingerly. The Commission must understand that the random selection process will be used primarily—as it is today—for the grant of broadcast licenses. Is my understanding correct?

MR. PACKWOOD. The Senator from Arizona is correct in his understanding of the new amendment to section 309.127 Cong. Rec. S9008 (daily ed. July 31, 1981)

Although the Commission was given the power to allocate common carrier frequencies by lottery, this power was only to be used in limited instances. The allocation method chosen by the Commission in its Cellular *Report and Order*, 86 FCC 2d 469 (1981), is a far more rational method of allocating channels in this important new cellular service than is the lottery method and should be retained.

When all is said and done, the Commission may discover that traditional comparative proceedings are not quite as difficult as once imagined. An old FCC adage says that "New solutions create new problems." Full public comment in this proceeding is essential to determine whether this adage holds true for the Commission's new-found lottery authority and whether new problems render the new solution unworkable and inane.

Separate Statement of Commissioner Mimi Weyforth Dawsonre: Lottery

I am in agreement with going forward to obtain public comments on the use of a lottery to select Commission licensees for certain services. However, it is my firm belief that the qualifications assessment required by section 308(b) of the Communications Act be made prior to any such lottery. This prior assessment is important for two reasons. First, evaluating applicants prior to a lottery ensures that the Commission meets its public interest responsibilities in selecting initial broadcast licensees. Second, requiring prior assessment of basic qualifications will discourage frivolous and superficial applications.

Congress states its intent regarding the timing of qualifications evaluation both in Public Law No. 97-35, conferring authority on the Commission to hold lotteries, and in its Conference Report. The Conference Report[6] provides:

that the Commission must determine, prior to conducting any random selection procedure, that each applicant who is to be included in the random selection meets the minimum or basic qualifications set forth in section 308(b) of the Act.

This language clearly shows Congress' intent regarding the timing of qualifications evaluations for broadcast license applicants.

If Congress intended to eliminate the Commission's role in deciding on qualifications of broadcast licensees, then it would have enacted a mandatory lottery rather than permitting its use as a tool. Congressional intent is further clarified in the Conference Report which provides that the Commission's obligations can be met through a "paper hearing" on the section 308(b) qualifications, thereby freeing the Commission and applicants from the burdens of full evidentiary hearings.

I believe that a lottery, if applied to broadcast services, should be used as a "last resort," to select a licensee from among qualified applicants, rather than as a first resort.

Concurring Statement of Commissioner Henry M. Rivera

In the Matter of Amendment of Part 1 of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings:

The Notice of Proposed Rulemaking adopted today is the first step toward implementing the Commission's new lottery authority. I feel constrained to comment on

[3] Pub. L. No. 97-35 (effective August 13, 1981).

[4] Section 309(i), Communications Act of 1934, as amended by Pub. L. No. 97-35.

[5] While footnote 18 of the *Notice* sets forth a "creative" alternative interpretation of legislative intent, it represents more wishful thinking than probative analysis. If Congress had intended lottery preferences only for victims of "past discrimination," it would have said so. It should be clear that Congress was pursuing diversity of media ownership *per se* in exercise of its plenary commerce power and was not merely seeking redress of the effects of any past discrimination.

[6] *Omnibus Budget Reconciliation Act of 1981, Conference Report*, H.R. Rep. No. 97-208, 97th Congress, 1st Sess., July 1981, at 896-897.

two aspects of the Commission's proposed lottery implementation in particular.

First, although the Notice defers to other proceedings the issue of which services will be subject to lotteries, it enumerates an "initial list of suggested candidate services" that includes virtually all broadcast services, two common carrier services and four private radio services. See paras. 10–18. The initial list and supporting discussion suggest a predisposition toward indiscriminate use of lotteries to issue construction permits and initial licenses. I am not similarly predisposed. For while I fully support the rapid issuance of operating authority to qualified applicants, the Commission must carefully weigh the competing benefits to the public from the implementation of a lottery in each candidate service. No statutory mandate exists to supplant present adjudicatory procedures with lotteries. Instead, in my view, Congress conferred the lottery authority as a tool to use where, in the FCC's judgment, the device would accelerate the licensing process without detriment to the public.

Identifying candidate services would logically depend not only upon the volume of pending applications, but upon the nature of the service, whether material distinctions relevant to the public interest are likely to exist among the applicants, and whether the benefit to be achieved from identifying the "best" applicant outweighs the potential delay of service to the public and the costs incurred in the interim.

In this context, I am concerned about the Notice's intimation that nearly all broadcast services will be candidates for the lottery procedure.[7] The costs and delays involved in the comparative broadcast licensing process are undisputed and it is imperative that the Commission take all reasonable steps to minimize these costs.[8] Nevertheless, a broadcast licensee is a public trustee, and as such, must act as a fiduciary of a limited public resource. This trusteeship, once established, should not lightly be disturbed by the Commission. It is, therefore, important to assure that our initial licensing scheme is carefully crafted to further the provision of desirable service to the public. If implementation of a lottery means reducing evaluation of basic qualifications under section 308(b) to a *pro forma* exercise, and foreclosing consideration of all elements previously deemed material to comparative public interest licensing,[9] I question whether the Commission would be properly discharging its paramount duty to the public.[10] I hope that the individual proposed rulemakings from the licensing bureaus address these matters carefully.

My second concern is that whatever preference scheme the Commission ultimately endorses at least preserves the existing special status accorded to minority ownership in comparative broadcasting cases. To accomplish that result, some form of weighted preference system will have to be devised. Congress gave the Commission sufficient latitude, I believe, to devise such a preference scheme. Ultimately, however, such a scheme must withstand judicial review. Devising a preference system that gives due deference to congressional intent regarding underrepresented groups and that preserves the Commission's commitment to increase minority ownership through its licensing policies will be, to say the least, a challenge.[11]

In the long run, at least with respect to certain broadcast services, it may well be that efforts to further streamline and prune existing hearing procedures may produce a greater net public benefit than lotteries.

[FR Doc. 81-34136 Filed 11-27-81; 8:45 am]

BILLING CODE 6712-01-M

[7] In favoring lotteries generally over comparative broadcast hearings, the Notice partially relies upon the view that increased competition in broadcast markets is more likely to produce desirable service than a comparative procedure. In all fairness, the availability of that rationale in video markets is undercut by the fact that the Commission has not to date developed a record regarding the adequacy of competition in those markets.

[8] The Notice's citation of the *Chapman* case as illustrative of the unnecessary delay, expense and complexity inherent in comparative broadcast hearings may be somewhat misleading. That case exemplifies the comparative process at its worst but is not truly representative of the Commission's many hearing cases. The Notice also does not consider whether the adjudicatory process has been improved by revisions made in 1979. *See Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202 (1979).

[9] *See Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965).

[10] Contrary to the Notice's assertion, see para. 14, distinctions among the various broadcast services may exist that would support the use of lotteries in some services but not others. Indeed, the conferees, by singling out the low power television service as "ideally suited for the application of random selection procedures," tacitly indicated that distinctions exist. *See Omnibus Budget and Reconciliation Act of 1981 Conference Report*, H.R. Rep. No. 97-208, 97th Cong. 1st Sess. 898 (1981).

[11] While a lottery premised on satisfaction of minimum entrance qualifications may reduce "entry barriers" for interested parties, it may also greatly enlarge the pool of applicants for a given frequency, thereby diluting the significant preferences intended for targeted groups. Depending upon how the preference scheme is structured and the outcome upon judicial review, some form of comparative hearing process may be more successful in increasing minority ownership than a lottery.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Back Bay National Wildlife Refuge, Virginia; Petition for Rulemaking and Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of time for comments on petition for rulemaking.

SUMMARY: On September 18, 1981, the Department of the Interior published a petition submitted on behalf of the Virginia Wildife Federation to extend access privileges across the Back Bay National Wildlife Refuge to qualified part-time residents of the Outer Banks (46 FR 46358 et seq.). The comment period established in that document is extended to December 11, 1981.

DATE: The Service will consider all comments on the petition that are received by 4:30 p.m. (est), December 11, 1981.

ADDRESS: Comments should be sent to: William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Room 2343, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William C. Reffalt, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Room 2343, 18th and C Streets, NW., Washington, D.C. 20240 (202–343–4791).

SUPPLEMENTARY INFORMATION: The September 18, 1981, **Federal Register** document requested that written comments be submitted to the Fish and Wildlife Service by November 17, 1981. The deadline is extended until December 11, 1981, in order to allow additional time for views to be expressed on this issue.

Dated: November 24, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-34297 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol 46, No. 229
Monday, November 30, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Meetings

This notice sets forth the schedules and proposed agenda of two forthcoming meetings of the membership of the Administrative Conference of the United States and is issued pursuant to the Federal Advisory Committee Act, Pub. L. No. 92–463.

(1) Plenary Session of the Assembly

The Administrative Conference of the United States makes recommendations to administrative agencies, the President, the Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs. The purpose of this meeting is to consider proposed recommendations on the following matters:

1. Procedures for Assessing and Collecting Freedom of Information Act Fees;
2. Exemption(b)(4) of the Freedom of Information Act;
3. Separation of Functions and Staff Communications with Decisionmakers in Agency Proceedings;
4. Current Versions of the Bumpers Amendment, and
5. The Administrative Conference's Research Plan.

The meeting will be held on Thursday, December 10, 1981 at 1:30 p.m. and on Friday, December 11, 1981 at 9:30 a.m. in the Amphitheater of the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. The Plenary Sessions of the Administrative Conference are open to the public, but admission to the Thursday session is by ticket only. Members of the public may request tickets from the Office of the Chairman of the Administrative Conference on or before Tuesday, December 8, 1981. Such requests will be honored to the extent that space permits. For further information contact Charles R. Pouncy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, Suite 500, NW., Washington, D.C. 202/254–7065.

(2) Committee on Grants, Benefits and Contracts

The members of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States will meet at 10:00 a.m., Thursday, December 10, 1981 at the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

The Committee will meet primarily to discuss Boasberg, Klores, Feldesman & Tucker's draft report on procedures for resolution of disputes relating to federal grant programs. Also on the agenda will be a brief presentation by Thomas J. Madden on his forthcoming study of governmental officials' liability

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 202/254–7020 Minutes of the meeting will be available on request.

Dated: November 24, 1981.

Richard K. Berg,

General Counsel.

[FR Doc. 81-34247 Filed 11-27-81; 8:45 am]

BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Wednesday, December 9, 1981, at 7:30 p.m., a public information meeting will be held at the Elks Lodge #331, 419 Cedar Street, Wallace, Idaho.

The meeting is being called by the Executive Director of the Council in accordance with §800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Interstate 90, an undertaking assisted by the Federal Highway Administration that will adversely affect the Wallace Historic District and other historic properties included in or eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.
II. A description of the undertaking and an evaluation of its effects on the properties by the Federal Highway Administration.
III. A statement by the Idaho State Historic Preservation Officer.
IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.
V. A general question period.

Speakers should limit their statment to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 44 Union Blvd., #616, Lakewood, Colorado 80228, telephone number (303) 234–4946.

Dated: November 20, 1981.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 34-246 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Import Limitation; Country of Origin Quota Adjustment

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Country of origin adjustment for certain milk from Denmark.

SUMMARY: Presidential Proclamation 4708 issued December 11, 1979 amended Part 3 of the Appendix to the Tariff Schedules of the United States to permit the Secretary of Agriculture to make country of origin adjustments for unlicensed quotas that will not be filled by the country of origin listed opposite the quota. This notice implements such an adjustment for certain milk from Denmark.

DATE: In accordance with Presidential Proclamation 4708 the adjustments made herein shall become effective December 3, 1981. For Further Information Contact: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, D.C. 20250 or telephone at (202) 447–5270.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be "nonmajor" since it will not have any of the significant effects specified in those documents. Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this notice, the Administrator, Foreign Agricultural Service, hereby certifies that this notice will not have a significant economic impact on a substantial number of small entities. The adjustment of the country of origin from which the quota item specified herein may be entered does not affect the ability of importers to import this quota item, but only expands the number of countries from which the item be imported. Also, since this action is being taken in recognition of changes in the market which have already occurred, this action will not cause any new economic impact.

Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) sets forth import limitations imposed on certain dairy products, including certain condensed milk. Headnote 3(a)(iii) of that Appendix allows for reallocating the quota amount of a dairy article listed in that Appendix among the countries of origin specified for a given article if it is determined that the quota amount assigned to a particular country is not likely to be entered from that country within a given calendar year. It is hereby determined that it is not likely that the amount of condensed milk and cream specified in TSUS Item 949.90 for Denmark will be entered from Denmark during calendar year 1981.

Accordingly, this notice permits the 1981 unused quota for condensed milk and cream specified in TSUS Item 949.90 for Denmark to be imported from any country listed as a country of origin therein for the remainder of the 1981 quota year.

This quota will revert to the original supplying country on January 1, 1982.

Issued at Washington, D.C. this 24th day of November 1981.

R. E. Anderson, Jr.,

Acting Administrator.

[FR Doc. 81-34251 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Grider Fire Salvage; Klamath National Forest, Oak Knoll Ranger Station, Klamath River, California; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement (EIS) to salvage timber damaged and destroyed during the Grider fire. The timber is within the Grider Roadless Area (5–067) which is an area under litigation in the California vs. Bergland Lawsuit 483 F. Supp. 465 (E.D. CA 1981).

A range of alternatives for this project will be considered. One of these will be a "no action" alternative. Alternatives will display different methods to harvest 5.1 MMBF of damaged timber—ranging from helicopter, to utilization of cable and tractor logging systems. The effects of the alternatives on the social, economic, physical, and biological environment will be anlayzed with emphasis on the ecological wilderness resources within and adjacent to the project area.

The Forest Service is notifying State and local agencies, and other individuals and organizations who may be interested in, or affected by, the decision. These agencies, individuals, and organizations are invited to participate in the scoping process. This process includes:

1. Identification of those issues to be addressed.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

4. Determination of potential cooperating agencies and assignment of responsibilities.

The analysis is expected to take about four months. The draft environmental impact statement will be available for public review by December 1981. The final environmental impact statement and record of decision will be distributed in February 1982.

Zane G. Smith, Jr., Regional Forester, Pacific Southwest Region, San Francisco, California, is the responsible official.

Written comments, questions, and suggestions concerning the analysis should be sent to Fred J. Krueger, Planning Forester, Oak Knoll Ranger District, Klamath River, California 96050. Telephone (916) 465–2241.

Dated: November 23, 1981.

David E. Ketcham,

Director of Environmental Coordination.

[FR Doc. 81-34175 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 39595]

Complaint of Japan Air Lines Company, Ltd. Against Northwest Airlines, Inc. "Export Inland Contract" Rates; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter, originally scheduled for November 16, 1981 (46 FR 55129) and later postponed until November 20, 1981, will now be held on November 30, 1981 at 10:00 a.m. (local time) in Room "B", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., November 20, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-34292 Filed 11-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38747]

United Air Lines, Inc.; Reassignment of Proceeding

This proceeding is hereby reassigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., November 20, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-34285 Filed 11-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40023; Order 81-11-126]

Application of Arizona Pacific for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order 81-11-126. Application of Arizona Pacific for a certificate of public convenience and necessity; Docket 40023.

SUMMARY: The Board is proposing under sectio 401 of the Federal Aviation Act to grant a certificate of public convenience and necessity to Arizona Pacific to authorize it to provide service in several domestic markets. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than December 10, 1981, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Persons wishing to intervene in the Arizona Pacific Fitness Investigation shall file their petitions in Docket 40257 by December 7, 1981 and serve on all persons listed below.

ADDRESSES: Objections should be filed in Docket 40023, Docket Section, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428 application of Arizona Pacific for a certificate of public convenience and necessity. In addition, copies of such filing should be served on Arizona Pacific, Inc.; civic officials and airport managers of Albuquerque, New Mexico; Flagstaff and Phoenix Arizona; Carlsbad, Lake Tahoe, Long Beach, Los Angeles, Ontario, San Diego and Santa Barbara, California; Durango, Colorado; Ft. Lauderdale, Miami, Tampa and Orlando, Florida; and San Antonio, Texas; the Governors and aviation regulatory agencies of the states of New Mexico, Arizona, California, Colorado, Florida, and Texas; the Federal Aviation Administration; and the Lake Tahoe Regional Planning Agency.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-11-126 is available from our distribution Section, Room 100, 1825 Connecticut Ave., N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-11-126 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 20, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-34286 Filed 11-27-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 36592; Order 81-11-121]

Air Cargo, Inc.; Agreement Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81-11-121. Instituting the Air Cargo, Inc. Agreement Show Cause Proceeding, Docket 36592.

SUMMARY: The Board is instituting the Air Cargo, Inc. Agreement Show Cause Proceeding, Docket 36592, proposing to continue its approval of Agreement CAB No. 1041, as amended, and to lift antitrust immunity. Agreement CAB No. 1041, as amended, was approved by the Board in Order No. E-1086, on December 31, 1947. The Agreement established a carrier owned corporation, Air Cargo, Inc. (ACI) to provide either directly, through the use of its own vehicles and employees, or by contract, pick-up and delivery services, and other services desired by the airlines in connection with the transportation of air cargo. The original purpose of the agreement was to facilitate and coordinate the interline movement of air cargo over the lines of member carriers. ACI's services are available throughout the United States and Puerto Rico, to all certificated airlines, commuter airlines, cargo carriers authorized under § 418 of the Federal Aviation Act, as amended, shippers' associations and air freight forwarders. ACI also maintains consolidated air freight terminals for certain member carriers which desire such services at two international airports, Dulles Airport (Washington, D.C.), and Ontario (Los Angeles) Airport. (The complete text of this order is available as noted below).

DATES: Objections to this order shall be filed no later than January 27, 1982 and answers should be filed no later than February 11, 1982.

ADDRESS: Documents should be filed in Docket 36592, Docket Section, Room 714, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Susan L. Blankenheimer, Competition Maintenance Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5325.

SUPPLEMENTARY INFORMATION: A complete text of Order 81-11-121 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-11-121 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 19, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-34287 Filed 11-27-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-016-005]

Ferrite Cores (of the Type Used in Consumer Electronic Products) From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On May 22, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on ferrite cores (of the type used in consumer electronic products) from Japan for one firm not covered by an earlier review completed on April 3, 1981. The review for the one company covered the consecutive periods November 1, 1976 through February 29, 1980.

Interested parties were given an opportunity to submit oral or written comments or request a hearing on these preliminary results. Based on comments received from the exporter, the Department has made adjustments which resulted in a new weighted-average margin for one of the periods.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or John Kugelman, Office of Compliance, International Trade Administration, Washington, D.C. 20230 (202-377-4106/5289).

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1971, a dumping finding with respect to ferrite cores (of the type used in consumer electronic products) from Japan was published in the **Federal Register** as Treasury Decision 71–84 (36 FR 4877). On April 3, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the final results of its administrative review of the finding for eight of the nine known exporters (46 FR 20249). On May 22, 1981, we published preliminary results for the one remaining firm (46 FR 27983–84). The Department has now completed the latter administrative review.

Scope of the Review

The imports covered by this review are magnetically soft ferrite magnets and are usually wound with wire. The merchandise is magnetized with the induction of electric current, and is of the type commonly used as components in consumer electronic products such as household television receivers, projection television sets, radios, stereos and high fidelity radio systems, automobile radios, electronic home computers, etc. These ferrite cores are currently classifiable under item 535.1240 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers TDK Electronics Co., Ltd. ("TDK"), the one known exporter of ferrite cores to the United States not covered in the previous review. This review covers all time periods up to February 29, 1980 (including four entries in June and August 1976 not mentioned in the preliminary results of review) not previously covered by appraisement instructions ("master lists"). On September 11, 1978, TDK requested a revocation. Since TDK has neither furnished the required written agreement nor met the requirement of 2 years of sales at not less than fair value, we will not consider this request.

Analysis of Comments Received

As a result of comments submitted by TDK, we have adjusted the margin cited in the preliminary results for the period December 1, 1978 through February 29, 1980, to take into account clerical errors and additional requested information as to the use of certain ferrite cores.

The preliminary results of review indicated at 28 percent margin on all unreported items. We are satisfied that certain of the previously unreported items mentioned in the preliminary results were used only in non-consumer electronic products and, therefore, for this period are not covered by this finding.

Finally, TDK claimed that all ferrite *head* cores are not subject to the scope of the finding. We are deferring a decision on this latter issue to the next administrative review. We are disallowing claimed adjustments for differences in credit costs and direct selling expenses due to insufficient supporting evidence.

Final Results of the Review

As a result of adjustments made based on comments received, we determine that the following weighted-average margins exist:

Exporter	Period	Margin (percent)
TDK	(1)	44.93
	11/1/78–3/31/79	1.28
	4/1/78–11/30/79	18.34
	12/1/78–2/29/80	0.431

[1] Four shipments—June to August 1976.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, if applicable, on all entries with purchase dates during the periods involved. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions for this exporter directly to the Customs Service.

The Department has decided to waive the cash deposit requirement, as provided for in § 353.48(b) of the Commerce Regulations, since the most recent weighted-average margin is less than 0.5 percent and therefore *de minimis*. This waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of February 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (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 23, 1981.

[FR Doc. 81-34303 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

[A-122-036]

Instant Potato Granules From Canada; Preliminary Results of Administrative Review of Antidumping Finding and of Tentative Determination To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and of tentative determination to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on instant potato granules from Canada. This review covers the three known producers/exporters of this merchandise to the United States and consecutive periods from January 1, 1974 through September 30, 1980. This review indicates the existence of dumping margins in particular periods for one producer/exporter.

As a result of this review, the Department has preliminarily determined to assess dumping duties for the one firm equal to the calculated differences between United States price and foreign market value on each of its shipments during the period of review. One other exporter had no shipments during the period. The cash deposit rate for that firm will be based on its last known shipments. The Department has also tentatively determined to revoke the finding with respect to the third company reviewed.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4793/5289).

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1972, a dumping finding with respect to instant potato granules from Canada was published in the **Federal Register** as Treasury Decision 72–263 (37 FR 18505). 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 instant potato granules from Canada. 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

Imports covered by this review are shipments of instant potato granules, currently classifiable under item 140.7000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of only three Canadian firms engaged in the production and exportation of instant potato granules to the United States. This review covers separate time periods for each of the firms through September 30, 1980. The Treasury Department reviewed all prior time periods.

One firm, Vauxhall Foods, responded that it had no shipments during the review period. Another firm, Carnation Inc., requested a revocation. There were no importations by Carnation at less than fair value for the period January 1, 1974 through December 31, 1978, and there is no evidence of any shipments since that time.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as defined in section 772 of the Tariff Act or sections 203 and 204 of the 1921 Act, as appropriate.

Purchase price was based on the packed price, either to an unrelated purchaser in the United States or to an unrelated Canadian trading company for export to the United States, as appropriate. Exporter's sales price was based on the packed price to the first unrelated purchaser in the United States. Where applicable, adjustments were made for discounts, U.S. and foreign inland freight, commissions to unrelated parties, and selling expenses in accordance with § 353.10 of the Commerce Regulations. An addition was made for Customs duty, paid upon importation into Canada of raw materials used to produce the exported product, which was rebated upon exportation to the U.S. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act of section 205 of the 1921 Act. The foreign market values were adjusted, where applicable, for discounts, inland freight and demurrage charges. Adjustments were also made for commissions to unrelated parties and direct selling expenses in accordance with § 353.15 of the Commerce Regulations and § 153.10 of the Customs Regulations. An adjustment was made for a quantitity allowance in accordance with § 353.14 of the Commerce Regulations and § 153.9 of the Customs Regulations. A claim for a volume rebate was denied because it was not properly quantified. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Exporter	Time	Percent margin
Carnation Inc	1/74–12/78	0
	1/79– 9/80	[1]0
McCain	1/76–12/77	16.49
	1/78–12/78	28.58
	1/79–12/79	0.67
	1/80– 9/80	9.85
Vauxhall Foods	1/74– 9/80	[1]38.5

[1] No shipments during period.

In addition, the Department has concluded that, for the period January 1, 1974 through December 31, 1978, there were no sales of instant potato granules made at less than fair value by Carnation, Inc. and there have been no shipments since that time. As provided for in § 353.54(e) of the Commerce Regulations, Carnation, Inc. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that instant potato granules thereafter imported into the United States by Carnation, Inc. are being sold at less than fair value.

Tentative Determination

As a result of our review we tentatively determine to revoke the finding on instant potato granules from Canada produced and sold by Carnation, Inc. If this revocation is made final it will apply to unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results on or before December 28, 1981 and may request disclosure and/or a hearing on or before December 14, 1981. Any request for an administrative protective order must be made no later than December 7, 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 or export dates, as appropriate, 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 exporter directly to the Customs Service.

Further, as provided for in § 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 instant potato granules entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54(e) of the Commerce Regulations (19 CFR 353.53 and 353.54(e)).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

November 23, 1981.

[FR Doc. 81-34304 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

[A-433-064]

Railway Track Maintenance Equipment From Austria; 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 railway track maintenance equipment from Austria.

The review covers the only known exporter of this merchandise to the United States, Plasser & Theurer, GmbH, Linz, Austria, and is limited to two product lines, ballast regulators and tamping machines. The review covers the time period January 1, 1980 through January 31, 1981. There were no known shipments to the U.S. of this merchandise from Austria during the period. There are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined that no cash deposit is required because of the *de minimis* nature of the calculated margin on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Sheila Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 40913) the final results of its first administrative review of the antidumping finding on railway track maintenance equipment from Austria (43 FR 6937, February 17, 1978). The Department announced in the **Federal Register** of March 16, 1981 (46 FR 16921) its intent to conduct the next administrative review by the end of February 1982. As required by section 751 of the Tariff Act, the Department has conducted that administrative review.

Scope of the Review

The imports covered by this review are shipments of ballast regulators and tamping machines, two specific types of railway track maintenance equipment. Any other types of machinery used in the maintenance of railway track are excluded from this finding. All railway track maintenance equipment is currently classifiable under item 690.2000 of the Tariff Schedules of the United States Annotated (TSUSA).

Plasser & Theurer, GmbH, is the only known exporter to the United States of Austrian railway track maintenance equipment. The review covers the period January 1, 1980 through January 31, 1981. There are no known shipments to the United States during the review period and there are no known unliquidated entries.

Preliminary Results of the Review

Because there were no shipments during this period and the margins on the last shipments were *de minimis*, the Department shall waive requiring a cash deposit, as provided for in § 353.48(b) of the Commerce Regulations, on any shipment of Austrian railway track maintenance equipment entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before December 28, 1981 and may request disclosure and/or a hearing on or before December 7, 1981. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

November 23, 1981.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-34305 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

Lamb Meat From New Zealand; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We have preliminarily determined that the Government of New Zealand is giving its producers, processors, and exporters of lamb meat benefits that are subsidies within the meaning of the countervailing duty law. We estimate the net subsidy to be 6.19 percent of the f.o.b. value of lamb meat exports to the United States. Therefore, we are directing the U.S. Customs Service to temporarily suspend the liquidation of duties on U.S. entries of this merchandise and to require a cash deposit, bond, or other security equal to the estimated net subsidy. We expect to make our final determination by February 4, 1982.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Miguel Pardo De Zela or Roland MacDonald, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (202–377–1279).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we have preliminarily determined that there is reason to believe or suspect that the Government of New Zealand gives its producers, processors, and exporters of lamb meat certain benefits that are subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). We estimate the net subsidy to be 6.19 percent of the f.o.b. value of lamb meat exports to the United States. We expect to make our final determination by February 4, 1982.

Scope of the Investigation

The merchandise covered by this investigation is lamb meat currently provided for in 106.30 of the Tariff Schedules of the United States.

Case History

On April 23, 1981, we received a petition from the National Wool Growers Association of Salt Lake City, Utah, filed on behalf of the U.S. industry producing lamb meat, alleging that the New Zealand government grants subsidies to its producers and exporters of lamb meat. They were joined in this petition by the National Lamb Feeders Association on May 12, 1981. After reviewing the petition, we decided that it contained sufficient grounds to initiate a countervailing duty investigation. Therefore, on May 18, 1981, we announced the initiation of the investigation in the **Federal Register** (46 FR 27151).

Because the case was "extraordinarily complicated," on July 1, 1981, we postponed our preliminary determination from July 17, 1981, to September 19, 1981 (46 FR 34357).

On September 17, 1981, the office of the United States Trade Representative announced that New Zealand had signed the Agreement on Subsidies and Countervailing Measures and was now a "country under the Agreement," as defined in section 701(b) of the Act (46 FR 46263). As a result, Title VII of the Act became applicable to the then pending countervailing duty investigation and required that the International Trade Commission make a determination on whether imports of New Zealand lamb meat cause, or threaten to cause, material injury to a domestic industry.

Therefore, this case is treated as if it were initiated under section 702 as of September 17, 1981, the date Title VII first applied to the case. In an earlier

notice (46 FR 47106, later amended) we announced the date for the preliminary determination to be December 11, 1981. We determined subsequently that the appropriate date for the preliminary determination should be November 23, 1981.

We notified the U.S. International Trade Commission (ITC) and made available to it information relating to the matter under investigation. On October 29, 1981, the ITC found that there is a reasonable indication that imports of lamb meat from New Zealand are materially injuring a U.S. industry.

Programs Believed To Be Subsidies

We have preliminarily determined that certain programs identified in the petition and investigated are used by New Zealand's producers, by its slaughterhouses, and by The Meat Development Company Ltd (Devco) and are subsidies within the meaning of the U.S. countervailing duty law.

The petitioner alleged that programs from the Income Tax Act 1976 and the 1978 and 1979 Amendments provide tax incentives for producing, processing, and exporting lamb meat.

We have preliminarily determined that Devco uses the Increased Exports of Goods, and the Export Market Development and Tourist Promotion Incentive programs, and that the producers use the Livestock Incentive Scheme and miscellaneous production assistance programs.

Increased Exports of Goods (Section 156, Income Tax Act 1976)

The Increased Exports of Goods (IETI) permits a deduction (1) when exports for the income tax year have increased or (2) there are export sales for the income tax year and increased exports from the preceding income tax year. The program allows the taxpayer to deduct from assessable income (taxable income) the greater of the following amounts: (1) 25 percent of the value of the qualifying f.o.b. export sales in excess of the average annual level of export sales in the base period (defined as the first three of the seven years immediately preceding the income tax year); or (2) an amount equal to the value of the export sales during the current income tax year (e.g., 1980), divided by the value of the export sales during the preceding income tax year (e.g., 1979), multiplied by 25 percent of the increase in export sales for the preceding income tax year (e.g., 1979).

After taking normal deductions, Devco used this special deduction to reduce further its current year assessable income and consequently eliminate all 1980 income tax liability. In addition, since the special deduction exceeded net assessable income, Devco is eligible for a tax refund per section 17 of the 1978 Income Tax Amendment, *Credit in Relation To Export of Goods (section 157A).* The refund equals the amount by which the special deduction exceeds net assessable income times 45 percent (the corporate tax rate).

This special deduction and tax refund relating to export performance constitute an export subsidy under the meaning of the countervailing duty law. For the deduction and tax refund we computed a subsidy of 3.88 percent *ad valorem* of the value of lamb meat exports to the United States.

Export Market Development and Tourist Promotion Incentive (Section 156F, Income Tax Act 1976)

Under the 1979 Amendment of the Income Tax Act 1976, export market development expenditures include expenses incurred principally for seeking and developing markets, retaining existing markets, and obtaining market information. These experter expenditures may qualify for a tax credit of 67.5 percent of the total expenditure. If the exporter takes advantage of this section 156F, however he may not deduct these expenditures as ordinary business expenses in calculating the assessable income derived by the taxpayer in any income year. Consequently, we have offset the tax credit rate of 67.5 percent by 45 percent, the normal corporate income tax rate. The net benefit is 22.5 percent of the qualifying expenditure amount.

Devco used this program and received a tax credit from the Government of New Zealand. Because this program provided direct incentives for exports, it is an export subsidy within the meaning of the countervailing duty law. By allocating the tax credit amount for U.S. expenditures over Devco's total U.S. sales of lamb meat, we found a subsidy amount of .31 percent *ad valorem.*

Livestock Incentive Scheme

The Rural Banking and Finance Corporation (RBFC) was established by statute on April 1, 1974, as a domestic program to provide loans to individuals or organizations engaged in any type of farming, the fishing industry, or "industries in these areas". Its powers include the acquisition of land and other property by purchase or lease and the management, development, sale, or lease of such property.

The organization consists of a chairman and four other directors appointed by the Minister of Finance, with two of the directors appointed after consultation with the Federated Farmers of New Zealand, Inc.

The RBFC administers the Livestock Incentive Scheme, which encourages farmers to permanently increase the number of livestock carried on an existing holding. A farmer whose property has an unused carrying capacity and who intends to permanently increase pastoral production may use one of two options: a suspensory loan or a taxation incentive.

The loan is an interest-free suspensory loan of NZ $12 for each additional qualifying unit of stock. If the farmer sustains the increase in livestock numbers for two years after completing the development program, the government will forgive the loan. Where the farmer does not achieve or sustain this increase, or where he has otherwise defaulted before the loan is forgiven, it becomes repayable to the RBFC.

The taxation option is a deduction of NZ $24 from assessable income for each additional qualifying stock unit. The tax deduction may be used in whole or in part in any of the three tax years after the increase has been sustained for two years (Farmers Increase in Stock Units, Section 130, Income Tax Act 1976).

Because the loan and tax option are directed at the farm sector to encourage the increase in livestock numbers, and since this domestic program benefits exports, we believe the Livestock Incentive Scheme is a subsidy. *The 1980 New Zealand Official Yearbook* has estimated that for fiscal year 1979–80, the value of the loan option was NZ $15.18 million, and that the value of the tax option was NZ $1.43 million. Of the total benefit of NZ $16.61 million we allocated NZ $186,032 to U.S. lamb meat shipments (based on the proportion of total New Zealand lamb production to U.S. imports of New Zealand lamb). On this basis we calculated a subsidy of 0.68 percent *ad valorem.*

Production Assistance

The Government of New Zealand administers a variety of production assistance programs for the agricultural sector. Although the payments under these programs usually are not made directly to the farmer by the Government, the Government does require that the subsidy be passed through to the farmer. This reduces the farmer's production costs, such as the costs for transporting and spreading fertilizers and herbicides, and for land development.

Fertilizer Price Subsidy

From June 2, 1978 through 1979, the Government of New Zealand paid NZ $32 per ton on locally manufactured and imported fertilizer. For superphosphate, the payment reduced the fertilizer producer's cost of raw materials by NZ $32 per ton. For imported fertilizers, it reduced by NZ $32 per ton the price at point of first sale in New Zealand. The Government reduced the payment to NZ $15 per ton for 1980 and 1981. These cost reductions are passed through to the farmer in the form of price reductions equal to the Government payment.

Since these payments to the producers of fertilizer are required by the Government to be passed through to the farmer in the form of reduced prices, we regard them as a subsidy. Since lamb meat shipments to the United States were about 0.3807 percent of total agricultural production, we allocated this percentage of the total fertilizer price subsidy as the benefit to U.S. lamb meat shipments. This subsidy is 0.43 percent *ad valorem* of the value of lamb meat exports to the U.S.

Fertilizer Aerial Spreading Subsidy

Since June 2, 1978, fertilizer spread by a commercial aerial-spreading contractor has qualified for a payment of NZ $2 per ton. The contractor invoices the farmer for this service, less the amount of the subsidy payment. Again, because the Government requires that the payment be passed through to the farmer, we regard this program as a subsidy. We allocated 0.3807 percent (the percent of U.S. lamb meat shipment to total agricultural production) of the total fertilizer aerial spreading subsidy paid by the Ministry of Agriculture and Fisheries in fiscal year 1981 as the benefit to U.S. lamb meat shipments. The subsidy is 0.03 percent *ad valorem*.

Transport Subsidies on Fertilizer and Lime

The Government pays a subsidy on the transport of fertilizer and lime from the works, merchant's store, or port of entry, to the farm gate. The rates for both domestic and imported fertilizers are: first 65 kilometers—8 cents per ton per kilometer, next 185 kilometers—5 cents per ton per kilometer, and over 250 kilometers—3 cents per ton per kilometer.

The supplier invoices the farmer for the delivered price less an amount equal to the Government transport payment. Because the Government requires that this payment be passed through to the farmer, we regard this program as a subsidy. We allocated 0.3807 percent (U.S. lamb meat shipments to total agricultural production) of the total fertilizer and lime transport subsidy paid by the government in FY '81 as the benefit to U.S. lamb meat shipments, which is 0.35 percent *ad valorem*.

Noxious Plant Control Scheme

Under this program, the Government provides payments to farmers equal to 75 percent of the cost of the chemicals used to control specified noxious weeds. We allocated 0.3807 percent (U.S. lamb meat shipments to total agricultural production) of the total noxious plant control payments paid by the government in FY '81 as the benefit to U.S. lamb meat shipments (NZ $34,371), which we calculate to be a subsidy of 0.13 percent *ad valorem*.

Land Development Loans

This program encourages farmers to develop underutilized land. Interest on these loans is not collected and only half the principal portion is ever recovered, if the borrower complies with the terms of the loan. Using the latest data available to us (FY '79) we allocate the amount of the loans and interest above by 0.3807 percent (U.S. lamb meat shipments to total agricultural production). We calculate the subsidy to U.S. lamb meat shipments to be of 0.25 percent *ad valorem*.

Meat Industry Hygiene Grant

These grants were made to meet export processing companies to upgrade plant and equipment to meet certain hygiene standards. This benefit amounted to about 0.12 percent of total meat production (NZ $2.313 million divided by NZ $1.871 billion) which we calculate to be a subsidy of 0.12 percent *ad valorem*.

Programs Believed Not To Be Subsidies

New Zealand's producers, processors, and exporters use the following incentives and assistance. For the purpose of the preliminary determination we believe, however, that these benefits do not constitute subsidies within the meaning of the Act.

Tax Incentives

We have determined that the "standard and nil value of livestock" provision in the Income Tax Act of 1976, is not a subsidy within the meaning of the countervailing duty law.

Standard and Nil Values of Livestock (Section 86, Income Tax Act 1976)

Under section 85 of the Income Tax Act 1976, trading stock (inventory) must be valued at either cost, market, or replacement value. The choice and use of the valuation method is subject to review by the Commissioner. If trading stock (inventory) increased in value and is recorded as such by the taxpayer, the increase in value must be included as assessable (taxable) income for that year. If an end of the year valuation of trading stock results in a decrease in value, the loss is allowed as a deduction in calculating the assessable income for that year. In addition, owners of livestock have another method of valuation offered to them: the standard value and nil value of livestock.

Briefly, the standard and nil value is a method by which livestock inventory may be valued for income tax purposes. Establishment of a standard and nil value must be approved by the Commissioner of Inland Revenue. Once the value is established, changes are not permitted in the method unless approved by the Commissioner.

While not appearing to constitute a subsidy, we will seek further clarification of these tax provisions.

Export Promotional Assistance

We have determined that the benefits resulting from the Meat Producers Board, the Adjustment in Exchange Rates, Negotiated Ocean Freight Rates, and the Meat Export Development Company are not subsidies within the meaning of the countervailing duty law.

Meat Producers Board

The New Zealand parliament established the Meat Producers Board (MPB) through the Meat Export Control Act of 1921–22.

The MPB controls virtually all aspects of the meat trade, including grading, handling, polling, slaughtering, storing, shipping, selling, and disposing of all meat exported from New Zealand.

Although established by Act of Parliament, the MPB is not an agency of the Government. Of the nine members of the Board, only two are appointed by the Government. Six are elected as representatives of sheep and dairy farmers and one is apponted by the Dairy Board. While the MPB is subject to Government audit of its activities and finances, it does not report to the Government nor is there any legal requirement that the MPB follow the policies of the Government. Furthermore, the MPB is liable for payment of property taxes.

The MPB has two principal sources of revenue: (1) an export levy set by the MPB and collected by processors from lamb growers at the time of slaughter; and (2) return on investments from the Meat Industry Reserve Account, which was established in the 1940's with a portion of profits realized on exports of

lamb meat to the United Kingdom. In view of the sources of these revenues and the fact that the MPB is not an agency of the Government of New Zealand, we have determined preliminarily that the MPB and its programs are not subsidies within the meaning of the countervailing duty law. We will seek further information on these programs in the course of verification.

Preferred Loans, Debentures and Guarantees

The petitioner alleged that the MPB was issuing loans, holding debentures, and providing guarantees for various companies involved in lamb production and exports. We determined that the MPB entered into these financial transactions as one independent party, whose funds are its own, dealing with another. Therefore we find preliminarily that these programs operated by the MPB are not subsidies within the meaning of the countervailing duty law.

Adjustment of Exchange Rates

Since the New Zealand exchange rate is the same for all sectors of the economy, for export as well as import transactions, and are freely available to all to use in converting currencies, we do not consider the periodic adjustment of the rate to be a subsidy within the meaning of the countervailing duty law.

Negotiated Ocean Freight Rates

The Meat Export Control Act of 1921–22, as amended by the Meat Export Control Amendment Act 1959, empowers the MPB, acting as the agent of the owners of the meat, to contract for the carriage by sea or by air of any meat to be exported from New Zealand. The petitioner claims that the Meat Producers Board's control of lamb exports is likely to lower rates for ocean freight. Since these rates are freely negotiated and are not preferential, we determine that they are not subsidies within the meaning of the countervailing duty law.

Meat Export Development Company (Devco)

The Meat Export Development Company (Devco) is the sole exporter of New Zealand lamb meat to North America. Devco purchases lamb in carcass form and has it cut (leg, shoulder, loin, rack, and shank) and packaged according to specifications developed for the North American market. Exporting companies sell lamb carcasses to Devco at prices that meet or exceed returns they could receive from other markerts. Devco pays for the fabrication, packaging, and freight of lamb sold in the United States.

Devco is a corporate entity which receives income through the sale of lamb meat and is subject to corporate income taxes. We therefore have preliminarily determined that the business operations of Devco are not subsidies within the meaning of the countervailing duty law.

Program No Longer in Existence

Special Payment for Sheep and Livestock

In its 1978 budget, the New Zealand Government provided for special taxable cash payments to compensate farmers for loss of income from drought. Payments were made at the rate of NZ $0.50 per head of sheep, NZ $2.00 per head of beef cattle, and NZ $5.00 per head of dairy cattle. In the year ending March 31, 1981, the goverment spent NZ $13,000 under this program. As of March 31, 1981, payments under this program have ceased, and there are no residual benefits.

Programs Not Currently Used

Export Performance Incentive for Qualifying Goods (Section 156A, Income Tax Act 1976)

This program provides an incentive on total rather than increased exports and relates directly to the product's added domestic value. Under this program all goods exported are assigned a "value-added band" to which a specified percentage is allocated. In the case of qualifying goods, the specified percentage rebate is between 1.4 and 11.9 percent. The incentive is a credit against tax payable, or a cash payment if the taxpayer's loss exceeds his profits.

This program may be used as an alternative to section 156 which is described above under the programs believed to be subsidies. Only one of the two programs (156 or 156A) may be utilized. In the 1980 tax year, Devco chose the section 156 program. For the 1981 tax year and up through March 1983 (transitional period), Devco may choose between these two programs.

Production Assistance

Price Stabilization Program

Since the Price Stabilization Program was not used during the period of investigation we have made no determination as to whether or not it would constitute a subsidy on its face.

Sulphuric Acid Transport Payments

Payments under this program were not made to producers of lamb exported to the U.S.

Export Guarantee Office

Established by the Export Guarantee Act of 1964, the Export Guarantee Office provides credit insurance for goods supplied or/services provided beyond New Zealand. Devco is the only exporter of lamb meat to the United States and is not a client of the Export Guarantee Office. Therefore, while we make no determination whether the Export Guarantee Office operates any program which is a subsidy on its face, we have found that no benefit is conferred upon exports of lamb to the U.S.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries for consumption or withdrawals from warehouse for consumption of the subject merchandise on or after the date of this notice's publication. We are also directing Customs to require a cash deposit, bond, or other security in the amount of 6.19 percent *ad valorem* to be posted on this merchandise. Until further notice, this suspension will remain in effect.

Public Comment

As described in § 355.34 of the Commerce Department Regulations, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. If requested, this hearing is scheduled to be held at 10:00 AM on December 15, 1981, at the U.S. Department of Commerce, Room 5611, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. All requests for hearing must be submitted, within 10 days of this notice's publication, to the Deputy Assistant Secretary for Import Administration, Room 2800, at the same address. They should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. Prehearing briefs must be submitted to the Deputy Assistant Secretary by December 8, 1981. Oral presentations will be limited to the issues raised in the briefs and rebuttals.

In accordance with § 355.43, Commerce Regulations, all written views must be filed within thirty days of

this notice's publication, at the above address, and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-34252 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

Sodium Gluconate From the European Economic Community; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Suspension of Countervailing Duty Investigation on Sodium Gluconate from the European Economic Community.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving sodium gluconate from the European Economic Community ("EC"). The basis for the suspension is an agreement by Joh. A. Benckiser GmbH, a manufacturer and exporter who accounts for substantially all of the imports of sodium gluconate from the EC, to renounce all export restitution payments on sodium gluconate exports to the United States.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202-377-3534).

SUPPLEMENTARY INFORMATION: On June 16, 1981, we received a petition from counsel representing Pfizer, Inc. of New York, New York. Petitioner simultaneously filed a copy of the petition with the United States International Trade Commission ("ITC"). The petition alleged that the EC which is a "country under the Agreement" as defined by section 701(b) of the Tariff Act of 1930, as amended ("the Act") is providing subsidies for the production and exportation of sodium gluconate and that the sodium gluconate industry in the United States is being materially injured, or is threatened with material injury, by reason of the importation of sodium gluconate into the United States. After conducting a summary review of the petition, we instituted an investigation, and notice was published in the **Federal Register** of July 14, 1981 (46 FR 3621).

On July 31, 1981, the ITC notified us that it had determined, as required by section 703(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 August 12, 1981 (46 FR 40839).

Counsel for Joh. A. Benckiser GmbH ("Benckiser"), a manufacturer of sodium gluconate in the Federal Republic of Germany, in a letter dated August 14, 1981, proposed to enter into a suspension agreement pursuant to section 704 of the Act and § 355.31 of the Commerce Department Regulations. In the proposal Benckiser stated that it produces sodium gluconate from dextrose and glucose, which it purchases in arms length transactions from an unrelated supplier, and therefore it received no production refunds. Benckiser received export restitution payments under the EC Common Agricultural Policy ("CAP") regulations which cover sodium gluconate exports. Benckiser renounced all export restitution payments on sales of sodium gluconate to the United States effective August 18, 1981.

On September 9, 1981, we preliminarily determined that the EC is subsidizing the manufacture, production, and exportation of sodium gluconate within the meaning of the countervailing duty law. The programs found preliminary countervailable were the production refund payments on corn and potatoes and the export restitution payments on sodium gluconate. We directed the U.S. Customs Service to suspend liquidation of all unliquidated entries of the merchandise entered, or withdrawn from warehouse, and to require a cash deposit, bond, or other security in the amount of $107.05 per metric ton to be posted on this merchandise. Notice of the preliminary affirmative countervailing duty determination was published in the **Federal Register** on September 16, 1981 (46 FR 45975).

On October 7-8, 1981, we verified Benckiser's response to the producer's questionnaire. We determined that Benckiser's exports of sodium gluconate to the United States exceeded 85 percent of total EC exports of the merchandise to the United States during the period July 1, 1980-June 30, 1981. We also verified that Benckiser has received no export restitution payment on sodium gluconate exports to the United States since it renounced the payments.

On October 21, 1981, the Department and counsel for Benckiser initialled a proposed suspension agreement. Copies of the proposed agreement were provided to the petitioner for its consultation and to other parties to the proceeding for their comments. The proposal concerning suspension of the investigation was published in the **Federal Register** of October 30, 1981 (45 FR 53738).

The Department consulted with the petitioner and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the criteria for suspension of an investigation pursuant to section 704(b) of the Act have been satisfied. We are satisfied that the agreement offsets completely the amount of the net subsidy on exports to the United States, can be monitored effectively, and is in the public interest. The terms and conditions of the agreement are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the liquidation of entries of sodium gluconate from the EC suspended effective September 16, 1981, as directed in the Preliminary Affirmative Countervailing Duty Determination is terminated. Any cash deposits on entries of sodium gluconate from EC pursuant to that suspension of liquidation shall be refunded and any bonds or other security shall be released.

The Department intends to conduct an administrative review within twelve months of the publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department and the ITC will continue the investigation, if we receive such a request in accordance with section 704(g) of the Act on or before December 21, 1981.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick

Deputy Assistant Secretary for Import Administration.

November 23, 1981.

Annex I—Sodium Gluconate From the European Economic Community Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and section 355.31 of the Commerce Department Regulations, the United States Department of Commerce ("the Department") enters into the following agreement with Joh. A. Benckiser GmbH, Benckiserplatz 1, D-6700, Ludwigshafen/Rhein, Federal Republic of Germany ("Benckiser"). On the basis of this agreement, the Commerce Department shall suspend its countervailing duty investigation with respect to sodium gluconate from the European Economic Community ("EC") in accordance with the terms and provisions set forth below.

A. Product Coverage

This suspension agreement is applicable to all sodium gluconate manufactured by

Benckiser and exported to the United States for consumption therein either directly or through intermediaries and which is exported either directly from the Federal Republic of Germany or is transshipped through third countries. Sodium gluconate is the sodium salt of gluconic acid, and it is currently provided for in item number 437.5250 of the Tariff Schedules of the United States Annotated.

B. Basis of the Agreement

On August 18, 1981, Benckiser voluntarily renounced the right to all export and production refunds on maize used in the sodium gluconate production chain for exportation to the United States provided by the EC under its Common Agricultural Policy ("CAP"). Benckiser hereby reaffirms the renunciation. Since 1979, Benckiser's exports of sodium gluconate to the United States have exceeded 85 percent of total EC export of sodium gluconate to the United States.

In addition, Benckiser agrees that no substitute or equivalent benefits have been or will be received. This renunciation is applicable to all sodium gluconate produced from any basic agricultural product and exported to the United States.

Benckiser will under no circumstances alter or terminate this renunciation without notifying the Department of Commerce in writing thirty days prior to such action. Any such alteration or termination of the renunciation will result in the reopening of the investigation in accordance with the provisions of paragraph D of this agreement.

C. Monitoring

Benckiser agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with this Agreement. Benckiser shall notify the Department whenever it 1) transhipps through third countries 2) alters its mode of manufacture, production or exportation of sodium gluconate 3) receives directly or indirectly any export or production refunds on any agricultural product used in the sodium gluconate production chain for exportation to the United States provided by the EC under its CAP.

Furthermore, Benckiser will permit such verification and data collection as is requested by the Department in order to monitor this agreement. The Department will request such information and perform such verifications periodically pursuant to reviews conducted under section 751 of the Act.

D. Reopening the Investigation

The Department shall terminate this agreement and will reopen the sodium gluconate from the EC investigation if the Department determines, pursuant to section 704(i)(1) of the Act, that Benckiser has altered or terminated its reunciation of all rights to benefits provided by the EC under its CAP for export and production refunds on agricultural products used in the sodium gluconate production chain for exportation to the United States. The Department will also terminate this agreement and will reopen the investigation if it determines that the suspension is no longer in the public interest or that effective monitoring is no longer practicable as required by section 734(d)(1)(A) and (B), or if this agreement has been violated. Additionally, should Benckiser's annual imports account for less than 85 percent of the sodium gluconate exported to the United States from the EC, the Department on its own initiative or at the request of the petitioner, may reopen the investigation as to EC sodium gluconate exporters who have not become parties to this agreement. Once reopened, the investigation will be resumed for all sodium gluconate exporters as if the affirmative preliminary determination was made on the date that the Department terminates this agreement.

Signed this 16th day of November 1981.

Agreed to: Joh. A. Benckiser GmbH.

I have determined that the provisions of paragraph B eliminate any subsidy the EC is providing on the manufacture, production, and exportation to the United States of sodium gluconate within the meaning of the countervailing duty law. Further, I have determined that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 734(d). Therefore, to suspend this investigation meets the requirements of section 734(b) of the Act and is in the public interest as required by section 734(d) of the Act.

United States Department of Commerce.

By: Gary N. Horlick.

November 22, 1981.

[FR Doc. 81-34294 Filed 11-27-81 8:45 am]

BILLING CODE 3510-25-M

Tubeless Tire Valves From West Germany No. A-428-002; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Not Less Than Fair Value.

SUMMARY: We have made a final determination that tubeless tire valves from West Germany are not being sold in the United States at less than fair value. We investigated EHA Ventilfabrik, the only known West German exporter of this merchandise to the United States during the period of investigation. Our comparisons found only one sale at margin (1.23 percent). The weighted average margin over all sales investigated was 0.0006 percent which is *de minimis*.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-1766).

SUPPLEMENTARY INFORMATION:

Case History

On April 8, 1981, we received a petition in proper form from Nylo-Flex Manufacturing Company, Inc., of Mobile, Alabama. The petition alleged that tubeless tire valves from West Germany are being sold in the United States at less than fair value, and that such sales are materially injuring a U.S. industry.

After conducting a summary review of the allegations in the petition, we decided a formal investigation was warranted. Therefore, we notified the U.S. International Trade Commission of our decision, and on April 27, 1981, we initiated an antidumping investigation (46 FR 23510).

The ITC preliminarily found that there was a reasonable indication that the imports are materially injuring or threatening to materially injure a U.S. industry. The ITC's determination was published on June 3, 1981, (46 FR 29794).

On September 23, 1981, we published a preliminary determination of sales at not less than fair value in the **Federal Register** (46 FR 46980).

Nylo-Flex requested an extension of the final determination under section 735(a)(2)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b)) (the "Act") in order to submit additional German home market pricing information. We gave the petitioner a reasonable time to submit additional information. At the end of the period provided, the petitioner stated that he would not submit any new data. Therefore, we denied the request for an extension and proceeded with the final determination.

Scope of Investigation

A tubeless tire valve consists of a machined brass stem with rubber molded around it, containing a core that allows air to pass through in one direction only. These valves are most often used when mounting or replacing tires on automobiles and light trucks. They are currently classified under item 692.3288 of the Tariff Schedules of the United Stated Annotated. Only replacement type valves are imported from West Germany into the United States. The valves in our investigation are two models identified by the industry's parts numbers: TR-413 and TR-418. They make up 88 percent of the valves West Germany exports to the United States.

This investigation covers sales made between November 1, 1980, and April 30, 1981. Our investigation was limited to EHA Ventilfabrik of Muhlheim, a.M. ("EHA"), the sole West German exporter of the subject merchandise.

Methodology

In order to determine whether or not this product is being sold at less than fair value, we compared its purchase price with its foreign market value.

Purchase Price

We used purchase price as defined in section 772(b) of the Act, because the price to the unrelated purchaser was agreed to prior to importation of the subject merchandise. We calculated purchase price from the duty-paid, delivered price charged to the unrelated U.S. purchasers. We deducted transportation costs, insurance, handling, U.S. duty, and Customs clearance costs from all sales. Cash discounts and commissions were also deducted where applicable. Commissions were calculated as a percentage of the sales price less transportation cost, in keeping with the method used by EHA to determine commissions. No other adjustments were claimed or made.

Foreign Market Value

We used home market sales as the basis for foreign market value, as defined in section 773(a)(1)(A) of the Act. Since all of EHA's exports to the U.S. of valves subject to this investigation were sold in the replacement market, and since we found adequate sales of replacement type valves in the West German replacement market, we examined only these sales in our comparisons. Our investigation of home market sales to original equipment manufacturers showed that no replacement valves were sold to West German original equipment manufacturers.

We deducted transportation costs, insurance, handling, commissions, and cash discounts on all sales from the home market delivered price to find foreign market value. We calculated exchange rates in accordance with 353.56(a)(1), Commerce Regulations (19 CFR 353.56(a)(1)).

Results

We compared U.S. sales and home market sales and found only one sale at margin. This margin was 1.23 percent. The weighted average margin over all sales investigated was 0.0006 percent, which is *de minimis* and results in a final determination of sales at not less than fair value. A typographical error in the notice of the preliminary determination resulted in our reporting these figures as 0.01 percent and 0.000006 percent, respectively.

Verification

In accordance with section 776(a) of the Act, we verified all the information we have relied upon in making this final determination. We used traditional verification procedures, including on-site inspections of the manufacturer's operations and examination of accounting records and randomly selected documents containing relevant information.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that tubeless tire valves from West Germany are not being sold in the United States at less than fair value within the meaning of section 731 of the Act.

The Secretary has provided an opportunity for interested parties to present written and oral views pursuant to section 774 of the Act and all expressed views have been considered in making this final determination.

The International Trade Commission has been informed of this determination and this notice is being published in the **Federal Register** in accordance with section 735(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 81-34253 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

Sorbitol From France; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

EFFECTIVE DATE: November 30, 1981.

SUMMARY: We have preliminarily determined that sorbitol from France is being sold in the United States at less than fair value. therefore, we have directed the U.S. Customs Service to suspend the liquidation of all entries or warehouse withdrawals of this merchandise and to require a cash deposit, bond, or other security in an amount equal to the estimated dumping margin of 3.9 percent. Unless we extend the investigation, we will make our final determination on or before February 5, 1982. Interested parties are invited to submit oral or written views concerning this determination.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-1273).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation and in accordance with section 733(b) of the Tariff Act of 1930, as amended (the "Act"), we have preliminarily determined that there is reason to believe or suspect that sorbitol from France is being sold in the United States at less than fair value within the meaning of section 731 of the Act. The estimated weighted average margin is preliminarily determined to be 3.9%. Unless we extend this investigation, we will make our final determination on or before February 5, 1982.

Case History

On June 15, 1981, we received a petition from counsel for Pfizer, Inc. of New York, New York. The petition alleged that Societe Roquette Freres of Lille, France was selling sorbitol in the United States at less than fair value and that the sales were causing material injury to an industry in the United States within the meaning of section 731 of the Act.

After reviewing the petition, we determined that there were sufficient grounds to initiate an antidumping investigation. Therefore, we notified the U.S. International Trade Commission ("ITC") of our decision and on July 10, 1981, we announced the initiation in the **Federal Register** (46 FR 35716).

On July 23, 1981, the ITC preliminarily found that there is a reasonable indication that these imports are materially injuring or threatening to materially injure a U.S. industry. It published its determination in the **Federal Register** on August 5, 1981, (46 FR 39914).

Scope of the Investigation

The merchandise covered by this investigation is sorbitol, a polyol which is produced by the catalytic hydrogenation of sugars (glucose). Sorbitol is currently classified under item 493.6820 of the Tariff Schedules of the United States Annotated. Sorbitol is commmercially available in two forms: (1) Crystalline sorbitol, used in the production of sugarless gum, candy, groceries and pharmaceuticals; and (2) liquid sorbitol, used in cosmetics and toletries (such as toothpaste). Roquette Freres further identifies each form of sorbitol by specific grades, with the grades within each form generally varying only in their purity. During the period of investigation Roquette sold six

grades of liquid sorbitol and two grades of crystalline sorbitol to U.S. customers.

This investigation covers sales made between January 1, 1981 and June 30, 1981. Our investigation was limited to Societe Roquette Freres of Lille, France, the sole French exporter to the U.S. of the subject merchandise.

Methodology

In this preliminary determination we have made fair value comparisons by comparing the U.S. purchase price with its foreign market value. In making our fair value comparisons, whenever possible we compared the weighted-average foreign market value of a specific grade of sorbitol with U.S. prices of that same grade. Such a grade by grade comparison was possible on both grades of crystalline sorbitol and on one grade of the liquid sorbitol. The remaining five liquid grades sold in the U.S. were compared with a weighted-average foreign market value of all other grades of liquid sorbitol sold in France.

U.S. Purchase Price

We used purchase price as defined in section 772(b) of the Act because we determined that the price to the unrelated customer was agreed to before the sorbitol was imported to the United States. We calculated purchase price by taking the duty-paid, delivered price to the unrelated U.S. purchaser and deducting transportation costs, insurance, U.S. duty, customs brokerage fees, sales commissions and traffic manager fees.

Roquette Freres claimed that an addition to purchase price in the form of an "import levy refund" should be made as an adjustment under section 772(d)(1)(B) of the Act and 19 CFR 353.10(d)(1)(ii). Roquette made the adjustment claim on the premise that "the import levy refund is the result of export restitution payments made to return to users of corn the special import tax levied in European Communities ("EC") member countries on imports of corn, the principal raw material in the manufacture of sorbitol."

Roquette Freres is an integrated producer which directly imports much of the corn it utilizes in the production of sorbitol. Our verification did show that Roquette had paid an import levy on imported corn, and that it had received export restitution payments on the corn content of sorbitol exported to the United States. However, EC "export restitution" payments are paid on all exports of sorbitol outside the EC, regardless of whether the corn used to produce that sorbitol was domestic (within the EC) or imported. The import levy and the export restitution payments are not directly linked to or dependent upon one another within the context of EC regulations. Therefore, we determine that the "import levy refund" is not an import duty imposed by the country of exportation which has been rebated by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act, and thus it cannot be added back to the U.S. purchase price.

Foreign Market Value

We used home market sales as the basis for foreign market value as defined in section 773(a)(1)(A) of the Act. We calculated foreign market value by taking the delivered price to French customers and deducting freight charges, annual quantity rebates, special packaging costs, indirect sales expenses and credit cost differences. Based upon the results of our verification an adjustment claimed for a special commission on a small number of sales was disallowed, and the adjustment for differences in credit terms was allowed, but at a lesser amount than claimed in the response.

We applied exchange rates in accordance with 19 CFR 353.56(a)(1) Commerce Regulations.

Verification

In accordance with section 776(a) of the Act, we verified all the information we have relied upon in making this preliminary determination. The verification took place in the offices of Roquette Freres in Lille, France and the offices of Roquette Corporation in New York. Roquette Corporation is the wholly-owned U.S. subsidiary of Roquette Freres. We used standard verification procedures which included examination of sales orders, order confirmations, invoices, contractual agreements, shipping records, records of payment and appropriate accounting records.

Negative Determination of Critical Circumstances

In our July 10, 1981, **Federal Register** notice of initiation, we denied petitioner's allegation that critical circumstances existed with respect to imports of sorbitol from France. In that notice we concluded that petitioner had failed to provide us with sufficient information which established a prior history of dumping or that the importer knew or should have known that the exporter was selling the subject merchandise at less than fair value. Accordingly, we did not find it necessary to address the issue of massive imports over a relatively short period of time.

On July 31, 1981, petitioner filed an amendment to its petition, which again sought to "establish the existence of critical circumstances within the meaning of section 733(e) of the Act * * * based on information not available at the time the original petition was submitted."

We have considered the issues presented by petitioner within the context of information gathered during the course of this investigation. We can find no evidence in the new information presented which satisfies the requirements of section 733(e)(1) of the Act (19 U.S.C. 1673b(e)(1)) that the person by whom, or for whose account, the merchandise was imported knew or should have known the exporter was selling the merchandise which is the subject of the investigation at less than fair value, and that there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period of time. Specifically, with regards to massive imports over a short period of time, import records indicate that while the volume of imports of sorbitol from France have increased in the last several years, the increases have been gradual and in proportion to total imports. Therefore, we determine that there is no reasonable basis for concluding that critical circumstances exist with respect to imports of sorbitol from France.

Public Comment

As required by 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. Interested parties who desire such a conference should so inform the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230. All requests must be received by the Deputy Assistant Secretary within 10 days of publication of this notice. This request should contain: (1) The party's name, address and telephone number, (2) the number of participants, and (3) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by December 11, 1981. Oral presentations will be limited to issues raised in the briefs. If requested, this hearing is scheduled to begin at 10:00 a.m. on December 18, 1981, at the U.S. Department of Commerce, room 1851.

Any written views must be filed in accordance with the instructions contained in § 353.46(a) Commerce

Regulations (19 CFR 353.46(a)) at the above address, on or before December 28, 1981 and at least 10 copies.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend the liquidation of all unliquidated entries of this merchandise entered or withdrawn from warehouse for U.S. consumption on or after the date of publication of this notice. We are also directing Customs to require a cash deposit, bond, or other security in the amount of 3.9 percent of the f.o.b. value of this merchandise. Until further notice this suspension of liquidation will remain in effect.

ITC Notification

We are making available to the U.S. International Trade Commission all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

This notice is published pursuant to section 733 of the Act (19 U.S.C. 1673(b)) and § 353.39, Commerce Regulations (19 CFR 353.39).

Leonard S. Shambon,

Acting Deputy Assistant Secretary for Import Administration.

November 20, 1981.

FR Doc. 81-34300 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Reevaluation of Appropriateness of Elevating Georges Bank to Status of Active Candidate for National Marine Sanctuary Designation

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

ACTION: Notice.

SUMMARY: To fulfill NOAA's responsibility under a Settlement Agreement dated December 22, 1980, the Acting Assistant Administrator for OCZM has reviewed the status of Georges Bank and determined that no site or sites on Georges Bank should be listed as an Active Candidate for marine sanctuary designation at this time.

FOR FURTHER INFORMATION CONTACT: Dr. Richard J. Podgorny, (202) 634-4236.

ADDRESS: NOAA, 3300 Whitehaven Street, NW, Washington, DC 20235.

SUPPLEMENTARY INFORMATION:

Background

NOAA is publishing this notice in accordance with a Settlement Agreement resolving protracted litigation dating back to 1978 in which the Commonwealth of Massachusetts and the Conservation Law Foundation (CLF) sought to require the Department of the Interior to establish additional environmental safeguards prior to offering OCS Lease Sale No. 42 which included portions of the productive Georges Bank fishery.

After several court decisions had resulted in postponing the lease sale, CLF and certain fishing organizations nominated the entire Georges Bank, approximately 20,000 square miles, for designation as a marine sanctuary pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434. NOAA evaluated this nomination in accordance with its regulations at 15 CFR 922.23 declaring the area an Active Candidate for designation on August 10, 1979 (44 FR 47132).

In late August 1979, NOAA conducted public workshops in Maine and Massachusetts to help determine whether to further consider the site for designation. On September 21, 1979, utilizing the information developed at the public workshops among other sources, NOAA negotiated an agreement with the Department of the Interior and the Environmental Protection Agency (EPA) that added a variety of environmental safeguards to protect the Bank. These measures were sufficiently similar to those which NOAA believed would have been appropriate regulations for a marine sanctuary that it withdrew the nomination from the Active Candidate's list on October 31, 1979 (44 FR 62553). As a result Massachusetts and CLF joined NOAA as a defendant in their action to enjoin rescheduled Lease Sale 42.

After the plaintiffs' motion for a preliminary injunction was denied, *Massachusetts v. Andrus*, 481 F. Supp. 685 (D. Mass. Nov. 5, 1979) *aff'd.* 623 F. 2d 712 (1st Cir. Dec. 17, 1979), and the lease sale held, the parties negotiated a settlement agreement to finally dispose of the litigation. Paragraph 5 of this agreement provides as follows:

> On or before December 1, 1981, NOAA shall evaluate available information pertaining to Georges Bank in light of the criteria of 15 CFR 922.23, including the adequacy of existing regulatory mechanisms to protect the marine resources of Georges Bank, and consider whether a site or sites on all or parts of the Georges Bank area should be placed on the list of active candidates for marine sanctuary designation. NOAA shall prepare and provide to the public and the plaintiffs a statement of reasons for its decision. The December 1, 1981, date may be modified by the parties to reflect changes in the proposed OCS leasing schedule for the North Atlantic.

Bases of Determination

The Acting Assistant Administrator for OCZM has reviewed the status of Georges Bank in accordance with this agreement and determined that no site or sites on Georges Bank should be listed as an Active Candidate for marine sanctuary designation at this time. The bases for this determination are:

1. The low level of hydrocarbon exploration activity to date on Georges Bank has produced no evidence that substantially changes the results of the evaluation which NOAA conducted under § 922.23 when it withdrew the site as an Active Candidate in 1979.

2. Since the Settlement Agreement, NOAA has proposed a series of refinements and improvements to the methods and policies it uses to select and designate marine sanctuary candidates including a new nomination/designation process.

As contemplated by the September, 1979 interagency agreement providing additional safeguards, the Georges Bank Biological Task Force (BTF) for Lease Sale No. 42 has begun to function. During the past year, it has designed a field monitoring program for the affected areas of the Bank and has recommended to the Department of the Interior that this program be used as the primary monitoring mechanism to satisfy EPA's National Pollutant Discharge Elimination System (NPDES) permit requirements under the Clean Water Act for the discharge of operational effluents on Georges Bank. While the BTF may benefit from additional capability once activities increase, NOAA believes the basic concept remains viable. In addition, the Department of the Interior has proposed to retain the same environmental mitigating measures used for Lease Sale No. 42 for the next Georges Bank Lease Sale No. 52 scheduled for August 1982 and has excluded from this sale the 12 tracts at the head of Lydonia Canyon that were withdrawn on September 21, 1979.

Refinements in the Sanctuary Program's present nomination and designation procedures include:

- Elimination of the List of Recommended Areas, on which Georges Bank and several submarine canyons are presently listed. The list has caused substantial confusion and concern over

the status of areas on the list, the likelihood of further action on the listed areas, and the overall emphasis of the Program.

• Institution of a new site evaluation process which applies more definitive nomination requirements and site identification and selection criteria and results in a base pool of suitable sites. (The nomination process used in the past has resulted in the accumulation of an extraordinary range of sites, most of which will never be suitable for sanctuary status.)

Under the new procedures, NOAA will establish eight regional resource evaluation teams to aid in the initial identification and evaluation of possible marine sanctuary sites. (There will be one team to deal exclusively with the North Atlantic.) Each team is to identify the truly special or unique resources in their region and select three to five priority sites based on the Program's site identification criteria. Public review will be solicited to obtain additional information on each team's initial list of sites. Using the comments from the public review, each team will finalize the lists and submit it to NOAA. NOAA will review the recommendations of the regional evaluation teams, eliminate any sites that are inconsistent with the objectives of the Program, and place appropriate sites on a Site Evaluation List (SEL).

This process will provide a pool of marine areas which meet the Program's site identification criteria and have undergone a certain level of public review prior to being presented to NOAA.

Sites now on the list of Recommended Areas (including Georges Bank) will be among the first areas to be examined by the regional teams for placement on the SEL. This entire process is slated to take 15 months, beginning in early 1982, and is described in the current Program Development Plan (PDP) for the National Marine Sanctuary Program.

While these refinements were not considered at the time of the Settlement Agreement, they serve to strengthen NOAA's decision in this case.

Given the paucity of new information to indicate any urgent need to reverse NOAA's earlier decision not to consider Georges Bank an Active Candidate, and given the prospects of a more thorough evaluation of specific sites in the area through the refined marine sanctuary site selection process, NOAA believes that any consideration of marine sanctuary status for Georges Bank should be deferred until final recommendations have been formulated by the Northeast Regional Evaluation Team. The recommendations are expected by early FY 1983.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: November 20, 1981.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 81-34171 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton Apparel Products from the Republic of the Philippines

November 24, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling women's, girls' and infants' cotton trousers in Category 348 (Traditional), produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1981, at a level of 188,564.

(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: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, the United States Government has decided to control imports of cotton textile products in Category 348 (Traditional), produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1981, in addition to those categories previously designated.

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 29, 1980, there was published in the **Federal Register** (45 FR 85498) 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, wool and man-made fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1981 and extends through December 31, 1981. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 348 (Traditional) during the same period. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 348 (Traditional) in excess of 188,564 dozen. The level of restraint has not been adjusted to reflect any imports after December 31, 1980. Imports in that porton of the category affected by this directive have amounted to 153,158 dozen during the January-September 1981 period and will be charged. As the data become available further charges will be made to account for the period which began on October 1, 1981 and extends to the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

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

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 19, 1980 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines.

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, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; 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 prohibit, effective on December 1, 1981 and for the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981, entry into the United

States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 348 (Traditional), produced or manufactured in the Philippines, in excess of the following level of restraint:

Category	12-mo. level of restraint [2]
348(T) [3]	188,564 dozen.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1980. Imports during the period January-September 1981 have amounted to 153,158 dozen.
[2] In Category 348, only T.S.U.S.A. numbers 382.0087, 382.0691, 382.3349, 382.3355, 382.3359 and 382.3363.

Cotton textile products in Category 348(T) [1] which have been exported to the United States prior to January 1, 1981 shall not be subject to this directive.

Cotton textile products in Category 348(T) which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

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), October 5, 1981 (46 FR 48963) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textile products from the Philippines 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 to the implementation of such actions, fall within the foreign affairs exception to the the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-34301 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

Amending the Import Restraint Levels for Certain Cotton Textile Products From the Republic of Singapore

November 24, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing to the levels of restraint established for cotton textile products in Categories 335 (women's, girls' and infants' coats), 340 (men's and boys' woven shirts) and 347/348 (men's and boys', women's, girls' and infants' cotton trousers), produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1981. The adjusted level for Category 335 also includes 15,069 dozen, representing available carryover from 1980.

(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), October 5, 1981 (46 FR 48963), and October 27, 1981 (46 FR 52409))

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, provides that specific ceilings may be increased by designated percentages (swing), and for the carryover of shortfalls in certain categories from the previous agreement year (carryover). At the request of the Government of the Republic of Singapore, the levels of restraint are being increased for Categories 335, 340 and 347/348 and its sublimits. The adjusted sublimit for Category 347 may not exceed the overall ceiling for Category 347/348 of 506,508 dozen.

EFFECTIVE DATE: November 24, 1981.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 19, 1980, there was published in the Federal Register (45 FR 83649) a letter dated December 16, 1980, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established ceilings for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 335, 340 and 347/348, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1981 and extends through December 31, 1981. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month levels of restraint previously established for cotton textile products in Categories 335, 340 and 347/348 and its sublimits to the designated amounts.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

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

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 16, 1980 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

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, Wool and Man-Made Fiber Textle Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; 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 prohibit, effective on November 24, 1981, and for the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 335, 340 and 347/348, produced or manufactured in Singapore, in excess of the following levels of restraint:

Category	Adjusted 12-mo. level of restraint [1]
335	161,646 dozen.
340	433,531 dozen.
347/348	506,508 dozen of which not more than 533,397 dozen shall be in Category 347 and not more than 240,762 dozen shall be in Category 348.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1980.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore 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,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-34302 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-25-M

[1] In Category 348, only T.S.U.S.A. numbers 382.0087, 382.0691, 382.3349, 382.3355, 382.3359 and 382.3363.

COMMITTEE FOR PURCHASES FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1982 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 30, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 11, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (46 FR 45407) of proposed addition to Procurement List 1982, November 12, 1981 (46 FR 55740).

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1982:

SIC 7349

Janitorial/Custodial, Gerald R. Ford Museum, 303 Pearl Street N.W., Grand Rapids, Michigan.

C. W. Fletcher,

Executive Director.

[FR Doc. 81-34280 Filed 11-27-81; 8:45 am]

BILLING CODE 6820-33-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 80-5]

1979 Jukebox Royalty Distribution

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of jukebox royalty fees deposited for 1979 performances.

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Commissioner, Copyright Royalty Tribunal, (202) 653–5175.

(17 U.S.C. 116(c)(3))

SUPPLEMENTARY INFORMATION:

Introduction

17 U.S.C. 116(c)(3) requires the Tribunal after the first day of October of each year to determine whether a controversy exists concerning the distribution of royalty fees deposited by jukebox operators with the Copyright Office. Upon determination that a controversy exists, 17 U.S.C. 804(d) requires the Chairman of the Tribunal to publish in the **Federal Register** a notice announcing the commencement of distribution proceedings.

Background and Chronology

By letter dated October 16, 1980 the Tribunal inquired as to the existence of any voluntary distribution agreements. The Tribunal was subsequently advised by all claimants that no voluntary agreements had been reached.

In a public meeting on November 25, 1980, after giving claimants the opportunity to appear and present arguments, the Tribunal determined that a controversy did exist concerning the distribution of jukebox royalty fees.

In the **Federal Register** of December 2, 1980 (45 FR 79867) the Tribunal published a notice that a proceeding to determine the distribution of such royalty fees had commenced.

The Tribunal in a notice published February 3, 1981 (46 FR 10522) directed claimants or their duly authorized representatives to submit proposals on the structure and procedures of the distribution proceedings to the Tribunal no later than February 13, 1981. Reply comments, if any, on any submitted proposals were to be submitted no later than February 27, 1981. The Tribunal in said Notice announced that there would be a conference of claimants or their authorized representatives at 11:00 a.m., March 10, 1981 to discuss the structure and procedures of the distribution proceedings.

In the **Federal Register** of March 13, 1981 (46 FR 16707) the Tribunal announced that the American Society of Authors, Composers and Publishers (ASCAP), Broadcast Music, Inc. (BMI), SESAC and the Italian Book Corporation were all proper claimants in the distribution proceeding.

The hearings on the substantive aspects of this proceeding were scheduled and the parties were directed to submit witness lists, a concise summary of the testimony of each witness, documentary evidence, and memoranda in support of their positions. Evidentiary hearings were held June 2, 3, 4, and 5, 1981 at which time claimants presented their direct cases. Rebuttal cases were presented on October 2, and 3, 1981. The record in the proceedings was closed on October 19, 1981.

Summary of Evidentiary Positions of Parties

American Society of Composers, Authors, and Publishers (ASCAP)

ASCAP agreed that a valid survey of licensed jukebox performances in 1979 would have afforded the best measure and been the best basis for distributing royalties.[1]

ASCAP's position is that in the absence of a valid survey, the Tribunal is left with marketplace analogies as the best available way to determine the relative values of the repertories of the claimants and their respective shares. ASCAP based its claim upon three evidentiary showings of marketplace values.

The first analogy is to the total amount each organization collected from licensees in 1979. ASCAP collected from licensees $124 million; BMI, $81.2 million; and SESAC, $3.8 million.[2] (No figure for the Italian Book Company was offered.) This evidence results in the following valuation of the respective repertories, expressed in terms of percentages:

	Percent
ASCAP	59.4
BMI	38.8
SESAC	1.8

The second analogy presented is the amount of license fees paid to each organization by non-broadcast licensees. The over-whelming preponderence of these licensees are bars, grills, taverns, restaurants, nightclubs, and similar establishments—the types of places where jukeboxes are typically located. ASCAP's 1979 domestic collections from non-broadcast licensees were $16.1 million, BMI's $6.5 million, and SESAC's $0.7 million.[3] Accordingly, the ratio between ASCAP, BMI, and SESAC, expressed as a percentage, was as follows:

	Percent
ASCAP	69.1
BMI	27.9
SESAC	3.0

The third analogous measure of the music performed on jukeboxes is the relative feature performance of music by radio and television stations.[4]

[1] ASCAP Exh. F.

[2] ASCAP Exh. F; Tr. 6/4, 358–359.

[3] ASCAP Exh. F, 4; letters of BMI dated 7/6/81 and SESAC dated 6/17/81.

[4] Tr. 6/5, 450–452.

At the request of the Tribunal, ASCAP submitted evidence concerning the proportion of feature performances of ASCAP music compared to other copyrighted music on radio and television in 1979.[5] The results were as follows:

	Percent
ASCAP	54.56
Non-ASCAP	39.16
Unidentified	6.28

ASCAP contended that this data was generated in the course of their normal business; that it is continually monitored by the United States District Court for the Southern District of New York pursuant to the Amended Final Judgment in the *United States v. ASCAP*, Civ. Action No. 13–95. (S.D.N.Y. 3/14/50) thus insuring its accuracy; and that ASCAP uses this data as the basis for distribution to its members of license fees received from establishments where jukeboxes are typically located.

ASCAP also suggested that we examine the rates charged by ASCAP and BMI for certain establishments such as discos and hotels and motels. The evidence shows that ASCAP's rates are about twice those of BMI.[6]

Additionally, ASCAP introduced evidence showing its proportion of awards, such as Grammy, Tony, and Oscars, is much greater than BMI's, SESAC's or IBC's.[7]

Broadcast Music, Inc. (BMI)

BMI's claim is based on three separate measures of jukebox music preferences and performances.

First, BMI commissioned an independent survey of actual jukebox performances over four weeks from March 16 to April 12, 1981. The survey was conducted by Opinion Research Corporation (ORC), a subsidiary of Arthur D. Little, Inc.[8] The performances logged were compiled and tabulated by Datatab, Inc. ("Datatab").[9]

One hundred twenty (120) primary sampling units were selected as observation locations in the sample design.

Two areas within each primary sampling unit were selected randomly for observations. Telephone directories were used to prepare a list of likely observation points—bars, taverns, and restaurants. Two starting points for each primary sampling unit were selected. From these starting points, data collectors began the site selection process.[10]

It was testified that in order to identify jukebox observation sites, each data collector investigated likely places of business within one linear mile of the starting indicator (five linear miles in rural areas). The data collector continued until up to four jukebox establishments were identified or all the businesses in the designated area were investigated and no jukeboxes were found.[11]

Data collectors were instructed to schedule at least one observation-hour in the establishments where jukeboxes were located.[12] Jukebox performances were to be observed during peak play hours.[13]

Data collectors recorded the song title, artist and recording company (if available) for each play observed as listed in the jukebox title strip in a booklet. Data collectors also indicated, by use of a code, the type of establishment in which observations took place.

For the 240 areas surveyed, 236 survey booklets and listing sheets were returned. In three areas no jukeboxes were located. The booklet for one area was lost in transit. A total of 885 observation-hours were logged in 775 jukebox establishments.[14]

The repertory identification was prepared [15] by BMI and used by Datatab to prepare a tabulation breaking out repertory shares on a national basis, on a regional basis and by population size of the sampling unit.

BMI's overall share of performances on jukeboxes was calculated to be 54% (adjusted for performances sharing repertories).

Secondly, BMI analyzed and presented data from three sources: The trade charts of *Broadcasting* magazine, a compilation of radio performances; *Cash Box*, the jukebox programmer; and, *Replay* which primarily reflects the sales to jukebox operators by the so-called "one stops".

BMI calculated in their normal course of business for each month for 1979 and the first quarter of 1981[16] the proportion of titles in BMI's repertory which appeared in the industry trade charts.

The 1979 results are:

	Broadcasting (percent)	Cash box (percent)	Replay (percent)
BMI	58	60	60
Others	42	40	[1]40

[1] BMI Exh. 9, App. at 85–145.

BMI claims their average share of the trade charts for 1979 combining the *Broadcasting* magazine, *Cash Box (The Jukebox Programmer)*, and *Replay* charts was 59%.[17]

BMI's relative share of the same charts was 58% for the period January through March, 1981.[18]

In addition, BMI provided radio performance data which was based on 2850 broadcast stations and 352,096 broadcast hours. BMI's radio performance share was as follows:

	Percent
BMI	55.96
Other (ASCAP, SESAC, Public Domain & Private)	[1]44.04

[1] Letter from Charles T. Duncan to Chairman Brennan, July 6, 1981.

SESAC

SESAC's claim of the royalty fund is 10%. SESAC based its claim on the marketplace analogy concerning rates charged to establishments where jukebokes are typically located. SESAC argued that these rates have been in effect for many years and are accepted by such licensees and perspective licensees as reasonable rates in reflecting the value of each organization's repertory.

Italian Book Corporation (IBC)

IBC suggested that the only valid means of ascertaining the proportion of jukebox royalties due each claimant for 1979 would have been a valid survey of licensed jukebox performances for that year approved in advance by all parties. Since this was not done, IBC relied on the popularity of its repertory of songs.

During the course of the hearings it was revealed that pizza places were one of the foremost frequented places where one is likely to discover a jukebox. IBC states that these types of establishments play Italian music and that they own the copyrights to the vast majority of Italian songs performed on recordings in the United States. IBC is claiming 5% of the royalty fund.

Deficiencies of Record Evidence

The Tribunal has examined the record evidence and finds that it is not adequate as a basis for determining the

[5] ASCAP letter dated 7/2/81.
[6] ASCAP Exh. F.
[7] ASCAP Exh. H.
[8] Tr. 6/2 at 517.
[9] Tr. 6/3 at 212–13.
[10] Tr. 6/2 at 108; BMI Exh. 1 at 10–11, App. at 10–11; BMI Exh. 3 at 2, App. at 37.
[11] BMI Exh. 3 at 2, App. at 37.
[12] Tr. 6/2 at 117; BMI Exh. 3, App. B at 5, App. at 47.
[13] Tr. 6/2 at 114–115; BMI Exh. 3, App. B at 4, App. at 46.
[14] Tr. 6/2 at 120; BMI Exh. 3 at 3, App. at 37.
[15] BMI Exh. 5, App. at 58.
[16] BMI Exh. 9, App. at 85–147.
[17] Tr. 6/4 at 321.
[18] Tr. 6/4 at 319–320.

distribution of the 1979 jukebox royalties.

The general revenue and marketplace analogies advanced by ASCAP, although possessing material utility in other areas, nevertheless fail to provide an acceptable guide for distribution in this proceeding. The survey of performances presented by BMI, while it has merit to the extent that it proved that a survey could be conducted, is nevertheless perceived to be too flawed in methodology and execution to be considered a reliable foundation upon which to allocate the 1979 royalties.

However, the perspective accorded the Tribunal as a result of studying the evidence in the record reaffirms that its action in 1978 was both correct and appropriate when it resolved that it considers "a random sampling based on a survey as the most useful, but not necessarily the only method to substantially determine the distribution of royalty fees."

A. The ASCAP Case

ASCAP based its case upon a comparison of license revenues received by the performing rights societies and a comparison of other market place analogies; yet ASCAP agreed that "a valid survey of licensed jukebox performances in 1979 would have afforded the best measure and been the best basis for distributing royalties."

1. *Total license revenues.* The first of ASCAP's marketplace analogies was a comparision of total license revenues received by BMI and ASCAP. The Tribunal casts no judgment upon the validity of the figures themselves presented by ASCAP, but simply finds that the issue of total revenues is too far removed from the performance of music in jukeboxes to be a guide for the distribution of royalties in this particular case. Total license revenues include fees from many other areas, of which jukebox fees are only an infinitesimal portion. Therefore, any comparison to be made on the basis of these fees could not be said to relate to the marketplace as it exists for jukeboxes. SESAC in its Proposed Findings of Fact and Conclusion of Law stated that "a comparison of total license fee revenues of the performing rights organization has little or no relationship to the actual performances on jukeboxes accounted for by each performing rights organization." For these reasons, the Tribunal considers it unwise to use total license revenues as a basis for distribution.

2. *Non-broadcast license revenues.* ASCAP's second marketplace analogy is a comparison of non-broadcast revenues. ASCAP considers this analogy apt "because the overwhelming preponderance of these licenses are bars, grills, taverns, restaurants, nightclubs and similar establishments—the types of places where jukeboxes are typically located."

Again, the Tribunal finds that the circumstances under which commercial users pay license fees for a musical repertory are different from those under which music is played on jukeboxes and that this analogy cannot be used as a basis for distribution in this proceeding.

3. *Radio-Television Performances.* A third marketplace analogy made by ASCAP is that of the feature performance of music by radio and television stations. ASCAP considered this an "analogous measure of the music performed on jukeboxes." Our record suggest that there is a relationship between *radio* performances and records selected for inclusion in jukeboxes. However, this record is inconclusive, and the Tribunal considers the record in this area cannot serve as a guide for the distribution of royalties and that is it possible by other means to measure actual performances on jukeboxes.

4. *Other ASCAP Evidence.* ASCAP suggests that we examine the rates charged by ASCAP and BMI for certain establishments, such as discos and hotels and motels. Again, on the basis of the evidence in this record we find that neither of these markets is relevant to the jukebox market.

Finally, ASCAP has presented evidence showing its proportion of awards in relation to the other societies. We find no evidence in this record showing the relevance of awards to a determination of ASCAP's relative share of the jukebox market.

5. *The reasons ASCAP did not present a survey.* ASCAP claimed that it did not present a survey first of all because it was impossible to conduct a survey of 1979 performances in 1981. The Tribunal does not find that this objection has merit. Nor was it found to be material by ASCAP's own witness. Dr. Paul Fagan was questioned as "to how BMI performances on jukeboxes in 1981 might compare with performances in 1979," and he responded, "It would be a judgment that there wouldn't be a heck of a lot of difference."

ASCAP also referred to "problems" involved in conducting a survey in 1981. Dr. Fagan referred to the "time required to get a survey underway" and the need "to have an idea as to where the jukeboxes are located." However, he then said:

"They would be found, frankly, with some difficulty. However, I would envision a search for those boxes in various stages. Frankly, much in the manner that the survey we have been hearing so much about was done." [19]

The Tribunal considers that ASCAP could have conducted a survey if it had so desired.

B. The BMI Case

1. *Survey of Jukebox performances.* BMI in presenting a survey of jukebox performances attempted to establish its royalty entitlement in the manner which the Tribunal deemed most useful. Many objections—both major and minor—were advanced to the scope, design and execution of the survey.

The Tribunal finds that the BMI survey does not provide a reliable basis for the distribution of the jukebox royalties in this proceeding. In reaching this conclusion we express no opinion as to whether the final numbers produced by the survey are a reasonably accurate reflection of the respective shares of the performing rights societies in the spring of 1981. Since our record suggests that the shares of the jukebox market do not significantly vary from one year to the next, we do not accept the objection to the use of a survey of performances conducted in a year other than that for which royalty fees have beed paid. ASCAP argues that if the distribution of jukebox royalties is based on survey of performances the Copyright Act compels that the survey be restricted to licensed jukeboxes, even in the absence of any showing that there are significant differences between music performed on licensed and non-licensed boxes. We did not reject the BMI survey because it included non-licensed boxes, therefore it is not necessary for us to address this issue at the present time.

We have not accepted the BMI survey for the reasons well summarized in SESAC's proposed findings.[20]

"BMI's survey of jukebox performances is fatally defective since, it was not done on a scientifically random basis, it systematically excluded certain types of business establishments and is fraught with errors both in its design and the instructions given to its field workers."

If the survey were utilized by the Tribunal as only one of several factors providing the basis for our determination, defects in design and execution perhaps could be balanced by according limited weight to its results. We note that it has not been established that the avoidance of the survey deficiencies would necessarily have

[19] Transcript, pp. 356–57.
[20] Sesac, Ibid., p. 1.

altered the results. But, as the survey on our review of the record evidence would have been (with the possibility of appropriate adjustments for the smaller claimants) the sole basis for our award, the Tribunal must require strict adherence to accepted survey procedures. Questionable judgments concerning the correct probability sample, interviewer discretion, exclusion of certain establishments and the time periods, and the pervasive absence of quality control preclude the distribution of royalties on the basis of the BMI survey.

2. *Trade Charts.* We find that trade paper charts do not provide a measure of performances of musical compositions on jukeboxes.

3. *Radio Performances.* We have discussed this subject above.

C. The SESAC Case

The Tribunal in all its proceedings has endeavored to adopt procedures which would not effectively preclude parties with limited resources form receiving a fair consideration of their case. It would be unreasonable for the Tribunal to assert that SESAC will not receive any royalties unless it conducted an adequate survey of jukebox performances.

We are not prepared at this time to make an award to SESAC on the basis of certain license revenues. If the Tribunal were to concluded the SESAC's performances would not be fairly reflected in a survey, we may determine SESAC's entitlement by the application of other distribution methodologies.

D. The Italian Book Company Case

The considerations set forth above concerning the case of SESAC also apply to the jukebox performances of Italian Book Company musical compositions, for which valid copyrights exist.

Conclusion

The Tribunal considers that the record of the current proceeding is insufficient as a basis on which we can make a distribution of the 1979 jukebox royalties. The Tribunal considers that the case presented by ASCAP is too general for us to find in it any guidance on how to distrubute royalties as they relate specifically to the performance of music on jukeboxes. At the same time, the survey presented by BMI, while related to performances on jukeboxes, has nevertheless been subject to so much criticism and doubt concerning its methodology and execution that the Tribunal does not feel that it can justifiably base its distribution upon the BMI survey either. The Tribunal, therefore, has elected not to make a distribution in this proceeding.

The Tribunal instead requests that the parties submit proposals for a joint survey that they would agree to beforehand and whose execution they would supervise jointly. The Tribunal considers that the theories and practices of random sample surveying are well-established and accepted and that there is no realistic reason for the parties not to be able to come together and agree on methods and procedures they all could accept. The Tribunal considers that once they agreed the parties would be bound to abide by the results. By definition, random sample surveys are designed to produce results whose objectivity and reliability cannot be contested, except within the limits that are known and set beforehand. The Tribunal sees no reason for any party to object in principle to a random sample survey of actual performances and believes that this would be a completely impartial basis on which to make a distribution of the royalties. These proposals should be submitted by January 29, 1982, which is the deadline for comments on whether or not a controversy exists concerning the 1980 royalties.

Thomas C. Brennan,

Acting Chairman.

[FR Doc. 81-34298 Filed 11-27-81; 8:45 am]

BILLING CODE 1410-07-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare Draft Environmental Impact Statement (DEIS) for proposed Bel Marin Keys, Unit No. 5 project, Regulatory Permit Application No. 14366N33, Marin County, Calif.; Meeting

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Defense.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement.

SUMMARY: 1. *Proposed Action:* Home Savings and Loan, Los Angeles, California has applied for a Department of the Army permit under Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act, as amended (33 U.S.C. 1344), to authorize the excavation and fill of approximately 9,000,000 cubic yards of material as part of a residential/commercial development consisting of approximately 1,180 homes with boat docks for each single family lot, 546 acres of lagoons, and a 602 berth marina including commercial boat docks. The project site is adjacent to Novato Creek and San Pablo Bay near the City of Novato, Marin County, California. The proposed project will provide additional housing and water-related recreational and commercial facilities. The San Francisco District, U.S. Army Corps of Engineers and the Marin County Planning Department will prepare a joint federal/state environmental impact statement for the proposed project.

2. *Alternatives:* The alternatives being considered at this time are: a. No Action (permit denial). (1) Alternative project location. b. Project as proposed by applicant. c. Project as proposed by applicant without marina. d. Project as proposed by applicant with off-site mitigation of adverse impacts. e. Expanded scale of project. f. Reduced scale of project with on-site mitigation of adverse impacts. g. Reduced scale of project with off-site mitigation of adverse impacts.

Additional alternatives identified during the scoping process will also be considered in the DEIS.

3. *Scoping Process:* a. A scoping meeting will be held on 9 December 1981 in Room C-188 of the Natural and Physical Sciences Building, Indian Valley College, 1800 Ignacio Blvd., Novato, California 94947 at 8:00 p.m. Government agencies, public and private interest groups, and the public are invited to participate in the scoping process by attending the meeting or by submitting written comments. The purpose of the scoping meeting will be to identify significant issues and alternatives to be considered in depth in the DEIS.

b. The significant issues which have been identified to date and which will be analyzed in the DEIS include: (1) The change in land use from agricultural/open scape to residential/commercial, (2) the impact of the proposed project upon future use of Hamilton Air Force Base, (3) impacts on current agricultural uses of the project site, (4) potential conflict with the State of California Wetland Policy concerning the loss of permanent, seasonal and historic wetlands, (5) adverse impacts related to increased traffic, noise, and the need for public services, and (6) adverse impacts on air quality associated with vehicular traffic generated by the proposed project. Additional significant issues identified during the scoping process will also be analyzed.

c. Environmental review and consultation as required by sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 and 1344); section 307(c) of the Coastal Zone Management Act of 1972, as amended

(16 U.S.C. 1456(c)); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*) the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470 *et seq.*); Executive Order 11988, "Floodplain Management," 24 May 1977; Executive Order 11990, "Protection of Wetlands," 24 May 1977; Prime and Unique Agricultural Lands, CEQ Memorandum dated 11 August 1980; and other statutes or regulations as may be required by the proposed action; will be conducted concurrently with the NEPA process.

4. It is estimated that the DEIS will be released to the public on or about 1 March 1982.

5. Questions regarding the scoping process or preparation of the DEIS may be referred to Roger Golden, Environmental Branch, San Francisco District, U.S. Army Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415–556–5412). General questions concerning the processing of the permit application may be referred to Paul Portch, Regulatory Functions Branch, (415–556–5426) at the same address.

Dated: November 20, 1981.

Thomas J. Edgerton,

Major, Corps of Engineers, Deputy District Engineer.

[FR Doc. 81-34256 Filed 11-27-81; 8:45 am]

BILLING CODE 3710-FS-M

Intent To Prepare Supplement To Draft Environment Impact Statement (DEIS) for the Scuppernong River Flood Control Project, Washington County, North Carolina

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a supplement to the draft environmental impact statement.

SUMMARY: 1. The proposed project consists of deepening and widening the Scuppernong River with minimal riverbank disturbance between the towns of Cherry and Creswell, North Carolina, a distance of approximately 2.5 miles. Material removed from the river will be placed in the swamp forest adjacent to the riverbank, partially on old spoil.

2. Alternatives to the proposed project include variations in channel dimensions, channel length and construction technique. Also being considered is the no action alternative.

3a. A Draft Environmental Impact Statement for the project was filed with the Council on Environmental Quality on 12 March 1975. The project, as proposed at that time, was larger in scope and generated significant opposition on environmental grounds. Since that time several scoping meetings have been held and project design has been substantially modified. Federal, State and local agencies have all provided input into the plan formulation process. All additional agencies, organizations, and interested parties which have not been previously notified are invited to comment at this time.

3b. The significant issues to be analyzed in the Supplement to the DEIS are: (1) The impacts of the placement of fill on the swamp forest ecosystem; (2) the impacts of channelization on the aquatic ecosystem; and (3) the impacts of the project on downstream sedimentation.

3c. The U.S. Fish and Wildlife Service has furnished input into plan formulation in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.). A 404 public notice and 404(b)(1) evaluation will be circulated to the public. A Coastal Zone Management Act consistency determination will be furnished to the State of North Carolina and a Section 401 water quality certificate obtained from the State prior to project construction.

4. No additional scoping meetings will be held due to the advanced state of the supplement and the extensive coordination that has taken place to date.

5. The supplement to the DEIS will be available to the public in May of 1982.

ADDRESS: Questions about the proposed action and supplement can be answered by: William F. Adams, Environmental Analysis Section, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, NC 28405, phone: (919) 343–4748 commercial, 671–4748 FTS.

Dated: November 18, 1981.

A. A. Kopcsak,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 81-34255 Filed 11-27-81; 8:45 am]

BILLING CODE 3710-FS-M

Department of the Army

Military Traffic Management Command; Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on 10 December 1981 at the Headquarters Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 0900 hours and adjourn at approximately 1500 hours.

Proposed Agenda

The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34–R), and the handling of other matters of mutual interest relating to claims actions concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1600 hours. Topics to be discussed should be received on or before 1 December 1981.

Dated: November 19, 1981.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 81-34206 Filed 11-27-81; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of th DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on 10 December 1981 at the Naval Research Laboratory, Bldg. 208, Rm. 360A, 4455 Overlook Avenue, S.W., Washington, D.C. 20375.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d)(1976), it has been determined that this Advisory Group

meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

November 23, 1981.

M. S. Healy,

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

[FR Doc. 81-34193 Filed 11-27-81; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Embedded Computer Resources (ECR) Acquisition and Management; Advisory Committee Meetings

The Defense Science Board Task Force on Embedded Computer Resources Acquisition and Management will meet in closed session on December 10–11, 1981 and January 11–12, 1982 at the Washington, D.C. offices of the RAND Corporation, 2100 M Street, NW. Washington, D.C. 20037.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research, engineering and acquisition issues and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current and proposed policies of the Department relative to management, standardization, current and planned research and development programs and will advise upon improvements which appear possible and practical drawing upon the related practices in the private sector. They will also consider the effect of expected changes in the Public Law and the possibilities for improvement in the internal management process which these changes may offer.

In accordance with 5 U.S.C. App. I, section 10(d) (1976), it has been determined that the Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(4) (1976), and that accordingly these meetings will be closed to the public.

Dated: November 23, 1981.

M. S. Healy,

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

[FR Doc. 81-34194 Filed 11-27-81; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Nuclear Agency Technology Base Program: Advisory Committee Meeting

The Defense Science Board Task Force on the Defense Nuclear Agency Technology Base Program (DNA TBP) will meet in closed session on 29–30 December 1981 at Field Command, Defense Nuclear Agency, Kirtland AFB, New Mexico.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At its meeting on 29–30 December 1981 the Task force will conduct a comprehensive review of the Defense Nuclear Agency NWE Technology Base Program including blast and shock, cratering, EMP, SGEMP, free-field environments, and the coupling effects and the response of generic systems to these effects.

In accordance with 5 U.S.C. App. 1 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

Dated: November 24, 1981.

M. S. Healy,

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

[FR Doc. 81-34288 Filed 11-27-81; 8:45 am]

BILLING CODE 3810-01-M

DoD Inventory of Commercial and Industrial-Type Activities for Fiscal Year 1980

AGENCY: DoD.

ACTION: Notice.

SUMMARY: This notice announces the publication of the DoD commercial and Industrial-Type Activities Inventory Report and Five Year Review Schedule for Fiscal Year 1980. This report may be obtained by writing to the Director, Contract and Interservice Support, Office of the Deputy Assistant Secretary of Defense (Facilities, Environment & Economic Adjustment), Washington, D.C. 20301, and enclosing a check in the amount of $37.00, payable to the Treasurer of the United States.

SUPPLEMENTARY INFORMATION: This inventory report is assigned the number DoD 4100.33-INV, is dated November 1981, and is published under the provisions of OMB Circular A-76, which requires the Department of Defense to publish an annual inventory report of all commercial activities, both in-house and contract support services. The OMB also requires that the Department of Defense publish a 5-year schedule for reviewing all in-house and contract commercial activities. The purpose of the review is to determine whether the contract method of operation should continue or whether an in-house versus contract cost comparison should be performed to determine the most cost effective method of operation.

Dated: November 24, 1981.

M. S. Healy,

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

[FR Doc. 81-34289 Filed 11-27-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. 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.

DATES: December 21 and 22, 1981.

ADDRESS: Room 3000, 400 Maryland Ave., SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Theodore H. Drews, Executive Director, 400 Matyland Avenue SW (Presidential Bldg. 205), Washington, D.C. 20202. Telephone—(301) 436-7876.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93-380. The Council is established to review general policies for the operation of the National Center for Education Statistics and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes:

A report by the Administrator, National Center for Education Statistics on recent activities of the National Center.

A resolution of the Council providing guidelines to NCES for response to OMB Bulletin No. 81-16, Subject: Elimination of Wasteful Spending on Government Periodicals, Pamphlets, and Audiovisual Products, dated April 21, 1981. These guidelines will deal with priorities, costs and data burden.

A report and discussion on the Center's staffing patterns and organization.

A report and discussion of sources, weighting, and response to, requests and mandates for Center data and services, and their conversion into short- and long-term Center priorities and programs.

A report and discussion of policies and systems for development and selection of alternatives in the face of diminishing resources.

A discussion of Council policy on tenure and attendance of members.

Such new business as the chairman or the membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the Executive Director, Advisory Council on Education Statistics, 6525 Belcrest Rd. (Presidential Building, Room 205), Hyattsville, Maryland.

Dated: November 24, 1981.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 81-34232 Filed 11-27-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council; Subcommittee On Environmental Conservation; Cancellation Of Meeting

This notice is given to advise of the cancellation of the National Petroleum Council, Subcommittee on Environmental Conservation meeting originally scheduled to be held December 2, 1981. Notice of meeting was published in the issue of November 16, 1981 (46 FR 56232).

Issued at Washington, D.C. on November 24, 1981.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 81-34203 Filed 11-27-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 81-CFR-020]

Atlas Powder Co.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On September 24, 1981, Atlas Powder Company (Atlas), Park Central 111, 1200 Park Central Place, Dallas, Texas 75251, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 292,600 Mcf of natural gas per year to displace approximately 2,400,000 gallons (57,143 barrels) of No. 2 diesel fuel oil (0.34 to 1.0 percent sulfur) at its Joplin, Missouri plant. The eligible seller and transporter of the gas is Cities Services Gas Company, Oklahoma City, Oklahoma 73125. Notice of that application was published in the **Federal Register** (46 FR 53743, October 30, 1981) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On October 3, 1980, Atlas received a recertification (ERA Docket No. 80-CERT-027) of an eligible use of natural gas purchased from Cities Service Gas Company for a period of one year expiring on October 2, 1981, for use at its Joplin, Missouri Plant. Due to the lateness in the applicant's filing for recertification and the necessity for providing the public an opportunity for comment, continuity with the earlier recertification was not possible. Atlas informed ERA that no natural gas was being used to displace fuel oil at the close of the earlier recertification period and that no loss of oil displacement would occur as a result of delay in issuing this recertification.

The ERA has carefully reviewed Atlas' application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Atlas' application satisies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA Docket Room 6304, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., November 20, 1981.

T. Wendell Butler,

Assistant Administrator for Regulatory Programs, Economic Regulatory Administration.

[FR Doc. 81-34197 Filed 11-27-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-81-0032; OFC CASE No. 51209-1393-27-21]

Gulf States Utilities Co. 90-day Extension of Time to Submit Evidence Required for Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Gulf States Utilities Company: 90-day Extension of Time to Submit Evidence Required for Exemption.

SUMMARY: On July 11, 1980, Gulf States Utilities Company (GSU) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a temporary powerplant exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act) for the future use of synthetic fuels. FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants unless an exemption for such use has been granted by DOE.

The petition was accepted for filing on April 7, 1981, on condition that GSU would submit all evidence required to obtain the requested exemption on or before October 1, 1981. ERA published notice of its conditional acceptance together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on April 14, 1981 (46 FR 21801). Publication of the notice commenced a 45-day public comment period pursuant to Section 701 of FUA which expired May 29, 1981. The notice further stated that an additional public comment period may be provided upon receipt of the evidentiary material furnished ERA by GSU.

At the request of GSU, ERA hereby gives notice that it has extended the period during which it will accept the required evidentiary material from October 1, 1981, to December 31, 1981.

FOR FURTHER INFORMATION CONTACT:
Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 12th & Pennsylvania Ave., N.W., Room 7120, Washington, D.C. 20461, Phone (202) 633-9451

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 6128–H, Washington, D.C. 20461, Phone (202) 653–3462
Christina Simmons, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–178, Washington, D.C. 20585, Phone (202) 252–2967

Issued in Washington, D.C., on November 17, 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 81–34198 Filed 11–27–81; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. ERA–FC–80–026 OFC Case No. 65012–9122–03–12]

Hoffman-La Roche Inc.; Order Granting an Exemption from Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On July 14, 1980, Hoffman-La Roche, Incorporated (HLR) of Nutley, New Jersey, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking a permanent cogeneration exemption for a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), (FUA or the Act), which prohibits the use of petroleum and natural gas as a primary energy source in new MFBI's. Pertinent procedures for petitioning for an exemption for a new facility are contained in 10 CFR Part 500 and 501, published June 6, 1980, at 45 FR 38276 (Final Rule). Eligibility criteria for this exemption request are contained in the interim rule found at 44 FR 29014 (May 17, 1979). A final rule for permanent cogeneration exemptions has not been issued.

HLR requested a permanent exemption for a slow-speed, two stroke 23,000 kW diesel engine burning residual oil, and a supplementary oil fired waste heat field-erected boiler producing 160,000 pounds of steam per hour (which together will comprise the cogeneration system) to be installed at HLR's Belvidere plant located at Belvidere, New Jersey.

Pursuant to sections 212(c) of the Act and 10 CFR 505.27, and subject to specified terms and conditions stated herein, ERA hereby issues this order granting a permanent cogeneration exemption to HLR for the new MFBI from the prohibitions of FUA.

DATE: In accordance with section 702(a) of NUA, this order and its provisions shall take effect on January 27, 1982.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 7120, Washington, DC 20461, (202) 633–9451
Richard A. Ransom, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 6114, Washington, DC 20461, (202) 653–3341
Christina Simmons, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B–178, Washington, DC 20585, (202) 252–2967
William H. Freeman, Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 6114, Washington, DC 20461, (201) 653–3379

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room 7120, 12th & Pennsylvania Avenue, NW, Washington, DC, Monday through Friday 8:00 a.m.–4:30 p.m.

SUPPLEMENTARY INFORMATION:

Hoffman-LaRoche, Incorporated (HLR) proposes to install a cogeneration system at its Belvidere, New Jersey facility. The proposed unit will consist of a slow-speed, two stroke 23,300 kW diesel engine burning residual oil, and a supplementary oil fired waste heat field-erected boiler producing 160,000 pounds of steam per hour at 225 psig (which together will comprise the generation system). HLR is in the process of expanding its plant capacity, and steam requirements are expected to increase from the present 322,000 pounds per hour to 430,000 pounds per hour. Present electrical demand averages 18,000 kW and is expected to increase to 23,000 kW after expansion. The proposed cogeneration system will provide all the power and process steam requirements and the excess (300 kW) will be sold to the Jersey Central Power and Light Company.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published notice of its acceptance of HLR's petition in the **Federal Register** on September 12, 1980 (45 FR 60469), commencing a 45-day public comment period pursuant to section 701 of FUA. As required by section 701 (f) and (g) of the Act, ERA provided a copy of HLR's petition to the Environmental Peotection Agency and the Federal Trade Commission for their comment. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed October 27, 1980. Comments were submitted by the Elizabethtown Gas Company, Elizabeth, New Jersey, in support of HLR's petition for a permanent cogeneration exemption. No hearing was requested.

On June 19, 1981, ERA published in the **Federal Register** a Notice of Availability of a Tentative Staff Analysis recommending that HLR's exemption be granted and provided a 14-day period for interested persons to submit written comments or to request a public hearing (46 FR 32065). That period ended July 3, 1981. No comments were received. No public hearing was requested.

Decision and Order: Based upon the entire record of this proceeding, ERA has determined that HLR has satisfied all of the eligibility requirements for the requested exemption, as set forth in 10 CFR 505.27, by demonstrating to ERA's satisfaction that:

(1) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, where the calculation of savings is in accordance with paragraph (c) of 10 CFR 505.27; and

(2) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas.

Accordingly, pursuant to section 212(c) of FUA, ERA hereby grants HLR a permanent cogeneration exemption for the proposed cogeneration system to be installed at HLR's Belvidere plant located at Belvidere, New Jersey, which subject to the terms and conditions stated below, permits the use of residual oil in the cogeneration system.

Terms and Conditions: Section 214(a) of FUA provides ERA the authority to attach terms and conditions which are appropriate and consistent with the purposes of the Act to any order granting an exemption. Accordingly, the following terms and conditions are attached to this order granting the requested exemption.

1. The quality of any petroleum to be burned in the unit will be lowest grade available, which is technically feasible and

capable of being burned consistent with applicable requirements.

2. The amount of new electricity sold or exchanged will be less than 50 percent of the total electricity produced.

National Environmental Policy Act of 1969 (NEPA) Review: On the basis of the analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environmental Protection, Safety, and Preparedness, with consultation form the Office of the General Counsel, and environmental assessment was prepared. The Department of Energy concluded that the granting of this exemption will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA.

Effective Date of Order: This order and its provisions shall take effect on January 27, 1982.

Judicial Review: Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review at any time before January 27, 1982.

Department of Energy Organization Act, Pub. L. 959-91 (42 U.S.C. § 7101 et seq.) as amended by Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620 and Pub. L. 95-621; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (42 U.S.C. 8301 et seq); E.O. 11790, 39 FR 23185 (June 25, 1974); E.O. 12209, 42 FR 46267 (September 15, 1977).

Issued in Washington, D.C., on November 17, 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 81-34199 Filed 11-27-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-81-017; ERA Case No. 65031-9208-21-22]

North Little Rock Electric Department; CT Unit No. 1; Decision and Order Granting Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order to North Little Rock Electric Department (NLRED) granting a permanent peakload exemption from the prohibitions against (1) the use of petroleum or natural gas as a primary energy source by new powerplants and (2) the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source, which are contained in section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Background: On July 13, 1981, NLRED filed a petition with ERA for a permanent peakload powerplant exemption to enable it to use oil or natural gas as a primary energy source in an 39,055 KW natural gas and/or oil-fired combustion turbine unit to be known as CT Unit No. 1 in North Little Rock, Arkansas. ERA accepted the petition on August 24, 1981, and published a notice of acceptance together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on August 26, 1981 (46 FR 43079). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to section 701 of FUA. During that period which ended October 12, 1981, interested parties were also afforded an opportunity to request a public hearing. No comments or request for a public hearing were received.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Analysis (TSA) was prepared which recommended that ERA issue an order granting NLRED a permanent peakload exemption to use oil or natural gas in the unit designated as CT Unit No. 1 subject to certain terms and conditions. A notice of availability of the TSA was published in the **Federal Register** on October 21, 1981 (46 FR 51638). The publication of the notice of availability opened a 14-day public comment period which ended November 4, 1981, during which no comments were received.

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 grant 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. NLRED has certified that it will secure all applicable permits and approval prior to commencement of operation of the new unit under this exemption. The Environmental Checklist completed and certified to by NLRED pursuant to 10 CFR 503.15(b) has been reviewed by DOE's Office of Environment, in consultation with the Office of General Counsel. NLRED's responses to the questions contained 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 affirm the applicability of the categorical exclusion to this FUA action. ERA has not received any public comments relating to this action which raise a substantial question regarding the applicability of the categorical exclusion in this case. Therefore, no additional environmental review is deemed to be required.

DATES: This order will take effect on January 27, 1982.

Pursuant to section 702(c) of the Act, any person aggrieved by this order may at any time within 60 days after publication petition for judicial review in accordance with the procedures outlined in 10 CFR 501.69.

ADDRESSES: 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) 633-9451

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 6128H, Washington, D.C. 20461, Phone (202) 653-3462

Christina Simmons, Office of General Counsel Department of Energy, 1000 Independence Avenue SW., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2957.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Final rules applicable to new facilities issued by ERA on May 30, 1980, were published in the **Federal Register** on June 6, 1980 (45 FR 38276), and became effective August 5, 1980.

North Little Rock Electric Department (NLRED) plans to install a 39,055 KW natural gas or oil-fired combustion turbine unit to be called CT Unit No. 1 at North Little Rock, Arkansas. Based upon estimates by NLRED the proposed unit will have a fuel heat input rate of 436 MM BTU per hour at peak capacity. CT Unit No. 1 is scheduled for commercial operation in May 1982.

NLRED submitted a sworn statement with the petition signed by Mr. Robert E. Hogan, General Manager of NLRED, as required by 10 CFR 503.41(b)(1). In his

statement, Mr. Hogan certified that CT Unit No. 1 will be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 39,055 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 58,582,500 Kwh.

Order

ERA hereby grants to NLRED a permanent exemption from the prohibitions of FUA with respect to the use of oil or natural gas in CT Unit No. 1 provided that the powerplant is operated solely as a peakload powerplant and to meet peakload demand subject to the following terms and conditions imposed pursuant to the authority granted to ERA by section 214(a) of the Act.

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 NLRED 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. NLRED shall not produce more than 58,582,500 kwh during any 12-month period with CT Unit No. 1. NLRED 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 NLRED expects to operate CT Unit No. 1 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. NLRED 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. NLRED 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 17, 1981.

Rayburn Hanzlik

Administrator, Economic Regulatory Administration.

[FR Doc. 81-34200 Filed 11-27-81; 8:45 am]

BILLING CODE 6450-01-M

Puget Sound Power & Light Co.; Issuance of the Amended Presidential Permit, PP-6A

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Issuance of an Amended Presidential Permit (PP-6A) to the Puget Sound Power & Light Company (Puget Sound) to Modify Existing Electric Transmission Facilities at the International Border Between the United States and Canada.

SUMMARY: The Department of Energy (DOE) hereby gives notice of the issuance of an Amended Presidential Permit, PP-6A, to Puget Sound. This amendment grants permission to increase their Point Roberts, Washington, international transmission line connection to 25 kilovolts and raise their import limit to no more than 43,800,000 kilowatt-hours per year at a rate not to exceed 5,000 kilowatts per hour.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Office of Emergency Operations (EP), Department of Energy, 2000 M Street NW., Room 4209, Washington, D.C. 20461, (202) 653-3889

Lise Courtney Howe, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6A141, Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the Puget Sound Power & Light Company (Puget Sound) filed an application with the Economic Regulatory Administration (ERA)[1] to amend its Presidential Permit PP-6, dated April 23, 1942. Under the original Permit, PP-6, Puget Sound was authorized to operate a 12-kilovolt international transmission line at the boundary line between the United States and Canada near Point Roberts, Washington, and to Import no more than 4,380,000 kilowatt-hours per year at a rate not in excess of 500 kilowatts. In its application for amendment, Puget Sound requested that the transmission line be increased to 25 kilovolts and that the import limit be raised to no more than 43,800,000 kilowatt-hours per year at a rate not in excess of 5,000 kilowatts. According to the applicant, the amendments were necessary because demand for electric energy in the Point Roberts area has increased steadily over the years. The only feasible method of supplying electrical energy to Point Roberts, due to its unique geographic location, is to import additional electricity from Canada.

The DOE conducted an environmental review of the proposed amendment and made a determination (March 6, 1981), that neither an environmental assessment nor an environmental impact statement was required.

The Department of State by letter dated April 9, 1981, and the Department of Defense by letter dated April 3, 1981, formally recommended that the amended Permit be granted.

Upon consideration of the matter, the DOE found that issuance of the amended Permit was appropriate ad consistent with the public interest. Accordingly, the amended Permit was issued by DOE on April 28, 1981, to make the aforementioned modifications. The amended Permit and its terms and conditions were accepted by Puget Sound on June 9, 1981.

Copies of the amended Permit are on file with the Office of Emergency Operations and are available for pubic inspection and copying in Room B-210, 2000 M Street, N.W., Washington, D.C.

Issued in Washington, D.C. November 13, 1981.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 81-34201 Filed 11-27-81; 8:45 a.m.]

BILLING CODE 6450-01-M

[1] In the recent reorganization of DOE, responsibility for Presidential Permits was transferred from ERA to the Office of Environmental Protection, Safety, and Emergency Preparedness. DOE is in the process of redelegating authority.

Federal Energy Regulatory Commission

[Docket No. RM81-38]

Construction Work in Progress for Public Utilities; Service of Proposed Computer Model for Evaluating Impact of Alternative CWIP Policies and Staff Study on Cost of Capital

November 20, 1981.

Attached is the material that the Commission staff noticed would be served on the parties to the proceeding. *See* "Notice of Inclusion of Material in the Public File and Service on Parties to the Proceeding", Docket No. RM81-38, (Issued November 3, 1981).

Any questions on the attached material and all requests for copies of

the cited computer programs should be addressed to: Ronald Rattey, Office of Regulatory Analysis, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8186.

Comments on this material are due by December 23, 1981, which is the revised deadline for reply comments. Please address these comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

PROPOSED COMPUTER MODEL FOR EVALUATING

IMPACTS OF ALTERNATIVE CWIP POLICIES AND

STAFF STUDY ON COST OF CAPITAL

Office of Regulatory Analysis

Federal Energy Regulatory Commission

November 1981

Table of Contents

PART I

PROPOSED COMPUTER MODEL FOR ESTIMATING IMPACTS OF CWIP POLICY

1. Overview

The FERC staff has developed a computer model 1/ to estimate the impacts on rates and cash flow of the FERC permitting some or all construction work in progress (CWIP) in rate base. The model provides single year (or initial) impacts for individual electric utilities using known accounting information. Impacts can only be calculated for past years for which data are available. The model does not forecast financial or operating results into the future.

There are five important aspects of the model that are explained in more detail below. First, it uses Standard and Poor's Compustat II Annual Utility File as its primary source of data. Second, the model selects companies that qualify for a CWIP allowance on the basis of a variety of alternative tests. Third, the model calculates the amount of CWIP each qualified company is entitled to include in its rate base based on a ratio of CWIP to net plant in service constraint. Fourth, it estimates the absolute dollar and percentage impacts of the CWIP allowance on existing rates and cash flow, assuming each company currently applies tax normalization to the tax effects of the interest portion of its allowance for funds used during construction (AFUDC). Lastly, the model calculates, for comparison purposes, (1) the rate and cash flow impacts of the CWIP policy change assuming flow-through based rates and (2) the rate and cash flow impacts of the Commission's policy change from flow-through to tax normalization of the tax effects of AFUDC interest. An example of the computer model's output based on the rule as proposed is provided in Appendix E.

1/ A copy of the actual computer model (written in Fortran) is available upon request.

2. Data Sources

The model uses data from the Compustat II Annual Utility File produced and serviced by Standard & Poor's Compustat Services, Inc. This file contains financial and operating data for approximately 250 Class A electric and natural gas utilities of which 164 have electric operations. A listing of the 164 companies is provided in Appendix A. Appendix B lists the Compustat data items used in the model.

Three data items are specified as external to the Compustat data base: (1) the marginal income tax rate, (2) the short-term debt rate, and (3) the cost of common equity. A marginal income tax rate of 48% is assumed as an approximation of the composite federal/state income tax rate.

Staff proposes to use, for all companies, the average prime rate as a proxy for the short-term debt rate. The embedded costs of long-term debt and preferred stock are estimated by taking each company's actual preferred dividends and long-term interest expenses and dividing them, respectively, by the average of beginning and end of year outstanding long-term debt and preferred stock. A similar procedure for the cost of short-term debt is not reasonable because of the substantial fluctuations that occur over the course of each year in some companies' short-term debt accounts.

For the cost of common equity, staff proposes to use a procedure that was suggested in a recent staff report on rate of return. 2/ That procedure involves dividing companies into risk classes based on bond ratings and assigning each class a different cost of common equity. The following risk classes and costs of common equity capital estimates are proposed:

Bond Rating Risk Class	Cost of Common equity				
	1976	1977	1978	1979	1980
1. Above A+	11%	11%	12%	13%	15%
2. A+ to A-	12%	12%	13%	14%	16%
3. Below A-	13%	13%	14%	15%	17%

3. Determination of Which Companies Qualify for CWIP Allowance

The model provides a variety of criteria upon which companies can be screened to determine which qualify for inclusion of CWIP in rate base. The screening can be on the basis of a one- or two-pronged test. The tests can be as strict or lenient as desired. By appropriate specification of the criteria, all companies can be made to qualify for a CWIP allowance.

The actual definitions of the criteria on which the model permits screening are provided in Appendix C. The first-prong criteria are:

1. Bond Rating
2. Before Tax Interest Coverage Ratio (Actual)
3. Market-to-Book Ratio
4. Internal Cash Flow to Total Sources of Funds Ratio
5. Before Tax Interest Coverage Ratio (Hypothetical)

2/ "Establishing the Rate of Return on Equity for Wholesale Electric Sales: Potential Regulatory Reforms" A Discussion Paper on Electric Rate of Return by a Staff Study Group, Federal Energy Regulatory Commission, December 15, 1980.

The second prong permits screening on the basis of:

1. CWIP to Net Plant in Service Ratio
2. AFUDC to Net Income Available for Common Ratio.

Once the screening is completed, the model lists the qualifying and non-qualifying companies and shows the values for each of the seven criteria for all companies.

4. Determination of CWIP Allowance

The amount of CWIP allowed is determined, in the model, by a specification of a ratio of CWIP to rate base. The CWIP allowed is then determined as the amount which, when added to net plant in service (the proxy for rate base excluding CWIP), brings the ratio of excluded CWIP to rate base to the specified level. By appropriate specification of the critical ratio the amount of CWIP included can be varied from 0 to 100 percent.

The model could easily be modified to use one of the other screening criteria as the basis for the determination of the CWIP allowance.

5. Rate and Cash Flow Impacts

Once the amount of CWIP allowed is determined for each qualifying company, the impacts of this CWIP inclusion in rate base on revenue requirements (the proxy for rates) and cash flow are estimated. The mathematical equations for these calculations are provided in Appendix D. These impacts assume that, initially, each company is fully normalizing the tax effects of the interest portion of AFUDC as required under the Commission's tax normalization policy. 3/

3/ See Order No. 144, Docket Nos. RM80-42, et al. (issued May 6, 1981).

These impacts are presented in two forms: dollar impacts and percentage impacts. Both are intended to estimate the impacts on FERC-jurisdictional sales only. The model initially estimates whole company impacts, that is, the impacts that would occur if all of the company's sales were affected by the CWIP policy change. The FERC jurisdictional dollar impact estimates are computed by multiplying the whole company dollar impacts by the ratio of the company's total electric revenues from sales for resale to total electric operating revenues. This calculation applies to both the revenue and cash flow impacts.

The percentage rate impacts are computed by dividing the whole company dollar rate impacts by the company's total electric operating revenues. The percentage cash flow impacts are computed by dividing the whole company cash flow impacts by the company's total internal cash flow. The divisors in both percentage impact calculations are adjusted to equal what they would have been had the company earned its cost of equity capital (based on the assumed values given in Section 2, above). That is, if a company's cost of common equity during 1980 was 16 percent and the company only realized a rate of return on common equity of 12 percent, the company's total operating revenues and internal cash flow are increased to equal what they would have been had the company actually earned 16 percent on common equity.

It should be noted that all impacts are estimated assuming that the cost of capital is the same whether CWIP is included in rate base or not. If the cost of capital is reduced by the inclusion of CWIP in rate base, the actual impacts would be less than the model estimates.

6. Flow-Through and Tax Normalization Policy Impact Comparisons.

For comparison purposes, the model calculates (1) the impacts on rates and cash flow of the CWIP policy change had the company initially been flowing through the tax effects of the interest portion of AFUDC and (2) the impacts of the Commission's recent policy change from flow-through to tax normalization of the tax effects of the interest portion of AFUDC. These mathematical relationships are also provided in Appendix D.

The former impacts (of the CWIP policy change with a flow-through base case) provide information on what would happen if the Commission currently required flow-through of the tax effects of the interest portion of AFUDC. That is, these are estimates of how a CWIP policy change would affect rates and cash flow absent the Commission's Order No. 530-B or Order No. 144 tax normalization policy.

The latter impacts (of tax normalization over flow-through) provide information on how the Commission has already affected the rates and cash flow of companies by instituting its tax normalization policy.

PART II

COST OF CAPITAL DIFFERENCE STUDY

1. Introduction and Summary of Conclusions

The question is asked: Assuming there is a difference in the cost of capital to a utility with CWIP in rate base versus without CWIP in rate base, 1/ how large would that difference have to be for customers, as a group, to be indifferent between the two policies? Indifference, as used here, is based solely on considerations of the present value of the alternative future revenue requirement streams discounted at the customer group's discount rate.

Staff has evaluated this question empirically using projections of revenue requirements for three single project cases: (1) a coal generating plant with scrubbers, (2) a coal generating plant without scrubbers, and (3) a nuclear generating plant. The results from these studies are consistent with a priori reasoning:

(1) If the customer group's discount rate approximates the utility's after-tax cost of capital, the customer group is indifferent between a CWIP and an AFUDC policy even if there is no difference in the utility's cost of capital under the two policies.

(2) For customer discount rates below the utility's after-tax cost of capital, the customer group would prefer a CWIP policy to an AFUDC policy even if the cost of capital under a CWIP policy was greater than that under an AFUDC policy.

(3) For customer discount rates above the utility's after-tax cost of capital, there is a direct relationship between the size of the required reduction in the cost of capital under a CWIP policy and the customer discount rate. That is, the greater the customer discount rate the greater must be the reduction in the cost of capital under a CWIP policy to make customers indifferent between the two policies.

The study does not address the issue of the appropriate customer discount rate. Nor does the study address the issue of whether and to what extent the cost of capital is affected by the alternative policies. The study also assumes that the customer discount rate is the same under both policies. These questions presumably are addressed by commenters in this proceeding whose arguments can be evaluated by the Commission.

1/ The CWIP and no-CWIP policies refer to the two methods used to recover carrying charges incurred during the construction period. The latter, the no CWIP in rate base method, is also referred to as the AFUDC method, since the carrying charges are capitalized on a utility's books during the construction period as Allowance for Funds Used During Construction (AFUDC) and recovered by the utility through amortization in rates over the operating life of the associated plant. The CWIP in rate base method (or simply, CWIP method) permits the recovery of the construction carrying costs as they are incurred by the utility.

Methodology

To evaluate the above questions, staff took the following steps:

(1) obtained reasonable time patterns of direct construction costs for baseload steam-electric generating plants,

(2) projected annual revenue requirements during the construction periods and operating lives of the plants under the alternative methods of CWIP and AFUDC, and

(3) computed the cost of capital difference between the CWIP and AFUDC methods necessary to make customers indifferent for given customer discount rates.

For the first step, staff used the CONCEPT-5 Computer Code of Oak Ridge National Laboratory. 1/ This model estimates construction costs for various types of plants and locations. Three types of plant were selected for analysis, and the following assumptions were used:

	Case I	Case II	Case III
Plant Type:	Coal with scrubbers	Coal without scrubbers	Nuclear
Unit Size:	600 MW	600 MW	1000 MW
No. of Units:	1	1	1
Location:	Middletown, USA	Middletown, USA	Middletown, USA
Steam Supply System Purchase Date	1982	1982	1982
Construction Permit Date:	1982	1982	1982
Commercial Operation Date:	1988	1988	1990

Cost Escalation: Extrapolation of historical U.S. average cost trends.

The sole purpose of using this model was to obtain some reasonable estimates of construction cost patterns in nominal dollars and exclusive of AFUDC. 1/ It is believed that the results of the cost of capital difference study are not significantly affected by the construction cost patterns obtained.

The CONCEPT-5 Computer Code produced the following estimates of construction costs:

Year	Case I	Case II	Case III
		$ Millions	
1982	93.5	83.6	169.2
1983	162.4	136.6	118.7
1984	152.3	129.1	272.6
1985	144.2	98.0	180.8
1986	45.3	71.3	275.9
1987	20.6	17.2	152.2
1988			71.9
1989			31.6

1/ User's instructions for the CONCEPT-5 Computer Code, Oak Ridge National Laboratory, operated by Union Carbide Corporation for the Department of Energy, is available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

1/ The CONCEPT-5 Computer Code does not allow for calculating direct construction costs exclusive of AFUDC. To keep the AFUDC component of the costs to a minimum, staff specified an AFUDC rate of 0.001 percent.

The second and third steps were accomplished using a general cost of service model 1/ that used the direct construction costs to compute revenue requirements over the construction and operation phases of the project. Revenue requirements were computed under both the CWIP and AFUDC policies. The model was modified to discount the revenue requirement streams under both the CWIP and AFUDC policies at specific discount rates and to iteratively modify the cost of capital assumption in the CWIP case until the present value of the CWIP revenue requirements stream equaled the present value of the AFUDC revenue requirements stream.

There are a number of important features of this modeling effort that should be highlighted.

First, the model incorporates the new depreciation schedules of the Accelerated Cost Recovery System in the Economic Tax Recovery Act of 1981. As the hypothesized plants go into operation after 1985, the schedules applicable to post-December 31, 1985 property are used.

A marginal federal tax rate of 46 percent is coupled with a 2 percent state income tax rate. An ad volorem tax rate of 1 percent is also used. Investment tax credits are ignored as their effects would be identical under the two policies.

1/ The specific model used was developed by staff and is available upon request. However, it is believed that there are a number of similar cost of service models available that could alternatively be used.

A constant debt-equity ratio and constant cost rates for debt and equity are assumed during both the construction period and operating lives of the plants. If the AFUDC rate were specified as different than the rate of return on rate base, one policy would always result in higher revenue requirements than the other and, thus, cause a bias in the analysis of the issue addressed in this study. Although the model does not explicitly incorporated preferred stock as a source of financing, it can be incorporated into the specification of the debt-equity ratio and cost of common equity used. To be more specific, the capital structure and cost rates used in the AFUDC base case are:

Type of Capital	Percent	Cost	Weighted Cost
Debt	50	14	7.00
Equity	50	17	8.50
	100		15.50

The resulting overall cost of capital/rate of return is approximately the same as that which would have been obtained using the following alternative specification:

Type of Capital	Percent	Cost	Weighted Cost
Debt	50	14	7.00
Preferred Stock	15	15	2.25
Common Equity	35	18	6.30
	100		15.55

A book life of 30 years is assumed for both nuclear and coal plants.

Finally, operation and maintenance expenses are assumed to be zero since they would be the same under both policies and thus would not affect the results.

The base-case after-tax cost of capital to the utility is 12.2044. 1/ This remains the cost of capital for the AFUDC method throughout the analysis. In the third step, the model iteratively adjusts the cost of capital for the CWIP method until the present value of the CWIP revenue requirement stream equals the present value of the AFUDC revenue requirement stream for a given discount rate.

The range of discount rates examined in the model is from 10 percent to 20 percent. Actually, it is unnecessary to evaluate the results for discount rates below the base case after tax cost of capital since this always implies a negative cost of capital difference. A negative cost of capital difference means that the cost of capital under a CWIP policy would have to be greater than the cost of capital under an AFUDC policy in order that customers be made indifferent.

1/ After tax Cost of Capital = [(debt ratio)x(debt cost)x(1-Federal tax rate)x(1-State tax rate)]+[(equity ratio)x(equity cost)]

= (.5)(14.0)(1-.46)(1-.02)+(.5)(17.0)

= 12.2044

Results

The following table summarizes the results of staff's analysis:

Customer Discount Rate (Percent)	Required Reduction in Overall Cost of Capital Under a CWIP Policy to Make Customers Indifferent (Percent)		
	Case 1 Coal Plant with Scrubbers	Case 2 Coal Plant Without Scrubbers	Case 3 Nulcear Plant
10.0	(1.46)	(1.44)	(2.09)
12.0	(.15)	(.14)	(.40)
12.2044	(.02)	(.01)	(.24)
14.0	1.03	1.03	1.10
16.0	2.09	2.09	2.44
18.0	3.06	3.04	3.63
20.0	3.94	3.92	4.70

NOTE: ( ) indicates negative numbers.

APPENDIX A

LIST OF PUBLIC UTILITIES IN THE COMPUSTAT II

UTILITY FILE BY INDUSTRY CLASSIFICATION

ELECTRIC SERVICES -- 4911
ALABAMA POWER
ALLEGHENY POWER SYSTEM
AMERICAN ELECTRIC POWER
APPALACHIAN POWER
ARKANSAS POWER & LIGHT
ATLANTIC CITY ELECTRIC
BANGOR HYDRO-ELEC CO
BLACK HILLS POWER & LIGHT CO
BLACKSTONE VALLEY ELECTRIC
BOSTON EDISON CO
CAMBRIDGE ELECTRIC LIGHT CO
CANAL ELECTRIC CO
CAROLINA POWER & LIGHT
CENTRAL & SOUTH WEST CORP
CENTRAL MAINE POWER CO
CENTRAL POWER & LIGHT
CENTRAL VERMONT PUB SERV
CLEVELAND ELECTRIC ILLUM
COLUMBUS & SOUTHERN OHIO
COMMONWEALTH EDISON
CONCORD ELECTRIC CO
CONNECTICUT LIGHT & POWER CO
DALLAS POWER & LIGHT
DETROIT EDISON CO
DUKE POWER CO
DUQUESNE LIGHT CO
EASTERN UTILITIES ASSOC
EDISON SAULT ELECTRIC
EL PASO ELECTRIC CO
EMPIRE DISTRICT ELECTRIC CO
FLORIDA POWER & LIGHT
FLORIDA POWER CORP
GENERAL PUBLIC UTILITIES
GEORGIA POWER
GRANITE STATE ELECTRIC CO
GREEN MOUNTAIN POWER CORP
GULF POWER
GULF STATES UTILITIES CO
HARTFORD ELECTRIC LIGHT CO
HAWAIIAN ELECTRIC CO
HOUSTON INDUSTRIES INC
HOUSTON LIGHTING & POWER CO
IDAHO POWER CO
INDIANA & MICHIGAN ELECTRIC
INDIANAPOLIS POWER & LIGHT
JERSEY CENTRAL POWER & LIGHT
KANSAS CITY POWER & LIGHT
KANSAS GAS & ELECTRIC
KENTUCKY POWER
KENTUCKY UTILITIES CO
KINGSPORT POWER CO
LOUISIANA POWER & LIGHT
MAINE PUBLIC SERVICE
MASSACHUSETTS ELECTRIC CO
METROPOLITAN EDISON
MIDDLE SOUTH UTILITIES
MINNESOTA POWER & LIGHT
MISSISSIPPI POWER & LIGHT
MISSISSIPPI POWER
MONONGAHELA POWER
NARRAGANSETT ELECTRIC
NEVADA POWER CO
NEW ENGLAND ELECTRIC SYSTEM
NEW ENGLAND POWER
NORTHEAST UTILITIES
OHIO EDISON CO
OHIO POWER
OKLAHOMA GAS & ELECTRIC
OTTER TAIL POWER CO
PENNSYLVANIA ELECTRIC CO
PENNSYLVANIA POWER & LIGHT
PENNSYLVANIA POWER CO
PORTLAND GENERAL ELECTRIC CO
POTOMAC EDISON
POTOMAC ELECTRIC POWER
PUBLIC SERVICE CO OF IND
PUBLIC SERVICE CO OF N H
PUBLIC SERVICE CO OF N MEX
PUBLIC SERVICE CO OF OKLA
PUGET SOUND POWER & LIGHT
SAVANNAH ELEC & POWER
SOUTHERN CALIF EDISON CO
SOUTHERN CO
SOUTHWESTERN ELECTRIC PWR CO
SOUTHWESTERN ELEC SERVICE
SOUTHWESTERN PUBLIC SERV CO
TECO ENERGY INC
TEXAS ELECTRIC SERVICE CO
TEXAS-NEW MEXICO POWER CO
TEXAS POWER & LIGHT CO
TEXAS UTILITIES CO
TOLEDO EDISON CO
TUCSON ELECTRIC POWER CO
UNION ELECTRIC CO
UNITED ILLUMINATING CO
UPPER PENINSULA POWER
UTAH POWER & LIGHT
VIRGINIA ELECTRIC & POWER
WEST PENN POWER
WEST TEXAS UTILITIES
WESTERN MASSACHUSETTS EL CO
WHEELING ELECTRIC CO

ELECTRIC AND OTHER SERVICES COMBINED -- 4931
ARIZONA PUBLIC SERVICE CO
BALTIMORE GAS & ELECTRIC
CP NATIONAL CORP
CENTRAL HUDSON GAS & ELEC
CENTRAL ILLINOIS LIGHT
CENTRAL ILL PUBLIC SERVICE
CINCINNATI GAS & ELECTRIC
CITIZENS UTILITIES CO-CL A
COMMONWEALTH ELECTRIC CO
COMMONWEALTH ENERGY SYSTEM
CONSOLIDATED EDISON OF NY
CONSUMERS POWER CO
DAYTON POWER & LIGHT
DELMARVA POWER & LIGHT
FITCHBURG GAS & ELEC LIGHT
ILLINOIS POWER CO
INTERSTATE POWER CO
IOWA ELECTRIC LIGHT & PWR
IOWA-ILLINOIS GAS & ELEC
IOWA POWER & LIGHT
IOWA PUBLIC SERVICE CO
IOWA RESOURCES INC
IOWA SOUTHERN UTILITIES CO
KANSAS POWER & LIGHT
LAKE SUPERIOR DIST POWER CO
LONG ISLAND LIGHTING
LOUISVILLE GAS & ELECTRIC
MADISON GAS & ELECTRIC CO
MISSOURI EDISON
MISSOURI POWER & LIGHT
MISSOURI PUBLIC SERVICE CO
MISSOURI UTILITIES
MONTANA POWER CO
NEW ORLEANS PUBLIC SERVICE
NEW YORK STATE ELEC & GAS
NIAGARA MOHAWK POWER
NORTHERN INDIANA PUBLIC SERV
NORTHERN STATES POWER-MN
NORTHERN STATES POWER-WISC
NORTHWESTERN PUBLIC SERV CO
ORANGE & ROCKLAND UTILITIES
PACIFIC GAS & ELECTRIC
PACIFIC POWER & LIGHT
PHILADELPHIA ELECTRIC CO
PUBLIC SERVICE CO OF COLO
PUBLIC SERVICE ELEC & GAS
ROCHESTER GAS & ELECTRIC
ST JOSEPH LIGHT & POWER
SAN DIEGO GAS & ELECTRIC
SIERRA PACIFIC POWER CO
SOUTH CAROLINA ELEC & GAS
SOUTHERN INDIANA GAS & ELEC
UNION LIGHT, HEAT & POWER CO
WASHINGTON WATER POWER
WISCONSIN ELECTRIC POWER
WISCONSIN POWER & LIGHT
WISCONSIN PUBLIC SERVICE

GAS AND OTHER SERVICES COMBINED -- 4932
CENTRAL LOUISIANA ELECTRIC
CENTRAL LOUISIANA ENERGY CP
MICHIGAN POWER CO
MONTANA-DAKOTA UTILITIES
UGI CORP

PRIMARY DATA ITEMS USED IN IMPACT ANALYSIS

Compustat Data Item Number	Data Item Name
6	Long Term Debt - Total
12	Operating Revenues - Total
17	Income Taxes - Current Federal
19	Operating Income - Total
20	Gross Income (Income Before Interest Charges)
21	Interest on Long-Term Debt
27	Preferred Dividend Requirements
28	Available For Common After Adjustment for Common Stock Equivalents
34	Operating Revenues - Electric
53	Price - High
54	Price - Low
56	Common Shares Outstanding
58	Adjustment Factor - Cumulative
63	Electric Operating Revenues - Sales for Resales
122	Deferred Income Tax - Net
136	Allowance For Funds Used During Construction - Equity Portion
141	Subsidiary Preferred Dividends
144	Allowance For Funds Used During Construction - Borrowed Funds Portion
145	Preference Dividend Requirements
153	Net Utility Plant - Electric
156	Net Utility Plant - Nuclear Fuel
175	Common Equity - Total
176	Subsidiary Preferred Stock at Carrying Value
178	Preferred Stock at Carrying Value
180	Preference Stock at Carrying Value
191	Short-Term Debt - Total
207	Total Funds From Operations
214	Total Sources/Applications of Funds
244	Construction Work In Progress - Electric
399	S & P Corporate Bond Rating by Class of Debt

utility would qualify for a CWIP allowance if the rate increase without CWIP fails to bring the utility to the specified critical level of this interest coverage ratio.

The definitions of the variables used in calculating this ratio are the same as those used in the estimation of the rate and cash flow impacts shown in Appendix D, infra.

Second Prong Criteria

(1) CWIP to Net Plant in Service Ratio

$$= \left[\frac{c(244,t) + c(244,t-1)}{[c(153,t)+c(156,t)-c(244,t)+c(153,t-1)+c(156,t-1)-c(244,t-1)]}\right](100.0)$$

(2) AFUDC to Net Income Available for Common Ratio

$$= \frac{[c(144,t) + c(136,t)]}{[\quad c(28,t) \quad]} (100.0)$$

APPENDIX C

DEFINITIONS OF SCREENING CRITERIA

The first term in parentheses in the following variable definitions refers to data items as listed in the Utility Compustat II File. The second term refers to the year for which the data item is taken. For example, the term c(399,t) refers to the S & P Corporate Bond Rating (data item 399 in the Utility Compustat II File) for year t. Definitions of the Compustat data items are provided in Appendix B, supra. All other data items are as defined in Appendix D.

First Prong Criteria

(1) Bond Rating

$$= c(399,t)$$

(2) Before Tax Interest Coverage Ratio (Actual)

$$= \frac{c(17,t)+c(19,t)+c(122,t)+\min[c(20,t)-c19,t),(0.1)c(19,t)]}{c(21,t)}$$

(3) Internal Cash Flow to Total Sources of Funds Ratio

$$= \frac{[c(207,t)](100.0)}{[c(214,t)]}$$

(4) Market-to-Book Ratio

$$= \frac{\frac{c(53,t)+c(54,t)}{c(58,t)}}{\left[\frac{c(175,t)}{c(56,t)\cdot c(58,t)}\right] + \left[\frac{c(175,t-1)}{c(56,t-1)\cdot c(58,t-1)}\right]}$$

(5) Before Tax Interest Coverage Ratio (Hypothetical)

$$= \frac{rNP + \frac{y}{1-y}\left[j\left(\frac{P}{(TC+SI)}\right) + k\left(\frac{E}{(TC+S)}\right)\right] NP + \min[a\cdot CWIP, (0.1)rNP]}{I\left(\frac{D}{(TC+SI)}\right)NP}$$

This ratio is an estimate of a utility's before tax interest coverage on its electric utility operations only, and under the assumption that it earns its cost of common equity. A utility seeking a general rate increase in addition to an allowance of CWIP in rate base could compute this ratio based on the new rates it is seeking, excluding CWIP. A

APPENDIX D

Impact Model Relationships

The basic method used to derive equations for estimating the impacts of the policy changes consists of two steps. First, general equations are established for revenue requirements and internal cash flow. Second, calculus is used to evaluate the change in these equations resulting from an change in rate base (by allowing CWIP), all other factors held constant.

A utility's revenue requirement consists essentially of four components: depreciation, operation and maintenance expenses, return on rate base, and taxes. Only the latter two components are affected by a CWIP policy change. Thus, only these components are considered in establishing the initial revenue requirement equations.

Internal cash flow has five primary components: return on equity, deferred taxes, AFUDC, depreciation and investment tax credits. Since only the first three of these components are affected by a CWIP policy change, the initial internal cash flow equation includes only these components. For financial reporting, preferred dividends are often included as a source of internal cash flow. However, they are essentially required payments, and thus are excluded from the cash flows considered in cash flow impact analyses.

Another issue that should be highlighted at the outset is the effects on the overall rate of return on rate base, and the AFUDC rate, of increasing rate base (through the addition of CWIP) beyond the point where rate base equals the amount of long term capital. As this occurs, some short term debt must be

added to the capital structure so as to reflect a balanced financing of rate base and ensure that the return allowed on rate base (with CWIP added) plus the return allowed on the excluded CWIP (AFUDC) equals the sum of the actual costs of the long- and short-term capital used by the company to finance these assets. This issue is addressed in the modeling by partitioning the impacts of any CWIP allowance between that resulting from increasing rate base to the point where it equals total long term capital and that resulting from increasing rate base beyond that point up to a maximum of where rate base equals the total of long- and short-term capital.

Definitions of Variables Used in Impact Analyses

	Variable Name		Definition
(1)	APC	=	Allowance For Funds Used During Construction
		=	a · CWIPX
(2)	CWIP	=	Construction Work in Progress (As Reported)
		=	$\frac{c(244,t) + c(244,t-1)}{2.0}$
		=	CWIPA + CWIPX
(3)	CWIPA	=	CWIP Allowed in Rate Base
		=	dRB
		=	RB - NP
(4)	CWIPX	=	CWIP Excluded from Rate Base
		=	CWIP - CWIPA
		=	TP - RB
(5)	D	=	Long-Term Debt (Adjusted)
		=	$\frac{(DA)}{(TFA)}(NP + CWIP)$
(6)	DA	=	Long-Term Debt (As Reported)
		=	$\frac{c(6,t) + c(6,t-1)}{2.0}$
(7)	E	=	Common Equity (Adjusted)
		=	$\frac{(EA)}{(TFA)}(NP + CWIP)$
(8)	EA	=	Common Equity (As Reported)
		=	$\frac{c(175,t) + C(175,t-1)}{2.0}$

(9) ECP = Electric Operations Share of Internal Cash Flow Adjusted to Exclude Preferred and Preference Dividends and to Reflect an Earned Return on Common Equity Equal to the Cost of Common Equity. (Estimate of Total Internal Cash Flow)

$$= [c(207,t)-c(141,t)-c(27,t)-c(145,t)]\frac{[c(34,t)]}{[c(12,t)]} + \frac{[c(34,t)\ c(28,t)]}{[c(12,t)\quad]}\left[\frac{k}{\frac{(2.0)c(28,t)}{c(175,t)+c(175,t-1)}}-1\right]$$

(10) ER = Electric Operating Revenue Adjusted to Reflect an Earned Return on Common Equity Equal to the Cost of Common Equity (Estimate of Total Reuired Revenues)

$$= c(34,t) + \frac{[c(34,t)\ c(28,t)]}{[c(12,t)\quad]}\left[\frac{k}{\frac{(2.0)c(28,t)}{c(175,t)+c(175,t-1}}-1\right]\left[\frac{1}{1-y}\right]$$

(11) JAF = Jurisdictional Adjustment Factor

$$= \frac{c(63,t)}{c(34,t)}$$

(12) NP = Net Plant in Service (As Reported)

$$= \frac{c(153,t)+c(156,t)-c(244,t)+c(153,t-1)+(156,t-1)-c(244,t-1)}{2.0}$$

(13) P = Preferred Stock (Adjusted)

$$\frac{PA}{TPA}\ (NP + CWIP)$$

(14) PA = Preferred Stock (As Reported)

$$= \frac{c(176,t)+c(178,t)+c(180,t)+c(176,t-1)+c(178,t-1)+c(180,t-1)}{2.0}$$

(15) RB = Rate Base

= NP + CWIPA

(16) S = Short-Term Debt (Adjusted)

$$= \frac{SA}{TPA}\ (NP + CWIP)$$

(17) SA = Short-Term Debt (As Reported)

$$= \frac{c(191,t)+c(191,t-1)}{(2.0)}$$

(18) SI = Short Term Debt Included in Capital Structure for Determining Overall Rate of Return on Rate Base

= 0 ; RB ≤ TC

= RB-TC; RB > TC

(19) TC = Total Long-Term Capital (Adjusted)

= D + P + E

(20) TF = Total Long-Term Plus Short-Term Capital (Adjusted)

= D + P + E + S

= NP + CWIP

(21) TFA = Total Long-Term Plus Short-Term Capital (As Reported)

= DA + PA + EA + SA

(22) a = AFUDC rate

$$= s\left(\frac{S-SI}{CWIPX}\right) + r\left(1 - \frac{S-SI}{CWIPX}\right)$$

(23) i = Embedded Cost of Long-Term Debt

$$= \frac{c(21,t)}{DA}$$

(24) j = Embedded Cost of Preferred Stock

$$= \frac{c(27,t)+c(141,t)+c(145,t)}{PA}$$

(25) k = Cost of Common Equity

= User-Specified (See Text)

(26) r = Overall Rate of Return on Rate Base

$$= i\left(\frac{D}{TC+SI}\right) + j\left(\frac{P}{TC+SI}\right) + k\left(\frac{E}{TC+SI}\right) + s\left(\frac{SI}{TC+SI}\right)$$

(27) s = Cost of Short Term Debt

= User-Specified (at Average Prime Rate)

(28) y = Tax Rate

= User-Specified (at 0.48)

(29) dRB = Change in Rate Base (Due to CWIP Allowance)

= CWIPA

Some Preliminary Data Adjustments

Since most companies have assets other than electric utility plant and so as to ensure that each company's expenses for interest on debt (long and short term) and return on equity (preferred and common) equal the sum of return on rate base plus AFUDC on CWIP, each company's financial capital is scaled down to equal the sum of rate base plus CWIP. Net electric plant in service is used as a proxy for rate base excluding CWIP. Thus, initially, the amounts of long-term debt (DA), preferred stock (PA), common equity (EA), and short-term debt (SA) of each company are scaled down so that their sum equals the sum of the company's net electric plant in service (NP) plus CWIP. The adjusted values are denoted as D, P, E, and S, respectively.

The result of these adjustments, expressed in terms defined above, is:

$$r \cdot NP + a \cdot CWIP = i \cdot D + j \cdot P + k \cdot E + s \cdot S$$

Incremental CWIP Impact on Rates and Cash Flow with Tax Normalization

The general expression for the revenue requirements equation of the tax normalization base case is:

$$(30)\quad RRCN = r \cdot RB + \frac{y}{1-y}\left[r - i\left(\frac{D}{TC+SI}\right) - s\left(\frac{SI}{TC+SI}\right)\right] RB$$

or

$$= r \cdot RB + \frac{y}{1-y}\left[j\left(\frac{P}{TC+SI}\right) + k\left(\frac{E}{TC+SI}\right)\right] RB$$

This expression can be broken down into two components -- RRCN1 and RRCN2. For RB $\leq$ TC, SI = 0 so that equation (30) may be written as: */

$$(31)\quad RRCN1 = rRB + \frac{y}{1-y}\left[j\left(\frac{P}{TC}\right) + k\left(\frac{E}{TC}\right)\right]RB$$

The total change in (impact on) RRCN1 as a result of a change in rate base (RB), holding all other variables constant, is:

$$(32)\quad dRRCN1 = \left(\frac{\partial RRCN1}{\partial RB}\right)dRB = \left[r + \frac{y}{1-y}\left(j\frac{P}{TC} + k\frac{E}{TC}\right)\right]dRB$$

This may be interpreted as saying that for every dollar increase in rate base (RB), revenue requirements will increase by:

$$r + \frac{y}{1-y}\left(j\frac{P}{TC} + k\frac{E}{TC}\right)$$

For RB > TC, SI = RB-TC and equation (33) is the appropriate specification for RRCN2:

$$(33)\quad RRCN2 = rRB + \frac{y}{1-y}\left[j \cdot \frac{P}{TC+SI} + k \cdot \frac{E}{TC+SI}\right]dRB$$

This reduces to:

$$(34)\quad RRCN2 = (iD + jP + kE + s[RB-TC)] + \frac{y}{1-y}(jP + kE)$$

The impact on RRCN2 as a result of a change in RB, holding all other variables constant, is:

$$(35)\quad dRRCN2 = s \cdot dRB$$

*/ The mnemonics used for the revenue requirement and cash flow equations may be interpreted as follows:

(1) The first two letters refer to revenue requirement (RR) or cash flow (CF)
(2) The second two letters refer to a CWIP policy with a tax normalization policy (CN), CWIP with flow-through (CF) or tax normalization over flow-through (NF)
(3) When used, the number 1 refers to the case where RB $\leq$ TC and the number 2 refers to the case where RB > TC.

When the letter "d" precedes any of these expressions it refers to the change in revenue requirements or cash flow (resulting from a a change in some other variable).

The general cash flow expression for the tax normalization base case is:

$$(36)\quad CPCN = k\left(\frac{E}{TC+SI}\right)RB + y\left[iD + sS - i\left(\frac{D}{TC+SI}\right)RB - s\left(\frac{SI}{TC+SI}\right)RB\right] - a \cdot CWIPX$$

This, too, can be broken down into two components -- CPCN1 and CPCN2. For $RB \leq TC$, equation (36) becomes:

$$(37)\quad CPCN1 = k\left(\frac{E}{TC}\right)RB + y\left[iD + sS - i\left(\frac{D}{TC}\right)RB\right] - aCWIPX$$

The impact of a change in RB on CPCN1 is:

$$(38)\quad dCPCN1 = \left[k\left(\frac{E}{TC}\right) + r - y(i)\left(\frac{D}{TC}\right)\right]dRB$$

For $RB > TC$, equation (39) is appropriate for CPCN2:

$$(39)\quad CPCN2 = k\left(\frac{E}{TC+SI}\right)RB + y\left[iD + sS - i\left(\frac{D}{TC+SI}\right)RB - s\left(\frac{SI}{TC+SI}\right)RB\right] - aCWIPX$$

The impact of a change in RB on CPCN2 is:

$$(40)\quad dCPCN2 = (1-y)s \cdot dRB$$

Incremental CWIP Impact on Rates and Cash Flow with Flow-Through

The general revenue requirement expression for the flow-through case is:

$$(41)\quad RRCF = rRB + \left(\frac{y}{1-y}\right)(rRB - iD - sS)$$

For $RB \leq TC$, SI = 0 and the form of RRCF1 is the same as equation (41), whose total derivative, holding all variables except RB constant, is:

$$(42)\quad dRRCF1 = \left(\frac{y}{1-y}\right)r \cdot dRB$$

Likewise for $RB > TC$, SI = RB - TC and equation (41) expresses RRCF2 whose total derivative, holding all variables except RB constant, is:

$$(43)\quad dRRCF2 = \left(\frac{y}{1-y}\right)s \cdot dRB$$

The general cash flow expression in the flow-through case where there are no deferred taxes is:

$$(44)\quad CFCF = k\left(\frac{E}{TC+SI}\right)RB - aCWIPX$$

For $RB \leq TC$, SI = 0 and CFCF may be expressed as:

$$(45)\quad CFCF1 = k\left(\frac{E}{TC}\right)RB - aCWIPX$$

Taking the total derivative of CFCF1, holding all variables except RB constant, results in the following expression for the impact of changing RB on cash flow:

$$(46)\quad dCFCF1 = \left(\frac{kE}{TC} + r\right)dRB$$

For $RB > TC$ and SI = RB - TC, equation (44) expresses the full CFCF2 relationship. The total change in CFCF2 due to a change in RB, holding all other variables constant, is:

$$(47)\quad dCFCF2 = s \cdot dRB$$

Incremental Impact on Rates and Cash Flow of Tax Normalization over Flow-Through of the Tax Effects of the Interest Portion of AFUDC

To understand the derivation of these impacts, it is necessary to consider the meaning of dRRCN and dRRCF. The former (dRRCN) can be interpreted as the difference between normalization revenue requirements with some CWIP included in rate base and normalization revenue requirements with no CWIP included in rate base. Similarly, dRRCF can be interpreted as the difference between flow-through revenue requirements with some CWIP included in rate base and flow-through revenue requirements with no CWIP included in rate base. When 100 percent of CWIP is included in rate base, there is no timing

difference so that the normalization revenue requirement with 100 percent CWIP included in rate base is equal to the flow-through revenue requirement with 100 percent of CWIP included in rate base. Thus, when dRRCN and dRRCF are evaluated with 100 percent of CWIP included in rate base, the difference (dRRCF minus dRRCN) equals the difference between normalization revenue requirements with no CWIP included in rate base and flow-through revenue requirements with no CWIP in rate base. Thus, the following impact equations are obtained for the impact on revenue requirements of the Commission's tax normalization policy (over a flow-through policy) applied to the tax effects of the interest portion of APUDC:

(48) $dRRNF = dRRCF - dRRCN$

(49) $dRRNF1 = \left(\frac{y}{1-y}\right) i \left(\frac{D}{TC}\right) dRB \quad ; RB \leq TC$

(50) $dRRNF2 = \left(\frac{y}{1-y}\right) s \cdot dRB \quad ; RB > TC$

The above analysis of the normalization/flow-through revenue requirement impacts applies equally to the normalization/flow-through cash flow impacts:

(51) $dCFNF = dCFCF - dCFCN$

(52) $dCFNF1 = y \cdot i \left(\frac{D}{TC}\right) \cdot dRB \quad ; RB \leq TC$

(53) $dCFNF2 = y \cdot s \cdot dRB \quad ; RB > TC$

Jurisdictional Dollar Impacts

From equations (32), (35), (42), (43), (49), and (50), the following revenue requirement impacts are obtained:

(54) $dRRCN = dRRCN1 + dRRCN2$

(55) $dRRCF = dRRCF1 + dRRCF2$

(56) $dRRNF = dRRNF1 + dRRNF2$

These equations give the incremental dollar impacts on revenue requirements for the entire electric operations of qualifying companies.

From equations (38), (40), (46), (47), (52), and (53), the following cash flow impacts are obtained:

(57) $dCFCN = dCFCN1 + dCFCN2$

(58) $dCFCF = dCFCF1 + dCFCF2$

(59) $dCFNF = dCFNF1 + dCFNF2$

These equations give the incremental dollar impacts on cash flow for the entire electric operations of qualifying companies.

However, the FERC does not have jurisdiction over the entire electric operations of most companies. Thus, the impacts derived above must be scaled down to approximate only the effects of the FERC's policy changes on the companies examined. This is accomplished by multiplying the dollar impacts for the entire electric operations of each company, given by equations (54) through (59), by the ratio of the company's electric operating revenues from sales for resale to its total electric operating revenues. See definition (11), supra.

Percent Impact

The percentage impacts relate the dollar impacts to an appropriate base to provide some perspective on the effects of the policy changes.

The percentage revenue requirement impacts relate the incremental revenue requirement impacts -- equations (54) through (56) -- to total required revenues to provide an estimate of the percentage

increase in rates resulting from the policy changes. The total required revenues are estimated as total jurisdictional electric operating revenues adjusted to reflect the company earning the cost of common equity. See definition (10), supra.

The percentage cash flow impacts relate the cash flow impacts -- equations (57) through (59) -- to the total electric operations share of internal cash flow. They show the percentage increase in cash flow attributable to the policy changes. The total internal cash flow, like total operating revenues, is adjusted to reflect the company earning the cost of common equity. See definition (9), supra.

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SAMPLE OUTPUT OF CWIP IMPACTS COMPUTER MODEL

Assumptions Employed:

1. S&P bond ratings were used as the first prong criterion.
2. The maximum bond rating qualifying for CWIP treatment was BBB+.
3. The ratio of CWIP to net plant in service was used as the second prong criterion.
4. The minimum qualifying CWIP to net plant ratio was 40 percent.
5. For qualifying utilities, CWIP was allowed to the extent it reduced the ratio of excluded CWIP to net plant in service plus included CWIP to 40 percent.
6. The model was run for 1980.
7. The risk classes and costs of equity used were as follows:

   AAA+ to AA- 15%

   A+ to A- 16%

   BBB+ to D 17%

8. The short term interest rate used was 15 percent.
9. The marginal income tax rate used was 48 percent.

1980 COMPUSTAT II ELECTRIC UTILITY DATA NONQUALIFYING COMPANIES

	Standard 1 (BBB* Max)					Standard 2 (40.0 Min)	
	S&P bond rating	Interest coverage ratio (X)	Cash flow to T.S.O.F. (%)	Market Book ratio (X)	Hypothetical int. cov. ratio (x)	CWIP to net plant in Service (%)	AFUDC to net earnings (%)
Alabama Power	BBB–	2.27	43.69	* * *	3.52	34.68	57.14
Allegheny Power System	NA	2.84	60.66	0.69	4.42	10.79	21.77
American Electric Power	NA	2.25	43.82	0.83	3.58	19.54	32.74
Appalachian Power	BBB–	2.18	41.97	* * *	3.75	20.26	25.21
Atlantic City Electric	A+	2.77	46.58	0.79	4.85	28.33	25.80
Bangor Hydro-Elec Co	NA	2.94	37.62	0.82	5.11	7.50	40.92
Black Hills Power & Light Co	BBB–	4.43	72.93	1.03	6.10	2.54	8.54
Blackstone Valley Electric	NA	* * *	14.07	* * *	* * *	2.37	18.20
Boston Edison Co	BBB	2.64	58.19	0.70	4.11	19.73	63.96
Cambridge Electric Light Co	A	3.04	58.00	* * *	6.38	6.67	9.36
Canal Electric Co	A	3.44	100.00	* * *	4.97	0.49	0.57
Carolina Power & Light	A	1.81	36.88	0.75	4.06	66.08	89.47
Central & South West Corp	NA	3.04	42.96	0.80	4.89	34.97	42.09
Central Maine Power Co	BBB+	2.24	39.55	0.74	4.88	20.09	52.86
Central Power & Light	AA	3.67	48.74	* * *	5.09	65.43	45.02
Central Vermont Pub. Serv	NA	1.97	47.70	0.66	5.11	47.74	61.71
Cleveland Electric Illum	AA–	2.27	26.42	0.81	4.66	44.42	67.50
Columbus & Southern Ohio	BBB+	2.30	31.09	0.81	4.31	26.78	37.20
Commonwealth Edison	A	1.92	38.02	0.72	3.62	64.77	88.53
Concord Electric Co	NA	3.13	38.79	0.53	5.02	1.54	7.61
Connecticut Light & Power Co	BBB+	2.24	38.67	* * *	4.51	34.32	54.59
Dallas Power & Light	AAA	5.47	77.38	* * *	7.06	49.69	20.44
Duke Power Co	A+	1.87	44.47	0.73	4.39	80.16	83.58
Duquesne Light Co	A	2.29	42.83	0.76	4.35	26.50	45.35
Eastern Utilities Assoc	NA	2.53	16.38	0.70	4.01	30.52	110.29
Edison Sault Electric Co	NA	2.93	95.99	0.83	3.96	3.15	4.91
El Paso Electric Co	AA–	3.36	31.24	0.85	5.45	142.93	87.66
Empire District Electric Co	A	2.17	60.02	0.76	4.20	20.47	32.05
Florida Power & Light	A+	2.41	57.80	0.69	4.22	29.59	47.42
Florida Power Corp	A+	2.48	41.79	0.72	4.81	11.21	17.05
General Public Utilities	NA	1.90	92.20	0.26	4.16	9.48	132.29
Georgia Power	BBB+	2.54	43.15	* * *	3.81	23.47	28.57
Granite State Electric Co	NA	2.50	57.91	* * *	4.34	1.41	1.88
Green Mountain Power Corp	NA	3.26	31.68	0.73	4.45	15.63	5.99
Gulf Power	A+	1.81	33.38	* * *	3.61	32.82	66.98
Gulf States Utilities Co	A	2.10	26.28	0.69	3.95	78.75	79.62
Hartford Electric Light Co	BBB+	2.49	46.59	* * *	4.83	29.40	42.86
Hawaiian Electric Co	A	3.09	47.58	0.72	4.74	11.27	23.75
Houston Industries Inc	NA	3.22	52.55	0.81	4.85	41.73	27.74
Houston Lighting & Power Co	AA	3.13	57.96	* * *	4.94	41.68	23.89
Idaho Power Co	A	2.34	46.37	0.74	3.99	15.36	31.54
Indiana & Michigan Electric	BBB	2.07	43.67	* * *	3.87	33.30	65.42
Indianapolis Power & Light	AA	3.60	65.46	0.83	4.56	14.63	22.72
Jersey Central Power & Light	BBB–	2.24	80.07	* * *	4.72	21.33	85.40
Kansas City Power & Light	A	2.66	47.36	0.66	4.23	55.04	56.59
Kentucky Power	A	2.36	44.36	* * *	4.07	22.00	33.94
Kentucky Utilities Co	AA	2.44	35.07	0.71	4.32	36.83	* * *
Kingsport Power Co	NA	0.87	15.64	* * *	2.28	4.66	–2.09
Main Public Service	NA	* * *	46.87	0.57	* * *	49.18	110.20
Massachusetts Electric Co	A	4.08	100.00	* * *	4.91	1.60	1.32
Metropolitan Edison	BB	0.99	116.38	* * *	4.35	1.31	–37.66
Middle South Utilities	NA	1.30	16.11	0.66	3.20	107.09	122.48
Minnesota Power & Light	A	2.96	71.34	0.77	4.06	38.62	28.17
Mississippi Power & Light	BBB+	3.45	100.00	* * *	4.28	4.23	4.33
Mississippi Power	A	2.72	58.71	* * *	3.87	3.77	2.70
Monongahela Power	A–	2.18	61.18	* * *	4.04	8.76	18.40
Warragansett Electric	A+	3.27	53.13	* * *	4.34	1.38	1.07
Nevada Power Co	BBB	2.37	50.53	1.01	5.17	5.08	8.90
New England Electric System	NA	3.02	47.42	0.78	4.81	23.27	34.14
New England Power	A+	2.85	30.09	* * *	5.00	44.08	51.88
Northeast Utilities	NA	2.22	39.54	0.64	3.96	30.32	58.62
Ohio Power	BBB+	2.25	57.23	* * *	3.64	8.54	15.02
Oklahoma Gas & Electric	A	2.61	66.15	0.80	4.67	9.74	40.33
Otter Tail Power Co	A	2.35	29.13	0.80	4.49	57.33	62.08
Pennsylvania Electric Co	BBB–	1.92	100.00	* * *	4.14	3.68	16.77
Pennsylvania Power & Light	A	1.48	21.66	0.70	4.35	84.34	117.33
Pennsylvania Power Co	BBB+	2.19	23.41	* * *	4.39	33.12	55.91
Portland General Electric Co	BBB–	1.94	22.61	0.74	3.54	39.72	93.98
Potomac Edison	A–	2.86	56.89	* * *	4.22	9.42	8.30
Potomac Electric Power	A+	3.75	69.42	0.73	4.95	18.81	6.03
Public Service Co. of Ind	AA	2.25	37.68	0.85	4.88	52.35	68.92
Public Service of N. Mex	AA	2.77	25.18	0.81	6.41	90.30	71.05
Public Service Co. of Okla	AA	2.25	39.58	* * *	4.48	23.19	51.34
Puget Sound Power & Light	BBB	2.17	20.77	0.75	5.22	34.28	69.40
Savannah Elec. & Power	BBB–	1.75	96.17	0.53	2.84	0.79	6.06
Southern Calif. Edison Co	AA	1.67	33.04	0.70	5.05	59.75	63.25
Southern Co	NA	2.32	45.21	0.73	3.46	26.91	40.47
Southwestern Electric Power Co	AA	3.17	38.67	* * *	5.06	25.90	30.86
Southwestern Elec. Service	NA	3.43	78.34	0.72	4.00	0.06	0.37
Southwestern Public Serv. Co	AA	2.36	40.30	1.10	4.76	16.36	44.05
Teco Energy Inc	AA	5.13	100.32	0.84	5.66	4.58	4.52
Texas Electric Service Co	AAA	3.96	53.75	* * *	5.48	48.84	25.18
Texas-New Mexico Power co	A	2.96	48.87	0.65	3.82	1.10	3.32
Texas Power & Light Co	AAA	3.41	55.21	* * *	5.17	47.81	26.98
Texas Utilities Co	AA	3.19	56.93	0.80	4.60	46.32	26.25

1980 COMPUSTAT II ELECTRIC UTILITY DATA NONQUALIFYING COMPANIES—Continued

	Standard 1 (BBB* Max)					Standard 2 (40.0 Min)	
	S&P bond rating	Interest coverage ratio (X)	Cash flow to T.S.O.F. (%)	Market Book ratio (X)	Hypothetical int. cov. ratio (x)	CWIP to net plant in Service (%)	AFUDC to net earnings (%)
Tucson Electric Power Co	A+	2.67	48.15	0.90	4.88	31.72	33.67
Union Electric Co	A–	2.32	32.77	0.72	4.41	46.48	73.62
Upper Peninsula Power	NA	1.86	58.45	0.69	4.07	1.48	24.25
Utah Power & Light	AA–	2.80	49.14	0.87	4.86	13.78	18.91
Virginia Electric & Power	A	2.10	46.85	0.56	4.07	42.22	61.17
West Penn. Power	AA	3.39	53.69	* * *	5.18	13.29	26.83
West Texas Utilities	AA	4.22	79.27	* * *	5.27	5.72	6.60
Western Massachusetts El. Co	BBB	2.20	46.69	* * *	3.91	30.56	64.12
Wheeling Electric Co	NA	0.72	74.73	* * *	2.83	4.06	* * *
Arizona Public Service Co	A–	1.69	28.44	0.77	4.15	75.29	82.20
Baltimore Gas & Electric	AA–	3.19	72.01	0.70	5.18	22.89	20.53
CP National Corp	BB–	2.54	44.13	0.66	3.96	2.97	2.49
Central Hudson Gas & Elec	A–	2.37	35.29	0.65	4.31	36.43	59.59
Central Illinois Light	A+	3.38	80.67	0.69	5.04	8.30	18.02
Central Ill. Public Service	AA	2.65	52.82	0.84	4.88	23.89	33.34
Cincinnati Gas & Electric	AA–	1.81	35.04	0.82	4.28	64.15	64.91
Citizens Utilities Co-CL A	AA+	5.48	73.35	1.39	8.60	1.49	9.89
Commonwealth Electric Co	A	4.13	53.39	* * *	6.34	19.47	46.01
Commonwealth Energy System	BBB	3.85	70.65	0.71	5.45	* * *	15.77
Consolidated Edison of NY	A	3.64	100.00	0.51	6.74	5.20	2.67
Delmarva Power & Light	A	2.11	44.22	0.77	4.19	24.10	46.88
Fitchburg Gas & Elec. Light	BBB	2.67	29.59	0.83	4.36	24.54	55.42
Illinois Power Co	AA	2.51	40.55	0.87	4.75	76.00	54.21
Interstate Power Co	A	2.93	92.89	0.74	4.18	0.72	2.09
Iowa Electric Light & Pwr	A	2.41	49.12	0.70	4.58	18.26	41.69
Iowa-Illinois Gas & Elec	AA	2.69	42.10	0.81	5.24	30.63	47.13
Iowa Power & Light	A	2.97	54.10	* * *	4.89	21.59	31.11
Iowa Public Service Co	AA	2.54	73.67	0.83	4.31	17.66	33.33
Iowa Resources Inc	NA	* * *	54.59	0.80	* * *	21.59	31.80
Iowa Southern Utilities Co	AA	2.33	43.28	0.70	4.87	77.42	52.46
Kansas Power & Light	AA	3.52	66.79	0.73	5.59	21.89	25.57
Lake Superior Dist. Power Co	BBB	3.40	62.91	0.68	5.46	1.59	0.0
Louisville Gas & Electric	AA	4.30	56.54	0.73	5.96	35.83	0.0
Madison Gas & Electric Co	AA	4.51	89.71	0.75	5.84	3.46	0.0
Missouri Edison	NA	3.25	100.00	* * *	5.58	1.04	6.15
Missouri Power & Light	BBB	1.73	52.00	* * *	3.86	2.17	10.75
Missouri Public Service Co	BBB	2.36	42.32	0.72	3.75	10.15	35.33
Missouri Utilities	NA	2.83	92.33	* * *	4.11	1.98	10.95
Montana Power Co	A	2.23	47.54	0.95	4.85	14.54	19.90
New Orleans Public Service	BBB+	1.94	60.81	* * *	4.47	2.01	6.74
New York State Elec. & Gas	BBB+	2.35	57.00	0.70	4.98	39.01	42.00
Niagara Mohawk Power	A–	2.29	49.74	0.70	5.10	30.55	44.16
Northern Indiana Public Serv	AA–	2.38	45.24	0.68	4.55	25.96	46.42
Northern States Power-MN	AA	4.16	80.50	0.78	5.93	11.24	13.02
Northern States Power-Wisc	NA	4.47	99.86	* * *	11.43	* * *	0.0
Northwestern Public Serv. Co	BBB	1.82	56.44	0.76	4.01	25.04	54.74
Orange & Rockland Utilities	A	3.79	90.99	0.72	5.29	12.80	17.44
Pacific Gas & Electric	AA–	2.21	38.82	0.75	5.21	55.59	61.04
Pacific Power & Light	BBB	1.99	35.61	0.91	3.51	23.04	42.90
Public Service Co. of Colo	A	2.47	43.63	0.79	4.58	36.00	41.72
Public Service Elec. & Gas	AA	3.12	63.45	0.67	5.35	48.42	33.86
Rochester Gas & Electric	A–	2.29	42.65	0.63	5.02	45.16	53.36
St. Joseph Light & Power	A	2.09	60.69	0.07	2.94	28.41	45.39
Sierra Pacific Power Co	A	2.13	29.35	0.83	4.15	37.32	38.98
South Carolina Elec. & Gas	A	1.82	34.74	0.78	3.65	60.33	66.46
Southern Indiana Gas & Elec	AA	5.33	98.08	0.74	5.97	3.31	3.69
Union Light, Heat & Power Co	AA	4.20	59.75	* * *	6.30	4.22	3.15
Washington Water Power	A–	1.76	17.90	0.75	4.65	22.74	36.87
Wisconsin Electric Power	AA	3.24	40.19	0.74	5.40	27.05	19.82
Wisconsin Power & Light	AA	3.97	60.26	0.84	5.21	9.14	0.57
Wisconsin Public Service	AA	4.35	46.60	0.78	6.34	31.33	14.85
Central Louisiana Electric	A	2.57	18.04	* * *	5.97	27.07	39.02
Central Louisiana Energy CP	NA	6.78	41.78	2.79	5.60	27.15	* * *
Michigan Power Co	NA	2.27	27.22	* * *	3.80	2.17	1.49
Montana-Dakota Utilities	A	1.06	31.27	0.97	4.65	52.56	48.76
UGI Corp	A	* * *	38.24	1.01	* * *	0.86	0.0

1980 COMPUSTAT II ELECTRIC UTILITY DATA QUALIFYING COMPANIES

	Standard 1 (BBB+ max)					Standard 2 (40.0 min)	
	S&P bond rating	Interest coverage ratio (×)	Cash flow to T.S.O.F. (percent)	Market-book ratio (×)	Hypothetcl int. gov. ratio (×)	CWIP to net Plant in Service (percent)	AFUDC to net earnings (percent)
Arkansas Power & Light	BBB–	1.99	43.78	* * *	4.52	48.73	94.16
Detroit Edison Co	BBB	1.92	28.60	0.66	3.94	41.84	76.73
Kansas Gas & Electric	BBB	2.00	25.51	0.73	4.24	67.65	89.96
Louisana Power & Light	BBB–	2.16	38.94	* * *	4.38	100.80	65.01
Ohio Edison Co	BBB+	1.73	18.50	0.80	3.92	55.86	105.06
Public Service Co of N. H	BBB	1.93	10.64	0.70	4.88	135.89	156.53
Toledo Edison Co	BBB+	2.21	21.72	0.75	4.53	58.64	88.68
United Illuminating Co	BB+	1.74	19.63	0.67	5.08	62.96	109.48
Consumers Power Co	BBB	1.81	29.42	0.87	4.06	78.27	85.14
Dayton Power & Light	BBB+	1.82	26.47	0.72	4.65	77.15	85.77

1980 COMPUSTAT II ELECTRIC UTILITY DATA QUALIFYING COMPANIES—Continued

	Standard 1 (BBB+ max)					Standard 2 (40.0 min)	
	S&P bond rating	Interest coverage ratio (×)	Cash flow to T.S.O.F. (percent)	Market-book ratio (×)	Hypothetcl int. gov. ratio (×)	CWIP to net Plant in Service (percent)	AFUDC to net earnings (percent)
Long Island Lighting	BBB	1.55	30.18	0.82	4.56	138.82	92.52
Philadelphia Electric Co	BBB+	1.50	41.67	0.75	4.11	65.76	84.34
San Diego Gas & Electric	BBB	1.84	27.32	0.73	4.66	57.84	114.30

QUALIFYING COMPANIES 1980 COMPUSTAT II ELECTRIC UTILITY DATA

	Embedded cost of debt (percent)	Embedded cost of preferred (percent)	Market cost of common (percent)	Weighted cost of capital (percent)	CWIP allowed in base (dollars)
Arkansas Power & Light	8.04	10.18	17.00	11.27	80.75
Detroit Edison Co	9.37	12.04	17.00	12.32	43.80
Kansas Gas & Electric	9.45	7.84	17.00	11.98	116.50
Louisiana Power & Light	8.38	9.41	17.00	11.32	406.78
Ohio Edison Co	9.32	8.46	17.00	11.70	234.28
Public Service Co. of New Hampshire	10.59	9.88	17.00	13.07	291.34
Toledo Edison Co	8.50	9.00	17.00	11.51	107.14
United Illuminating Co	8.42	9.30	17.00	11.65	62.04
Consumers Power Co	9.64	8.21	17.00	11.94	621.54
Dayton Power & Light	8.30	8.60	17.00	11.39	193.09
Long Island Lighting	9.15	8.23	17.00	11.93	895.97
Philadelphia Electric Co	9.73	8.51	17.00	12.20	509.16
San Diego Gas & Electric	9.32	8.26	17.00	12.10	108.06

The specified ratio of excluded CWIP to net plant + included CWIP = 0.40.

CWIP PROPOSED RULEMAKING IMPACTS FOR 1980 IMPACTS OF CWIP ALLOWANCE UNDER A NORMALIZATION POLICY

	Electric revenue impacts		Electric cash flow impacts	
	Dollars	Percent	Dollars	Percent
Arkansas Power & Light	3.48	1.71	2.88	6.76
Detroit Edison Co	.26	.42	.22	2.19
Kansas Gas & Electric	2.29	7.00	1.95	33.17
Louisiana Power & Light	6.98	8.30	5.78	56.59
Ohio Edison Co	2.05	3.47	1.70	17.08
Public Service Co. of N.H.	10.55	16.15	8.96	220.58
Toledo Edison Co	1.07	4.35	.90	21.22
United Illuminating Co	0	0	0	0
Consumers Power Co	3.45	8.38	2.88	50.74
Dayton Power & Light	1.15	6.99	.98	49.52
Long Island Lighting	6.38	15.27	5.45	88.80
Philadelphia Electric Co	.30	4.97	.25	25.93
San Diego Gas & Electric	.25	2.41	.22	16.74

The specified ratio of excluded CWIP to net plant + included CWIP = 0.40.

CWIP PROPOSED RULEMAKING IMPACTS FOR 1980 IMPACTS OF CWIP ALLOWANCE UNDER A FLOW THROUGH POLICY

	Electric revenue impacts		Electric cash flow impacts	
	Dollars	Percent	Dollars	Percent
Arkansas Power & Light	4.24	2.08	3.28	7.68
Detroit Edison Co	.33	.52	.25	2.54
Kansas Gas & Electric	2.82	8.62	2.23	7.86
Louisana Power & Light	8.54	10.16	6.59	64.55
Ohio Edison Co	2.57	4.34	1.97	19.77
Public Service Co. of N.H.	12.68	19.40	10.07	247.74
Toledo Edison Co	1.30	5.29	1.02	24.05
United Illuminating Co	0	0	0	0
Consumers Power Co	4.29	10.41	3.32	58.38
Dayton Power & Light	1.40	8.47	1.11	55.92
Long Island Lighting	7.75	18.56	6.16	100.42
Philadelphia Electric Co	.37	6.16	.29	29.75
San Diego Gas & Electric	.31	2.91	.25	18.87

The specified ratio of excluded CWIP to net plant + included CWIP = 0.40.

COMPARATIVE IMPACTS OF SWITCHING FROM A FLOW THROUGH TO A NORMALIZATION POLICY—1980

	Electric revenue impacts		Electric cash flow impacts	
	Dollars	Percent	Dollars	Percent
Arkansas Power & Light	14.33	7.02	7.45	17.46
Detroit Edison Co	2.42	3.88	1.26	12.66
Kansas Gas & Electric	2.20	6.71	1.14	19.43
Louisana Power & Light	3.96	4.72	2.06	20.19
Ohio Edison Co	3.07	5.19	1.59	16.02
Public Service Co. of N.H.	6.12	9.36	3.18	78.32
Toledo Edison Co	1.42	5.77	.74	17.36
United Illuminating Co	0	0	0	0
Consumers Power Co	3.03	7.36	1.58	27.75
Dayton Power & Light	.80	4.86	.42	21.08
Long Island Lighting	2.93	7.03	1.53	24.86
Philadelphia Electric Co	.28	4.58	.14	14.70
San Diego Gas & Electric	.42	3.95	.22	16.62

[FR Doc. 81-34109 Filed 11-27-81; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Further Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds established by Coline Gasoline Corporation, National Helium Corporation, Palo Pinto Oil & Gas, Belridge Oil Company, and Aluminum Company of America, all natural gas processors, in settlement of enforcement proceedings brought by the DOE's Office of Enforcement.

DATES AND ADDRESSES: Applications for refund must be postmarked on or before February 26, 1982, and should be addressed to [Name of Firm] Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461. Comments must be postmarked on or before December 28, 1981, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 2000 M Street N.W., Washington, D.C. 20461, (202) 653-3137.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to the following consent orders between certain natural gas processors and the Office of Enforcement of the DOE's Economic Regulatory Administration: Coline Gasoline Corporation, *see* 44 FR 47396 (1979); National Helium Corporation, *see* 45 FR 9057 (1980); Palo Pinto Oil & Gas, *see* 44 FR 41286 (1979); Belridge Oil Company, *see* 45 FR 57520 (1980);

Aluminum Company of America, *see* 44 FR 41908 (1979) and 44 FR 67210 (1979). The consent orders are intended to settle all disputes between the DOE and the firms with regard to prices charged by the firms in sales of natural gas liquids (NGLs). Under the terms of the consent orders, the firms have deposited the following amounts into an escrow account: $628,480.79 (Coline), $10,000,000 (National Helium), $529,000 (Palo Pinto), $95,821.49 (Belridge), and $1,100,000 (Alcoa). It is stipulated in each consent order that the refund amount is in settlement of possible enforcement action based upon allegations that the firm had overcharged its purchasers of NGLs.

The Office of Hearings and Appeals had previously issued proposed decisions and orders which tentatively established a two-stage refund procedure for the settlement amounts and solicited comments from interested parties concerning the proper disposition of the consent order funds. The proposed decision and order discussing the distribution of funds obtained through consent orders with Coline and National Helium was issued on May 1, 1981. 46 FR 25535 (1981). The consent order funds obtained from Palo Pinto and Alcoa were discussed in a March 13, 1981 proposed decision. 46 FR 17639 (1981). The Belridge consent order funds were included in a May 22, 1981 proposed decision and order. 46 FR 28929 (1981). Many of the commenters who responded to our request for comments filed virtually the same comments in each of these cases. We decided to consolidate these cases for final determination because they have in common many factual and legal issues.

The final decision and order, published concurrently with this notice, reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the escrow funds may not be filed. Applications will be acepted provided they are postmarked no later than February 26, 1982. *See* 10 FR 205.283. We will accept applications from all persons who purchased NGLs which originated with the five firms during the period covered by each respective consent order. In order to establish entitlement to a portion of the consent order funds, a purchaser must establish, in addition of proof of purchase of the volume claimed, that the purchaser did not pass through price increases to its own customers. The specific information required in an application for refund is set forth in the final decision and order.

The final decision does not address the issue of the proper disposition in a second-stage proceeding of the remainder, if any, of the consent order funds after all meritorious claims have been paid in the first state outlined above. Instead, the final decision and order reserves the question of the proper disposition of the remaining consent order funds until after all meritorious applications for refund have been paid in the first-stage proceeding, since the most appropriate disposition of the remaining funds may be determined, to a great extent, by the amount of the fund that remains after the first-stage proceeding. The final decision states that if the remainder is small, it may be most efficient simply to turn the remainder over to the United States Treasury. *See* 10 CFR 205.287(c). However, the final decision also states that the second-stage procedure outlined in the proposed decision may well be implemented if sufficient funds remain. Therefore, the final decision solicits further comments on the appropriate disposition of the remainder, if any, of the consent order funds after all meritorious claims have been paid.

Commenting parties are requested to submit two copies of their comments. Comments should be postmarked on or before December 28, 1981 and should be addressed to the address set forth at the beginning of that notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, located in Room B–120, 2000 M Street, NW., Washington, D.C., between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: November 20, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

November 20, 1981.

Name of petitioner: Office of Enforcement, Economic Regulatory Administration; In the Matters of Coline Gasoline Corporation, National Helium Corporation, Palo Pinto Oil & Gas, Belridge Oil Company, and Aluminum Company of America.

Dates of filing: March 13, 1981, November 5, 1980, January 12, 1981, December 5, 1980, December 15, 1980.

Case Nos.: BEF–0036, BEF–0008, BEF–0034, BEF–0014, BEF–0021.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds to injured persons in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OE filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Coline Gasoline Corporation (Coline), National Helium Corporation (NHC), Palo Pinto Oil & Gas (Palo Pinto), Belridge Oil Company (Belridge), and Aluminum Company of America (Alcoa). Under the terms of these consent orders, the five firms agreed to make refunds for their alleged violations of the DOE price regulations in sales of natural gas liquids (NGLs) in the following amounts: $628,480.79 (Coline),[1] $10,000,000 (NHC),[2] $529,000

[1] As a part of its enforcement activities, the OE conducted an audit of Coline in order to determine whether the firm had complied with the DOE pricing regulations applicable to NGLs. *See* 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. The OE audit of Coline's gas plant revealed possible pricing violations with respect to Coline's first sales of NGLs during the period August 19, 1973 through May 31, 1978. Coline sold NGLs to only two firms during this period: Petrolane Transport Company (Petrolane) and Mobil Oil Corporation (Mobil). According to OE, 73.3 percent of the total alleged overcharges are attributable to sales to Petrolane, which purchased NGLs fromn Coline during 25 months of the audit period. The OE further calculated that 26.7 percent of the alleged overcharges occurred in sales to Mobil over an 18-month period. In order to settle all claims and disputes between the parties regarding the firm's first sales of NGLs, Coline and the OE entered into a proposed consent order on November 19, 1979. Under the terms of that proposed consent order, Coline agreed to pay $628,480.79 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. The Coline proposed consent order was finalized without modification on January 8, 1980. *See* 45 FR 1672 (1980). Both Petrolane and Mobil have indicated that they intend to file Applications for Refund.

[2] The audit of NHC's gas plant in Liberal, Kansas revealed possible overcharges with respect to first sales of NGLs during the period September 1973 through December 1979. In order to settle all claims and disputes between the parties regarding the firm's first sales of NGLs NHC and the OE entered into a proposed consent order. In that proposed order, National Helium agreed to pay $10,000,000 to the DOE. The parties further agreed that this sum would be distributed by the DOE pursuant to Subpart V. Notice of the proposed consent order was published in the **Federal Register** on February 11, 1980. *See* 45 FR 9057 (1980). Interested persons were provided an opportunity to comment on the terms of the proposed consent order and to submit written notice to ERA of potential claims against the settlement funds. In response, Atlantic Richfield Company (ARCO) submitted a claim for the entire $10,000,000 fund. No other comments were received. The proposed consent order was finalized without modification on April 4, 1980. *See* 45 FR 23051 (1980).

(Palo Pinto),[3] $95,821.49 (Belridge),[4] and $1,100,000 (Alcoa).[5] The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

[3] In its audit of Palo Pinto's Markley gas plant, the ERA found possible violations with respect to first sales of NGLs during the period September 1973 through December 1978. Palo Pinto sold NGLs from the Markley gas plant to only two purchasers during this period: Warren Petroleum Company (Warren), a subsidiary of Gulf Oil Corporation, and GTM Corporation (GTM). According to the ERA, 94.4 percent of the total alleged overchages are attributable to sales to Warren, which purchased NGLs from Palo Pinto for 35 months of the audit period. The ERA calculated that 5.6 percent of the alleged overcharges occurred in sales to GTM, which purchased NGLs from Palo Pinto during only four months of the audit period.

On June 28, 1979, the ERA and Palo Pinto entered into a consent order under which Palo Pinto agreed to pay $529,000 to the DOE in settlement of all claims and disputes between the parties arising out of the Markley gas plant audit. Again, the parties stipulated that the refunds were to be distributed by the DOE pursuant to Subpart V proceedings. Notice of the consent order was published in the **Federal Register** on July 16, 1979. *See* 44 FR 41286 (1979). Interested parties were given an opportunity to comment on the terms of the consent order and invited to submit notice of potential claims against the refund account. The DOE also issued a press release regarding the consent order. No comments or claims were received in response to the notices. However, after the issuance of our Proposed Decision and Order in which we tentiatively adopted refund procedures for the Palo Pinto funds, Warren filed comments and informed us that it intended to file an Application for Refund.

[4] An audit of Belridge's natural gas processing plants revealed possible pricing violations with respect to the firm's first sales of NGLs during the period August 1, 1975 through July 31, 1979. Included among Belridge's first purchasers at that time were the Standard Oil Company of California (Chevron) and Coast Gas, Inc. (Coast). In order to settle all claims and disputes between Belridge and the DOE regarding Belridge's first sale prices of NGLs, Belridge and the DOE entered into a consent order on July 10, 1980, in which Belridge agreed to remit $95,821.49 to the DOE. The parties further agreed that the funds remitted by Belridge would be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. Notice of the consent order was published in the **Federal Register** on August 28, 1980. *See* 45 FR 57520 (1980). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement fund. On September 24, 1980, Chevron notified the DOE that it intended to file a claim against the settlement fund.

[5] The ERA's audit of Alcoa's Point Comfort gas plant revealed possible pricing violations with respect to Alcoa's first sales of NGLs during the period September 1973 through December 1978. Alcoa's sole purchaser of NGLs from the Point Comfort plant during this period was the Tenneco Oil Company (Tenneco). In order to settle all claims and disputes between the DOE and Alcoa regarding Alcoa's first sale prices of NGLs from the Point Comfort plant, Alcoa and the ERA entered into a proposed consent order on June 18, 1979. In that proposed order, Alcoa agreed to pay $1,100,000 to the DOE. The parties further agreed that the $1,100,000 would be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. Notice of the proposed consent order was published in the **Federal Register** on July 18, 1979. *See* 44 FR 41908 (1979). Interested persons were provided an opportunity to comment on the terms of the proposed consent order and to submit written notice to ERA of potential claims against the settlement funds. In response, Tenneco submitted a claim for the $1,100,000 fund. No comments were received. The proposed consent order was finalized without modification on November 16, 1979. *See* 44 FR 67210 (1979).

Background

Proposed decisions and orders which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding have been previously issued, and comments have been received from interested parties concerning the proper disposition of the consent order funds.[6] In the proposed decisions we tentatively established a two-stage special refund procedure for the consent order funds. In the first stage, those firms which purchased NGLs during the relevant period from the firms involved and who believed they were eligible for a portion of the consent order funds could file Applications for Refund pursuant to 10 CFR 205.283. Downstream purchasers would also be permitted to file Applications for Refund during the first stage of the refund process. Each application would be analyzed, and individual determinations on the merits of each would be rendered. All meritorious claims would then be paid. Finally, we suggested as the second stage of the refund process that first purchasers submit proposals which set forth appropriate mechanisms for returning moneys to the parties who likely paid increased prices as a result of the alleged overcharges. We alternatively proposed that if such plans proved infeasible, any portion of the settlement fund which, because of prohibitive administrative costs, might otherwise go undistributed be deposited in the Treasury of the United States. *See* 10 CFR 205.287(c).

The proposed decisions and orders were published in the **Federal Register**, and copies were sent to all interested parties. The comment periods specified in the **Federal Register** have passed. The cases of Coline, NHC, Palo Pinto, Belridge and Alcoa (hereinafter "the five firms") have in common many factual and legal issues. All five firms are "gas plant operators" as that term is defined in 10 CFR 212.62. All have identified first purchasers who have filed claims which, if properly established, might completely exhaust the consent order funds. Furthermore, all of the proposed decisions and orders issued for these firms contained identical first-stage refund procedures. Finally, many of the commenters who responded to our request for comments filed virtually the same comments in each case. Consequently, we believe that these five cases should be consolidated for a final determination concerning the first stage of the refund procedures.

The purpose of this decision will be to establish the mechanism by which firms that purchased NGLs from the five firms may file Applications for Refund. We shall first discuss the comments which we received concerning the first-stage refund procedures which we tentatively adopted in the proposed decisions and orders in these cases. Then we shall discuss in detail the Application for Refund procedures that we have decided to adopt. We shall not, however, discuss the second stage refund process in this decision. As noted above, the first purchasers identified in all five cases have filed claims which, if meritorious, could thoroughly deplete the consent order funds involved. In that event no second stage would be necessary.[7] Moreover, our determination concerning the final disposition of any residual funds will necessarily depend on the size of the fund. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary at this time for us to reach the issues raised by the commenters concerning the proposed disposition of funds remaining after all meritorious claims have been paid.[8]

Jurisdiction and Authority to Fashion Refund Procedures

We previously determined that the jurisdictional requirements of Subpart V have been satisfied with regard to Coline, NHC and Belridge. We therefore asserted jurisdiction over those three cases in an Interlocutory Order issued on April 8, 1981. *See Office of Enforcement*, 8 DOE ¶ 82,516 (1981). With regard to Alcoa and Palo Pinto, we tentatively determined that we should likewise assert jurisdiction over those

[6] We issued a proposed decision and order discussing the distribution of the funds obtained through consent orders with Alcoa and Palo Pinto on March 13, 1981. *See* 46 FR 17639 (1981). The proposed decision which included our tentative determinations concerning the Coline and NHC consent order funds was issued on May 1, 1981. *See* 46 FR 25535 (1981). Belridge's consent order funds were included in a May 22, 1981 proposed decision and order. *See* 46 FR 28929 (1981).

[7] Since most of the first purchasers claim that they have adequate banks or unrecouped product costs to establish that they could not have passed through the overcharge amounts, none of the identified first purchasers submitted plans for distribution of the remainder of the funds.

[8] We have already discussed many of these comments in *Vickers*.

cases in our March 13, 1981 Proposed Decision and Order. *See* 46 FR 17639, 17641 (1981).

Some of the parties who submitted comments following the issuance of the proposed decisions and orders for these cases contended that the OHA should not have asserted jurisdiction. Some firms also contended that the OHA does not have authority to fashion refund procedures in these cases. In particular, the commenters contend that: (i) The OHA may not assert jurisdiction at all under Subpart V where a single firm purchased 100 percent of the NGLs produced by a firm during the relevant period; (ii) these matters are more appropriate for state jurisdiction because of the states' inherent power to take possession of unclaimed funds belonging to their citizens; (iii) the OHA's authority extends only to fashioning refund procedures for entities that were direct purchasers from the five firms. We shall discuss each of these contentions in turn.

NHC and its sole first purchaser, Atlantic Richfield Company (Arco), both contend that the OHA cannot assert jurisdiction over the NHC settlement funds under 10 CFR Part 205, Subpart V, because that subpart applies only to cases where the DOE does not know who is entitled to refunds. The firms state that Arco was NHC's sole first purchaser during the relevant period and was identified as such in a Notice of Probable Violation which preceded the Consent Order. Consequently, the firms contend that Arco is clearly entitled to the entire NHC consent order fund. NHC and Arco maintain that the OE's Petition for the Implementation of Special Refund Procedures was erroneously filed and that the OHA should not have asserted jurisdiction in the NHC case.

The DOE Subpart V regulations provide that "[T]his subpart shall be applicable to those situations in which the Department of Energy is unable to readily identify persons who are entitled to refunds specified in * * * a Consent Order, or to readily ascertain the amounts that such persons are entitled to receive." 10 CFR 205.280. After reviewing the documents of record compiled in NHC and each of the other cases involved in this proceeding, we have concluded that the implementation of Subpart V proceedings in each case is appropriate. Even if there is only one first purchaser in a particular case, it may be difficult to determine who was injured because that first purchaser may have passed on the overcharges. Moreover, although the OHA has occasionally refused to assert jurisdiction where the OE could identify the first purchaser who was overcharged, *see, e.g., Armour Oil Co.*, 5 DOE ¶ 82,528 (1980) at 85,112 n.2, recent changes in the regulatory system have caused us to reconsider our position. Until recently, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to persons who were adversely affected by alleged violations of the DOE price regulations. For example, the DOE could issue an order directing a firm that had overcharged its customers to roll back its prices for a period of time in order to refund overcharge amounts.[9] However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result of decontrol, there is no maximum lawful price upon which a rollback order may be based. In order to refund money to the parties affected by the alleged overcharges, a determination must therefore be made regarding the extent to which purchasers of the NGLs involved absorbed the overcharges or passed the higher costs through to downstream customers by raising their own sales prices. Consequently, even in cases where a potentially injured first purchaser can be identified, it is difficult to ascertain the amount that such a firm or individual should receive. In these cases, therefore, the persons who were injured and therefore entitled to refunds are not readily identifiable, and the amount of the refunds that persons should receive is not readily ascertainable. For these reasons, the Office of Hearings and Appeals has decided to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petitions for Implementation of Special Refund Proceedings in all five cases.

The Controller for the State of California has commented that the state governments are better suited to adjudicate the disposition of the settlement funds than is the Office of Hearings and Appeals. The Controller noted that under the American common law system, States have traditionally held the sovereign right to take possession of unclaimed funds belonging to their citizens. The Controller stated that the State of California has ample procedures and expertise to assure all claimants of due process in the adjudication of their claims. The Controller observed that in another Proposed Decision and Order the OHA tentatively determined that a portion of certain settlement funds should be distributed through the States. *See Office of Enforcement*, No. DFF-0002 (May 8, 1981) (proposed decision), 46 FR 16681 (1981) (hereinafter cited as *Alkek*). The Controller therefore suggests that it would be more efficient to turn over each State's share of the settlement funds to each State for redistribution in accordance with the national restitutionary goals and state procedures, rather than utilizing Subpart V in these cases.

As our proposal in *Alkek* indicates, we agree that States can be effective conduits for the distribution of settlement funds in appropriate cases. However, the five cases presently before us involve circumstances that are materially different from those present in *Alkek*. In *Alkek* most of the settlement funds were obtained from producers or resellers of crude oil whose alleged regulatory violations fell into three major categories. The first category concerned producers' sales of "old" price-controlled crude oil as "new" or "stripper well" oil subject to less stringent controls. The second type of violation involved producers who allegedly miscalulated the prices of "old" oil which they sold. The third type involved resellers or brokers of crude oil who miscertified "old" crude oil. We observed that due to the nature of these violations and the operation of the Crude Oil Entitlements Program, 10 CFR 211.67, it was likely that few firms would be able to demonstrate during the first stage that they had been injured. Consequently, we predicted that there would be a large fund remaining at the conclusion of the first stage of the refund process. In contrast, in the present cases we have received numerous notices of claims which, if meritorious, would completely exhaust the settlement funds.

In addition, the locale of the injured parties may be more readily ascertained in the present cases than in *Alkek*. In *Alkek*, we determined that it was unlikely that the effects of crude oil violations could be localized due to the operation of the DOE regulatory program. In particular, we noted that the operation of the Entitlements Program would have spread the effects of the violations among all refiners even if they had not purchased crude oil from any of the crude oil producers

[9] If a purchasing firm was a refiner or reseller rather than an ultimate consumer, the rolled back price would reduce its "increased product costs" and therefore reduce the maximum lawful selling price which it could charge consumers. *See* 10 CFR 212.83 *and* 212.93.

involved.[10] Consequently, we proposed to disburse the remainder of the *Alkek* funds through a nation-wide mechanism. In the case of NGLs, tracing the effects of overcharges may be much less complex because they were not subject to the Entitlements Program. Furthermore, it may develop that in the course of adjudicating Applications for Refunds we may determine that a firm who purchased NGLs passed on the overcharges to customers in a discrete marketing area. *See, e.g., Vickers.* In that event we may conclude that distribution through the indicated States would be appropriate if the amount of money involved is substantial.[11] However, we do not know the amount, if any, of the funds that will be available for distribution after the first stage is completed. As we have stated above, the DOE has received notices of claims which, if meritorious, would completely use up the settlement fund, and there would not be a second-stage distribution. We have therefore concluded that it would be inappropriate for us to relinquish responsibility over these funds to the States at this time.

Gulf Oil Corporation (Gulf) and several other parties contend that the OHA does not have authority to fashion refund procedures that would result in funds being disbursed to firms that were not direct purchasers from the five firms. Gulf apparently objects to both the proposed first and second stages of the refund procedures on the grounds that downstream purchasers and consumers may obtain refunds at either stage. Gulf argues that because only direct purchasers may maintain an action for overcharges under section 210 of the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1976), only direct purchasers should be able to recover from DOE settlements. Furthermore, Gulf particularly objects to our proposals that first purchasers be obliged to demonstrate that they did not pass on the overcharges to their customers and, if a first purchaser cannot make such a showing, that downstream purchasers may qualify for refunds. Gulf maintains that such a requirement is beyond the OHA's authority. Gulf therefore contends that the entire consent order funds must be distributed among first purchasers only.

Inasmuch as the present determination only establishes procedures for the filing of Applications for Refunds, we will not address Gulf's objections to our proposals for the distribution of residual funds.[12] In addition, we shall reserve our discussion of whether the OHA may require a showing of injury until later in this Decision. As for its objections to the first-stage procedures, Gulf consistently confuses a party's private right of action under section 210 of the ESA with DOE enforcement actions on behalf of the general public that are authorized by section 209 of the ESA as well as other statutory provisions. The cases which Gulf cites concerning private remedies under section 210 of the ESA are simply inapposite to the special refund procedures, which are based upon section 209 of the ESA and "the broad purposes of the Congressional mandate in both the ESA and EPAA." *Bonray Oil Co. v. DOE,* 472 F.Supp. 899, 904 (W.D. Okla. 1978), *aff'd on basis of district court opinion,* 601 F. 2d 1191 (Temp. Emer. Ct. App. 1979).[13] The Temporary Emergency Court of Appeals has expressly held that private actions authorized by section 210 and governmental actions authorized by section 209 serve different purposes and may be maintained separately at the same time. *Bulzan v. Atlantic Richfield Co.,* 620 F. 2d 278 (Temp. Emer. Ct. App. 1980); *see also S.O.S. Gasoline Enterprises v. DOE,* 3 Fed. Energy Guidelines ¶26,231 (D.D.C. July 8, 1981).

Gulf also contends that *United States v. Ringer,* 492 F. Supp. 350 (D. Colo. 1980), and certain opinions of the Comptroller General of the United States stand for the proposition that the DOE may not order restitution to indirect purchasers. In *Ringer* the court refused to enfore a price rollback provision because it was not evident that future purchasers, who would benefit from the rollback, were the same parties as previously overcharged customers. Similarly, the Comptroller General objected to certain proposals for distribution of settlement funds on the basis of his belief that there was not a sufficient nexus to the overcharged parties.[14] We believe that those opinions, which are not binding upon this office, are inconsistent with the DOE's broad restitutionary authority as outlined by the courts. The Temporary Emergency Court of Appeals has construed section 209 of the ESA as conferring an extremely broad remedial authority on DOE and the courts. In *Sauder v. DOE,* 648 F.2d 1341 (Temp. Emer. Ct. App. 1981), the court states that it did not "believe that Congress intended to limit the agency's and courts' power to restore overcharges" by enacting section 210 of the ESA. The court further states that "[t]here is no indication * * * that [section 209] * * * attempts to limit the power of courts or the agency to restitution or to a particularly strict interpretation of restitution." *Id.* Thus, nothing in the governing statutes nor in judicial interpretation of those statutes prohibits the DOE from ordering restitution to indirect purchasers. Moreover, the refund procedures which we adopt today expressly require that an applicant must establish, *inter alia,* that it purchased NGLs produced by one of the five firms in order to qualify for a refund. We believe that the adoption of this criterion will alleviate the concerns of the *Ringer* court and the Comptroller General. Accordingly, we reject Gulf's contention and hold that first purchasers

[10] Briefly stated, the Entitlements Program was generally designed to equitably distribute among all domestic refiners the access to benefits of price controls on domestic crude oil. Most of the firms covered by the *Alkek* proposed decision had allegedly miscertified price-controlled crude oil as being exempt from price controls. When this information was included in the data base used by the DOE to formulate the monthly Entitlements Lists, it had the effect of causing the entitlements obligations of some firms to increase while other firms' obligations correspondingly decreased. *See Alkek,* 46 FR at 26682–83.

[11] Several of the States that submitted comments regarding the *Alkek* proposal observed that unless the amounts of funds to be distributed were quite considerable, their administrative expenses would be so prohibitive that they would decline to accept their pro rate share of the funds. *See, e.g.,* Comment filed by State of Texas.

[12] Like the other first purchasers in this proceeding, Gulf has claimed that Warren Petroleum Company, a marketing division of Gulf, had banks of unrecouped product costs sufficient to demonstrate that it did not pass through any of the overcharges.

[13] While Gulf has cited cases holding that only direct purchasers may sue under ESA section 210, *e.g., Stertz v. Gulf Oil Corp.,———F.2d———(Temp. Emer. Ct. App. 1981), Arnson v. General Motors Corp.,* 377 F. Supp. 209 (N.D. Ohio 1974), and *Go-Tane Service Stations v. Ashland Oil, Inc.,* No. 79–C–1675 (N.D. Ill. 1981), none of those cases state that the DOE's remedial authority is limited to refunding monies only to direct purchasers. Additionally, Gulf cited *Bow Valley Coal Resources, Inc. v. DOE,* Civ. Action No. C–80–0162W (D. Utah 1980). We are unable to understand the relevance of that citation because the only reported opinions in that case hold that (i) a certain first purchaser may maintain a section 210 action and (ii) the action was dismissed as to the DOE.

[14] In his October 10, 1980 letter, the Comptroller General discussed a proposal for distribution of funds obtained through a consent order with Getty Oil Company and specifically held that "in order for any distribution of the Getty funds to satisfy the statutory and regulatory requirements for restitution, it must be made in approximate proportion to the injury actually sustained to Getty customers and to *ultimate customers of Getty products* who were the victims of the overcharges." GAO letter at 7 (Emphasis added). In his April 1, 1981 letter, while espousing a view of our authority to institute the proposed second stage refund procedures which we find overly narrow, *see Vickers,* 8 DOE at 85,398, the Comptroller General again directed his criticism towards refunds "to persons or organizations with no necessary nexus to the alleged violations which gave rise to the consent orders." April 1, 1981 Letter at 8.

and downstream customers may file Applications for Refund.

Comments on the Proposed First Stage

In the proposed decisions which we issued for these cases, we tentatively concluded that as the first stage of the refund procedures we would accept Applications for Refunds from parties who had purchased NGLs produced by the five natural gas processors involved. In addition to satisfying the filing requirements of 10 CFR 205.283, the applicant would be required to demonstrate that it purchased during the relevant time period a specific quantity of products which were produced with or from the NGLs sold by the five firms. In addition, unless the applicant was an ultimate consumer, a party claiming that it was injured would also have to demonstrate that it absorbed any cost increase resulting from the alleged overcharges. We also stated that we would accept and evaluate on a case-by-case basis applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers. Finally, we solicited comments from all interested parties concerning our proposals.

In response to our request, we received comments from numerous parties including some of the five firms, their first purchasers, their downstream purchasers, state governments, offices within the DOE, and public interest groups. Commenting parties suggested various modifications of the proposed procedures and expressed several concerns which we shall discuss below. They commented that: (1) The Application for Refund proceedings must be held publicly so that no potential claimants are excluded from contesting their eligibility for a portion of the funds; (2) The proposed first stage is unfair because it would give first purchasers first priority in filing claims for the settlement funds. Those commenters also thought that the Proposed Decisions did not establish an adequate level of proof of injury for claimants; (3) The OHA cannot as a matter of law require that a claimant prove that it did not pass on the overcharges to its customers; (4) Claimants who have themselves entered into DOE consent orders or are the subject of DOE enforcement proceedings for the relevant time periods should not be permitted to file Applications for Refunds; and (5) Claimants should be required to waive their rights to file private actions under section 210 of the ESA in order to qualify for refunds.

With regard to the conduct of the first stage proceedings, the Controller of the State of California commented that the Application for Refund proceedings should be open to the public. He suggested that copies of all Applications for Refund should be made available at no cost to all potential claimants and that all claimants should be permitted to participate in the initial proceedings.

We believe that the Controller's concerns are adequately met by the existing procedural regulations. The Subpart V regulations require that any application for a refund in excess of $100 be filed in duplicate and a copy of the Application, with confidential information deleted, be made available in the OHA Public Docket Room. 10 CFR 205.283(a). It is the policy of the OHA Public Docket Room to make available to any requester a copy of any document filed with it. Copies are provided at no cost, if the requested document consists of 30 pages or less, or at a cost of 10 cents per page for each page in excess of 30 pages. In addition, the applicable regulations specify that in evaluating an Application the OHA may conduct an investigation of any statement made in an Application and may solicit and consider information from any source. 10 CFR 205.284(b). Therefore it is clear that any party may submit information and comments to aid us in our adjudication of specific claims.

Some of the comenters complained that the proposed decisions gave first purchasers first priority treatment of their claims to the prejudice of downstream purchaser claimants. In addition, those commenters objected to the proposed procedures because they believed the proposals would permit first purchasers to automatically recover refunds to the extent that their "banked" (unrecovered increased product) costs for the relevant period equalled or exceeded the amount claimed.

We believe that these commenters have taken an unnecessarily narrow view of the proceedings envisioned by the proposed decisions and the Subpart V regulations. As an initial matter, our proposed decisions clearly stated that Applications for Refunds would be accepted from *all* claimants, including representatives of groups of consumers. *See, e.g., Office of Enforcement,* No. BEF-0030 (May 1, 1981) (proposed decision), 46 FR 25535, 25538. In addition, the required showing of sufficient banks is only a threshold showing to be applied in making a determination as to whether a claimant actually suffered any injury. If a claimant meets this test, it will still be necessary for the firm to proffer some type of additional evidence, depending upon the size and nature of firm, to demonstrate that it indeed was injured by the alleged overcharges. To the extent that a first purchaser can establish that it did not pass on overcharges to its downstream customers, those customers were not injured and would have no claim. We therefore disagree with commenters who believe that first purchasers are being accorded an unwarranted priority status in these proceedings.

Several parties vehemently disputed the OHA's authority to require a showing that a claimant did not pass on overcharges to its customers. Those objections have two bases. First, they are based upon the premise that since only first purchasers may sue under section 210 of the ESA, they are the only parties who are entitled to recover refunds. We have already discussed and rejected this contention above and will not reiterate our discussion here. Secondly, the commenters argue that since the courts have prohibited the use of the "passing on" concept in antitrust cases, the OHA is likewise forbidden to use it.

Our examination of the seminal cases discussing the use of passing on in antitrust cases has led us to the conclusion that the principles adopted there are inapplicable to these proceedings as a matter of law. In addition, we have concluded that the policies which led the Supreme Court to adopt its position in those cases are inapplicable to special refund cases.

The two leading cases discussing "passing on" in antitrust cases are *Hanover Shoe v. United Shoe Machine Corp.*, 392 U.S. 431 (1968), and *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977). Briefly stated, in *Hanover Shoe* the Court held that a defendant in a private antitrust action could not assert as a defense to the action an allegation that the plaintiff had passed on the resulting overcharges to its customers and had therefore suffered no injury. In *Illinois Brick* the Court reasoned that if the passing on argument could not be used defensively it could also not be used offensively by a plaintiff who claimed that the effects of an antitrust violation had been passed on by an intermediate party to it. *Hanover Shoe* and *Illinois Brick* were private antitrust cases brought under section 4 of the Sherman Act, 15 U.S.C. 4, which is analogous to section 210 of the ESA. Both of those statutory provisions permit a private party to recover treble damages for violations of the law, and they were enacted in order to ensure that violators would be discovered and deterred by persons bringing private actions. *Compare Illinois Brick with Go-Tane Service Stations, Inc. v. Ashland Oil,*

Inc., NO 79 C1675 (N.D. Ill., February 5, 1981) (memorandum opinion and order striking affirmative defense). Consequently, courts have held that in order to advance this policy, plaintiffs do not have to demonstrate that they absorbed overcharges in order to recover damages for violations of federal antitrust laws and the ESA. Since private actions in these types of cases may be brought independently of government action to enforce the law, it is clear that they are intended to be separate from but complementary to government enforcement of the important policies enacted in each respective statute. In fact, as noted above, the Temporary Emergency Court of Appeals has expressly held that sections 210 actions are independent of section 209 actions. *Bulzan v. Altantic Richfield Co.*, 620 F. 2d 278 (Temp. Emer. Ct. App. 1980). Accordingly, although we may refer to private antitrust cases, particularly those settled by court-approved consent decrees, for assistance in formulating an equitable plan for the distribution of refunds obtained through government enforcement proceedings, we are not legally bound by the procedures which courts have adopted in private antitrust suits. To the contrary, this inquiry as to whether a claimant was injured in fact is most appropriate in a proceeding of this type where refunding moneys obtained through DOE enforcement proceedings is the primary focus. *Cf. State of West Virginia v. Chas. Pfizer & Co.*, 440 F.2d 1079 (2d Cir. 1971).

In addition, we have concluded that none of the underlying policy reasons cited by the Court in *Hanover Shoe* and *Illinois Brick* as the basis for its decision to exclude evidence of passing on is applicable to special refund cases. In describing its *Hanover Shoe* decision, the Court stated that there were two reasons underlying its decision not to admit passing on evidence proffered by an antitrust defendant:

> The first reason for the Court's rejection of this offer of proof was an unwillingness to complicate treble-damages actions with attempts to trace the effects of the overcharge on the purchaser's prices, sales, costs, and profits, and of showing that these variables would have behaved differently without the overcharge. Id., at 492–493, 88 S.Ct., at 2231. A second reason for barring the pass-on defense was the Court's concern that unless direct purchasers were allowed to sue for the portion of the overcharge arguably passed on to indirect purchasers, antitrust violations "would retain the fruits of their illegality" because indirect purchasers "would have only a tiny stake in the lawsuit" and hence little incentive to sue. Id., at 494, 88 S.Ct., at 2232.
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> *Illinois Brick Co. v. Illinois*, 431 U.S. 720, 725–26 (1977) (footnote omitted).

Those considerations are inapplicable to the present cases. First, the adoption of a pass-on theory at this stage of the proceedings does not create a danger that the government will be deterred from pursuing an enforcement action. Unlike the plaintiff in a private action, the agency has no pecuniary interest in the funds. The DOE's purpose in prosecuting these cases is to remedy violations of the regulations by forcing disgorgement of illegally obtained funds, thereby fostering the goal in Section 4(b)(1)(F) of the Emergency Petroleum Allocation Act of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F). Moreover, as discussed above in the section concerning jurisdiction and authority to fashion refund procedures, it has been the position of the agency that it may require firms to "pass on" the refunds generated by remedial order proceedings through the use of rollback or other ancillary orders. *See* 10 CFR 205.1991(b); *The Standard Oil Company*, 4 FEA ¶85,046 (1976).

The difficulty of proof problem envisioned by the Court is also not an issue in these proceedings because the price and allocation of the products involved were subject to a comprehensive regulatory scheme. In particular, the DOE regulations required each firm to keep records of the prices it charged and the amounts of increased product costs that it "banked" and subsequently recovered. In addition, market information concerning prices that were charged by a firm's competitors during the relevant periods is readily available in industry publications and from data supplied to the DOE. Finally, the OHA has extensive expertise in deciding questions of fact as to whether a firm could have raised its prices in response to price increases by its supplier. *Compare, e.g., U.S. Oil Co.*, 7 DOE ¶81,048 (1980) (DOE found, *inter alia, that existing market conditions would not permit firm to increase its prices to reflect its suppliers' high product costs) with C & H Gas and Oil*, 5 DOE ¶81,243 (1980) (DOE found that in view of existing fuel shortage, small price disparity should not have detrimental impact on firm). If a court were to review these proceedings it need not and may not determine these difficult questions of proof itself. It need only review our determination that a claimant passed through the overcharges to its customers to decide whether to sustain our determination in this matter. We have therefore concluded that the difficulty of proof consideration does not require the abandonment of our proposed requirement that a claimant must demonstrate that it absorbed overcharges in order to establish an entitlement to a portion of the settlement fund.

Some of the commenters, including enforcement officials of the DOE, have contended that claimants who have themselves entered into consent orders or who are currently the subject of enforcement proceedings should be precluded from filing Applications for Refunds. Those commenters contend that since such claimants have also violated the DOE regulations they should be excluded from these equitable proceedings because they have "unclean hands." [15] In addition, the Office of Special Counsel (OSC) observed that since it has closed its investigation of firms with which it has entered into consent orders, there is no mechanism for ascertaining the truth of a firm's allegations concerning its banks of unrecovered product cost increases. Moreover, the OSC asserts that its agreement to a consent order does not indicate that it has retreated from its position that a firm violated the DOE regulations. Finally, several parties noted that there are still numerous unresolved enforcement cases involving parties who have filed notices of claims. Consequently, the OHA has been urged to delay or deny disposition of any consent order funds to any claimant who has been or is currently the target of enforcement proceedings.

Upon consideration of the documents filed in these proceedings, we have concluded that it would be inappropriate at this time to refuse to entertain Applications for Refund from any class of claimants. The purpose of the present determination is simply to "set forth the standards and procedures that will be used in evaluating individual Applications for Refunds." 10 CFR 205.282(d). A determination on the merits of a particular Application for Refund is a separate process which may include an investigation of statements made by the applicant, submission of information by other sources, and the convening of a conference or hearing. 10 CFR 205.284. While we agree that consent order funds should not be

[15] We have previously held that the equitable doctrine of clean hands will be applied by the OHA in temporary stay, stay, and exception cases that involve requests for equitable relief. *See Acomi Corporation*, 4 DOE ¶82,542 (1979) and cases cited therein. Special refund proceedings are likewise equitable cases.

distributed to parties who, for example, have profited from a criminal scheme to circumvent the DOE regulations, we certainly are in no position to rule on a claimant's eligibility in advance of the filing of an Application for Refund. Moreover, we think it would be undesirable to delay distribution of these funds for the period of years that may elapse before pending enforcement actions have been completed.

Instead of adopting a blanket prohibition against certain claimants, we shall require that each person filing an Application for Refund specify whether there is or has been an enforcement proceeding covering its compliance with the DOE regulations. The applicant should also state whether the matter has been concluded and provide a copy of any final order issued in the case (*i.e.* remedial order, consent order, court order). Where appropriate, the relevant enforcement office may be informed of the application by the OHA. We shall then decide on a case-by-case basis whether the applicant was injured by the alleged overcharges in light of all the available information, including substantial evidence of violations.

The records in these proceedings do not contain sufficient case-specific information for us to set forth more than general considerations that we shall apply in the disposition of cases involving allegations of violations by claimants.

We note that if there is an ongoing enforcement proceeding involving an applicant, any recovery from the consent order funds may be offset against its available banks and recovered if a remedial order is ultimately issued. Where a claimant has already negotiated a consent order, we believe that it will generally be contrary to the policy encouraging settlements to exclude a claimant on that basis. Finally, we wish to emphasize that these refund proceedings may not be used as a substitute for actions that might be brought under sections 209 or 210 of the ESA. The purpose of these proceedings is to provide an equitable mechanism for restitution of funds to parties who were injured by alleged overcharges, not to provide an alternative legal forum to adjudge the regulatory compliance of claimants.

One of the five firms, NHC, filed comments suggesting that the OHA include in its first-stage procedures a requirement that a claimant must waive its right to file suit under § 210 of the Economic Stabilization Act as a condition precedent to receipt of any refund. NHC contends that without a waiver provision claimants could seek to recover twice for the same overcharges—once from the DOE through an Application for Refund and a second time from the firm that had signed the consent order through a § 210 lawsuit. NHC contends that "such recoveries would not only discourage future settlements but they are unjustified from a policy perspective." NHC Comments at 13.

In our *Vickers* decision, we adopted an election of remedies (or waiver) provision of the sort urged by NHC. The consent order which Vickers had signed contained a provision in which the OE promised to recommended to the OHA, when the OE filed a Petition for the Implementation of Special Refund Procedures, that the OHA adopt an election of remedies provision. We indicated that it is our policy to carefully examine the circumstances in each case in considering whether to adopt a requested waiver provision. In *Vickers* we found that "the proposed election provision is an integral part of the Consent Order, and can be assumed to represent a carefully negotiated compromise concerning Vickers' possible violations of the DOE price regulations. *See United States v. Armour & Co.*, 401 U.S. at 681." *Vickers* at 83,394–95. We determined that acceptance of the OE's recommendations and approval of this bargained-for provision would encourage future settlements by other firms. We further found that settlements are in the public interest because they permit the DOE to enforce its regulatory program efficiently and effectively. Consequently we concluded that we should adopt the recommended provision.

In contrast to the *Vickers* case, none of the consent orders underlying this proceeding contains a provision that the OE will recommend a waiver requirement. It may be that the OE did not offer to recommend a waiver provision and settled instead for a lower refund amount because it did not wish to preclude § 210 actions in a particular case. While it is clear, as NHC suggests, that our adoption of a waiver requirement might encourage firms to settle, we hesitate to second-guess the settlement process by implementing a provision that could have been included in the final consent agreement but was not.

In its comments, NHC implicitly argues that our refusal to adopt and election of remedies provision as part of all special refund procedures would discourage future settlements. We do not agree, since we have already held in *Vickers* that we will generally adopt a waiver provision where the OE recommends it as part of the settlement agreement. Our implementation of a waiver requirement without a firm's having to bargain for it would erode the OE's bargaining position since it would eliminate one type of consideration with which the OE could bargain.

We also disagree with NHC that the possibility of double liability is "unjustified from a policy perspective." NHC does not specify to what policy it is referring, and we note that Congress expressly set a policy of permitting double exposure to liability by providing in sections 209 and 210 of the ESA that a firm be subject to suit by both the government and by private firms.[16] Consequently, absent strong countervailing factors, we will decline to adopt an election of remedies provision that would limit a firm's rights under section 210. In the present case, we are simply not persuaded by NHC's arguments in favor of the provision and find that there are several policy reasons—chief among them the deterimental effect on OE's bargaining position—against it. Therefore we shall not adopt a waiver requirement as part of the special refund procedures to be implemented in these cases.

Application for Refund Procedures

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our Proposed Decision and Orders we have concluded that: (i) the OHA has properly asserted jurisdiction over these cases pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement all of the procedures which were tentatively adopted in the Proposed Decisions for these cases; (iii) Applications for Refund should now be accepted from parties who purchased NGLs from Coline, NHC, Alcoa, Palo Pinto, and Belridge. We shall now discuss the specific requirements for Applications for Refunds that we have decided to adopt.

We have determined to accept Applications for Refund of a portion of the five firms' consent order funds filed within 90 days after the publication of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class

[16] The double recovery risk feared by NHC may actually be far less than it appears. The courts and the OHA would certainly reduce ("set-off") any firm's recovery in one proceeding by any amount already recovered in another proceeding. Furthermore, the actions covered by these consent orders took place, in many cases, so many years ago that the applicable statute of limitations for private section 210 actions may have run on them.

of claimants will be considered on a case-by-case basis. Our evaluation of class applications will be generally guided by Federal Rule of Civil Procedure 23, which governs class actions in federal courts. An application must be in writing, signed by the applicant, and specify which case it pertains to, by firm name and case number. If the applicant is not a first purchaser from one of the five firms, it should indicate from whom the NGLs were purchased and indicate what basis the applicant has for its belief that the NGLs which it purchased originated from the natural gas processing plants named in the consent orders.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the Application. All applications should be sent to: Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showing that should be made by refiners, resellers, retailers and end-users of the NGLs covered by the consent orders:

A. Each applicant should report its volume of purchases of NGLs by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges.

B. Each applicant should specify how it used the NGLs—as petrochemical producer, refiner, reseller or ultimate user.

C. If the applicant is a refiner or reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the violation through January 27, 1981. It should furnish the OHA with quarterly bank calculations for the entire period.

D. The applicant must state whether it or any of its affiliates have any other Applications for Refunds which might affect its level of banks.

E. The applicant must submit evidence to establish that it did not pass on the overcharges to is customers. For example, a firm may submit market surveys to show that price increases to recover overcharges were infeasible.

F. The applicant should report whether it is or has been involved as a party in DOE or private, section 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into two groups. First, some comments contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Secondly, some comments acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. In this Decision, we are not implementing the second-stage refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first-stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. Moreover, in the present cases claimants have asserted claims which, if meritorious, would completely exhaust the consent order funds. However, in order for members of the public to be made aware of outstanding issues and be able to comment on them, we summarized and briefly addressed the comments received concerning the proposed second-stage procedure in the Vickers decision. *See Vickers*, 8 DOE at 85, 398-99. Many of the same parties who commented on the second-stage procedures proposed for the *Vickers* case submitted virtually identical comments in the present cases. We will not reiterate our discussion of these issues. We continue to seek additional comments on these issues.

It Is Therefore Ordered That:

The refund amounts provided by Coline Gasoline Corporation, National Helium Corporation, Palo Pinto Oil & Gas, Belridge Oil Company, and Aluminum Company of America will be distributed in the manner set forth in the foregoing Decision.

Dated: November 20, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 81-34202 Filed 11-27-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL-1985-8; OPTS-59071]

Certain Chemicals Premanufacture Exemption Applications

Correction

In FR Doc. 81-33041 appearing on page 56500 in the issue of Tuesday, November 17, 1981, Second column, First line under **TME-45**, "December 30," should read "December 20,".

BILLING CODE 1505-01-M

[TSH-FRL-1994-4; OPTS-51356]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and

November 7, 1980 (45 FR 74378). This notice announces receipt of three PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-591, 81-592 & 81-593 January 17, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51356]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-426-2601).

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

PMN 81-591

Close of Review Period. February 16, 1982.

Manufacturer's Identity. American Cyanamid Company, One Cyanamid Plaza, Wayne, NJ 07470.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Nitrogen-containing organic sulfide.

Use. The manufacturer states that the PMN substance will be used in mineral processing.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data.

Acute oral toxicity LD_{50} (rat)—1.12 g/kg.
Acute dermal toxicity LD_{50} (rat)2 g/kg.
Primary skin irritation (rabbit)—Negligible.
Ames salmonella—Non-mutagenic.

Exposure. The manufacturer states that during manufacture 30 workers may experience dermal, inhalation and ingestion exposure up to 8 hrs/day, up to 250 days/yr during drumming, sampling and maintenance.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Disposal is to a waste treatment plant.

PMN 81-592

Close of Review Period. February 16, 1982.

Manufacturer's Identity. EMERY INDUSTRIES, INC., 4900 Este Avenue, Cincinnati, OH 45232.

Specific Chemical Identity. Sorbitan nonanoate.

Use. The manufacturer states that the PMN substance will be used as a site-limited industrial intermediate.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	100,000
2d year	30,000	300,000
3d year	50,000	500,000

Physical/Chemical Properties

Appearance—Amber liquid
pH, 5% in water—5-7
Flash point—415°F C.O.C.
Solubility:
Water—Dispersible
Isopropyl alcohol—Soluble
Mineral oil—Slightly soluble
Density @ 25°C—8.9 lbs/gal.
Chemical stability—Subject to hydrolysis under acidic or alkaline conditions.
Odor—Mild, pleasant.

Toxicity Data. No data were available on the PMN substance.

Exposure. The manufacturer states that during manufacture 6 workers may experience dermal exposure 1 hr/day, 50 days/yr during sampling, analysis, drumming and clean-up operations.

Environmental Release/Disposal. The manufacturer states that release to the environment is negligible. Disposal is to a publicly owned treatment works (POTW).

PMN 81-593

Close of Review Period. February 16, 1982.

Manufacturer's Identity. EMERY INDUSTIRS, INC.,4900 Este Avenue, Cincinnati, OH 45232.

Specific Chemical Identity. Sorbitan nonanoate, poly[oxy-1, 2-ethanediyl] derivatives.

Use. The manufacturer states that the PMN substance will be used as an industrial surfactant.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	15,000	90,000
2d year	45,000	450,000
3d year	300,000	900,000

Physical/Chemical Properties

Appearance—Amber liquid
pH, 5% in water—5-7
Solubility:
Water—Soluble
Isopropyl alcohol—Soluble
Mineral oil—Dispersible
Density @ 25° C—9.2 lbs/gal
Chemical stability—Subject to hydrolysis under acidic and alkaline conditions.
Odor—Mild

Toxicity Data. No data were available on the PMN substance.

Exposure. The manufacturer states that during manufacture 4 workers may experience dermal exposure 1 hr/day, 60 days/yr during sampling, analysis, drumming and clean up operations.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Disposal is to a POTW or by incineration.

Dated: November 19, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-34237 Filed 11-27-81 8:45 am]

BILLING CODE 6560-31-M

[EN-2-FRL-1994-7]

Prevention of Significant Deterioration of Air Quality (PSD); Final Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Actions.

SUMMARY: The Purpose of this notice is to announce that between April 3, 1981, and September 30, 1981, the U.S. Environmental Protection Agency, Region II, issued twenty-three final determinations relative to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21 (45 FR 52676). A listing of these final determinations includes sixteen non-applicability determinations; two applicability determinations; and five final PSD permit decisions. These PSD determinations are final actions under the Clean Air Act.

DATES: The effective dates for the above PSD determinations are delineated in the following chart. (See SUPPLEMENTARY INFORMATION).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432 New York, New York 10278, (212) 264-4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA has made final determinations for the following sources:

This notice contains only a list of the sources which have received PSD determinations. Copies of these determinations and related materials are available for public inspection at: Environmental Protection Agency, Region II Office, Permits Administration Branch, Office of Policy and Management, 26 Federal Plaza, Room 432, New York, New York 10278, 212–264–4711.

Under section 307(b)(1) of the Clean Air Act, judicial review of these determinations is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by December 28, 1981. Under section 307(b)(2) of the Act, these determinations shall *not* be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: November 10, 1981.

Richard T. Dewling,

Acting Regional Administrator.

Name of applicant	Type of source	Approximate location	Type of final action	Date of final action
Sears Petroleum Transport Corp.	New petroleum refinery	Bethlehem, N.Y.	PSD, non-applicability	Apr. 3, 1981.
Orange & Rockland Utilities, Inc.	Generating station coal conversion	Rockland County, N.Y.	PSD, non-applicability	Apr. 14, 1981.
Hercules, Incorporated	Reactivation of three coal-fired boilers at the chemical plant	Parlin, N.J.	Final PSD permit	May 19, 1981.
Lehigh Portland Cement Co.	Addition of new coal-fired kiln at Portland cement plant	Alsen, N.Y.	PSD, non-applicability	June 2, 1981.
Weldon Materials, Inc.	Addition of new drum dryer facility at asphalt plant	Linden, N.J.	PSD, non-applicability	June 8, 1981.
Alcon Laboratories/Puerto Rico, Inc.	Modification of pharmaceutical plant (new production line)	Humacao, Puerto Rico	PSD, non-applicability	June 8,1981.
Shimazaki Corp	New chemical manufacturing plant	Newark, N.J.	PSD, non-applicability	June 11, 1981.
Alpha Portland Cement Company.	Modification of Portland cement plant (temporary fuel switch)	Cementon, N.Y.	PSD, non-applicability	June 19, 1981.
Martin Marietta Aluminum, Inc.	Concrete batching plant	St. Croix, U.S. Virgin Islands	PSD, non-applicability	June 22, 1981.
New York State Electric & Gas Corp.	Coal-fired power plant	Somerset, N.Y.	Final PSD permit	June 29, 1981.
Schering, Corp.	New boiler at pharmaceutical plant	Kenilworth, N.J.	PSD, non-applicability	June 30, 1981.
New York State Electric & Gas Corp.	Concrete batching plant	Somerset, N.Y.	PSD, non-applicability	July 7, 1981.
Hess Oil Virgin Islands Corp.	Petroleum refinery expansion (addition of two fluid catalytic converters).	St. Croix, U.S. Virgin Islands	PSD, applicability	July 8, 1981.
Hoffmann La-Roche, Inc.	New diesel cogeneration facility	Belvidere, N.J.	Final PSD Permit	July 17, 1981.
Boise-Cascade Corp.	Modification at paperboard converting facility (new oil-fired boiler)	Lowville, N.Y.	PSD, applicability	July 21, 1981.
Sun Oil Company, Yabucoa	Boiler expansion at petroleum refinery	Yabucoa, Puerto Rico	PSD, non-applicability	July 22, 1981.
Hooker Chemical and Plastics Corp.	New energy-from-waste facility	Niagara Falls, N.Y.	Revisions to a final PSD permit	July 23, 1981.
Public Service Electric and Gas Company.	Coal conversion at generating station	Burlington County, N.J.	PSD, non-applicability	Aug. 10, 1981.
Garden State Paper Company	Coal conversion at paper mill	Garfield, N.J.	PSD, non-applicability	Aug. 10, 1981.
Colgate University	New wood-fired boiler	Hamilton, N.Y.	PSD, exemption	Aug. 19, 1981.
City of New York, 26th Ward Project.	New sludge combustion facilities at sewage treatment plant	Brooklyn, N.Y.	PSD, non-applicability	Aug. 25, 1981
Puerto Rican Cement Co., Inc.	Coal conversion at the Portland cement plant	Ponce, P.R.	PSD, non-applicability	Aug. 27, 1981.
Virgin Islands Refinery Corp.	New petroleum refinery	St. Croix, U.S. Virgin Islands	Final PSD permit	Sept. 4, 1981.

[FR Doc. 81-34244 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-38-M

[AS-FRL-1994-1]

Science Advisory Board; Technology Assessment and Pollution Control Committee; Closed Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that a meeting of an ad-hoc committee of the Science Advisory Board will be held in Washington, D.C., December 1, 1981 to determine the recipients of the Agency's 1981 Scientific and Technological Achievement Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities.

Pursuant to section 10(d) of 5 U.S.C. Appendix 1 and 5 U.S.C. 552(c), I hereby determine that this meeting is concerned with information exempt from disclosure and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. In selecting the recipients for awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will, inevitably, involve personal as well as professional judgments, could cause unnecessary embarrassment, particularly for those EPA employees not selected to receive awards, and disclosure would constitute a clearly unwarranted invasion of personal privacy.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of 5 U.S.C. Appendix 1, section 10(d).

Anne M. Gorsuch,

Administrator.

November 17, 1981.

[FR Doc. 81-34238 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-34-M

[OPTS-59068A; TSH-FRL-1994-2]

Substituted Heteropolycycle; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-41) under section 5 of the Toxic Substances Control Act (TSCA) on October 6, 1981. Notice of receipt of the application was published in the **Federal Register** of October 15, 1981 (46 FR 50844). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on November 19, 1981.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, D.C. 20460, (202-426-8815).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under

section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On October 6, 1981, the EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-81-41. The manufacturer claimed its identity, the specific chemical identity, the specific use of the new substance, process information, and the percentage of final chemical used in the article as confidential business information. The generic name of the new substance is substituted heteropolycycle and it will be incorporated as a minor constituent of an article for commerical use. A maximum of 0.1 kilogram will be processed for test market purposes, during a test marketing period not to exceed 3 months. During processing, dermal and inhalation exposure may occur for up to 10 people for a maximum of 0.3 hour/day for up to 5 days during manual transfer operations. The potential maximum concentration is 1 to 5 mg/m^3. A notice published in the **Federal Register** of October 15, 1981 (46 FR 50844) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-41, under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. A small amount will be processed and minimal exposure is expected. This chemical will be a minor constituent in a commercial article. The chemical will be contained in such a manner as to afford a very low potential for human contact to the new substance in the commercial article. No significant environmental concerns were identified and environmental release of the substance will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed the quantity of 0.1 kilogram described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a 3-month period commencing on the date of signature of this notice by the Administrator.

4. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: November 19, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 81-34235 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59073; TSH-FRL-1993-7]

Substituted Methyldisilane; Premanufacture Exemption Application

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 an application for an exemption, provides a summary, and requests comments on the appropriateness of granting of exemption.

DATE: Written comments by: December 15, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-59073]" 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 is a summary of information provided by the manufacturer on the TME received by the EPA:

TME 81-48

Close of Review Period. January 3, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted methyldisilane.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the TME substance will be used as a coating.

Production Estimates: One year—Maximum lb., 500.

Physical/Chemical Properties. Flash point—83° F. (TCC).

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

Dated: November 20, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-34234 Filed 11-27-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-4000]

South Louisiana Port Commission and Convent Chemical Corp.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-4000 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Agreement No. T-4000 is between the South Louisiana Port Commission and Convent Chemical Corporation. The lease involves dock and related storage facilities on the Mississippi River at Convent Chemical Corporation's chlorine-caustic soda and ethylene dichloride plant in St. James Parish, Louisiana.

This Finding of No Significant Impact (FONSI) will become final within 10 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-34174 Filed 11-27-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2093]

Airguide Freight Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Airguide Freight Forwarders, Inc., 7795 NW. 32nd Street, Miami, FL 33152 was cancelled effective November 14, 1981.

By letter dated October 26, 1981, Airguide Freight Forwarders, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2093 would be automatically revoked unless a valid surety bond was filed with the Commission.

Airguide Freight Forwarders, Inc., has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 2093 be and is hereby revoked effective November 14, 1981.

It is ordered, That Independent Ocean Freight Forwarder License No. 2093 issued to Airguide Freight Forwarders, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Airguide Freight Forwarders, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 81-34280 Filed 11-27-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2020]

M. B. Air Freight Co. (Mario Bombara, DBA); Order of Revocation

On November 13, 1981, Mario Bombara, dba M. B. Air Freight Co., 14819 New York Blvd., Jamaica, NY 11434 requested the Commission to revoke his Independent Ocean Freight Forwarder License No. 2020.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 2020 issued to M. B. Air Freight Co. (Mario Bombara, dba), be revoked effective December 6, 1981, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 2020 issued to M. B. Air Freight Co. (Mario Bombara, dba) be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon M. B. Air Freight Co. (Mario Bombara, dba).

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-34281 Filed 11-27-81; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 81-71; Agreement No. 10405]

New York Ocean Freight Forwarder Discussion Group; Order of Investigation and Hearing

Agreement No. 10405 was filed with the Commission for approval pursuant to section 15 of the Shipping Act 1916 by the New York Ocean Freight Forwarder Discussion Group which consists of fifty-one licensed independent ocean freight forwarders whose principal place of business is within the Port of New York. According to Article III of Agreement No. 10405, any licensed independent ocean freight forwarder whose principal place of business is within the Port of New York may join the Group.

Article II of Agreement No. 10405 provides that the Group's members may discuss among themselves matters of mutual interest to ocean freight forwarders and their principals, and negotiate such matters with others engaged in United States foreign commerce. These others include but are not limited to steamship conferences, their member lines, independent ocean carriers, terminal conferences and individual terminal operators, exporter and importer organizations, shippers' councils (when and if authorized to operate), motor carrier rate bureaus, individual motor carriers, railroads, the Port Authority of New York and New Jersey, associations of and individual nonvessel operating common carriers by water, and other groups of ocean freight forwarders authorized to act collectively. Article II of the Agreement further provides that these discussions and negotiations shall relate to activities involving the receipt, processing, and transportation of export shipments moving via the Port of New York. Article II expressly excludes from the scope of its authorization discussion by members, among themselves or with third parties, relating to the fees or practices of their individual businesses. No agreement between the Group and any persons subject to the Act shall become effective until approved by the Commission.

The November 4, 1980 letter of transmittal accompanying Agreement No. 10405 filing states:

> The Group will not operate in corporate form and will not conduct any business activity * * * It seeks only the authority to act concertedly in discussions with third parties regarding export movements through the Port of New York. The members of the Group will not fix rates or practices on forwarding matters and indeed, may not even discuss these areas.

The letter also set forth several factors in justification of the Agreement's approval.

Notice of the filing of Agreement No. 10405 was publisheed in the **Federal Register** on December 2, 1980. Comments on the Agreement were filed by numerous parties [1] and the principal points raised by such comments are that:

(1) the Agreement is vague, and it is unclear precisely how it would operate;

(2) the Agreement is anticompetitive and lacks sufficient justification for Commission approval; and

(3) the Agreement provides for approval of matters beyond the scope of the Commission's jurisdiction.

Several of the commentators addressed the alleged vagueness and ambiguity of the Agreement. The "8900" Lines point out that the intended scope of matters open for discussion under the Agreement is unclear as presently described, while the NVOCC's critize the Agreement as "vague, indefinite and broadly worded." Additionally, NEC contends that the Agreement contains unique, substantive provisions which raise novel issues never before squarely addressed or resolved by the Commission, i.e., how the Group would implement its authority under the Agreement and whether approval would serve to provide antitrust immunity to an approved ratemaking agreement entering into collective discussions and negotiations with Agreement No. 10405 parties.

Several commentators point out that the Agreement is not limited to discussions between and amongst signatory parties, but extends to other groups and associations and individual entities, some but not all of which are subject to Commission jurisdiction. Thus the commentators question the authority of the Commission to grant antitrust immunity to those groups and individual entities not signatory to the Agreement or subject to Commission jurisdiction.

ALAFC points out that carrier conference Agreements, as presently constituted, do not bestow the authority to meet and negotiate with shippers or their agents concerning such matters as freight rates, charges and practices and thus the proposed freight forwarder group might seek special treatment for shippers of cargo moving through the Port of New York, possibly in violation of sections 16 and 17 of the Shipping Act, 1916 or section 205 of the Merchant Marine Act, 1936. All of the commentators concur that the Agreement is sufficiently anticompetitive to require justification pursuant to the standards set forth in *Federal Maritime Commission v. Svenska Amerika Linien*, 390 U.S. 238 (1968) and the justification submitted with the Agreement is insufficient to warrant Commission approval without a hearing.

The Commission believes that the Agreement is unclear as to precisely what the proponents would do under the requested authority. The Agreement's stated purpose is to permit the proponents to discuss among themselves and negotiate with others engaged in U.S. foreign commerce matters of interest to themselves and to their principals relating to the receipt, processing, and transportation of export shipments moving via the Port of New York. The Agreement specifically limits these discussions and negotiations in only two respects: (1) excluding the discussion of the fees and practices of proponents' individual businesses; and (2) requiring that no agreement reached between the proponents and any other person subject to the Act shall become effective until approved by the Commission. Otherwise, the Agreement lacks substantive guidelines to specifically define the activities permitted under its terms. The requirement that agreements subject to section 15, Shipping Act, 1916 must fully apprise the Commission, as well as any interested parties, of procedures and arrangements under which the Agreement's contemplated activity is to occur is a fundamental requirement of section 15.

A further matter of concern to the Commission is the provision in the Agreement which would allow the Group to negotiate with carriers and others regarding matters of mutual interest to the members and their principals, i.e., shippers. This raises the issue of whether discussions and negotiations on behalf of shippers are properly within the scope of section 15. The Commission question whether this, in effect, would indirectly create a shippers' council whereby a group of shippers, who engage the services of proponents, would be negotiating rates and other matters with carriers through their freight forwarder agents.

Presently the Commission believes that there is insufficient information before it to support approval of the Agreement. In order for the Commission to determine whether Agreement No. 10405 is approvable under the standards of section 15, it is necessary for proponents to come forward with sufficient information to demonstrate that the Agreement will provide the benefits described by them in their justification.

Upon consideration of Agreement No. 10405 and the numerous factual and legal issues which are raised by the Agreement, the parties submitting comments, and the proponents in their justification and reply to comments, the Commission has determined that an investigation and hearing should be instituted to determine whether Agreement No. 10405 should be approved, disapproved or modified pursuant to section 15 of the Shipping Act, 1916.

It is therefore ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814, 821), a proceeding is hereby instituted to determine whether Agreement No. 10405 is unjustly discriminatory or unfair as between carriers, shippers, exporters, or importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is otherwise in violation of the Shipping Act, 1916, and whether Agreement No. 10405 should be

[1] (1) The North Atlantic United Kingdom Freight Conference; French Atlantic Freight Conference; Continental Freight Conference; and Baltic Freight Conference (NEC); (2) the "8900" Lines; Greek/U.S. Atlantic Rate Agreement; Iberian/U.S. North Atlantic Westbound Freight Conference; Italy, South France, South Spain, Portugal/U.S. Gulf and the Island of Puerto Rico (Med Gulf) Conference; Marseilles/North Atlantic U.S.A. Freight Conference; Mediterranean-North Pacific Coast Freight Conference; Mediterranean U.S.A. Great Lakes Westbound Freight Conference; North Atlantic Mediterranean Freight Conference; U.S. Atlantic & Gulf Australia–New Zealand Conference; U.S. North Atlantic Spain Rate Agreement; U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement; and West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (the "8900" Lines *et al.*); (3) the Far East Conference and Inter-American Freight Conference (FEC); (4) the Atlantic and Gulf-Indonesia Conference; Atlantic and Gulf-Singapore, Malaya and Thailand Conference (AGC); (5) the Associated Latin America Freight Conferences (ALAFC); Atlantic & Gulf/Panama Canal Zone, Colon & Panama City Conference; Atlantic & Gulf/West Coast of South America Conference; East Coast Colombia Conference; Southeastern Caribbean Conference; United States Atlantic & Gulf-Hati Conference; United States Atlantic & Gulf-Jamaica Conference; United State Atlantic & Gulf-Santo Domingo Conference; United States Atlantic Conference & Gulf Venezuela Conference; and (6) the International Association of VNOCC's and Boston Consolidation Service, Ind. (NVOCC's).

approved, disapproved, or modified under the provisions of section 15;

It is further ordered, That Proponents shall come forward with evidence to demonstrate that the Agreement will provide the benefits set forth in their justification and how these benefits, as set forth below,[2] relate to the standards of approval set forth in section 15:

(1) That Agreement No. 10405 would give Proponents and their customers the same ability as conference lines to deal concertedly on the level of rates;

(2) That Agreement No. 10405 would enable the proponents to deal collectively with the conferences and their member carriers to demonstrate more effectively what is needed in the rate structure to meet Canadian port competition;

(3) That Agreement No. 10405 would permit the proponents to represent smaller, less knowledgeable exporters who lack the organization, expertise, and strength individually to negotiate with carriers;

(4) That Agreement No. 10405 would allow proponents to object to such matters as currency adjustment factors and bunker surcharges that appear to discriminate against the Port of New York;

(5) That Agreement No. 10405 would enable proponents to discuss and negotiate on an organized basis with carriers the level of compensation paid by conference lines to forwarders;

(6) That Agreement No. 10405 would provide a close working relationship between forwarders and carriers regarding tariff interpretation;

(7) That Agreement No. 10405 would contribute to the transportation needs of exporters by assisting in the fixing of rates and commencement of new independent services;

(8) That Agreement No. 10405 would result in the reduction or elimination of unnecessary delay, demurrage and congestion at the Port of New York by permitting discussions between the Group and the local conference of terminal operators; and

(9) That Agreement No. 10405 would encourage motor and rail carriers to offer improved services and innovative rate-making;

It is further ordered, That in the event any modification of Agreement No. 10405 is filed with the Commission, such modification shall be made subject to this investigation for approval, disapproval, or modification under the standards of Section 15, Shipping Act, 1916;

It is further ordered, That the New York Ocean Freight Forwarders Discussion Group, and the independent ocean freight forwarders listed in Appendix A hereto, are hereby made Proponents in this proceeding;

It is further ordered, That the International Association of NVOCC's, Boston Consolidation Service, Inc. and the conferences and rate Agreements, on behalf of their member lines, listed in Appendix B hereto, are hereby made Protestants in this proceeding;

It is further ordered, That Proponents shall present their direct case within 60 days from the date of this Order;

It is further ordered, That the discovery process set forth in § 502.201, *et seq.* of the Commission's Rules of Practice and Procedure (46 CFR 502.201, *et seq.*) shall not commence until the Proponents serve their direct case;

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined by the Presiding Administrative Law Judge in accordance with Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61).

It is further ordered, That pursuant to Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42) and, **Federal Register** Notice, Vol. 46, No. 140, 37779, July 22, 1981, the Commission's Bureau of Hearings and Field Operations, by the Office of Hearing Counsel, shall be a party to this proceeding.

It is further ordered, That any person(s) other than Proponents, Protestants, and the Bureau of Hearings and Field Operations having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, deposition, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That this order be published in the **Federal Register**, and a copy thereof be served upon Proponents and Protestants.

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties or counsel.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be so filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118).

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

Lunham & Reeve, Inc. (FMC 287)
Triangle Forwarding Corp. (FMC 556)
Schenkers International Forwarders, Inc. (FMC 911)
Maron Shipping Agency, Inc. (FMC 152)
Trans-World Shipping Corp. (FMC 22)
Albert E. Bowen, Inc. (FMC 918)
Export-Import Services, Inc. (FMC 888)
Wedemann & Godknecht, Inc. (FMC 889)
Davies, Turner & Co. (FMC 827)
Auto-Overseas Ltd. (FMC 1563)
Dachser Transport of America, Inc. (FMC 1883)
Hudson Shipping Co., Inc. (FMC)
Militzer & Muench U.S.A., Inc. (FMC 1664)
Globe Shipping Co., Inc. (FMC 290)
Milton Snedeker Corp. (FMC 229)
Natural Nydegger Trsp. Corp. (FMC 894)
Express Forwarding & Storage Co. (FMC 912)
Dumont Shipping Co., Inc. (FMC 887)
Mohegan International Corp. (FMC 269)
Pan Atlantic Shipping Ltd. (FMC 1330)
Friedland International Shipping, Inc. (FMC 1392)
F.W. Myers (Atlantic) & Co. Inc. (FMC 1397)
N. J. Defonte Co., Inc. (FMC 1350)
Emery Ocean Freight (FMC 666R)
J. D. Smith Inter-Ocean, Inc. (FMC 916)
Thomson Jacobs & Moran, Inc.
Terramar Shipping Co., Inc. (FMC 131R)
Transintra-International Forwarding Co., Inc. (FMC 2099)
Amersped Inc. (FMC 864)
Unsworth & Co., Inc. (FMC 541)
Inter-Maritime Forwarding Co., Inc. (FMC 354)
Rohner, Gehrig & Co., Inc. (FMC 375)
ALBA Forwarding Co., Inc. (FMC 267)
H. W. St. John & Co., Inc. (FMC 1012)
Rohde & Liesenfeld, Inc. (FMC 1832)
Leschaco, Inc. (FMC 2178)
The Wilson Group (FMC 224)
Francesco Parisi Inc. (FMC 770)
Cosmos Shipping Co., Inc. (FMC 722)
Universal Transcontinental, Inc.
United Forwarders Service, Inc. (FMC 509)
New Era Shipping Co., Inc. (FMC 514)
F.N.S. Corporation
Sea-Lanes Shipping Co., Inc. (FMC 283)
Heidl's Inc. (FMC 64)
Pracht International, Inc. (FMC 1880)
Vehport Enterprises, Ltd. (FMC 1701)
Alltransport, Inc. (FMC 300)
Daniel F. Young, Inc. (FMC 656)

[2] These factors were articulated by Proponents in their November 4, 1980 letter of transmittal as justifying approval of Agreement No. 10405.

American Union Transport Forwarding, Inc. (FMC 448)
GCS Charter & Shipping Agency, Inc. (FMC 1911)

Appendix B

The North Atlantic United Kingdom Freight Conference
French Atlantic Freight Conference
Continental Freight Conference
Baltic Freight Conference
The "8900" Lines
Greek/U.S. Atlantic Rate Agreement
Iberian/U.S. North Atlantic Westbound Freight Conference
Italy, South France, South Spain, Portugal/U.S. Gulf and Island of Puerto Rico (Med Gulf) Conference
Marseilles/North Atlantic U.S.A. Freight Conference
Mediterranean-North Pacific Coast Freight Conference
Mediterranean U.S.A. Great Lakes Westbound Freight Conference
North Atlantic Mediterranean Freight Conference
U.S. Atlantic & Gulf Australia—New Zealand Conference
U.S. North Atlantic Spain Rate Agreement
U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement
West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference
The Far East Conference
Inter-American Freight Conference (FEC)
The Atlantic and Gulf-Indonesia Conference
Atlantic and Gulf-Singapore, Malaya and Thailand Conference (AGC)
The Associated Latin American Freight Conference (ALAFC)
Atlantic and Gulf/Panama Canal Zone, Colon & Panama City Conference
Atlantic & Gulf/West Coast of South America Conference
Southeastern Caribbean Conference
East Coast Colombia Conference
United States Atlantic & Gulf-Haiti Conference
United States Atlantic & Gulf-Jamaica Conference
United States Atlantic & Gulf-Santo Domingo Conference
United States Atlantic & Gulf Venezuela Conference
The International Association of NVOCC's
Boston Consolidation Service, Inc. (NVOCC's).

[FR Doc. 81-34282 Filed 11-27-81; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Request for Comments on Contemporaneous Reserve Requirements Proposal

The Federal Reserve Board has requested public comment on a proposal pertaining to the maintenance of required reserves.

The proposal would introduce essentially contemporaneous reserve requirements (CRR) on transactions accounts for medium-size and larger depository institutions instead of the lagged reserve system now in effect. Transactions accounts include checking, NOW, and automatic transfer accounts. Under the present lagged reserve system, depository institutions must post their required reserves in any given week, based on their deposit levels two weeks earlier.

Specific comment is requested by the Board on the implications of this proposal regarding the functioning of the money markets and the operations of depository institutions, including the probable impact on reserve management and deposit monitoring systems. Where possible, the Board would like specific estimates of the costs involved, both start-up and continuing. There may be additional costs to depository institutions in shifting to CRR—the cost of altering deposit information systems and the complications that might result in reserve management. Consequently, the design and desirability of a CRR system must balance gains in efficiency against potential costs.

Comments are required on the following proposal:

—CRR would apply only to institutions that report their deposit levels weekly to the Federal Reserve. Certain institutions with $15 million or less in total deposits may report quarterly, while certain others with deposits under $2 million do not report.

—Reserves would not be maintained over two-week periods. These periods would continue to end on Wednesday, and all institutions would settle their reserve accounts at the same time.

—Required reserves would be computed on the basis of average deposit levels over a two-week period ending on Monday. Reserves required against transactions deposits would be maintained in the two-week maintenance period ending on the Wednesday two days after the end of the computation period. This two-day interval is provided to facilitate the computation of required reserves by affected institutions.

—Required reserves for other reservable liabilities would also be computed for two-week periods ending on Monday but the actual reserves would be posted in the two-week maintenance period beginning 17 days later, on a Thursday.

—Vault cash eligible to be counted as a reserve in a maintenance period would continue to be lagged and would be equal to vault cash holdings during the computation period ending 17 days prior to the beginning of that maintenance period.

—No change would be made in the current limit of plus or minus 2 percent of daily average required reserves that applies to the carry-over of reserve surpluses or deficiencies into the next reserve period. However, lengthening the reserve period from one week to two weeks provides the same additional flexibility for managing reserve positions as would be a doubling of the carry-over limit with a one-week period.

The Board also desires comment on variations of the proposal such as staggering reserve periods for different sets of institutions with half settling every other week, lengthening reserve computation and maintenance periods to three or four weeks, and increasing the percentage of allowable carry-over.

Any person wishing to comment on the proposal 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 January 15, 1982.

Board of Governors of the Federal Reserve System, November 23, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-34231 Filed 11-27-81; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report of Amended System Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of amended system of records.

SUMMARY: The purpose of this document is to give notice pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) of intent to amend a system of records that is maintained by GSA. The system of records, Security Staff Files HRO–37, is being amended to change the location of part of the system and to change the system name. The proposed amendments are not considered as being within the purview of the provisions of 5 U.S.C. 552a(o) which would require submission of an altered report to Congress and the Office of Management and Budget.

DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before the 30th day following publication of this notice. The amendments shall become effective as proposed without further notice on the 30th day following publication of this notice unless comments are

received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (AIRAR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, Chief, Records Management Branch, Information Management Division, (202) 566–0673.

SUPPLEMENTARY INFORMATION: The present Security Staff Files system consists of personnel security files, information security files, and assets protection files being maintained within the Office of Internal Security. The personnel security files pertaining to Senior Executive Service (SES) and Schedule C employees are being transferred to the Office of Ethics. The purpose of this notice is to reflect this change in location and responsibility. The name of the system is also being changed from "Security Staff Files" to "Security Files."

The amended system of records notice GSA/HRO–37 (23–00–0110) will read as follows:

SYSTEM NUMBER:

GSA/HRO–37 (23–00–0110).

SYSTEM NAME:

Security files.

SECURITY CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 12065.

SYSTEM LOCATION:

Personnel security files pertaining to Senior Executive Service (SES) and Schedule C employees are maintained in the Office of Ethics (AK), GS Building, 18th and F Sts. NW., Washington, D.C. All other files are maintained in the Office of Internal Security (AII), GS Building, 18th and F Sts. NW., Washington, D.C. 20405.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of GSA and of commissions, committees, and small agencies serviced by GSA. Also included are historical researchers, experts or consultants, and employees of contractors performing services under GSA jurisdication.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files contain information such as name, date and place of birth, address, social security number, education, occupation, experience, and investigatory material. These records are used as basis for issuance of security and ADP clearances; suitability determinations; and civil, criminal, and administrative action. Information security files contain records of security violations which may include employees' names and positions. These records are used for recommending administrative action against employees found to be in violation of GSA document security regulations. The assets protection files contain survey and inspection reports of all GSA owned or leased facilities and may include employees' names and positions. These records are used for recommending assets protection measures and procedures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, April 27, 1953, as amended; Executive Order 12065, June 28, 1978; 31 U.S.C. 686; and 40 U.S.C. 318 (a) through (d).

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration (GSA) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To provide information to a Member of Congress or to a congressional staff member from the records of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfiche in cabinets, and computer records in conjunction with the system of records GSA/PPFM–4 and attached equipment.

RETRIEVABILITY:

Paper records are retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident. Microfiche and computer records are filed alphabetically or by social security number.

SAFEGUARDS:

Records are stored in locked, alarmed room and/or three way combination dial safes with access limited to authorized employees. Passwork system protects access to computer records. Information is released only to officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of records is in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2). Records are destroyed by burning, pulping, or shredding.

SYSTEM MANAGERS AND ADDRESSES:

The official responsible for the personnel security files pertaining to SES and Schedule C employees is the Director of the Office of Ethics (AK), 18th and F Streets NW., Washington, DC 20405. The official responsible for all other files in the system is the Director of Internal Security (AII), 18th and F Streets NW., Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the applicable system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the applicable system manager and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other Government agencies, employees references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the act.

Dated: November 18, 1981.

Michael G. Barbour,

Acting Director of Administrative Services.

[FR Doc. 81-31283 Filed 11-27-81; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Working Group to Reevaluate Guidelines for Surgical Wound Infections; Open Meeting

On December 17 and 18, 1981, the Centers for Disease Control will convene an open meeting of a working group to reevaluate guidelines for surgical wound infections to provide the most reasonable and practical guidance to infection control committees in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m., in Classroom 3, Building 1, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Center for Infectious Disease, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia, Telephones: FTS: 236-3408, Commercial: 404/329-3408.

Dated: November 19, 1981.

William C. Watson,

Acting Director, Centers for Disease Control.

[FR Doc. 81-34249 Filed 11-27-81; 8:45 am]

BILLING CODE 4160-18-M

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX; Social Services Block Grant Act; Promulgation for Fiscal Year 1983

AGENCY: Office of Program Coordination and Review, Office of Human Development Services, Health and Human Services.

ACTION: Notice of Allocation of Title XX-Social Services Block Grant Allotments for Fiscal Year 1983.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1983 pursuant to Title XX of the Social Security Act, as amended.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Section 2003 of the Social Security Act authorizes $2.45 billion for Fiscal Year 1983 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receive an amount which bears the same ratio to $2.45 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion;

(2) The remainder of the $2.45 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1983, the allotments are based upon the Bureau of Census 1980 Decennial Census.

The allotments to the States published here are based upon the authorization set forth in section 2003 of the Social Security Act and are contingent upon Congressional Appropriations Actions for the Fiscal Year. Allotments to the Territories are tentative, pending resolution of several technical eligibility issues raised by Pub. L. 97-35.

Effective date: These allotments shall be effective October 1, 1982.

FY 1983 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS

Total	$2,450,000,000
Alabama	41,815,600
Alaska	4,299,805
American Samoa	354,734
Arizona	29,217,172
Arkansas	24,573,383
California	254,430,187
Colorado	31,055,339
Connecticut	33,409,482
Delaware	6,395,959
District of Columbia	6,858,189
Florida	104,700,242
Georgia	58,735,331
Guam	422,414
Hawaii	10,373,279
Idaho	10,147,539
Illinois	122,737,922
Indiana	59,014,816
Iowa	31,313,327
Kansas	25,401,096
Kentucky	39,353,962
Louisiana	45,190,946
Maine	12,093,200
Maryland	45,319,940
Massachusetts	61,669,947
Michigan	99,518,977
Minnesota	43,825,758
Mississippi	27,099,518
Missouri	52,855,348
Montana	8,459,866
Nebraska	16,876,733
Nevada	8,588,860
New Hampshire	9,900,300
New Jersey	79,159,403
New Mexico	13,974,365
New York	188,729,174
North Carolina	63,142,630
North Dakota	7,019,431
Northern Marianas	84,483
Ohio	116,062,475
Oklahoma	32,517,272
Oregon	28,303,464
Pennsylvania	127,564,453
Puerto Rico	12,672,414
Rhode Island	10,179,787
South Carolina	33,527,726
South Dakota	7,417,163
Tennesse	49,351,007
Texas	152,944,049
Trust Territory of the Pacific Islands	1,257,693
Utah	15,705,036
Vermont	5,493,000
Virgin Islands	422,414
Virginia	57,466,888
Washington	44,395,482
West Virginia	20,961,547
Wisconsin	50,576,451
Wyoming	5,063,020

Dated: November 17, 1981.

Teresa Hawkes,

Director, Office of Program Coordination and Review.

Approved: November 19, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 81-34211 Filed 11-27-81; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AR-031029]

Arizona; Proposed Withdrawal And Reservation Of Lands

The Fish and Wildlife Service, Department of the Interior, filed amended application, Serial No. AR-031029, for the withdrawal of approximately 4.92 acres of public land from settlement, sale, location, or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Gila and Salt River Meridian, Arizona

T. 1 S., R. 23 W.,

Sec. 6, that portion of the W½SE¼SE¼ lying west of Cibola Road and south of a field road.

The area described contains approximately 4.92 acres in Yuma County, Arizona.

The lands are currently withdrawn for reclamation purposes. The Bureau of Reclamation is filing an application for revocation of the withdrawal on the above-described land.

The Fish and Wildlife Service desires that the land be withdrawn and reserved for the purpose of constructing a headquarters site for the Cibola National Wildlife Refuge. The

headquarters site will include a visitor center, visitor interpretation area and public parking.

On or before December 28, 1981, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Arizona State Office, Bureau of Land Management, at the address shown below, on or before Notice of public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are currently segregated from the operation of the public land laws, including the mining laws by the Bureau of Reclamation withdrawal and a Secretarial Notice of Proposed Withdrawal published in the **Federal Register** on September 25, 1981.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: November 18, 1981.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-34190 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[N-34740]

Nevada; Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214), as amended, Lyon County has applied for an airport lease for the following land:

T. 18 N., R. 24 E.,

Mount Diablo Meridan, Nevada

Sec. 24: S½SW¼
Sec. 26: N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼.

The area described comprises 320 acres in Lyon County, Nevada. The application was filed on November 3, 1981, and on that date, the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, 1050 East William Street, Suite 335, Carson City, Nevada 89701.

Thomas J. Owen,

District Manager.

[FR Doc. 81-34191 Filed 11-27-81; 8:45 am]

BILLING Code 4310-84-M

Nevada; Proposed Continuation of Withdrawal

November 18, 1981.

In the matter of Nev–047450, Nev–047451, Nev–047452, Nev–047453, Nev–047454, Nev–047455, Nev–047457, Nev–047459, Nev–047463, Nev–047464, Nev–047466, Nev–047468, Nev–047470, Nev–047472, Nev–061128.

In accordance with the provision of Section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management (BLM) is reviewing possible continuation of public water reserve withdrawals made by Executive Orders dated June 1, 1915, February 23, 1916, December 30, 1917, April 8, 1919, August 15, 1919, March 8, 1920, October 24, 1920, November 26, 1921, October 3, 1925, October 26, 1925, March 8, 1928, February 29, 1929, March 5, 1930, January 21, 1931, and Executive Order 5389 dated July 7, 1930. The following land is included in the proposed continuation:

Mount Diablo Meridian

Nev–047450

T. 37 N., R. 23 E.,
Sec. 5, S½SW¼NE¼, N½NW¼SE¼.
T. 43 N., R. 61 E.,
Sec. 21, W½SW¼SW¼.
T. 17 N., R. 67 E.,
Sec. 25, SE¼SW¼, NW¼SE¼.

Nev–047451

T. 1 N., R. 63 E.,
Sec. 21, (within);
Sec. 33, (within).
T. 5 N., R. 64 E.,
Sec. 18, (within).
T. 4 N., R. 65 E.,
Sec. 3, SW¼SE¼;
Sec. 15, SW¼NW¼;
Sec. 26, NW¼NW¼;
Sec. 29, SW¼NW¼;
Sec. 30, NW¼SE¼;
Sec. 33, SE¼NE¼.
T. 5 N., R. 65 E.,
Sec. 12, SW¼NE¼;
Sec. 15, NW¼NW¼;
Sec. 16, SE¼NE¼;
T. 23 S., R. 57 E.,
Sec. 12, NW¼NW¼.
T. 22 S., R. 58 E.,
Sec. 20, SW¼NW¼.
T. 21 S., R. 59 E.,
Sec. 6, Lot 7, SE¼SW¼.

Nev–047452

T. 27 N., R. 25 E.,
Sec. 8, SE¼;
Sec. 11, NE¼NW¼;
Sec. 21, NE¼NW¼.
T. 34 N., R. 64 E.,
Sec. 28, SE¼SW¼.

Nev–047453

T. 37 N., R. 23 E.,
Sec. 7, SE¼SW¼;
Sec. 18, NE¼NW¼.

Nev–047454

T. 37 N., R. 53 E.,
Sec. 16, S½NE¼, W½SW¼.

Nev–047455

T. 27 N., R. 58 E.,
Sec. 10, SW¼NW¼;
Sec. 21, SE¼NE¼.

Nev–047457

T. 41 N., R. 58 E.,
Sec. 36, W½E½NW¼.
T. 17 N., R. 64 E.,
Sec. 25, SW¼NW¼.

Nev–047459

T. 23 N., R. 44 E.,
Sec. 34, W½SE¼.

Nev–047463

T. 34 N., R. 22 E.,
Sec. 14, SE¼SE¼.

Nev–047464

T. 40 N., R. 51 E.,
Sec. 30, Lot 4;
Sec. 31, Lot 1.

Nev–047466

T. 41 N., R. 22 E.,

Sec. 10, N½NE¼.

Nev-047468

T. 43 N., R. 28 E.,
Sec. 23, SE¼ (within);
Sec. 25, NW¼ (within);
Sec. 26, NE¼ (within).

Nev-047470

T. 33 N., R. 50 E.,
Sec. 2, NE¼NW¼, SW¼SE¼.

Nev-047472

T. 44 N., R. 57 E.,
Sec. 16, SE¼SW¼, SW¼SE¼;
Sec. 21, NW¼NE¼, N½NW¼.

Nev-061128

T. 18 N., R. 20 E.,
Sec. 33, NE¼NW¼.

The described area aggregates 2,432.04 acres in Nevada (160.43 in Clark County, 569.21 in Elko County, 80 in Eureka County, 125.60 in Humboldt County, 120 in Lander County, 736.80 in Lincoln County, 420 in Pershing County, 280 in Washoe County and 120 in White Pine County).

The Bureau proposes continuation of the above described public water reserve site for a period of 20 years. The purpose of the withdrawal is to reserve important permanent water sources on public land for livestock, wildlife and general uses. The land will be open to the mining and mineral leasing laws. No change in the use of the land would be effected by the continuation.

The continuation does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws. However, leases, licenses or permits and Recreation and Public Purposes leases or sales will be made only if the proposed use of the lands will not interfere with the proper function of the public water reserve.

Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 90 days of the publication of this notice. Upon a determination by the State Director, Bureau of Land Management, that a public hearing should be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B. Additionally, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM within 90 days of the date of publication of this notice.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communication in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 81-34190 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

District Grazing Advisory Board; Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94-597 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on January 12, 1981.

The meeting will begin at 10 a.m. in the Susanville District Office of the Bureau of Land Management, Susanville, California.

The agenda for the meeting will include:

1. Jurisdiction over Northern Washoe County.
2. 1983 Range Improvement Project Priorities.
3. Other Items as Appropriate.
4. Public Comments.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 pm., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California, 96130-1090, by September 11, 1981. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Ben F. Collins,

Acting District Manager.

[FR Doc. 81-34193 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

Classification Decision; Lease or Sale Under Recreation and Public Purposes Act in Graham County, Ariz.; Correction

In FR Doc. 81-32469, appearing on page 55565, first column, in the issue of Tuesday, November 10, 1981, the following change is made:

On page 55565, first column, Bureau of Land Management, Classification Decision; Lease or Sale; Graham County, Arizona, change the date now reading "Dated: August 30, 1981", to read "Dates: November 30, 1981".

Dated: November 19, 1981.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 81-34182 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049749, Nev-049770, Nev-049776, Nev-049784, Nev-049825, Nev-049830, Nev-049843, Nev-049910]

Classifications Vacated; Nevada

November 20, 1981.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, small tract classifications Nev-049749, Nev-049770, Nev-049776, Nev-049784, Nev-049825, Nev-049830, Nev-049843 and Nev-049910 are hereby vacated in their entireties. The following townships are affected:

Mount Diablo Meridian

T. 22 S., R. 61 E.
T. 23 S., R. 61 E.
T. 21 S., R. 62 E.
T. 22 S., R. 63 E.

The land affected comprises aproximately 4,256.47 acres in Clark County, Nevada.

The Small Tract Act was repealed by section 702 of the Federal Land Policy and Management Act of 1976. Accordingly, the classification is no longer applicable and is hereby terminated. The segregative effect of the classification order is removed on November 30, 1981.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 81-34188 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[U-5338 and U-8150]

Termination of Classification for Multiple-Use Management and Termination of Mineral Segregation; Utah

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 filed October 28, 1968 and July 28, 1970, and published in the Federal Register October 29, 1968, Vol. 33, No. 211, Pages 15914–15 and July 29, 1970, Vol. 35, No. 146, Pages 12139–40 are hereby terminated.

The public lands involved aggregate 1,299,724 acres in Daggett and Uintah Counties.

2. The public lands described in the notices were classified for Multiple-Use Management and segregated from appropriation under the Agricultural Land Laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. 334), and from sales under Section 2455 of the Revised Statutes as amended (43 U.S.C. 1171). Paragraphs 3 and 4 also segregated 4,872 acres from all forms of appropriation, entry, location or selection under the public land laws, including the general mining laws, and from surface use and occupancy under the mineral leasing laws.

3. Pursuant to the regulations set forth in (43 CFR 2461.5(c)(2)), the above classifications are hereby terminated. At 10:00 a.m., on December 31, 1981, the lands described in said Notices of October 29, 1968 and July 29, 1970 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications reveived at or prior to 10:00 a.m., on December 31, 1981, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. The lands described in paragraphs 3 and 4 of the above notices will also be open to location under the United States Mining Laws at 10:00 a.m. on December 31, 1981.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: November 18, 1981.

Roland G. Robison, Jr.,

State Director.

[FR Doc. 81-34184 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

Closure of Willow Creek Summit, Idaho, to Off/Road Vehicle Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle (ORV) Closure.

SUMMARY: The Salmon District of the BLM announces the temporary closure of the Willow Creek elk winter range to all ORV use.

DATE: The closure will begin on December 1, 1981 and expire April 30, 1982.

LOCATION: This closure affects 10,015 acres in T. 10, 11N., of R. 21E., Boise Meridian, approximately 25 miles southeast of Challis, Idaho in Custer County.

SUPPLEMENTARY INFORMATION: This action is in accordance with 43 CFR 8341.2 and puts into effect the Challis MFP, Step 3 Multiple-Use Recommendation for Recreation 6.1, dated July 25, 1979, which restricted all ORV use from the Willow Creek Summit elk winter range.

Dated: November 11, 1981

Jerry Goodman,

Acting District Manager.

[FR Doc. 81-34187 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. A-16569]

Exchange of Public and Private Lands in Mohave County, Ariz.

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 26 N., R. 16 W., G&SRM.
Sec. 18, lots 1, 2, 3, and 4, E½W½, E½;
Sec. 20, all;
Sec. 28, all;
Sec. 30, lots 1, 2, 3, and 4, E½W½, E½.
T. 26 N., R. 17 W., G&SRM.
Sec. 14, all;
Sec. 16, all;
Sec. 24, all;
Sec. 26, all.

Comprising 5,091.72 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following described lands from the Carson Water Company of Las Vegas, Nevada:

T. 25 N., R. 18 W., G&SRM.
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 23, all;
Sec. 25, all;
Sec. 27, all;
Sec. 35, all.

Comprising 4,480 acres of private lands, more or less.

The exchange involves only the surface estate of the private offered lands while the Public selected lands include the surface and mineral estates, with the exception of Sec. 16, T. 26 N., R. 16 W., G&SRM, where the minerals are state owned.

The Cerbat Mountain Mangement Framework Plan Step 3, Recommendation R-2, as accepted, determined that the public lands described in this Notice are available for disposal by exchange. The purpose of this exchange is to acquire non-federal lands that have high public values for wildlife habitat and recreation. The Mount Tipton area, containing the private offered lands, is situated within yearlong critical deer habitat and exhibits outstanding topographic and vegetative diversity. The public interest will be well served by completing the exchange.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response period of 45 days in which Public and interested party comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1(b), shall segregate the public lands, as described in this Notice, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, subject to any prior valid rights. The segregative effect shall terminate either upon publication in the Federal Register of a termination of the segregation or two years from the date of this publication, whichever occurs first. This action is necessary to avoid the occurrence of nuisance mining claims that could encumber the Federal lands while the environmental assessment and compliance with the National Historic Preservation Act of 1966 (36 CFR Part 800) are ongoing.

Upon completion of the enviornmental assessment, including mitigation plans, and following the termination of the public response period, a final Notice of Realty Action will be issued. The notice will provide a final description of the lands and interests to be exchanged, including any adjustments in acreages to balance value differences and any reservations, terms and conditions to be reserved.

Detailed information concerning this proposed exchange is available at the Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona.

For a period of 45 days, interested parties may submit comments to the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

Dated: November 20, 1981.

W. K. Barker,

District Manager.

[FR Doc. 81-34183 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[N-21758]

Exchange of Public Land in Washoe County, Nevada

November 20, 1981

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Mount Diablo Meridian

T. 36 N., R. 18 E.,
Sec. 11, Lot 1;
Sec. 12, Lot 5 and 6;
Sec. 14, Lot 1 thru 6, Lots A thru D of Tract 45;
Sec. 15, Lot 3, 4, W½SE¼;
Sec. 22, Lot 1, 2, W½NE¼;
Sec. 23, Lot 1, 2, and 3;
Sec. 25, S½NE¼; E½NE¼SW¼, E½SE¼SW¼, W½SE¼.
Sec. 36, Lot 2, NW¼NE¼
T. 35 N., R. 19 E.,
Sec. 1, Lots 1, SE¼NE¼.
Comprising 1029.18 acres of public land.

In exchange for the above described public lands, the United States will acquire the following described private lands from Wesley L. Cook:

Mount Diablo Meridian

T. 35 N., R. 18 E.,
Sec. 2, SW¼SW¼;
Sec. 4, SE¼SW¼;
Sec. 9, NW¼NE¼;
Sec. 10, SE¼NW¼;
Sec. 11, SE¼NW¼, SE¼SW¼;
Sec. 12, SW¼SW¼, NW¼SE¼, SE¼SE¼;
Sec. 13, NW¼NW¼;
T. 35½ N., R. 18 E.,
Sec. 32, Tract 37.
T. 36 N., R. 18 E.,
Sec. 32, Tracts 60 and 61.
T. 35 N., R. 19 E.,
Sec. 12, NW¼SE¼;
Sec. 24, SW¼NW¼.
T. 36 N., R. 19 E.,
Sec. 16, NW¼SW¼;
Sec. 17, SE¼NE¼, N½NW¼, NE¼SE¼;
Sec. 25, S½NE¼, SE¼NW¼, W½SE¼, NE¼SE¼.
Excepting, from the NW¼SW¼ of Section 16, Township 36 North, Range 19 East, M.D.B.&M.: SE¼NE¼ of Section 17, Township 36 North, Range 19 East, M.D.B.&M. any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs, used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States, all as set forth in Patent from United States, of America to Edward Morris recorded March 14, 1923 in Book D of Patent Records, Page 248 as Document No. 27703.
Comprising 1009.68 acres.

The purpose of this exchange is to acquire non-Federal lands that have significant natural resource values, i.e., cultural, wildlife, grazing, that for outweigh values found on the Federal lands to be exchanged. The exchange is consistent with Bureau planning and has been discussed with Washoe County and State of Nevada officials. The public interest will be well serviced by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalized the values upon completion of the final appraisal of the lands.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. An easement 60 feet in width, known as Duck Lake Road, which traverses T. 36 N., R. 18 E., sec. 15, Lot 3; sec. 14, Lots 4 and 5, and Lots C and D of Tract 45; sec. 23, Lots 1 and 3, for road and public utilities purposes to insure continued ingress and egress to adjacent lands.

Publication of this notice of Realty Action in the **Federal Register** will segregate the public land described herein from all appropriations under the public land laws, including the mining laws. Any subsequent applications submitted for these public lands will not be accepted, will not be considered as filed, and will be returned to the applicant.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Surprise Resource Area Office, Cressler Street, Cedarville, California.

For a period of 45 days, interested parties may submit comments to the State Director (N-934), Bureau of Land Management, P.O. Box 12000, Reno, NV 89520. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

William J. Malencik,

Acting Chief, Division of Technical Services.

[FR Doc. 81-34189 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[U-48489]

Private Exchange of Lands; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 USC 1716:

Legal Description

T. 13 N., R. 6 E., SLM, Utah
Sec. 27, N½NW¼

Acreage

80.0

In exchange for these lands the Federal Government will acquire a tract of non-Federal land in Rich County from Falula Farms, Inc. (Stockholders: Val C. Siddoway, Nancy Y. Smith, Craig C. Siddoway, Alden Siddoway, Della Siddoway, and Sandra Dee Ann Siddoway, as identified in Articles of Incorporation dated January 10, 1961). These non-Federal lands and interest therein have been determined to be suitable for acquisition by the United States under the Land Use Planning provisions contained in subpart 1601 of Title 43. This land is described as follows:

Legal Description

T. 12 N., R. 6 E., SLM, Utah.
Sec. 5, NW¼SW¼;
Sec. 8, NE¼NW¼

Acreage

80.0

DATE: The time of exchange will be after issuance of a "Certificate of Inspection of Possession," adjudication of the file, and final title opinion by the Solicitor.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the exchange, including the planning documents, environmental assessment and the record of public involvement, is available for review at the Salt Lake District, Bureau of Land Management Office, 2370 South 2300 West, Salt Lake City, Utah 84119, or call 524-5348 for W. Marie Morris.

SUPPLEMENTARY INFORMATION: The purpose for the exchange is to acquire non-Federal lands adjacent to the Laketown Canyon Area of Critical and Environmental Concern (ACEC), which is also considered critical deer winter range. The Laketown Canyon also contains the Laketown Canyon Recreation Site. Acquisition of this land would block up the Laketown Canyon

Area and allow for maximum management and protection. The Laketown Canyon ACEC Area is also the watershed area for Laketown Creek. This area is the source of the culinary water supply for the town of Laketown. The BLM is required by law to prohibit activities which may have an adverse effect on municipal water supplies (Federal Water Pollution Control Act of 1972; The Water Quality Management Planning Regulations as contained in 43 CFR Parts 130 and 131. Executive Orders 11752; and Title 73 of the Water Laws of Utah—Section 73–14–1, Pollution of Waters). The acquisition of these non-Federal lands and interest therein is consistent with the mission of the Department of Interior. The public interest will be well served by making the exchange.

The value and acreage of the lands are equal. Lands to be transferred from the United States will be suject to the following reservations, terms, and conditions: All minerals will be reserved to the United States with the right of ingress and egress. There is an oil and gas lease No. U–25459 presently on the lands.

Lands to be acquired by the United States are subject to the following reservations, terms and conditions: The exchange is for the surface estate only and does not include the mineral estate. All gas, oil and mineral rights are vested in third parties with the exceptions of phosphate which was reserved to the United States in the patent executed July 21, 1955, and recorded January 30, 1956, Filing No. F6274A.

For a period of 45 days, interested parties may submit comments to the Salt Lake District Manager, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, UT 84119. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any adverse action by the District Manager, this realty action will become the final determination of the BLM.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 81–34186 Filed 11–27–81; 8:45 am]

BILLING CODE 4310–84–M

Management Framework Plan; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision on the Amendment of the Southeast Oklahoma Management Framework Plan.

SUMMARY: This notice is to advise the public that the District Manager of the Albuquerque District, Bureau of Land Management (BLM) has issued a decision on the amendment of the Southeast Oklahoma Management Framework Plan (MFP). The decision designated surface minable reserves of lease application NM–50270 (OK) as acceptable for further consideration for leasing. The State Director of New Mexico has concurred with the decision.

FOR FURTHER INFORMATION CONTACT: Michael Cyr, (405) 231–4481, Oklahoma Resource Area Office, Bureau of Land Management, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102.

SUPPLEMENTARY INFORMATION: The District Manager, Albuquerque District, Bureau of Land Management, has issued a decision to amend the Southeast Oklahoma MFP. The State Director of New Mexico has concurred with the decision. The MFP amendment incorporated surface-minable federal coal reserves having medium potential for development into the land use planning process. The amendment was completed in response to an application for competitive coal lease sale (NM–50270 (OK)) submitted by Dahlgren Contracting, Inc. The decision designated the surface-minable reserves in the lease application as acceptable for further consideration for leasing.

The amendment area is located in LeFlore County, Oklahoma, three miles east of the town of McCurtain, and is described as:

Indian Meridan, Oklahoma

T. 8 N., R. 23 E.
Section 20: S½ SW¼

Copies of the Decision Document and Final Amendment are available for public review in the New Mexico State Office, U.S. Post Office and Federal Building, Santa Fe, New Mexico; at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico; or at the Oklahoma Resource Area Office, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma, during regular office hours. Individual copies of the document are available from the Oklahoma Area Manager, Bureau of Land Management, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102, telephone (405) 231–4481.

Any person who participated in the planning process and who has an interest which may be adversely affected by approval of the MFP amendment may file a protest within 30 days of this notice. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. The protest shall be in writing and shall be filed with the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. The protest shall contain the name, mailing address, telephone number, and interest of the person filing the protest; a statement of the issue or issues being protested; a statement of the part of the amendment being protested; a copy of all documents addressing the issue or issues that were submitted during the amendment process by the protesting party or an indication of the date the issue or issues were discussed for the record; and a short, concise statement explaining why the District Manager's decision was wrong.

Implementation of the decision will begin no sooner than December 28, 1981, or upon resolution of any protest received by the State Director.

Dated: November 20, 1981.

L. Paul Applegate,

District Manager, Albuquerque, Bureau of Land Management.

[FR Doc. 81–34185 Filed 11–27–81; 8:45 am]

BILLING CODE 4310–84–M

[W–72450]

Conveyance; Opening of Lands Acquired in Exchange Action

November 19,1981.

Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

1. The surface estate of the following described land in Sweetwater county was conveyed to the State of Wyoming:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 105 W.,
Sec. 28, lots 28 and 31.
Containing 41.54 acres.

2. The State of Wyoming conveyed the surface estate of a 262.03 acre parcel of land, described by metes and bounds, situated within Sec. 3 of T. 50 N., R. 82 W., and Sec. 34 of T. 51 N., R. 82 W., 6th P.M., Johnson County, Wyoming. The entire description is of record in the Wyoming State Office of the Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001, or the Casper District Office, 951 Rancho Road, Casper, Wyoming 82601.

3. That land conveyed to the United States by the State of Wyoming shall, November 30, 1981, be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All

valid applications received on or before publication shall be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyoming.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-34196 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049751, Nev-049805]

Nevada; Classifications Vacated

November 20, 1981.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, small tract classifications Nev-049751 and Nev-049805 are hereby vacated in their entireties. The following townships are affected:

Mount Diablo Meridian

T. 19 S., R. 59 E.
T. 20 S., R. 59 E.
T. 22 S., R. 59 E.
T. 19 S., R. 60 E.
T. 20 S., R. 60 E.
T. 21 S., R. 60 E.
T. 22 S., R. 60 E.
T. 23 S., R. 60 E.
T. 23 S., R. 61 E.
T. 14 S., R. 61 E.

The land affected comprises approximately 30,347.60 acres in Clark County, Nevada.

The Small Tract Act has been repealed by section 702 of the Federal Land Policy and Management Act of 1976. Accordingly the classification is no longer applicable and is hereby terminated. The segregative effect of the classification order is removed upon publication of this notice in the **Federal Register.**

Edward F. Spang,

State Director, Nevada.

[FR Doc. 81-34195 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

Proposed Land Classifications

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Proposed land classifications.

SUMMARY: The Bureau of Land Management is proposing the classification of 37,589.85 acres of public land as suitable and 20,128.27 acres of public land as unsuitable for agricultural development under provisions of the Desert Land Act or Carey Act. Soils, critical resource values, and availability of the land were used to determine suitability. When classification becomes final, applications on suitable lands may be processed. Before an application may be approved, economic feasibility and availability of water must be determined.

DATE: Comment period ends January 31, 1982.

ADDRESS: Send comments, suggestions, or protests to: District Manager, Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Contact Ron L. Grant, 3948 Development Avenue, Boise, Idaho 83705, Telephone Number (208) 334-1582.

SUPPLEMENTARY INFORMATION: The proposed classification is being issued in two parts; Decision A contains the proposed suitable classification, and Decision B contains the proposed unsuitable classification. In each decision is Attachment I which contains the legal descriptions of the involved lands.

Land classification is required by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), section 7, prior to disposal under the Carey Act of Desert Land Act. This action will allow processing of Desert Land and Carey Act applications (either allowance or rejection) on these lands.

The Environmental Statement titled *Agricultural Development for Southwest Idaho* (Ag ES) published February 8, 1980, discusses the demands and impacts associated with agricultural development within a selected area of the Boise District, BLM. Six alternatives were discussed in the Agricultural Environmental Statement. In July 1980, a summary report was published explaining the Bureau of Land Management, Idaho State Director's decision and rationale for agricultural development in southwest Idaho. Alternative 1 from the Environmental Statement was selected for implementation. His decision calls for possible allowance of new farm development on approximately 176,000 acres of public land. This includes the Class I, II and III soils within the Agricultural Environmental Statement area.

Since December, 1980, coordination meeting have been held by the State of Idaho, Department of Water Resources and the Bureau of Land Management to plan the implementation of the farm development decision. The decision will be carried out through systematic processing of existing Carey Act (CA) and Desert Land Entry (DLE) applications.

In February, 1981, the two agencies selected two blocks of land and some procedures to follow for the first year's (1981) processing effort. The area designated Block II, or the Grand View Block, was selected for Boise District to begin processing Desert Land Entry applications. There are 91 existing desert land entry applications and 8 Carey Act project applications within or adjacent to this block of land.

The documents and reports mentioned above are on file at the BLM, Boise District Office.

The following criteria were used in determining whether the subject lands are suitable or unsuitable for agricultural develoment.

1. Any 40 acre tract that contains a majority (75-100 percent) of Class VI soils would be classified unsuitable for disposal under Desert Land Entry or Carey Act.

This is based on the agricultural capability criteria used for classifying soils that is explained in the Environmental Statement.

2. Any public lands containing known archeological or historical values determined to be unique or possibly significant would be classified unsuitable for disposal pending further analysis.

3. Any public lands where rare, endangered, or sensitive species of plants or animals are known to live (or nest would be classified unsuitable for disposal, unless mitigation is possible.

4. Certain tracts of land identified for community needs such as landfills, gravel pits, sewage plants, schools, etc., would be classified unsuitable for disposal.

5. Certain tracts of land identified as valuable for wildlife habitat would be classified unsuitable for disposal. The guidelines and analysis contained in the Environmental Statement, Appendix 1-1 were used to select the proposed wildlife leave areas.

6. Public land that does not qualify for agricultural use or disposal under Desert Land Act or Carey Act because of other existing uses will be classified unsuitable for disposal under these laws.

Once the lands are classified, applications may be processed. Applications on land classified unsuitable will be rejected. Applications on lands classified suitable will be subjected to engineering and economic feasibility analysis. Further background information is contained in the Agricultural Environmental Statement.

All future authorized agricultural use and title transfer of these lands will be subject to valid existing rights and

authorized use in most instances. Some easements may be reserved for future needs.

This Proposed Decision is in compliance with the Agricultural Environmental Statement Summary Report, the Cooperative Agreement between the Bureau of Land Management and the Idaho Department of Water Resources, all local, State and Federal laws; all local, State and Federal land use plans. This recommendation is in agreement with the Boise District's current land use plans which include the subject area.

The requirements of NEPA have been met. An Environmental Impact Statement was written and the information contained in it has been used to arrive at a decision for proceeding with future agricultural development. This classification is necessary to implement the decision. All known resource and human values have been considered in the Environmental Statement and supplemental reports.

Agriculture has been identified as the highest and best use of the land listed in Decision A. However, farm development will not be allowed until there is a reasonable showing that water is available and farming these lands would be economical.

If sufficient response to this proposed classification indicates the need to hold a public hearing, one may be scheduled at a later date.

Decision A—Classification Decision

(Proposed)

The lands described in Attachment I have been examined and found suitable for agricultural purposes.

These lands are hereby classified suitable for disposal under provisions of the Desert Land Act, as amended, (19 Stat. 377; 43 U.S.C. 312–323) or the Carey Act, as amended (28 Stat. 422; 43 U.S.C. 641 et seq).

These lands contain soils considered capable of producing irrigated agricultural crops, and no higher or better use has been identified. This classification action meets the criteria in, and is made pursuant to, 43 CFR 2410.1(a)–(d), 2430.5 (d) and (e), 2450, 2460 and 2520.0–8.

This decision relates only to land classification. Adjudicative action at a later date will consider the merits of individual applications and qualifications of the applicants.

Where more than one Desert Land application is filed on the same land, priority of filing will determine the order for processing these applications.

The lands described in Attachment I under the heading of Bureau Motion do not have petition-applications filed on them.

Attachment I—Legal Descriptions

Desert Land Application No.

I–2375

T. 6 S. R. 3 E., B.M.,
Sec. 27: W½NW¼, NW¼SW¼;
Sec. 28: E½NE¼, SW¼NE¼, N½SE¼; 320 acres.

I–3793

T. 6 S., R. 3 E., B.M.,
Sec. 23: N½SE¼;
Sec. 24: N½SW¼, NW¼SE¼, SE¼NW¼; S½SE¼; 320 acres.

I–3850

T. 7 S., R. 5 E., B.M.,
Sec. 12: NW¼SE¼, SW¼SE¼;
Sec. 13: NW¼NE¼, SW¼NE¼;
T. 7 S., R. 6 E., B.M.,
Sec. 7: SE¼SW¼;
Sec. 18: Lot 2, NE¼NW¼, SE¼NW¼; 320.40 acres.

I–3870

T. 6 S., R. 3 E., B.M.,
Sec. 13: E½SW¼, E½SE¼, SW¼SE¼;
Sec. 24: NE¼NW¼, NW¼NE¼;
T. 6 S., R. 4 E., B.M.,
Sec. 18: Lot 3; 331.10 acres.

I–3893

T. 6 S., R. 4 E., B.M.,
Sec. 20: SE¼, SE¼NE¼;
Sec. 21: NW¼SW¼, SW¼NW¼;
Sec. 29: NE¼NE¼; 320 acres.

I–4120

T. 7 S., R. 5 E., B.M.,
Sec. 1: SW¼NW¼;
Sec. 2: S½NE¼, N½SE¼, SE¼SE¼; 240 acres.

I–4123

T. 7 S., R. 5 E., B.M.,
Sec. 2: S½SW¼, SW¼SE¼;
Sec. 11: NW¼NE¼, N½NW¼; 240 acres.

I–4214

T. 6 S., R. 3 E., B.M.,
Sec. 25: NE¼, NE¼NW¼;
T. 6 S., R. 4 E., B.M.,
Sec. 30: Lots 1 and 2; 305.74 acres.

I–4650

T. 6 S., R. 5 E., B.M.,
Sec. 33: SW¼SW¼;
T. 7 S., R. 5 E., B.M.,
Sec. 4: Lot 4;
Sec. 5: Lot 1; 117.58 acres.

I–4651

T. 7 S., R. 5 E., B.M.,
Sec. 5: E½SE¼; 80 acres.

I–4776

T. 7 S., R. 3 E., B.M.,
Sec. 7: Lots 2 and 3, NW¼NE¼, E½NW¼; 201.18 acres.

I–4793

T. 6 S., R. 3 E., B.M.,
Sec. 17: NW¼NW¼, S½NW¼, NW¼SW¼;
Sec. 18: SE¼SE¼; 200 acres.

I–4794

T. 6 S., R. 3 E., B.M.,
Sec. 17: N½NE¼, SE¼NE¼, NE¼SE¼, S½SE¼; 240 acres.

I–4969

T. 5 S., R. 3 E., B.M.,
Sec. 29: S½SW¼, W½SE¼;
Sec. 32: NW¼; 320 acres.

I–5849

T. 7 S., R. 5 E., B.M.,
Sec. 31: Lots 1 and 2, E½NW¼, N½NE¼, SW¼NE¼; 278.37 acres.

I–5850

T. 7 S., R. 5 E., B.M.,
Sec. 31: Lots 3 and 4, E½SW¼, SE¼; 319.67 acres.

I–6343

T. 6 S., R. 4 E., B.M.,
Sec. 21: S½SW¼, NE¼SW¼, SE¼NW¼;
Sec. 28: N½NW¼;
Sec. 29: SE¼NE¼, NE¼SE¼; 320 acres.

I–6356

T. 7 S., R. 5 E., B.M.,
Sec. 23: NE¼NE¼;
Sec. 24: NW¼, W½NE¼; 280 acres.

I–6358

T. 6 S., R. 4 E., B.M.,
Sec. 17: NW¼SW¼, S½NW¼, NW¼NW¼;
Sec. 18: SW¼NE¼, N½SE¼; 280 acres.

I–6473

T. 5 S., R. 2 E., B.M.,
Sec. 24: SW¼SW¼;
Sec. 25: W½NW¼, NW¼SW¼;
Sec. 26: SE¼NE¼, NE¼SE¼; 240 acres.

I–6503

T. 7 S., R. 5 E., B.M.,
Sec. 14: S½SW¼, SW¼SE¼;
Sec. 15: SE¼SE¼;
Sec. 22: NE¼NE¼;
Sec. 23: NW¼NE¼, N½NW¼; 320 acres.

I–6504

T. 7 S., R. 5 E., B.M.,
Sec. 22: SE¼NE¼, NE¼SE¼;
Sec. 23: S½NW¼, N½SW¼, SW¼NE¼, NW¼SE¼; 320 acres.

I–6505

T. 7 S., R. 5 E., B.M.,
Sec. 23: S½SE¼;
Sec. 24: NE¼SW¼, S½SW¼;
Sec. 26: N½NE¼; 280 acres.

I–6506

T. 7 S., R. 5 E., B.M.,
Sec. 24: W½SE¼;
Sec. 25: W½NE¼, NW¼; 320 acres.

I–6507

T. 7 S., R. 6 E., B.M.,
Sec. 20: SW¼SW¼;
Sec. 29: NW¼NE¼, N½NW¼;
Sec. 30: NE¼; 320 acres.

I–6508

T. 7 S., R. 5 E., B.M.,
Sec. 25: SE¼NE¼;
T. 7 S., R. 6 E., B.M.,
Sec. 30: Lots 2 and 3, NE¼SW¼, SE¼; 319.61 acres.

I–6544

T. 6 S., R. 2 E., B.M.,
Sec. 1: Lots 1 and 2, SE¼NE¼, SW¼NE¼, SW¼SE¼; 207.12 acres.

I-6545

T. 6 S., R. 2 E., B.M.,
Sec. 1: SW¼;
Sec. 2: SE¼SE¼;
Sec. 11: E½NE¼;
Sec. 12: NW¼NW¼; 320 acres.

I-6593

T. 7 S., R. 4 E., B.M.,
Sec. 5: Lots 2, 3 and 4, SE¼NW¼, SW¼NE¼;
Sec. 6: Lot 1, SE¼NE¼; 282.61 acres.

I-6594

T. 6 S., R. 4 E., B.M.,
Sec. 29: NW¼, W½NE¼, NE¼SW¼, NW¼SE¼; 320 acres.

I-6595

T. 6 S., R. 4 E., B.M.,
Sec. 32: N½SE¼, SW¼SE¼, SE¼SW¼, SE¼NW¼;
T. 7 S., R. 4 E., B.M.,
Sec. 5: Lot 1; 240.73 acres.

I-6826

T. 7 S., R. 4 E., B.M.,
Sec. 21: E½SW¼, NW¼SE¼, S½SE¼;
Sec. 28: Lot 1, SE¼NE¼; 279.99 acres.

I-6848

T. 6 S., R. 3 E., B.M.,
Sec. 22: NE¼SE¼, S½SW¼;
Sec. 27: E½NW¼, NE¼SW¼; 240 acres.

I-6859

T. 7 S., R. 3 E., B.M.,
Sec. 2: E½SW¼, NE¼SE¼, W½SE¼, SW¼NE¼;
Sec. 11: NW¼NE¼, 280 acres.

I-6860

T. 7 S., R. 3 E., B.M.,
Sec. 2: SW¼SW¼;
Sec. 3: SE¼SE¼;
Sec. 10: NE¼;
Sec. 11: W½NW¼; 320 acres.

I-6899

T. 6 S., R. 3 E., B.M.,
Sec. 21: NE¼, E½NW¼, NE¼SE¼, NW¼SE¼; 320 acres.

I-7358

T. 7 S., R. 4 E., B.M.,
Sec. 11: W½NW¼, NE¼NW¼; 120 acres.

I-7425

T. 5 S., R. 3 E., B.M.,
Sec. 30: Lots 2 and 3; 74.25 acres.

I-7582

T. 6 S., R. 5 E., B.M.,
Sec. 21: SE¼SE¼,
Sec. 27: SE¼NW¼; NW¼SW¼;
Sec. 28: E½NE¼, NE¼SE¼; 240 acres.

I-7583

T. 6 S., R. 5 E., B.M.,
Sec. 27: N½SE¼, SW¼SE¼, SW¼NE¼;
Sec. 34: NE¼NE¼;
Sec. 35: NW¼NW¼; 240 acres.

I-7853

T. 7 S., R. 3 E., B.M.,
Sec. 12: S½SE¼;
T. 7 S., R. 4 E., B.M.,
Sec. 7: Lot 4, SE¼SW¼, S½SE¼; 233.65 acres.

I-7854

T. 7 S., R. 3 E., B.M.,
Sec. 1: SW¼SW¼;
Sec. 11: E½NE¼, NE¼SE¼, SW¼NE¼, NW¼SE¼, NE¼SW¼; 280 acres.

I-7913

T. 7 S., R. 5 E., B.M.,
Sec. 20: E½SW¼, W½SE¼;
Sec. 29: E½NW¼, W½NE¼; 320 acres.

I-8095

T. 6 S., R. 3 E., B.M.,
Sec. 15: E½SE¼;
Sec. 22: N½NE¼; SW¼NE¼; 200 acres.

I-8116

T. 7 S., R. 3 E., B.M.,
Sec. 3: SW¼NE¼, S½NW¼, N½SE¼, E½SW¼; 200 acres.

I-8165

T. 6 S., R. 3 E., B.M.,
Sec. 5: SW¼NW¼;
Sec. 6: Lots 1 and 2, SE¼NE¼;
T. 5 S., R. 3 E., B.M.,
Sec. 31: N½SE¼, SE¼SE¼; 289.84 acres.

I-8228

T. 6 S., R. 3 E., B.M.,
Sec. 17: SE¼SW¼;
Sec. 20: NW¼, NW¼NE¼, NW¼SW¼; 280 acres.

I-8409

T. 5 S., R. 3 E., B.M.,
Sec. 30: SE¼;
Sec. 31: NE¼; 320 acres.

I-8420

T. 7 S., R. 5 E., B.M.,
Sec. 19: NE¼, N½SE¼;
Sec. 20: NW¼NE¼, SW¼NW¼; 320 acres.

I-8421

T. 7 S., R. 5 E., B.M.,
Sec. 30: Lots 3 and 4, SE¼SW¼, S½SE¼; 198.52 acres.

I-8423

T. 7 S., R. 6 E., B.M.,
Sec. 14: SE¼SW¼;
Sec. 23: NE¼NW¼, SE¼NW¼, SW¼NE¼; 160 acres.

I-8777

T. 6 S., R. 3 E., B.M.,
Sec. 33: E½NW¼, NE¼;
Sec. 34: N½NW¼; 320 acres.

I-8789

T. 7 S., R. 4 E., B.M.,
Sec. 9: SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼; NW¼SE¼; 240 acres.

I-8959

T. 6 S., R. 3 E., B.M.,
Sec. 33: SE¼;
Sec. 34: S½NW¼; 240 acres.

I-8962

T. 6 S., R. 4 E., B.M.,
Sec. 27: SW¼SW¼;
Sec. 34: NW¼NW¼, NW¼SE¼; 120 acres.

I-8972

T. 6 S., R. 4 E., B.M.,
Sec. 21: SW¼SE¼;
Sec. 27: SE¼NW¼;
Sec. 28: N½NE¼; 160 acres.

I-9004

T. 6 S., R. 3 E., B.M.,
Sec. 25: S½NW¼, E½SW¼, N½SE¼, SW¼SE¼; 280 acres.

I-9005

T. 6 S., R. 3 E., B.M.,
Sec. 24: SW¼SW¼, SE¼SW¼;
Sec. 25: NW¼NW¼;
Sec. 26: E½NE¼, SW¼NE¼, SE¼NW¼; 280 acres.

I-9006

T. 6 S., R. 3 E., B.M.,
Sec. 25: NW¼SW¼.
Sec. 26: E½SE¼;
Sec. 35: E½NE¼, NE¼SE¼; 240 acres.

I-9016

T. 6 S., R. 3 E., B.M.,
Sec. 26: E½E½,* SW¼NE¼,* SE¼NW¼,* NW¼SW¼;
Sec. 35: NE¼NE¼*; 40 acres.
(* Overlapping DLE); (280 acres).

I-90093

T. 5 S., R. 3 E., B.M.,
Sec. 32: NW¼NE¼, SW¼NE¼;
T. 6 S., R. 3 E., B.M.,
Sec. 5: N½SE¼; 160 acres.

I-9135

T. 5 S., R. 3 E., B.M.,
Sec. 32: SW¼, W½SE¼;
T. 6 S., R. 3 E., B.M.,
Sec. 5: Lots 3 and 4; 332.30 acres.

I-9172

T. 7 S., R. 5 E., B.M.,
Sec. 27: NE¼NE¼; 40 acres.

I-9225

T. 7 S., R. 4 E., B.M.,
Sec. 10: SW¼SW¼;
Sec. 15: NW¼NE¼, N½NW¼, SE¼NW¼; 200 acres.

I-9361

T. 7 S., R. 4 E., B.M.,
Sec. 10: SW¼SW¼;
Sec. 15: NW¼NE¼, N½NW¼, SE¼NW¼ (Overlapping DLE); (200 acres).

I-11958

T. 7 S., R. 4 E., B.M.,
Sec. 25: W½NW¼;
Sec. 26: SE¼NE¼, SE¼; 280 acres.

I-12023

T. 6 S., R. 5 E., B.M.,
Sec. 34: NE–SW;
T. 7 S. R. 5 E. B.M.,
Sec. 9: NW¼–NE¼; 80 acres.

I-12308

T. 7 S., R. 5 E., B.M.,
Sec. 30: SE½SW¼;
Sec. 31: Lot 1, 2, 3 and 4, E½NW¼, NE¼SW¼; 308 acres.

I-12635

T. 6 S., R. 3 E., B.M.,
Sec. 6: Lots 3, 4, 5 and 6, SE¼NW¼, NE¼SW¼, N½SE¼; 323.84 acres.

I-12664

T. 6 S., R. 3 E., B.M.,
Sec. 10: W½SE¼;
Sec. 15: SE¼NW¼, W½NE¼; 200 acres.

I-12855

T. 7 S., R. 5 E., B.M.,
Sec. 17, E½; 320 acres.

I-12861

T. 7 S., R. 4 E., B.M.,
Sec. 15: SW¼NW¼; 40 acres.

I-13352

T. 5 S., R. 3 E., B.M.,
Sec. 29: S½SW¼, W½SE¼;
Sec. 32: NW¼ (Overlapping DLE); (320 acres).

I-13522

T. 6 S., R. 5 E., B.M.,
Sec. 26: SW¼, SW¼NW¼;
Sec. 27: E½NE¼; 280 acres.

I-14470

T. 6 S., R. 4 E., B.M.,
Sec. 28: S½SW¼;
Sec. 29: SE¼SE¼;
Sec. 32: NE¼NE¼;
Sec. 33: NE¼NE¼, S½NE¼, NW¼NW¼; 320 acres.

I-14784

T. 7 S., R. 5 E., B.M.,
Sec. 23: SE¼SW¼;
Sec. 25: NW¼SW¼;
Sec. 26: E½NW¼, S½NE¼, NE¼SE¼; 280 acres.

I-47855

T. 7 S., R. 5 E., B.M.,
Sec. 12: N½NW¼, SE¼NW¼; 120 acres.

I-14786

T. 7 S., R. 6 E., B.M.,
Sec. 19: NE¼SW¼, SE¼SE¼SW¼;
Sec. 30: E½NW¼; 320 acres.

I-14787

T. 7 S., R. 5 E., B.M.,
Sec. 24: SE¼NE¼, E½SE¼;
Sec. 25: NE¼NE¼;
T. 7 S., R. 6 E., B.M.,
Sec. 19: Lots 2, 3 and 4;
Sec. 30: Lot 1; 319.27 acres.

I-14788

T. 7 S., R. 6 E., B.M.,
Sec. 18: Lot 4, SE¼SW¼;
Sec. 19: Lot 1, E½NW¼, W½NE¼, SE¼NE¼; 320.08 acres.

I-14789

T. 7 S., R. 5 E., B.M.,
Sec. 25: NE¼SW¼, E½SE¼, SW¼SE¼;
T. 7 S., R. 6 E., B.M.,
Sec. 30: Lot 4, SE¼SW¼; 239.86 acres.

I-15551

T. 6 S., R. 3 E., B.M.,
Sec. 18: NE¼NW¼, E½NE¼, N½SE¼, SW¼SE¼; 240 acres.

I-15668

T. 7 S., R. 5 E., B.M.,
Sec. 29: SE¼SE¼;
Sec. 32: E½E½;
Sec. 33: N½SW¼, SW¼SW¼; 320 acres.

I-16345

T. 7 S., R. 4 E., B.M.,
Sec. 5: E½SE¼; 80 acres.

I-16443

T. 7 S., R. 6 E., B.M.,
Sec. 17: SE¼NE¼, W½SE¼, NE¼SE¼; 160 acres.

I-17007

T. 7 S., R. 4 E., B.M.,
Sec. 10: SW¼SW¼;
Sec. 15: NW¼NE¼, N½NW¼, SW¼NW¼ (Overlapping DLE); (200 acres).

I-17258

T. 7 S., R. 5 E., B.M.,
Sec. 17: S½NW¼, NW¼SW¼;
Sec. 18: S½SE¼; 200 acres.

I-17259

T. 7 S., R. 5 E., B.M.,
Sec. 8: E½; 320 acres.

Carey Act Application Number (Overlapping DLE) Applications Listed Above

I-8894

T. 6 S., R. 2 E., B.M.,
Sec. 1: Lots 1 and 2, S½NE¼, SW¼, SW¼SE¼;
Sec. 12: NW¼NW¼.
T. 6 S., R. 3 E., B.M.,
Sec. 6: Lots 5 and 6, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 15: E½SE¼;
Sec. 17: N½NE¼, SE¼NE¼, NW¼NW¼, S½NW¼, NW¼SW¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 18: E½NE¼, NE¼NW¼, SE¼;
Sec. 20: NW¼NE¼, NW¼, NW¼SW¼;
Sec. 21: NE¼, E½NW¼, N½SE¼;
Sec. 22: N½NE¼, SW¼NE¼, NE¼SW¼, S½SE¼;
Sec. 27: NW¼, N½SW¼;
Sec. 28: NE¼NE¼, S½NE¼, N½SE¼;
Sec. 33: NE¼, NE¼NW¼, SE¼NW¼;
Sec. 34: NW¼ (3,085.44 acres).

I-8902

T. 6 S., R. 4 E., B.M.,
Sec. 17: NW¼SW½;
Sec. 20: SE¼NE¼, SE¼;
Sec. 21: S½NW¼, SW¼;
Sec. 28: N½NE¼, N½NW¼, S½SW¼;
Sec. 29: N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 32: NE¼NE¼, SE¼NW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 33: NE¼NE¼, S½NE¼, NW¼NW¼.
T. 7 S., R. 4 E., B.M.,
Sec. 5: Lots 1, 2, 3 and 4, SW¼NE¼, SE¼NW¼, E½SE¼;
Sec. 6: SE¼NE¼ (1,962.80 acres).

I-8917

T. 6 S., R. 3 E., B.M.,
Sec. 13: E½SW¼, NE¼SE¼, S½SE¼;
Sec. 24: NW¼NE¼, E½NW¼.
T. 6 S., R. 4 E., B.M.,
Sec. 18: Lot 3 (371.10 acres).

I-8953

T. 7 S., R. 5 E., B.M.,
Sec. 14: SW¼SE¼;
Sec. 23: NE¼NE¼, NW¼NE¼;
Sec. 24: W½NE¼, NW¼ (360 acres).

I-9208

T. 7 S., R. 5 E., B.M.,
Sec. 27: NE¼NE¼ (40 acres)

Carey Act Application Number (Not Overlapping DLE) Applications

I-8894

T. 6 S., R. 2 E., B.M.,
Sec. 1: SE¼NW¼, NE¼SE¼;
Sec. 12: NE¼NW¼, W½SW¼;
Sec. 13: S½NE¼, NW¼NW¼, SE¼NW¼.
T. 6 S., R. 3 E., B.M.,
Sec. 18: Lots 3 and 4, NE¼SW¼;
Sec. 20: SW¼NE¼;
Sec. 21: SE¼SW¼, S½SE¼;
Sec. 22: SE¼NW¼, NW¼SW¼;
Sec. 27: S½SW¼;
Sec. 28: NW¼NE¼, W½, S½SE¼;
Sec. 29: NE¼NE¼, SW¼, E½SE¼, SW¼SE¼;
Sec. 32: NE¼;
Sec. 33: SW¼, NW¼NW¼, SW¼NW¼; 1,963.20 acres.

I-8902

T. 6 S., R. 4 E., B.M.,
Sec. 28: S½NE¼, S½NW¼, N½SW¼, N½SE¼;
Sec. 29: NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 32: NW¼NE¼, N½NW¼, SW¼NW¼, N½SW¼;
Sec. 33: N½S½, SE¼SW¼, SW¼SE¼.
T. 7 S., R. 4 E., B.M.,
Sec. 5: SE¼SW¼; 1,000 acres.

I-8917

T. 6 S., R. 3 E., B.M.,
Sec. 24: NE¼NE¼, S½NE¼; 120 acres.

I-8953

T. 7 S., R. 5 E., B.M.,
Sec. 14: NW¼SE¼; 40 acres.

I-9473

T. 6 S., R. 5 E., B.M.,
Sec. 30: Lot 3; 40.60 acres.

I-10024

T. 7 S., R. 6 E., B.M.,
Sec. 3: Lot 3, NW¼SW¼; 79.79 acres.

Bureau Motion

T. 5 S., R. 2 E., B.M.,
Sec. 22: N½SW¼, SW¼SW¼;
Sec. 26: NE¼SW¼, S½SW¼, SE¼SE¼;
Sec. 27: W½NW¼;
Sec. 34: N½SW¼, SW¼SW¼, SW¼SE¼;
Sec. 35: E½NE¼, NW¼NW¼, SE¼NW¼, E½SW¼, NE¼SE¼, S½SE¼; 880 acres.
T. 6 S., R. 2 E., B.M.,
Sec. 2: Lots 1, 2 and 4;
Sec. 3: Lots 1, 2 and 4, SE¼NW¼, NW¼SE¼;
Sec. 10: SW¼NE¼, E½NW¼, N½SW¼, SE¼SW¼, N½SE¼;
Sec. 11: W½SW¼; 743.77 acres.
T. 6 S., R. 3 E., B.M.,
Sec. 32: NW¼;
Sec. 35: E½SW¼, NW¼SE¼; 280 acres.
T. 6 S., R. 4 E., B.M.,
Sec. 19: Lot 4, N½NE¼, SE¼NE¼, E½NW¼, SE¼SW¼, SW¼SE¼;
Sec. 30: Lot 3, NW¼NE¼, S½NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 31: Lots 3 and 4, NE¼, SE¼NW¼, E½SW¼, W½SE¼; 1,255.28 acres.
T. 6 S., R. 5 E., B.M.,
Sec. 26: SW¼SE¼;
Sec. 35: NE¼, E½SW¼, N½SE¼, SW¼SE¼; 400 acres.

T. 6 S., R. 6 E., B.M.,
Sec. 29: N½SW¼, NW¼SE¼; 120 acres.
T. 7 S., R. 2 E., B.M.,
Sec. 12: S½NE¼, S½NW¼, SW¼, N½SE¼, N½S½SE¼;
Sec. 13: NW¼NW¼; 480 acres.
T. 7 S., R. 3 E., B.M.,
Sec. 1: Lots 1, 2, 3, and 4, S½NW¼, N½SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 2: Lot 4, SE¼NE¼;
Sec. 3: SW¼SE¼;
Sec. 6: SW¼SE¼;
Sec. 8: SE¼NW¼, S½;
Sec. 9: S½SW¼, W½SE¼;
Sec. 10: N½NW¼, N½SE¼;
Sec. 11: NE¼NW¼, NW¼SW¼, SW¼SE¼;
Sec. 12: SW¼NE¼, NW¼, NW¼SW¼;
Sec. 18: Lot 2, E½NW¼; 1,799.25 acres.
T. 7 S., R. 4 E., B.M.,
Sec. 6: Lot 5, SW¼NE¼, SE¼NW¼, NE¼SW¼;
Sec. 7: Lot 3, NE¼SW¼, N½SE¼;
Sec. 8: S½NE¼, SW¼NW¼, SE¼NW¼, SW¼;
Sec. 9: NE¼NE¼, NW¼NE¼, SE¼NE¼, NE¼SE¼, SE¼SE¼;
Sec. 13: SE¼SW¼;
Sec. 21: NW¼, NW¼SW¼;
Sec. 26: SW¼;
Sec. 28: SW¼NE¼, SW¼NW¼, NW¼SW¼;
Sec. 34: E½NW¼;
Sec. 35: NE¼, N½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼; 1,946.19 acres.
T. 7 S., R. 5 E., B.M.,
Sec. 1: Lots 3 and 4;
Sec. 2: Lots 1 and 2;
Sec. 5: SE¼NE¼;
Sec. 9: SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 11: SW¼NW¼, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 12: N½SW¼;
Sec. 13: NE¼NW¼;
Sec. 14: N½SW¼;
Sec. 15: S½NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 17: SW¼SW¼;
Sec. 19: SW¼SE¼;
Sec. 20: E½NE¼, SW¼SW¼, NE¼SE¼;
Sec. 21: NE¼, SE¼SW¼, NW¼SE¼;
Sec. 22: W½NE¼, NW¼, N½SW¼, NW¼SE¼, S½SE¼;
Sec. 23: SW¼SW¼;
Sec. 26: NW¼NW¼;
Sec. 27: W½SW¼;
Sec. 28: NW¼NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 29: NW¼NW¼, N½SW¼, SW¼SW¼, W½SE¼;
Sec. 30: NE¼NW¼;
Sec. 32: W½NE¼, NW¼, SW¼SW¼, W½SE¼;
Sec. 33: SE¼NE¼, SE¼SW¼, SE¼; 3,477.80 acres.
T. 7 S., R. 6 E., B.M.,
Sec. 6: NE¼SW¼, SW¼SE¼;
Sec. 10: SE¼NE¼;
Sec. 17: SE¼SE¼;
Sec. 18: Lot 3, NE¼SW¼, SW¼SE¼;
Sec. 19: NE¼NE¼;
Sec. 20: N½, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼;
Sec. 21: SW¼NW¼, NW¼SW¼;
Sec. 23: NE¼NE¼;
Sec. 27: S½NW¼, N¼SW¼, SW¼SW¼, SW¼SE¼;
Sec. 28: S½NE¼, SE¼SW¼, SE¼;
Sec. 29: S½NW¼, N½SW¼, SW¼SW¼; 1,720.26 acres.

Decision B—Classification Decision

Proposed

The lands described in Attachment I have been examined and found unsuitable for agricultural purposes.

These lands are hereby classified unsuitable for disposal under provisions of the Desert Land Act, as amended, (19 Stat. 377; 43 U.S.C. 312–323) or the Carey Act, as amended (28 Stat. 422; 43 U.S.C. 641 et seq).

This proposed decision is in accordance with the Endangered Species Act of 1973 (Pub. L. 93–205, 87 Stat. 884, 16 U.S.C. 1531), Antiquities Act of 1906 (Pub. L. 69–209, 34 Stat. 225; 16 U.S.C. 432, 433), National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852; 42 U.S.C. 4321), Federal Land Policy and Management Act of October 21, 1976 (Pub. L. 94–579, 90 Stat. 2743, section 102(8)), and section 7 of the Taylor Grazing Act (43 U.S.C. 315, 315a–315r).

This classification action meets the criteria in, and is made pursuant to 43 CFR 2410.1(a)—(d), 2430.5 (d) and (e), 2450, 2460 and 2520.0–8.

The lands described in Attachment I under the heading of Bureau Motion do not have petition-applications filed on them.

Attachment I—Legal Descriptions

Desert Land Application No.

I–4120

T. 7 S., R. 5 E., B.M.,
Sec. 1: NW¼SW¼;
Sec. 11: NE¼NE¼; 80 acres.

I–4650

T. 6 S., R. 5 E., B.M.,
Sec. 33: NW¼SW¼.
T. 7 S., R. 5 E., B.M.,
Sec. 5: Lot 2, SW¼NE¼, SE¼NW¼, NW¼SE¼; 199.24 acres.

I–4651

T. 7 S., R. 5 E., B.M.,
Sec. 4: SW¼SW¼; 40 acres.

I–4776

T. 7 S., R. 3 E., B.M.,
Sec. 7: Lot 1, SW¼NE¼, NE¼SW¼; 120.45 acres.

I–4793

T. 6 S., R. 3 E., B.M.,
Sec. 17: NE¼NW¼, SW¼SW¼, NE¼SW¼; 120 acres.

I–4794

T. 6 S., R. 3 E., B.M.,
Sec. 17: SW¼NE¼, NW¼SE¼; 80 acres.

I–5849

T. 7 S., R. 5 E., B.M.,
Sec. 31: SE¼NE¼; 40 acres.

I–6358

T. 6 S., R. 4 E., B.M.,
Sec. 18: SE¼NE¼; 40 acres.

I–6473

T. 5 S., R. 2 E., B.M.,
Sec. 24: SE¼SW¼;
Sec. 26: NE¼NE¼; 80 acres.

I–6505

T. 7 S., R. 5 E., B.M.,
Sec. 24: NW¼SW¼; 40 acres.

I–6544

T. 6 S., R. 2 E., B.M.,
Sec. 1: Lot 3, NW¼SE¼, SE¼SE¼; 123.50 acres.

I–6593

T. 7 S., R. 4 E., B.M.,
Sec. 5: SW¼NW¼; 40 acres.

I–6595

T. 6 S., R. 4 E., B.M.,
Sec. 32: SE¼SE¼.
T. 7 S., R. 4 E., B.M.,
Sec. 4: Lot 4; 80.61 acres.

I–6826

T. 7 S., R. 4 E., B.M.,
Sec. 21: NE¼SE¼; 40 acres.

I–6848

T. 6 S., R. 3 E., B.M.,
Sec. 22: W½SE¼; 80 acres.

I–6859

T. 7 S., R. 3 E., B.M.,
Sec. 2: SE¼SE¼; 40 acres.

I–7015

T. 7 S., R. 6 E., B.M.,
Sec. 7: E½SE¼;
Sec. 8: W½SW¼;
Sec. 18: NE¼; 320 acres.

I–7425

T. 5 S., R. 2 E., B.M.,
Sec. 25: SE¼SE¼.
T. 5 S., R. 3 E., B.M.,
Sec. 30: Lots 1 and 4; 114.25 acres.

I–7582

T. 6 S., R. 5 E., B.M.,
Sec. 27: SW¼NW¼, NE¼SW¼; 80 acres.

I–7583

T. 6 S., R. 5 E., B.M.,
Sec. 27: SE¼SE¼;
Sec. 35: NE¼NW¼; 80 acres.

I–7853

T. 7 S., R. 3 E., B.M.,
Sec. 12: S½SW¼; 80 acres.

I–7854

T. 7 S., R. 3 E., B.M.,
Sec. 11: SE¼SE¼; 40 acres.

I–8095

T. 6 S., R. 3 E., B.M.,
Sec. 15: W½SE¼;
Sec. 22: SE¼NE¼; 120 acres.

I–8116

T. 7 S., R. 3 E., B.M.,
Sec. 3: SE¼NE¼; 40 acres.

I–8165

T. 5 S., R. 3 E., B.M.,
Sec. 31: SW¼SE¼; 40 acres.

I–8421

T. 7 S., R. 5 E., B.M.,
Sec. 30: NE¼SW¼, N½SE¼; 120 acres.

I-8423

T. 7 S., R. 6 E., B.M.,
Sec. 14: NE¼SW¼;
Sec. 23: SW¼NW¼, SE¼SE¼;
Sec. 28: NE¼NE¼; 160 acres.

I-8789

T. 7 S., R. 4 E., B.M.,
Sec. 9: W½NW¼; 80 acres.

I-8959

T. 6 S., R. 3 E., B.M.,
Sec. 34: W½SW¼; 80 acres.

I-8962

T. 6 S., R. 4 E., B.M.,
Sec. 27: SE¼SW¼, SW¼SE¼;
Sec. 34: W½NE¼, NE¼NW¼; 200 acres.

I-8972

T. 6 S., R. 4 E., B.M.,
Sec. 21: SE¼SE¼;
Sec. 27: SW¼NW¼, N½SW¼; 160 acres.

I-9004

T. 6 S., R. 3 E., B.M.,
Sec. 25: SE¼SE¼; 40 acres.

I-9005

T. 6 S., R. 3 E., B.M.,
Sec. 23: SE¼SE¼; 40 acres.

I-9006

T. 6 S., R. 3 E., B.M.,
Sec. 25: SW¼SW¼;
Sec. 35: SE¼SE¼; 80 acres.

I-9093

T. 5 S., R. 3 E., B.M.,
Sec. 32: NE¼NE¼.
T. 6 S., R 3 E., B.M.,
Sec. 5: SW¼NE¼, SE¼NE¼, NE¼SW¼; 160 acres.

I-11958

T. 7 S., R. 4 E., B.M.,
Sec. 26: SW¼NE¼; 40 acres.

I-12289

T. 6 S., R. 4 E., B.M.,
Sec. 34: NE¼NE¼; 40 acres.

I-12664

T. 6 S., R. 3 E., B.M.,
Sec. 10: SE¼NW¼, SW¼NE¼;
Sec. 15: NE¼NW¼; 120 acres.

I-12861

T. 7 S., R. 4 E., B.M.,
Sec. 22: SE¼SW¼; 40 acres.

I-13522

T. 6 S., R. 5 E., B.M.,
Sec. 26: W½E½E½NW¼NW¼, SW¼NW¼NW¼, W½E½NW¼NW¼; 25 acres.

I-14784

T. 7 S., R. 5 E., B.M.,
Sec. 26: NW¼SE¼; 40 acres.

I-14785

T. 7 S., R. 5 E., B.M.,
Sec. 12: SW¼NW¼; 40 acres.

I-14789

T. 7 S., R. 5 E., B.M.,
Sec. 25: EW¼SW¼; NW¼SE¼; 80 acres.

I-15551

T. 6 S., R. 3 E., B.M.,
Sec. 18: W½NE¼; 80 acres.

I-16443

T. 7 S., R. 6 E., B.M.,
Sec. 17: NE¼NE¼; SW¼NE¼, E½SW¼; 160 acres.

I-17258

T. 7 S., R. 5 E., B.M.,
Sec. 6: W½SE¼;
Sec. 17: NE¼SW¼; 120 acres.

I-17824

T. 7 S., R. 4 E., B.M.,
Sec. 1: NW¼SE¼; 40 acres.

Carey Act Application Number (Overlapping DLE Applications Listed Above)

I-8894

T. 6 S., R. 2 E., B.M.,
Sec. 1: NW¼SE¼, SE¼SE¼.
T. 6 S., R. 3 E., B.M.,
Sec. 15: W½SE¼;
Sec. 17: SW¼NE¼, NE¼NW¼, NE¼,SW¼, SW¼SW¼, NW¼SE¼;
Sec. 18: W½NE¼;
Sec. 22: SE¼NW¼; (480 acres).

I-8902

T. 6 S., R. 4 E., B.M.,
Sec. 32: SE¼,SE¼.
T. 7 S., R. 4 E., B.M.,
Sec. 5: SW¼NW¼; (80 acres).

Carey Act Applications (Not Overlapping DLE Applications)

I-8728

T. 6 S., R. 6 E., B.M.,
Sec. 29: NE¼SE¼; 40 acres.

I-8894

T. 6 S., R. 2 E., B.M.,
Sec. 12: SW¼NW¼.
T. 6 S., R. 3 E., B.M.,
Sec. 15: SW¼;
Sec. 18: Lot 2, SE¼NW¼, SE¼SW¼;
Sec. 21: W½NW¼, N½SW¼;
Sec. 22: N½NW¼, SW¼NW¼;
Sec. 29: SE¼NE¼, NW¼SE¼;
Sec. 32: SE¼; 841.57 acres.

I-8902

T. 6 S., R. 4 E., B.M.,
Sec. 32: SW¼SW¼;
Sec: 33: SW¼SW¼, SE¼SE¼; 120 acres.

I-9473

T. 6 S., R. 5 E., B.M.,
Sec. 30: NE¼SW¼;
Sec. 31: Lots 1 and 2; 121.12 acres.

I-10024

T. 7 S., R. 6 E., B.M.,
Sec. 3: Lot 4, S½NW¼, NE¼SW¼; 159.73 acres.

Bureau Motion

T. 5 S., R. 2 E., B.M.,
Sec. 22: SE¼SW¼, NW¼SE¼;
Sec. 26: NW¼SW¼, NW¼SE¼; SW¼SE¼;
Sec. 27: NE¼NW¼, SE¼NW¼; SW¼, S½SE¼;
Sec. 34: NE¼, NW¼, SE¼SW¼; N½SE¼, SE¼SE¼;
Sec. 35: NW¼NE¼, SW¼NE¼; NE¼NW¼, SW¼NW¼, NW¼SW¼, SW¼SW¼, NW¼SE¼; 1,280.00 acres.
T. 6 S., R. 2 E., B.M.,
Sec. 1: Lot 4, SW¼NW¼;
Sec. 2: SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 3: Lot 3, SW¼NE¼, SW¼NW¼, SW¼,
Sec. 10: NW¼NW¼, SW¼NW¼, SW¼SW¼, S½SE¼;
Sec. 11: NW¼NE¼, SW¼NE¼, NE¼NW¼, SE¼NW¼, NE¼SW¼, SE¼SW¼, SE¼;
Sec. 13: SW¼NW¼, S½; 1,527.66 acres.
T. 6 S., R. 3 E., B.M.,
Sec. 5: SW¼SW¼;
Sec. 6: SW¼NE¼;
Sec. 10: NE¼SW¼, SE¼SW¼;
Sec. 15: NW¼NW¼, SW¼NW¼;
Sec. 24: NE¼SE¼;
Sec. 26: SW¼SW¼;
Sec. 27: NW¼NE¼;
Sec. 32: N½SW¼;
Sec. 35: NW¼NW¼, SW¼NW¼, NW¼SW¼, SW¼SW¼, SW¼SE¼; 640 acres.
T. 6 S., R. 4 E., B.M.
Section 19: Lots 1, 2 and 3, SW¼NE¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Section 27: NW¼SE¼;
Section 30: Lot 4, NE¼NE¼, SE¼SW¼;
Section 31: Lots 1 and 2, NE¼NW¼, NE¼SE¼, SE¼SE¼; 752.50 acres.
T. 6 S., R. 5 E., B.M.
Section 35: S½NW¼, SE¼SE¼; 120 acres.
T. 6 S., R. 6 E., B.M.
Section 29: S½SW¼, S½SE¼; 160 acres.
T. 7 S., R. 2 E., B.M.
Section 12: N½NE¼, N½NW¼;
Section 13: S½NE¼; 240.00 acres.
T. 7 S., R. 3 E., B.M.
Section 1: S½NE¼;
Section 2: Lots 1, 2 and 3, S½NW¼, NW¼SW¼;
Section 3: Lot 1, NW¼SW¼, SW¼SW¼;
Section 4: N½NE¼SE¼, NW¼SE¼;
Section 6: Lots 1 and 2;
Section 7: S½SE¼;
Section 8: NE¼NE¼, S½NE¼;
Section 9: S½SE¼NE¼, NW¼NW¼, SE¼NW¼, NE¼SW¼, SE¼SE¼;
Section 10: S½NW¼, SW¼, S½SE¼;
Section 11: SE¼NW¼, S½SW¼;
Section 12: SE¼NE¼, NE¼SW¼, N½SE¼;
Section 18: Lot 1; 1,597.13 acres.
T. 7 S., R. 4 E., B.M.
Section 4: Lots 2 and 3, SE¼SW¼, NE¼SE¼, S½SE¼;
Section 6: Lots 2, 3, 4 and 6;
Section 7: Lot 2, NE¼NE¼, S½NE¼, SE¼NW¼;
Section 8: N½NE¼, NE¼NW¼, NW¼NW¼, SE¼;
Section 9: NE¼NW¼, NW¼SW¼, SW¼SE¼;
Section 21: NE¼, SW¼SW¼;
Section 25: NW¼NE¼, SW¼, SE¼;
Section 27: SW¼, SE¼;
Section 28: Lots 2, 3 and 4, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼;
Section 34: NE¼, NW¼NW¼, SW¼NW¼, SW¼, SE¼;
Section 35: SE¼NW¼, SE¼SW¼, SW¼SE¼; 3,019.68 acres.
T. 7 S., R. 5 E., B.M.
Section 1: Lots 1 and 2, SE¼NW¼;
Section 4: SW¼NW¼, NW¼SW¼, SE¼NW¼;

Section 5: SW¼SE¼;
Section 9: N½NW¼;
Section 11: S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Section 12: S½SW¼;
Section 13: SE¼NE¼, NE¼SE¼, SE¼SE¼;
Section 14: NW¼;
Section 15: N½NE¼, SE¼NW¼, NE¼SW¼, SW¼SW¼;
Section 17: SE¼SW¼;
Section 19: SE¼NW¼, NE¼SW¼, SE¼SW¼, SE¼SE¼;
Section 20: NW¼NE¼, SW¼NE¼, N½NW¼, SE¼NW¼;
Section 23: SE¼NE¼, NE¼SE¼;
Section 24: NE¼NE¼;
Section 25: SW¼SW¼;
Section 26: SE¼SW¼, SW¼SE¼, SE¼SE¼;
Section 27: S½NW¼, NE¼SW¼, SE¼SW¼, NW¼SE¼, SW¼SE¼;
Section 28: NE¼NE¼, S½SE¼;
Section 29: SE¼NE¼, SW¼NW¼, SE¼SW¼, NE¼SE¼;
Section 30: NE¼;
Section 32: N½SW¼, SE¼SW¼;
Section 33: NE¼NE¼; 2,679.81 acres.

T. 7 S., R. 6 E., B.M.,
Section 4: Lots 1, 2, 3 and 4, S½NE¼, S½NW¼, N½SE¼;
Section 6: Lot 7, SE¼SW¼;
Section 7: Lot 1, SE¼NE¼, NE¼NW¼, NW¼SE¼, SW¼SE¼;
Section 8: S½NW¼, NE¼SW¼, SE¼SW¼;
Section 10: N½NE¼, SW¼NE¼, NE¼NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Section 14: N½NW¼, SE¼NW¼;
Section 15: NE¼NE¼;
Section 17: NW¼NE¼, NW¼, NW¼SW¼, SW¼SW¼;
Section 18: N½SE¼, SE¼SE¼;
Section 20: NE¼SE¼;
Section 21: NW¼NW¼, SE¼NW¼, S½SE¼;
Section 23: NW¼NE¼, SE¼NE¼, NE¼SE¼;
Section 27: N½NW¼, SE¼SW¼, N½SE¼, SE¼SE¼;
Section 28: N½NE¼, NE¼NW¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Section 29: SE¼SW¼, NE¼SE¼, S½SE¼; 2,721.02 acres.

James Gabettas,

Acting District Manager.

November 20, 1981.

[FR Doc. 34228 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-34-M

Bureau of Reclamation

[INT DES 81-48]

Tucson Aqueduct Phase A, Central Arizona Project, Arizona; Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement for the Tucson Aqueduct Phase A, a feature of the Central Arizona Project, Arizona.

This statement analyzes the environmental consequences of the construction and operation of Phase A of the Tucson Aqueduct and its associated electrical transmission system. Phase A of the aqueduct will convey Colorado River water from the terminus of the Salt-Gila Aqueduct in south Central Pinal County to the vicinity of Rillito in northern Pima County. Construction of the feature is scheduled to begin in 1983, with project completion scheduled for 1987. Written comments may be submitted to the Regional Director (address below) on or before January 22, 1982.

Copies are available for inspection at the following locations:

Bureau of Reclamation, Office of Environmental Affairs, Room 7622, Washington, D.C. 20240, (202) 343-4991

Bureau of Reclamation, Division of Management Support, Library Branch, Bldg. 67, Rm. 450, Denver Federal Center, Denver, CO 80225, (303) 234-3019

Bureau of Reclamation, Lower Colorado Region, Office of the Regional Director, Nevada Highway and Park Street, Boulder City, NV 89005, (702) 293-8411

Bureau of Reclamation, Arizona Projects Office, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, AZ 85073, (602) 261-3577

Libraries

Phoenix City Library, 12 East McDowell Road, Phoenix, AZ 85004

Tucson City Library, 200 South Sixth Avenue, Tucson, AZ 85701.

Single copies of the draft statement may be obtained on request to the Commissioner of the Bureau of Reclamation or the Regional Director at the addresses listed above, at no charge. Please refer to the statement number above.

Dated: November 23, 1981.

William C. Klostermeyer,

Acting Commissioner.

[FR Doc. 81-34264 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-09-M

Geological Survey

Change in Map Prices

Notice is hereby given that, effective November 25, 1981, the price of maps published by the Geological Survey will be increased. The price increase is due to the cumulative effects of national inflation and a major Government-wide initiative to increase revenues to the U.S. Treasury. The last price increase was July 1976.

The new map prices will be as follows:

Maps, by series name or scale	Price
Standard Topographic Quadrangles [1] (1:24,000; 1:25,000; 1:62,500; 1:63,360)	$2.00
Orthophotomaps	2.00
Orthophotoquads	2.00
1:50,000 Topographic Quadrangles (DMA)	2.00
National Atlas Separates	2.50
1:25,000 (7.5' x 15') Metric Topographic Quadrangles	3.25
1:100,000 Maps	3.25
1:125,000 Maps	3.25
1:250,000 Maps (including Antarctic and alaska Boundary Series 1:250,000)	3.25
County Maps (1:50,000 and 1:100,000)	3.25
State Base (no contours—1:500,000 and 1:1,000,000)	2.50
State Base (topographic and relief—1:500,000)	3.25
International Maps of the World 1:1,000,000	3.25
National Park Maps	3.25
Coastal Ecological Inventory Maps	3.25
Irrigated Cropland Maps	3.50
River Survey Maps	1.75
Antarctica Topographic Maps	2.00-3.50
Landsat Image Maps	2.00-5.00
Appalachian Region Map	2.50
Alaska Federal Conservation Maps	3.25
Maps of the United States (base, contour, outline, and physical divisions maps at various scales, colors, sheet sizes, and numbers of sheets per map)	0.50-5.00
Thematic Maps	
Hydrologic Unit Map of (State)	1.75-6.00
Geologic Map of (State)	6.00;[3] 4.00
Basement Rock Map of the U.S.	[2]
Basement Rock Map of North America	1.75
Bouguer Gravity Anomaly Map of the U.S.	1.50
Coal Fields of the U.S.	3.50
Coal Fields of Alaska	3.00
Geologic Map of the U.S.	[2]8.00
Geologic Map of North America	[2]8.00
Oil and Gas Fields of the U.S.	[2]3.25
Tectonic Map of the U.S.	[2]8.00
Tetonic Map of North America	[2]8.00
World Seismicity Map	2.50
Water Resources Development Map of the U.S.	3.25

[1] Includes new maps, revisions (standard and interim), and reprints.
[2] Per sheet, additional if more than one sheet.
[3] Set.

The Geological Survey also publishes specialized scientific maps, including:

(1) Geologic Quadrangle maps
(2) Miscellaneous Field Studies maps
(3) Miscellaneous Investigations maps
(4) Geophysical Investigations maps
(5) Hydrologic Investigations maps
(6) Coal Investigations maps
(7) Mineral Investigations (Resource) maps
(8) Oil and Gas Investigations maps and charts
(9) Land Use/Land Cover maps
(10) Antarctic Geologic maps.

Prices for these maps vary. Specific price information may be obtained from the following Geological Survey offices:

(1) Distribution Centers:

Eastern Distribution Branch, 1200 South Eads Street, Arlington, Va. 22202

Western Distribution Branch, Box 25286, Federal Center, Denver, Colo. 80225
(2) Public Inquiries Offices:
108 Skyline Building, 508 2d Avenue, Anchorage, Alaska 99501, (907) 277–0577
Room 1–C–45, Federal Building, 1100 Commerce Street, Dallas, Tex. 75242, (214) 767–0198
169 Federal Building, 1961 Stout Street, Denver, Colo. 80294, (303) 837–4169
7638 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012, (213) 688–2850
Building 3, Mail Stop 33, 345 Middlefield Road, Menlo Park, Calif. 94025, (415) 323–8111, Ext. 2817
Room 1–C–402, 503 National Center, Reston, Va. 22092, (703) 860–6167
8105 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, (801) 524–5652
504 Custom House, 555 Battery Street, San Francisco, Calif. 94111, (415) 556–5627
678 U.S. Court House, West 920 Riverside Avenue, Spokane, Wash. 99201, (509) 456–2524
Room 1028, General Services Building, 19th and F Streets NW., Washington, D.C. 20244, (202) 343–8073.

Dated: November 19, 1981.

R. B. Southard,

Chief, National Mapping Division, Geological Survey.

[FR Doc. 81–34259 Filed 11–27–81; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting a Seismic Survey; GEO Seismic Services, Padre Island National Seashore, Texas

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from GEO Seismic Services a plan of operations for the purpose of conducting a seismic survey in the vicinity of the Mansfield Ship Channel, Padre Island National Seashore, Kenedy and Willacy Counties, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice (until December 28, 1981) in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals and groups at a charge of $9.00 per copy, pursuant to the Freedom of Information Act. The documents are 90 pages in length.

Dated: November 20, 1981.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 81–34294 Filed 11–27–81; 8:45 am]

BILLING CODE 4310–70–M

General Management Plan and Wilderness Proposal Canaveral National Seashore, Florida; Availability of Finding of No Significant Impact

In September 1977, the National Park Service completed and placed on public review an Assessment of Alternatives which analyzed alternatives for the management of Canaveral National Seashore and also evaluated the seashore for wilderness suitability.

The National Park Service reviewed the Assessment of Alternatives and public comments thereon and has now selected a proposal for the seashore's General Management Plan. A limited number of copies of the proposed General Management Plan and the Finding of No Significant Impact are available from:

Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, Telephone: (404) 221–5835
Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, Florida 32780, Telephone: (305) 867–4675

No steps will be taken to implement actions contained within the General Management Plan until December 28, 1981.

Date: November 20, 1981.

Neal G. Guse, Jr.

Acting Regional Director, Southeast Region.

[FR Doc. 81–34295 Filed 11–27–81; 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 23, 1981. Waiver of the 15-day public commenting period following this publication is necessary for the Oregon nominations listed below in order for listing of eligible properties to be accomplished before December 31, 1981. Listing in the National Register by this date will enable property owners to take advantage of Oregon's Historic Property Tax Law of 1975 (ORS 358.475), which provides that owners of properties entered into the National Register of Historic Places, including those properties which have been designated as contributing features of historic districts, may apply for special assessment status—a freeze of the assessed valuation for a 15-year period. Waiver of the public commenting period will allow timely listing which is necessary to aid in the preservation of these properties.

Carol D. Shull,

Acting Keeper of the National Register.

Oregon

Josephine County

Grants Pass, *Calhoun, George, House,* 612 NW. 5th St.

Klamath County

Klamath Falls, Benson, Judge Henry L., House, 137 High St.

Lane County

Florence, *Kyle, William and Sons, Building,* 1297 Bay St.

Marion County

Salem, *Boise, R. P., Building,* 217 State St.
Salem, *Old Garfield School,* 528 Cottage St., NE.

Multnomah County

Portland, *Corkish Apartments,* 2734—2740 SW. 2nd Ave.
Portland, *Linnea Hall,* 0.66 NW. Irving St.
Portland, *Maegly, A. H., House,* 226 SW. Kingston
Portland, *Smith, Mary J. G., House,* 2256 NW. Johnson St.
Portland, *Sovereign Hotel,* 710 SW. Madison

[FR Doc. 81–34352 Filed 11–27–81; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

Privacy Act of 1974; Revision of Systems of Records

On August 3, 1981 the Department of the Interior published in the **Federal Register** for public comment two revised and one new Privacy Act systems of records (46 FR 39481). The records systems, which are maintained by the Office of Inspector General, are: Audit Files, OIG–1; Investigative Records, OIG–2; and Management Information, OIG–3. OIG–1 and OIG–2 were revisions of previously published systems of records, and OIG–3 was proposed as a new system of records. A minor correction to the system notice for OIG–2 was published in the **Federal Register** on September 9, 1981 (46 FR 45037).

As a result of comments received, the three systems notices are being revised. The routine uses in each system notice which provided for disclosure of records to an appropriate federal, state, tribal, territorial, local, or foreign court or grand jury are being deleted. Also, the

routine use in OIG–3 (Management Information), which provided for disclosure to persons requesting or submitting information under the Freedom of Information Act or Privacy Act, is also being deleted. The statements describing the location of each system of records are also revised. System notices for the three records systems are published in their entirety below.

Additional information regarding this notice may be obtained from Mr. Reed Phillips, Jr., Director, Office of Information Resources Management, Office of the Secretary, U.S. Department of the Interior, Washington, DC. 20240, telephone 202–343–6194, or the Departmental Privacy Act Officer in the same office, telephone 202–343–6191.

Dated: November 19, 1981.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/OIG–1

SYSTEM NAME:

Audit Files—INTERIOR, Office of Inspector General–1.

SYSTEM LOCATION:

(1) Office of Inspector General, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; (2) Office of Inspector General Regional Offices and Regional Suboffices (A current listing of such offices and their locations can be obtained from the System Manager); (3) Audit site during course of an audit.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are or have been subject to an audit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Audit reports and materials containing information such as interviews, earnings, employment history, costs, debts, performance, and other personal information; a list of individuals having records subpoenaed in connection with audits; and their subpoenaed records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C.A. app. I, sections 1–12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the Department of the Interior and its past, present, and prospective contractors, grantees, lessees, licensees, and others having official business with the Department so as to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect fraud and abuse in, such programs and operations, and to keep management officials and the Congress informed about deficiencies, in administration and the need for and progress of corrective action.

Disclosures outside of the Department may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (3) to a federal, state, tribal, territorial or local government agency which has funds involved to alert that agency to the deficiencies or problems found so the agency may take corrective action; (4) to federal, state, tribal, territorial, local, or foreign agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit; (5) to a federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (6) to a federal, state, tribal, territorial or local government agency having partial or complete jurisdiction over the auditee or subject matter of the audit; (7) to appropriate federal, state, tribal, territorial, local, or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing, implementing, or administering a statute, rule, regulation, program, facility, order, lease, license, contract, grant, or other agreement; (8) to a federal, state, tribal, territorial, local, or foreign agency, or an organization, or an individual when reasonably necessary to obtain information or assistance relating to an audit, investigation, trial, hearing, preparation for trial or hearing, or any other authorized activity of the Office of Inspector General; (9) to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (10) to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States; and (11) to complainants for the purpose of notifying them of the progress and disposition of their complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in binders, file folders, and electronic storage media.

RETRIEVABILITY:

Indexed by audit assignment number, the bureau, state, or tribe involved in the audit, and the audit report title, which may incorporate the name of an individual, where the contractor, lessee, etc., audited is an individual rather than an organization; the name of an individual subpoenaed; and, subpoena number.

SAFEGUARDS:

Those files and reports whose contents include items subject to the Privacy Act are in locked rooms; manual files, standard passworded files on automated data processing equipment and software are accessible to authorized persons only.

RETENTION AND DISPOSAL:

Audit reports and materials are retained for seven years and then destroyed; subpoena logs and subpoenaed records are destroyed or returned when no longer needed for agency use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Auditing, Office of Inspector General, U.S. Department of the Interior, 18th and C Sts., N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries may be addressed to the System Manager. (See 43 CFR 2.60 for details or inquiries.)

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals and from records about the individuals, and the Department's bureaus and offices.

Investigative Records—Interior, Office of Inspector General—2

SYSTEM LOCATION:

(1) Office of Inspector General, U.S. Department of the Interior, 18th and C

Streets, N.W., Washington, D.C. 20240; (2) Office of Inspector General Regional Offices and Regional Suboffices (A current listing of such offices and their locations can be obtained from the System Manager); (3) Investigative site during course of an investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present, and prospective Departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees, and other persons doing official business with the Department, or having contact with the Department or geographical areas under its jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports and materials pertaining to allegations of fraud, waste, abuse, mismanagement, danger to public health or safety, violations of law, misconduct by employees, irregularities by contractors, grantees, etc., and irregularities involving the integrity of the policies and practices of the Department and real and personal property under its jurisdiction; a list of individuals having records subpoenaed in connection with investigations; and their subpoenaed records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Inspector General Act of 1978, 5 U.S.C.A. app. 1, sections 1–12; (2) 5 U.S.C. 7301; (3) Executive Order No. 11222, 18 U.S.C. 201 note; (4) 18 U.S.C. 437, as amended by Pub. L. 96–277, 94 Stat. 544; (5) 30 U.S.C. 6; (6) 43 U.S.C. 11; (7) 43 U.S.C. 31; (8) 43 U.S.C. 1466; (9) Reorgan. Plan No. 3 of 1950, 64 Stat. 1262, as amended, 5 U.S.C. app.; (10) 43 CFR Part 20; (11) 25 CFR 11.30(n)(2)(ii); and (12) 355 and 356 DM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) to conduct and report investigations of fraud, waste, abuse and mismanagement in the programs and activities of the Department and real and personal property under its jurisdiction, including violations of law, waste of funds, abuse of authority, serious employee misconduct, other irregularities, or danger to public health and safety, to insure compliance by Departmental employees, contractors, subcontractors, grantees, lessees licensees and other persons doing business, or having contact, with the Department with federal statutes, regulations, policies, and procedures; and (b) to prevent and detect fraud and abuse, and to promote economy, efficiency, and effectiveness in the programs and operations of the Department of the Interior.

Disclosures outside of the Department may be made: (1) to the U.S. Department of Justice when related to litigation or prosecution or anticipated litigation or prosecution; (2) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (3) to federal, state, tribal, territorial, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (4) to a federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to appropriate federal state, tribal, territorial, local, or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing, implementing, or administering the statute, rule, regulation, program, facility, order, lease, license, contract, grant, or other agreement; (6) to a federal, state, tribal, territorial, local, or foreign agency, or an organization, or an individual when reasonably necessary to obtain information or assistance relating to an audit, investigation, trial, hearing, preparation for trial or hearing, or any other authorized activity of the Office of Inspector General; (7) to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (8) to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and wood processing equipment storage media.

RETRIEVABILITY:

Indexed by name and subpoena number.

SAFEGUARDS:

File folders and word processing equipment storage media are in locked rooms; manual files, standard passworded files automated data processing equipment, and software are accessible to authorized persons only.

RETENTION AND DISPOSAL:

Reports of cases selected for their continuing historical value are retained for 20 years after they become inactive and then they are offered to the National Archives; reports on nonselected cases are destroyed 20 years after they become inactive; subpoena log and subpoenaed records are destroyed or returned when no longer needed for agency use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of the Interior, 18th & C Sts., N.W., Washington, D.C. 20240.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific authority provided by 5 U.S.C. 552a(k)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(b), which exempts this system from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) and the portions of 43 CFR, Part 2, Subpart D which implement these provisions. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

SYSTEM NAME:

Management Information—Interior, Office of Inspector General–3.

SYSTEM LOCATION:

(1) Office of Inspector General, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240; (2) Office of Inspector General Regional Offices and Regional Suboffices (A current listing of such offices and their locations can be obtained from the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present and prospective departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees, and other persons doing business with the Department, or having contact with the Department or geographical areas under its jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) OIG Employee Resources file will contain information regarding OIG employee assignments, distribution of time, training completed and performance; (b) Audit Status file will contain status information on all audits from point of request or annual planning through follow-up and eventual closure; (c) Investigation Status file will contain status information on all investigations from point of receipt or acceptance of a

case through closure; (d) Audit and Investigations History file will contain the findings, recommendations and actions on all audits and investigations; (e) Audit Inventory file will contain a record of each auditable entity of the Department, including its contracts, grants, cooperative agreements, organizations, programs and functions; and (f) Freedom of Information Act and Privacy Act file will contain information relating to requests for access to OIG records and other kinds of requests under those Acts, and OIG action on such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C.A. app. I, sections 1–12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) Personnel information will be used by staff managers to determine training needs, quality of performance, and promotional eligibility; (b) assignment information and workload status information will be used by managers to control audits and investigations, and to maximize effectiveness of staff resources; (c) the Audit Status file will be used to track all audits from point of request or actual planning through follow-up and eventual closure; (d) the Investigation Status file will be used to track all investigations from point of receipt or acceptance through closure; (e) the Audit and Investigation History file will record the findings, recommendations, and actions on all audits and investigations and will serve to archive pertinent history of audits and investigation; (f) to conduct and report investigations of serious misconduct or irregularities, mismanagement, gross waste of funds, abuse of authority, danger to public health and safety, or violation of law, to ensure compliance by Departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees and other persons doing business with the Department with federal statutes, regulations, policies, and procedures; (g) to develop audit reports which bring to the attention of management officials, the Congress, contractors, and grantees, etc., existing deficiencies and recommendations for correcting those deficiencies; (h) the Audit Inventory file will be used to forecast budget requirements for auditing each entity, review of contracts and grants for compliance and detections or prevention of fraud, waste and abuse, and to conduct trend analysis and review of expenditures; (i) the Freedom of Information Act and Privacy Act file will improve efficiency in responding to requests under those Acts; and (j) to prevent and detect fraud and abuse and to promote economy, efficiency, and effectiveness in the program and operations of the Department of the Interior.

Disclosures outside of the department may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (3) to a federal, state, tribal, territorial or local government agency which has funds involved to alert that agency to the deficiencies so that the agency may take corrective action; (4) to another federal, state, tribal, territorial or local government agency having partial or complete jurisdiction over the auditee or subject matter of the audit; (5) to appropriate federal, state, tribal, territorial, local, or foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing, implementing, or administering a statute, rule, regulations, order, program, facility, lease, license, contract, grant, or other agreement; (6) to a federal, state, tribal, territorial, local, or foreign agency, or an organization, or an individual when reasonably necessary to obtain information or assistance relating to an audit, investigation, trial, hearing, preparation for trial or hearing, or any other authorized activity of the Office of Inspector General; (7) to federal, state, tribal, territorial, local, or foreign agencies where necessary to obtain information or assistance relating to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit; (8) to a federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (9) to an actual or potential party or his or her attorney for the purpose of negotiation or discussion on such matter as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (10) to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States; (11) to complainants for the purpose of notifying them of the progress and disposition of their complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Password files on an automated data processing system.

RETRIEVABILTY:

Most files in the system are accessed by case number or report title (which may incorporate the name of an individual), but the Employee Resources Personnel file is accessed by social security account number; the Freedom of Information Act and Privacy Act file is accessed also by name of requester or submitter.

SAFEGUARDS:

Manual files are in locked rooms. Electronic files are protected by passwords accessible only to authorized persons. Computerized files will be safeguarded in accordance with 43 CFR 2.51(c).

RETENTION AND DISPOSAL:

General personnel information is destroyed when no longer needed for administrative use; the continuous update files are closed at the end of an audit or investigation and transferred to the Audit and Investigation History files for retention; the Audit Inventory, Audit and Investigation History, and Freedom of Information Act and Privacy Act files will be destroyed when no longer needed for agency use.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Administration, Office of Inspector General, U.S. Department of the Interior, 18th and C Sts., N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries may be addressed to the System Manager as indicated above. (See 43 CFR 2.60 for details on inquiries.)

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Departmental employees, departmental employment records, reports and notices, present and

prospective contractors, subcontractors, grantees, subgrantees, lessees, licensees, and other persons doing official business with the Department, or having contact with the Department or geographical areas under its jurisdiction.

[FR Doc. 81-34180 Filed 11-27-81; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: November 13, 1981.

Schneider Transport, Inc. (Certificate No. MC-51146 and Permit No. MC-151110), Schneider Tank Lines, Inc. (Certificate No. MC-110988), Distribution Service Systems, Inc. (Certificate No. MC-118159), WNI, Inc. (Certificate No. MC-141871), Trans-National Truck, Inc. (Certificate No. MC-133655), Contract Distribution Systems, Inc. (Certificate No. MC-151138, and Permit No. MC-144232), National Bulk Transport, Inc. (Certificate No. MC-143594), and National Transportation Systems, Inc. (Permit No. MC-149145) have filed a request for waiver of Subpart B (§§ 1057.11 and 1057.12) and Paragraphs (a) and (d) of § 1057.31 of Subpart D of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057).

Findings:

1. Petitioners are commonly controlled and jointly administer a common safety program.
2. Petitioners have acceptable fitness records.
3. Greater economy and efficiency would result if the waiver were granted in part.
4. Petitioners have presented no evidence warranting waiver of Subpart B entirely or Subpart D partially.
5. Partial compliance with Subpart B and compliance with Subpart D imposes no undue economic and administrative burden on petitioners.
6. National Transportation Systems, Inc., is not an authorized common carrier, so that petitioner does not qualify as a party for waiver of Subpart D.

It is Ordered:

1. The petition of Schneider Transport, Inc., Schneider Tank Lines, Inc., WNI, Inc., Trans-National Truck, Inc., Contract Distribution Systems, Inc., National Bulk Transport, Inc., and National Transportation Systems, Inc., for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for paragraph (b) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time lessee acquires the equipment, until possession is returned to the lessor or the equipment is interchanged with another authorized carrier, and a receipt as required by paragraph (b) of § 1057.11 is furnished to the lessor, and that a copy of the agreement is carried on the vehicle while in lessee's possession.

2. The waiver granted in this decision does not affect the application of the leasing regulations in a lease between an owner-operator and the lessor carrier.

3. The petition for waiver of paragraphs (a) and (d) of § 1057.31 of Subpart D is denied.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34221 Filed 11-27-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-169

The following applications were filed in region I. Send protest to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 159281 (Sub-1-1TA), filed November 16, 1981. Applicant: CALWAY SYSTEMS, INC., 8 Cedar Avenue, Thornhill, Ontario, CD. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara Street, Buffalo, NY 14202. *Malt beverages* between ports of entry on the International Boundary Line between the U.S. and CD in MI, on the one hand, and, on the other, points in CA, CO, ID, NV, UT, WA, WY, MN, and MT. Supporting shipper: Molson's Brewery (Ontario) Ltd., 640 Fleet Street, Toronto, Ontario, CD.

MC159315 (Sub-1-1TA), filed November 17, 1981. Applicant: VICTOR BITTER, JR. d.b.a. VICK'S EXPRESS, 165 Stillwater Road, Barnegat, NJ 08003. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Glass* between Saratoga Springs, NY, on the one hand, and, on the other, Totowa, NJ. Supporting shipper: Ellcon National, Inc., 60 King Street, Totowa 07512.

MC 50307 (Sub-1-4TA), filed November 18, 1981. Applicant: INTERSTATE DRESS CARRIERS, INC., 215 County Avenue, Secaucus, NJ 07094. Representative: Gerald W. Eskow (same as applicant). *Wearing apparel & materials & supplies used in the manufacture of wearing apparel* between the facilities of Devon Apparel, Inc. at Philadelphia, PA and El Paso, TX. Supporting shipper: Devon Apparel, Inc., 3001 Red Lion Road, Philadelphia, PA 19114.

MC 159379 (Sub-1-1TA), filed November 19, 1981. Applicant: DAVID J. VAILLANCOURT AND WAYNE KRUM d.b.a. NORTHEAST TRANSPORT, 398 Pinebrook Road, Lincoln Park, NJ 07035. Representative: Richard G. Lepley, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036. *Contract carrier:*

irregular routes: *General commodities (except classes A and B explosives, bulk commodities, household goods and hazardous waste)* between points in the U.S., under continuing contract(s) with the Green Fan Company of Beacon, NY. Supporting shipper: Green Fan Company, 175 Fish Kill Avenue, Beacon, NY 12508.

MC 159377 (Sub-1–1TA), filed November 20, 1981. Applicant: JAMES HARRISON d.b.a. FAIRFIELD DISTRIBUTING COMPANY, R.R. #1, New Lowell, Ontario, CD LOM 1NO. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *(1) Electrical lighting equipment and fixtures and parts and material necessary for the manufacture and maintenance of electrical fixtures and equipment; (2) Electrical organs, and parts and materials necessary for the manufacture, maintenance and repair of electric organs; (3) Building and construction materials; (4) Chairs, benches, seats and parts and materials necessary for their manufacture,* between Chicago, IL; Racine, WI; Newark, OH; Plainfield, IL; Vienna, WV; Hagerstown, MD; Grand Rapids, MI; on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and CD in MI and NY under continuing contract(s) with (1) McGraw-Edison of Canada Ltd., Mississauga, Ontario, CD; (2) Hammond International Canada Ltd.; Agincourt, Ontario, CD; (3) Fox-Richardson Ltd., Mississauga, Ontario, CD, and (4) Irwin Seating of Canada Ltd., Toronto, Ontario, CD. Supporting shipper(s): McGraw-Edison of Canada Ltd., 5130 Creekbank Road, Mississauga, Ontario, CD; Hammond International Canada Ltd., 20 Commander Blvd., Agincourt, Ontario, CD; Fox-Richardson, Ltd., 6235 Tomkan Road, Mississauga, Ontario, CD; Irwin Seating of Canada Ltd, P.O. Box 385, Station U, 258 Connell Court, Toronto, CD M8Z 5P7.

MC 146026 (Sub-1–7TA), filed November 20, 1981. Applicant: CROSS COUNTRY FARMING CO., INC., P.O. Box 134, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Floor coverings and wall coverings, and (2) Materials, equipment, and supplies used in the manufacture, sale, and installation of the commodities named in (1),* between the facilities used or utilized by Tarkett, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Tarkett, Inc., 800 Lanidex Plaza, Parsippany, NJ 07054.

MC 133259 (Sub-1–2TA), filed November 17, 1981. Applicant: ALLIED FREIGHT SYSTEMS INC., Griswold Industrial Park, Williston, VT 05495. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such commodities as are dealt in by a manufacturer or distributor of paper, paperboard and related products* between points in Franklin and Chittenden Counties, VT, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Saxon Industries, Inc., New York, NY. Supporting shipper: Saxon Industries, Inc., 1230 Avenue of the Americas, New York, NY 10020.

MC 145429 (Sub-1–1TA), filed November 18, 1981. Applicant: MEL'S EXPRESS LTD., 90 Dissette Street, P.O. Box 479, Bradford, Ontario, CD, L0G 1C0. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Woodpulp, waferboard, and mill supplies,* between points in IL, MA, MI, NY, NC, OH, PA, and WI, on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and CD in MI and NY. Supporting shipper(s) Abitibi-Price Inc., Toronto-Dominion Centre, Toronto, Ontario, CD M5K 1B3; Waferboard Corporation Limited, C.P.P.O. Box 1100, Timmins, Ontario, CD.

MC 159380 (Sub-1–1TA), filed November 20, 1981. Applicant: G & N ASSOCIATES, 66 Devin Street, Malden, MA 02148. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *Coin operated electronic games and equipment* between points in the U.S., under continuing contract(s) with Bally Northeast Distributing, Inc., Dedham, MA. Supporting shipper: Bally Northeast Distributing Inc., 880 Providence Highway, Dedham, MA 02026.

MC 151331 (Sub-1–2TA), filed November 19, 1981. Applicant: JAMES RENALDO and GAY ROSE RENALDO, d.b.a. KAI MOTOR FREIGHT, P.O. Box 69, Mt. Royal, NJ 08061. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Floor covering and equipment, materials and supplies used in the installation and manufacturing thereof, except in bulk,* between Salem, NJ, on the one hand, and, on the other, points in the U.S. except AK and HI, under continuing contract with Mannington Mills, Inc., Salem, NJ. Supporting shipper: Mannington Mills, Inc., Box 30, Salem, NJ 08079.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 488 (Sub-II–25TA), filed November 16, 1981. Applicant: BREMAN'S EXPRESS CO., 318 Haymaker Rd., Monroeville, PA 15146. Representative: Leslie S. Breman (same as applicant). *Electrical machinery, equipment or supplies and materials used in the manufacture thereof* between the facilities of General Electric Company, Hickory, NC, and Shreveport, LA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK, and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Electric Company, P.O. Box 2188, Hickory, NC 28601.

MC 31237 (Sub-II–3TA), filed November 16, 1981. Applicant: DIGNAN TRUCKING, INC., P.O. Box 7463, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., 523 South Cameron St., Winchester, VA 22601. *Common; regular: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving pts. in Clarke, Frederick, Fauquier and Warren Counties, VA, and pts. in Berkeley and Jefferson Counties, WV as off-route pts. in connection with applicant's regular route service between Baltimore, MD and Alexandria, VA over U.S. Hwy. 1 as authorized in Certificate MC–31237, for 270 days. Supporting shipper(s): The Gillette Co., 30 Burtt Rd., Andover, MA 01810. The Sherwin-Williams Co., Brown St. & Lister Ave., Newark, NJ 07105.

MC 159316 (Sub-II–1TA), filed November 17, 1981. Applicant: RONNIE J. NEEL CO., INC., Route 3, Box 773–B, Tazewell, VA 24651. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, Va 24168. *Mine roof bolts, mine roof bolt assemblies, mine roof bearing plates and accessories, and materials, supplies and equipment used in the manufacture and distribution of mine roof bolts, mine roof bolt assemblies and mine roof bearing plates,* between the facilities of Tazewell industries, A Division Of Advanced Mining Systems at Tazewell, VA, on the one hand, and, on the other, points in AL, IL, IN, KY, MI, NC, NY, OH, PA, TN, and WV for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Tazewell Industries, A Division Of Advanced Mining Systems, P.O. Box 431, Tazewell, VA 24651.

MC 107012 (Sub-II–204TA), filed November 16, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). *General commodities (except classes A & B explosives)* between points in the U.S., under continuing contract(s) with Tandem Computers, Inc., Cupertino, CA for 270 days. Supporting shipper: Tandem Computers, Inc., 19333 Vallco Parkway, Cupertino, CA 95014.

MC 109448 (Sub-II–16TA), filed November 16, 1981. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers and distributors of heating and air conditioning units (except commodities in bulk)* between Solon, OH and Louisville, KY, on the one hand, and, on the other, points in IN and MI, for 270 days. Supporting shipper(s): RSI, Inc., 5401 Naiman Parkway, Solon, OH 44139.

MC 159063 (Sub-II–1TA), filed November 17, 1981. Applicant: E. O. SHEPPARD, Box 346, McCoy, VA 24111. Representative: Michael S. Ferguson, 1919 Electric Rd., S.W., Roanoke, VA 24018. *Contract; irregular:* 1) *Expanded shale light weight aggregate,* from Roanoke, VA to pts. in WV and TN; and 2) *Coal,* from pts. in WV and Pineville, KY to Covington, Roanoke and Ridgeway, VA, for 270 days under continuing contract(s) with Weblite Corp., Blue Ridge, VA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Weblite Corp., P.O. Box 308, Blue Ridge, VA 24064.

MC 123065 (Sub-II–2TA), filed November 16, 1981. Applicant: STX INC., a Delaware corp. d.b.a. SPOTSWOOD TRAIL EXPRESS, Redbone Road, Chester Springs, PA 19425. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *General Commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* from the facilities of Terminal Freight Cocperative Association at Boston, MA, North Bergen, NJ, and Philadelphia, PA to Greensboro, NC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Terminal Freight Cooperative Association, 1430 Branding Lane, Downers Grove, IL 60515.

MC 148831 (Sub-II–3TA), filed November 16, 1981. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.R. #1, Box 57, Tiro, OH 44887. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *(1) Food and related products and (2) materials, equipment and supplies used in the processing and distribution of the commodities in (1) above (except commodities in bulk)* between points in St. Martin Parish, LA; Wilson County, NC; and El Paso, TX, on the one hand, and, on the other, points in the U.S. for 270 days. Supporting shipper: Bruce Foods Corp., P.O. Drawer 1030, New Iberia, LA 70560.

MC 148831 (Sub-II–4TA), filed November 16, 1981. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.R. #1, Box 57, Tiro, OH 44887. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Meats, meat products, meat by-products and articles distributed by meat packing houses (except commodities in bulk)* between points in Kane County, IL, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, TN, VA for 270 days. Supporting shipper: Aurora Packing Co., Inc., P.O. Box 209, North Aurora, IL 60542.

MC 158613 (Sub-II–4TA), filed November 16, 1981. Applicant: TRICOR BUSINESS GROUP, INC., 1700 Riverside Drive, PO. Box A, Bethlehem, PA 18015. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055. *Such commodities as are dealt in or used by manufacturers or distributors of conveyers and carriers, electrical parts, dollies, hand trucks, and machine parts,* between Easton PA on the one hand, and on the other, points in the U.S. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): S. I. Handling Systems, Inc., P.O. Box 70, Easton PA 18042.

MC 136511 (Sub-II–17TA), filed November 16, 1981. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main St., Altavista, VA 24517. *Furniture and furniture parts* between points in Hancock, Hamblen, Grainger and McMinn Counties, TN on the one hand, and, on the other, points in the US for 270 days. Supporting shippers: R & R Wood Products, Inc., P.O. Box 1236, Morristown, TN 37814; Volunteer Fabrications, Inc., P.O. Box 252, Sneedville, TN 37869; Athens Furniture, Inc., Subsidiary of Royal Crown Cola Co., P.O. Box 929, Athens, TN 37303.

MC 140457 (Sub-II–1TA), filed November 16, 1981. Applicant: W.H.P.T. CO., INC., Route 8, Box 644, Roanoke, VA 24014. Representative: Michael S. Ferguson, 1919 Electric Rd., SW., Roanoke, VA 24018. *Contract; irregular:* 1) *Expanded shale light weight aggregate,* from Roanoke, VA to pts. in WV and TN; and 2) *Coal,* from pts. in WV and Pineville, KY to Covington, Roanoke and Ridgeway, VA, for 270 days, under continuing contract(s) with Weblite Corp., Blue Ridge, VA. Supporting shipper(s): Weblite Corp., P.O. Box 308, Blue Ridge, VA 24064.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 158124 (Sub-3–1TA), filed November 17, 1981. Applicant: CHARLES D. GOODWIN, INC., P.O. Box 1006, Sanford, NC 27330. Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288. *Hand tools,* between Dallas, TX on the one hand, and, on the other Sanford, NC and Covington, TN. Supporting shipper: New Britain Tool Division, Litton Industrial Products, Inc., P.O. Box K, Newington, CT 06111.

MC 159374 (Sub-3–1TA), filed November 19, 1981. Applicant: CONTAINER TRANSPORT, 3995 S. W. 108 Ave., Miami, FL 33165. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N. W. 53rd. St., Miami, FL 33166. *General commodities (except classes A & B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in FL in and south of Palm Beach, Hendry and Lee Counties. FL restricted to traffic having an immediately prior or subsequent movement in interstate or foreign commerce. Supporting shippers: Marineflet, Inc., 744 S. W. 8th St., Miami, FL 33125; Sunline Industries, Inc., 2475 West 8th Lane, Hialeah, FL 33013; Farovi Shipping Corp., 1500 Port Boulevard, Dodge Island, Miami, FL 33132; and Ben Federico Freight Consolidators, Inc., 1015 North American Way, Miami, FL 33132.

MC 146449 (Sub-3–3TA), filed October 9, 1981. Republication—originally published in **Federal Register** of 10–26–81, page 52243, Vol. 46, No. 206. Applicant: ALL CITIES TRANSFER, INC., 1567 East Hamilton Avenue, Forest Park, GA 30344. Representative: William J. McCann (same as above). *Industrial and/or plastic containers and materials, equipment and supplies used in the manufacture of industrial and/or plastic containers,* between the facilities of Roper Plastics at or near Clayton County, GA and Dallas County, TX and points in the states of AL, FL, LA, MS, NC, SC, TN and TX. Supporting shipper:

Roper Plastics, Inc., 175 Lake Mirror Rd., Forest Park, GA 30050.

MC 159382 (Sub-3-1TA), filed November 20, 1981. Applicant: ADAMS TRUCKING COMPANY, INC., Route 1, Box 72, McCalla, AL 35111. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209. *Metal and metal articles, plastics and plastic articles and pipe;* between the facilities of Folsum Metal Products/Spirotech, McCalla, AL; Natchez Steel Company, Bessemer, AL on the one hand and on the other all points in the U.S. Supporting shippers: Folsum Metals/Spirotech, P.O. Box 331, McCalla, AL 35111; Natchez Steel Company, 1355 Industrial Parkway, Bessemer, AL 35020.

MC 129537 (Sub-3-17TA), filed November 20, 1981. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Carpeting, carpet pad, rugs, yarn, and equipment, materials, and supplies used in the production and distribution of carpeting, carpet pad, rugs, and yarn.* Between Anadarko, OK on the one hand, and points in TX, NM, and LA on the other. Supporting shipper: Hollytex Carpet Mills, Inc., 505 NE 7th St., Anadarko, OK 73005.

MC 140442 (Sub-3-2ETA), filed November 20, 1981. Applicant: HASLERIG TRUCKING CO., INC., Route One, Box 47, Rock Spring, GA. 30739. Representative: Ronald W. Haslerig (same as applicant). *Contract:* Irregular: *Fertilizer and fertilizer materials, dry, in bulk or in bags, liquid in tanker vehicles, and materials, supplies and equipment used in the manufacture, sale and distribution of fertilizer and fertilizer materials,* between points in the states of TN, IN, KY, and VA. Supporting shipper: Southern States Cooperative, Inc., P.O. Box 26234, Richmond, Va. 23263.

MC 146293 (Sub-3-34TA), filed November 20, 1981. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum, P.O. Box 720434, Atlanta, GA 30328. *Such commodities as are dealt in or used by hotels, motels, and restaurants (except commodities in bulk and foodstuffs),* between facilities of Holiday Inn, Inc., Product Services Division, at or near Memphis, TN, and points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities of Holiday Inn, Inc. or its franchisees. Supporting shipper: Holiday Inn, Inc., Product Services Division, 3645 Lamar Avenue, Memphis, TN 38195.

MC 158839 (Sub-3-1TA), filed November 19, 1981. Applicant: SHAMROCK TRUCKING, INC., 5258 Springdale Road, Forest Park, GA 30050. Representatives: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Pet food, metal containers and materials, equipment and supplies used in the manufacture and distribution of pet foods and metal containers,* between points in Fulton County, GA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK and TX. Supporting shipper: Allied Foods, Inc., 1970 Hills Avenue, NW, Atlanta, GA 30318.

MC 150772 (Sub-3-2TA), filed November 20, 1981. Applicant: N.C.V. TRANSPORT, INC., 807 Ramblingwood Court, Nashville, TN 37217. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Food and related products* from New York City, NY (and its commercial zone) to points in NC, SC, CA, WV, PA, TN, KY, GA, VA, and AL. Supporting shipper: John Vassilaros & Son, 2905 120th Street, College Point, Queens, New York City, NY 11429.

MC 120616 (Sub-3-5TA), filed November 20, 1981. Applicant: A. V. DEDMON TRUCKING, INC., Highway 150 East Shelby, NC 28150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Contract:* Irregular: *Cleaning compounds* from the facilities of the Peterson/Puritan Company at Danville, IL, to the Clorox Company warehouse facilities at Charlotte, NC, under a continuing contract with the Clorox Company. Supporting shipper: The Clorox Company, 1221 Broadway, Oakland, CA 04612.

MC 155013 (Sub-3-2TA), filed November 17, 1981. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Contract;* Irregular; *Rubber and rubber products* (1) From points in OH and TN and Mishiwauka, IN to Charlotte, NC; and (2) From Charlotte, NC to Dallas, TX and its commercial zone under continuing contract(s) with Beacon Hose Manufacturing Company. Supporting shipper: Beacon Hose Manufacturing Company, 5100 Terminal Street, P.O. Box 668730, Charlotte, NC 28266.

MC 142181 (Sub-3-7TA), filed November 17, 1981. Applicant: COBLE EXPRESS, INC., P.O. Box 1104, 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, Sixth Floor, United American Bank Building, Nashville, TN 37219. *Such commodities as are dealt in by a manufacturer of trucks, automobiles and automotive parts and accessories* between Rutherford County, TN, on the one hand, and, on the other, points in the U.S. Supporting shipper: Nissan Motor Manufacturing Corporation, U.S.A., Smyrna, TN 37167.

MC 154861 (Sub-3-4TA), filed November 16, 1981. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005, (202) 347-9332. *Furniture and fixtures, and materials and supplies used in their manufacture and distribution,* between points in NC, SC, GA, VA, and AR, on the one hand, and, on the other, the facilities of John Breuner Company in CA, AZ, and NV. Supporting shipper(s): John Breuner Company, 3201 Fostoria Way, San Ramon, CA 94583.

MC 158381 (Sub-3-5TA), filed November 17, 1981. Applicant: YELLOW LAKE, INC., P.O. Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. *Contract,* Irregular, *Foodstuffs and related products,* between facilities utilized by Wakefern Food Corp. at or near Elizabeth and Edison, NJ, Wallkill, NY and all points in Florida, under continuing contract(s) with Wakefern Foods Corp. Supporting shipper: Wakefern Foods Corp., Elizabeth, NJ 07007.

MC 125368 (Sub-3-17TA), filed November 18, 1981. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Furniture and Fixtures,* between McMinn County, TN, on the one hand, and, on the other, points in the U.S. except AL and HI. Supporting shipper: Athens Furniture Company, 10 Mattock Road, P.O. Box 929, Athens, TN 37303.

MC 159138 (Sub-3-1TA), filed November 18, 1981. Applicant: LELAND J. CREEL, d.b.a. PORT CITY DRAYAGE CO., 115 Bluewood Dr., Biloxi, MS 39532. Representative: Leland J. Creel (same as above). *Contract:* Irregular; *Lumber, Cotton, Agriculture and Industrial Chemicals, Tobacco, Petroleum products, Fertilizers, Resins/Rosins and General Commodities in Ocean Carrier furnished container/chassis units* between the Port at Gulfport, MS on the one hand, and on the other, St. Gabriel,

New Orleans, Placquemine, Baton Route, LA; Delisle, Gulfport, Greenwood, Moss Point, MS, Mobile and McIntosh, AL, Pensacola, and Tampa, FL, Lousiville, KY and designated Metropolitan Areas or Commercial Zones. Supporting shipper: Care Shipping Co., Inc., 419 Rue Decatur, Suite 108, New Orleans, LA 70130.

MC 159353 (Sub-3–1TA), filed November 19, 1981. Applicant: LARRY W. MURPHY, d.b.a. MURPHY'S CONTRACT CARRIER, P.O. Box 9621, Chattanooga, TN 37412. Representative: M. C. Ellis, care of Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier:* irregular route; *household appliances,* from the facilities of K-Mart Corp. in Davidson County, TN to the facilities of K-Mart Corp. in Walker and Whitfield Counties, GA and Bradley and Hamilton Counties, TN under continuing contracts(s) with K-Mart Corp. of Troy, MI. Supporting shipper: K-Mart Corp., 482 McBrien Road, East Ridge, TN 37412.

MC 129537 (Sub-3–15TA), filed November 17, 1981. Applicant: REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. *Plastic concentrates, plastic resins, wood pulp, lumber and building products, and equipment, materials, and supplies used in the manufacture and distribution thereof (except in bulk)* Between points in AL, AR, CA, CT, FL, GA, IL, IA, IN, KS, KY, LA, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WI. Supporting shipper: Georgia Pacific Corporation, Polymer Materials Division, 100–120 Adams Blvd., P.O. Box 250, Farmingdale, NY 11735.

MC 148490 (Sub-3–9TA), filed November 17, 1981. Applicant: C. & N. EVANS TRUCKING COMPANY, INC., Route 2, Box 39E, Stoneville, NC 27048. Representative: Harry G. Grubbs, Route 2, Box 39E, Stoneville, NC 27048. *Beverages; paper products; plastics; janitorial supplies; chemicals; institutional and hospital disposables; forest products; lumber; wood products; building materials and such commodities as are dealt in by home improvement centers; furniture; floor, wall and mantel clocks; textile products; textile mill products; tires, batteries, rubber, plastic and accessories and materials, supplies and equipment used in the manufacture, sale and distribution of all of the above* between points in the U.S. in and east of MN, IA, NE, KS, OK, and TX. There are twelve shipper support statements which may be examined at the ICC Regional Office, Atlanta, GA.

MC 140484 (Sub-3–26TA), filed November 17, 1981. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Foodstuffs and related products* between points in Cleveland, OH Commercial Zone on the one hand, and, on the other points in the states of IL, KS, MN and WI. Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 143204 (Sub-3–2TA), filed November 16, 1981. Applicant: CITY TRANSFER COMPANY, INC., 1634 W. First Street, Owensboro, KY 42301. Representative: William L. Willis, Attorney at Law; Suite 708, McClure Building, Frankfort, KY 40601. *Alcoholic beverages and materials, equipment and supplies related thereto,* between Daviess County, KY, on the one hand, and, on the other, Redstone Arsenal, AL; Miami, FL; Orange County, FL; Atlanta, GA; Alton and Aurora, IL; Randolph, Grant, and Allen Counties, IN; Hall County, NE; Rochester, NY; Allegheny County, PA; Davidson County, TN; Dallas, TX; Bexar County, TX and Wood County, WV. Supporting shipper: Ben F. Medley & Company, Kentucky Distillers, Inc., Sutherland Avenue, Stanley, KY 42375.

MC 152664 (Sub-3–7TA), filed November 13, 1981. Applicant: TOMBIGBEE TRANSPORT CORPORATION; P.O. Box 412, Adamsville, TN 38310. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909; Memphis, TN 38103. *Water bedding and components thereof* between Savannah, TN, on the one hand, and, on the other, points in OH, PA, NY, IN, MO, KS, TX, OK, AR, GA, AL, MS and LA. Supporting shipper: Morning Surf East, Inc., 1607 Wayne Rd., Savannah, TN 38372.

MC 138308 (Sub-3–25TA), filed November 16, 1981. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. (1) *Beryllium ore,* in bags and drums, not ground, from the Port of Houston, TX, to Delta, UT; and, (2) *beryllium hydroxide,* from Delta, UT, to Temple, PA. Supporting shipper: Cabot Corporation, 125 High Street, Boston, MA 02110.

MC 152658 (Sub-3–2TA), filed November 17, 1981. Applicant: HUCKS PIGGYBACK SERVICE, INC., 1200 N. Tryon Street, Charlotte, NC 28206. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, D.C. 20005, (202) 347–9332. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* having prior or subsequent movement by rail or in foreign commerce, between points in NC and SC. Supporting shipper(s): National Piggyback Services, Inc., 831 Baxter Street, Suite 202, Charlotte, NC 28202.

MC 128117 (Sub-3–10TA), filed November 16, 1981. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *New furniture and furniture parts,* from Austin, TX and Arcadia, LA to points in DC, DE, IN, MD, NJ, OH, PA and WV. Supporting shipper: Broyhill Industries, Broyhill Park, Lenoir, N.C. 28633.

MC 154861 (Sub-3–3TA), filed November 13, 1981. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, N.C. 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, D.C. 20005. *Wood burning stoves, and materials and supplies used in their manufacture and distribution,* between points in the U.S. Supporting shipper(s): CEBU Corporation, Drawer 8789, 872 Riverside Drive, Asheville, North Carolina 28804.

MC 159333 (Sub-3–1TA), filed November 13, 1981. Applicant: McINVALE FREIGHT LINES, INC., 5239 Brookleigh Dr., Jackson, MS 39212. Representative: W. M. McInvale (same as applicant). *Foodstuffs,* except in bulk, between the facilities of Serv-A-Portion at Chatsworth, CA, Cincinnati, OH, and Atlanta, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Serv-A-Portion, 9140 Lurline Ave., Chatsworth, CA 91311.

MC 129537 (Sub-3–16TA), filed November 18, 1981. Applicant: REEVES TRANSPORTATION CO., Route 5 Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgain St., Tampa, FL 33602. *Portable chemical toilets and accessories* between points in Azusa, CA and Kennedale, TX on the one hand, and on the other, points in NV, AZ, CO, NM, KS, OK, MO, AR, LA, IL, IN, OH, KY, TN, MS, AL, GA, FL, SC, NC, and VA. Supporting shipper: USANCO Inc., 965 Industrial St., Azusa, CA 91702.

MC 119787 (Sub-3–2TA), filed November 13, 1981. Applicant: F. W. GROVES TRUCKING COMPANY, Route 4, Box 89, Leland, NC 28451. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Metal products* from the facilities of Peden Steel Company at Raleigh and Nashville, NC and

Nashville, TN to Centertown, KY, Piketon, OH, and Houston, TX. Supporting shipper(s): Peden Steel Company, 1815 North Boulevard, Raleigh, NC 27611.

MC 148736 (Sub-3–1TA), filed November 16, 1981. Applicant: A & W CONTRACT CARRIERS, INC., P.O. Box 522, Pineville, NC 28134. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* irregular: *chemical automotive additives, plumbing supplies and safety cones,* between points in Mecklenburg and Union Counties, NC, on the one hand, and on the other, points in the United States, under continuing contract with Radiator Specialty Company, Inc. Supporting shipper: Radiator Specialty Company, Inc., 1400 W. Independence Blvd., Charlotte, NC 28208.

The following applications were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 64932 (Sub-10TA), filed November 16, 1981. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Marc J. Blumenthal, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Contract; Irregular: Chemicals, in bulk* from IL to IN, IA, KY, MI, MO, MN, OH, PA and WI under continuing contract with Exxon Chemical Americas for 270 days. Supporting shipper: Exxon Chemical Americas, P.O. Box 3272, Houston, TX 77001.

MC 119704 (Sub-4–11TA), filed November 13, 1981. Applicant: R. A. HARRIS & SONS, INC., 3501 22nd Street, P.O. Box 237, Menominee, MI 49858–0237. Representative: Dennis R. Harris (same as applicant). *Cheese, cheese products and dairy products,* from all points in WI and Upper MI, on the one hand, and, on the other, all points in the U.S. (except AK or HI) under a continuing contract(s) with Frigo Cheese Corp. of Lena, WI. Supporting shipper: Frigo Cheese Corp, Lena, WI 54139.

MC 128927 (Sub-4–5TA), filed November 3, 1981. Applicant: MARTIN TRUCKING COMPANY, INC., Box 406, Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719. *Spirits and wine* between points in WI, on the one hand and, on the other hand, points in MN, MI, IL and KY. An underlying ETA seeks 120 days authority. Supporting shippers: Frank Liquor Co., Inc., 2115 Evergreen Rd., Middleton, WI 53562; and Frank Liquor Co. of La Crosse, 229 N. Second St., La Crosse, WI 54601.

MC 148380 (Sub-4–17TA), filed November 16, 1981. Applicant: CRESCO LINES, INC., 13900 S. Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603. *Contract,* irregular: *Forest products, building materials, and lumber and wood products, and materials, equipment and supplies* used in the distribution thereof, between points in MD, NY, OH, PA and WV, on the one hand, and, on the other, points in CA, CT, GA, IL, ID, ME, MD, MT, NC, NH, NJ, NY, OH, OR, PA, VA, WA and WV, under contract with Babcock Lumber Co. of Pittsburgh, PA. Supporting shipper: Babcock Lumber Co., 2220 Palmer St, Pittsburgh, PA 15218.

MC 148394 (Sub-4–2TA), filed November 16, 1981. Applicant: McKINLEY TRUCKING CO., INC., 652 N. Williams, Carson City, MI 48811. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Foundry facings, in bulk, in tank vehicles,* from the facilities of Black Products Company located at or near Chicago, IL, to points in Saginaw County, MI. An underlying ETA seeks 120-day authority. Supporting shipper: Black Products Company, 13513 Calumet Ave., Chicago, IL 60627.

MC 149588 (Sub-4–1TA), filed November 16, 1981. Applicant: HIEL TRUCKING, INC., R.R. #2, Prairie City, IL 61470. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract, irregular: *Dog food,* from Muscatine, IA to Quincy, IL. Restricted to traffic moving under continuing contract with Moorman Mfg. Company. An underlying ETA seeks 120 days authority. Supporting shipper: Moorman Mfg. Company, 1000 No. 30th St., Quincy, IL 62301.

MC 150301 (Sub-4–11TA), filed November 13, 1981. Applicant: EQUITY TRANSPORTATION CO., INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *General commodities (except household goods as defined by the Commission, Classes A and B explosives, and commodities in bulk)* between all points in the U.S. under a continuing contract(s) with American Seating Co. Supporting shipper: American Seating Co., 901 Broadway NW, Grand Rapids, MI 49504.

MC 151573 (Sub-4–14TA), filed November 17, 1981. Applicant: MOREHOUSE CARTAGE, INC., 14847 South Menard, Oak Forest, IL 60452. Representative: Martin J. Kennedy, 120 West Madison Street, Chicago, IL 60602. (1) *Sand* from Chicago, IL to La Porte, IN; (2) *stone* from South Bend, IN to Chicago, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Best Bricks, Inc., 1220 W. 171st St., Hazel Crest, IL.

MC 152935 (Sub-4–9TA), filed November 16, 1981. Applicant: HILL-ROM COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract,* irregular: *Motorcycles* between Grand Rapids, MI and points in Batesville, Columbus, Indianapolis, Lebanon, Richmond and Shebyville, IN. An underlying ETA seeks 120 days authority. Supporting shipper: KMW, Inc. of 5080 36th St., Southeast, Grand Rapids, MI 49508.

MC 156069 (Sub-4–6TA), filed November 12, 1981. Applicant: TRANSITALL SERVICES, INC., Two North Riverside Plaza, Suite 1402, Chicago, IL 60606. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract,* irregular, *such commodities* as are dealt in by retail chain grocery and food business houses, from Chicago, IL to the facilities of Meijer, Inc., located at or near Grand Rapids and Lansing, MI. Restricted to the transportation of traffic having a prior or subsequent movement by rail. Supporting shipper: Meijer, Inc., 2727 Walker Road, N.W., Grand Rapids, MI 49504.

MC 158229 (Sub-4–2TA), filed November 16, 1981. Applicant: FREEWAY CONTRACT CARRIERS, INC., 6841 Milton Drive, Rockford, IL 61109. Representative: Robert E. Knoppe, Dreyfus & Knoppe, 79 W. Monroe, Suite 500, Chicago, IL 60603. *Contract* irregular: *Equipment; New and Used Industrial Metal* between Fort Smith, AR and points in the U.S. Restricted to moving traffic under continuing contract(s) with Wilson-West, Inc. Supporting shipper: Wilson-West, Inc., 610 S. "Y" St., P.O. Box 3565, Fort Smith, AR.

MC 158655 (Sub-4–6TA), filed November 16, 1981. Applicant: GRAND EXPRESS, INC., 4750 Clyde Park, SW, Grand Rapids, MI 49509. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in or utilized by wholesale and retail department stores, and, food chain stores,* between points in Licking, Hamilton, Lucas, Clark, Marion, Butler and Hancock Counties, OH; Kenton County, KY; and points in MI on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX. Supporting shipper:

Meijer, Inc., 2727 Walker Rd., NW, Grand Rapids, MI 49504.

MC 158875 (Sub-4–1TA), filed November 17, 1981. Applicant: C & L TRANSPORT, INC., 1908 Stout Field West Dr., Indianapolis, IN 46241. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. *Contract* irregular: *printed matter,* from Florence, KY to the facilities of AAA Warehouse Corporation at Indianapolis, IN, under continuing contract(s) with AAA Warehouse Corporation of Indianapolis, IN. Supporting shipper: AAA Warehouse Corporation, 1908 Stout Field West Drive, Indianapolis, IN 46241.

MC 158914 (Sub-4–1TA), filed November 13, 1981. Applicant: J.T.D. ENTERPRISES, INC., 2223 81st Street, Kenosha, WI 53140. Representative: Clyde W. Harger (same address as applicant). *Food and/or kindred products* between points in Martin, Nobles, Watonwan, Wright, and Faribault Counties, MN and points in the Minneapolis/St. Paul Commercial Zone, on the one hand, and, on the other, points in IL, MN, WI, IN, KY, TN, NC, SC, GA, FL, CO, NM, AZ and CA. Supporting shippers: Golden Valley Foods, Inc., P.O. Box 4126, Hopkins, MN 55343; Trans-Consolidated, Inc., 240 Chester Street, St. Paul, MN 55107.

MC 159249 (Sub-4–1TA), filed November 16, 1981. Applicant: J.K.J. TRUCKING, INC., 7131 Fisher Woods Rd., Indian River, MI 49749. Representative: Kathleen R. Clark (same address as applicant). *Transporting plastic goods and general commodities* from Petoskey, MI to various points in the U.S. Supporting shipper: Petoskey Plastics, Inc., U.S. 31, Petoskey, MI 49770.

MC 159296 (Sub-4–1TA), filed November 13, 1981. Applicant: BLUE AND WHITE EXPRESS OF MICHIGAN, INC., P.O. Box 1753, 27906 Mound Road, Warren, MI 48090. Representative: Norman S. Sommers, 1800 Travelers Tower, 26555 Evergreen Road, Southfield, MI 48076. *Such commodities as are dealt in by wholesale, retail chain stores and food business houses, to include equipment, materials and supplies thereof;* between points in and places in OH, IN, IL, WI, MN, NY, MA, MI, MO, IA, SD, KS, AR, NJ, PA, KY, TN, AL, FL, GA, VA, MD. Supporting shippers: Chatham Super Markets, 2300 E. Ten Mile Road, Warren, MI 48091 and Faygo Beverages, Inc., 3579 Gratiot Avenue, Detroit, MI 48207.

MC 159297 (Sub-4–1), filed November 16, 1981. Applicant: WHEEL SERVICE TRANSPORT, INC., 5262 Skiba Dr, New Brighton, MN 55112. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424. *Pre-cast and pre-stressed concrete products and materials, equipment and supplies used in the manufacture and distribution thereof,* between points in Hennepin County, MN, on the one hand, and, on the other, points in IA, ND, SD, and WI. Supporting shipper: Bladholm Bros. Culvert Co., P.O. Box H, Osseo, MN 55369.

MC 159302 (Sub-4–1), filed November 16, 1981. Applicant: BERRY LESMEISTER, 521 West Indiana, Unit A, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract,* irregular: *Beer* from Milwaukee, WI, St. Paul, MN, and Peoria, IL, to Bismarck, ND. An underlying ETA seeks days authority. Supporting shipper: Premium Beverages, Inc., Box 2201, Bismarck, ND.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 125254 (Sub-5–12TA), filed November 16, 1981. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *Meat, meat products, and meat by-products,* between Columbus Junction and Waterloo, IA, on the one hand, and, on the other pts in the states of AL, AR, IN, GA, KS, KY, LA, MI, MN, MS, NE, NC, OH, PA, SC, TN, and WI. Supporting shipper: The Rath Packing Company, P.O. Box 330, Waterloo, IA 50704.

MC 133506 (Sub-5–1TA), filed November 16, 1981. Applicant: J & B TRANSPORTATION CO., INC., 2553 Gravel Street, Fort Worth, TX 76118. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. *Pipe,* from Houston, TX, to Oklahoma City, OK; Baton Rouge, LA; and Roswell and Farmington, NM. Supporting shipper: Howard Love Pipeline Supply Company, Inc., Houston, TX.

MC 141312 (Sub-5–7TA), filed November 16, 1981. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, NE 68463. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Fly ash,* from Woodbury County, IA to pts in NE. Supporting shipper: Midwest Fly Ash and Materials, Inc., P.O. Box 3557, Sioux City, IA 51102.

MC 144667 (Sub-5–9TA), filed November 16, 1981. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Mercer commodities,* (a) between pts in Co on and east of Interstate Hwy I–25, pts in NE on and west of U.S. Hwy 83, and pts in WY; and (b) between pts in Kimball County, NE, and Otero, Logan and Morgan Counties, CO, on the one hand, and, on the other, pts in ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, UT, ID and NV. There are six supporting shippers.

MC 146553 (Sub-5–18TA), filed November 16, 1981. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. *Aluminum products,* from the facilities of Nichols Division at Davenport, IA on the one hand, and on the other, pts in IL, GA, NC, NJ, OH, PA and VA. Supporting shipper(s): Nichols Division, P.O. Box 3808, Davenport, IA 52808.

MC 147196 (Sub-5–35TA), filed November 16, 1981. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Contract,* Irregular; *Paint, paint brushes, rollers, roller pans, paint cans, pigments and any other materials used in or for the manufacture and shipping of paint* between Sherwin Williams plants in TX, OH, IL, CA on the one hand, and on the other, points in the U.S. Supporting shipper: Sherwin Williams Co., 2802 W. Miller Rd., Garland, TX.

MC 149321 (Sub-5–3TA), filed November 16, 1981. Applicant: SCHMIDT TRUCKING, INC., 502 East 8th St., Garner, IA 50438. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. *Meat and meat products,* from the facilities of John Morrell & Co. located at Estherville and Sioux City, IA, Sioux Falls, SD, and Worthington and Fairmont, MN, to pts in AL, CA, FL, GA, KS, LA, MA, MD, MS, NC, NJ, NY, OK, PA, SC, TN and TX. Supporting shipper: John Morrell & Co., 208 S. LaSalle, Chicago, IL 60604.

MC 149573 (Sub-5–1TA), filed November 17, 1981. Applicant: NTL, INC., 4211 South 33rd St., Lincoln, NE 68506. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506. Contract, irregular; *Food and related products* between pts in the U.S. Supporting shipper: Banquet Foods Corporation, One Banquet Place, P.O. Box 70, Ballwin, MO 63011.

MC 152292 (Sub-5–5TA), filed November 16, 1981. Applicant:

SUNBELT EXPRESS, INC., P.O. Box 401845, Garland, TX 75040. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities, (except classes A and B explosives or hazardous materials)* between points in CA, OR, WA, AR, LA, OK or TX. Under continuous contract(s) with Acme Fast Freight, Inc. Supporting shipper: Acme Fast Freight, Inc., 2110 Alhambra Ave., Los Angeles, CA 90031.

MC 154271 (Sub-5–4TA), filed November 16, 1981. Applicant: BLUE BONNET TRANSIT, INC., 1300 N. Greenville Avenue, Richardson, TX 75080. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials* between Dallas and Tarrant Counties, TX on the one hand, and, on the other, points in the U.S. Under continuous contract(s) with The Overhead Door Corporation. Supporting shipper: The Overhead Door Corporation, 6750 LBJ Freeway, Dallas, TX 75243.

MC 154271 (Sub-5–5TA), filed November 16, 1981. Applicant: BLUE BONNET TRANSIT, INC., 1300 N. Greenville Ave., Richardson, TX 75080. Representative: William Sheridan, P.O. Box Drawer 5049, Irving, TX 75062. Contract: Irregular, *Malt Liquors and Materials, Equipment and Supplies used in the manufacture, sale and distribution of Malt Liquors* between Longview, TX and Memphis, TN on the one hand, and, on the other, points in KY, OH, IN, IL, MI, WI, MN, ND, SD, IA, MO, KS, NE, and WY. Restricted to shipments orginating at or destined to the facilities of Jos. Schlitz Brewing Company of Milwaukee, WI. Supporting shipper: Jos. Schlitz Brewing Company, 235 W. Galena St., Milwaukee, WI 53212.

MC 155796 (Sub-5–3TA), filed November 16, 1981. Applicant: TOM HASTINGS, d.b.a. TRANSPORTATION SPECIALISTS, 440 Commercial Federal Tower, 2120 South 72nd Street, Omaha, NE 68124. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141 . Contract irregular *Frozen Bakery Products*, between pts in the U.S. Supporting shipper: Lender's Bagel Bakery, Inc., Post Road, West Haven, CT 06516.

MC 157061 (Sub-5–7TA), filed November 17, 1981. Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909 Memphis, TN 38103. *Copper and aluminum wire and cable* from Osceola, AR, to points in the U.S. Supporting shipper: Kagan Dixon Wire Corp., P.O. Box 643, Osceola, AR 72370.

MC 157823 (Sub-5–2TA), filed November 16, 1981. Applicant: NOTO MAGIC CITY EXPRESS, LTD., P.O. Box 364, Moberly, MO 65270. Representative: Patricia F. Scott, Kretsinger, Scott & Kretsinger, P.C., 20 East Franklin, Liberty, MO 64068 . Contract, irregular: *Building materials, spiral steel pipe,* from Salisbury, MO, Sunland Park, NM and Roanoke, VA, to all points in the Continental U.S. Supporting shipper: Semco Manufacturing Company, Highway 24, West, Salisbury, MO 65281.

MC 159034 (Sub-5–1TA), filed November 16, 1981. Applicant: SHERMAN'S BUS SERVICE, Rt. 1, Box 224, Piggott, AR 72454. Representative: Sherman Jorman (same as above). Common: Regular: *Passengers* from Piggott, AR to Emerson Electric Plant, Kennett, MO over Hwy 62 to Hwy 139 to Hwy 90 to AR/MO State Line Hwy 84 to Kennett, MO and return over same route. Supporting shipper: City of Piggott, AR, 194 W. Court St., Piggott, AR 72454.

The following appoications were filed in region 6. Send protests to: Interstate Commerce Commission Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 144624 (Sub-6–5 TA), filed November 10, 1981. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. Box 26828, Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, D.C. 20006. *Contract Carrier:* Irregular Routes. *Sugar in bags or cartons* from Paul, Twin Falls and Nampa, ID to points in UT, under a continuing contract with the Amalgamated Sugar Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Amalgamated Sugar Company, P.O. B. 1520, Ogden, UT 84402.

MC 144624 (Sub-6–6 TA), filed November 9, 1981. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. B. 26828, Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, D.C. 20006. *Contract Carrier:* Irregular Routes, *Automatic dishwasher detergent and laundry detergent* from Salt Lake City, UT, to points throughout the continental U.S., under a continuing contract with Huish Distributing for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Huish Distributing, 3540 W. 1987 S., Salt Lake City, UT 84126.

MC 147227 (Sub-6–2 TA), filed November 12, 1981. Applicant: ATLANTIC MARKETING CARRIERS, INC., 4025 South Golden State Highway, Suite No. 6, Fresno, CA 93725. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, D.C. 20005. *Metal products, machinery, building materials, and chemicals and related products,* between points in Berks and Montgomery Counties, PA; Calhoun County, MI; Essex County, MA; and Cleveland, OH; Los Angeles, CA; Nashville, TN; and St. Louis, MO, and points in their commercial zones, for 270 days. Supporting shipper(s): Bostik Division, Emhart Chemical Group, Boston Street, Middleton, MA 02949.

MC 159309 (Sub-6–1 TA), filed November 10, 1981. Applicant: BAY-SEA TRANSPORT, INC., 2300 Davis St., San Leandro, CA 94577. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: (1) *Chemicals or Allied Products* from Mountain View and Santa Ana, CA to OR, WA, ID, NV, AZ, CO and MT, under continuing contract(s) with Jasco Chemical Corp.; (2) *Chemicals or Allied Products* between San Leandro, CA and points in OR and WA, under continuing contract(s) with Norco Paint Company, Inc.; (3) *Material handling equipment and forklifts* from San Leandro, CA to Portland, OR and Spokane and Seattle, WA, under continuing contract(s) with Yale Industrial Trucks, Washington; (4) *Chemicals or Allied Products* between Seattle, WA and points in CA, under continuing contract(s) with Rudd Company, Inc.; and (5) *Lumber and wood products* between CA, OR and WA, under continuing contract(s) with Oregon California Forest Products, Inc., for 270 days. Supporting shipper: There are five (5) shippers. Their statements may be examined at the Regional office listed.

MC 159212 (Sub-6–1TA), filed November 9, 1981. Applicant: OTIS BENN, 3044 N. Ewing Ave., Altadena, CA 91001. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *Contract Carrier,* irregular routes: *Electrical appliances used for personal care; general personal care products;* and, *toilet articles,* from Los Angeles/Long Beach, CA to Phoenix, AZ; and, from Phoenix, AZ to points in states west of the Mississippi River, for the account of Conair Corporation, for 270 days. Supporting shipper: Conair Corporation, Two North 59th Ave., Phoenix, AZ 85043.

MC 134387 (Sub-6–28TA), filed November 10, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Michael J. O'Neill, 811 S. 59th Ave., Phoenix, AZ 85043. (1) *Furniture, Fixtures* and, (2) *equipment, materials and supplies* used in the manufacture and distribution of furniture, and fixtures between points in Los Angeles and Alameda Counties, CA on the one hand, and the other, points in ID, NV, UT, AZ, and MT for 270 days. Supporting shipper: Simmons, 1700 Fairway Ave., San Leandro, CA 94577.

MC 146041 (Sub-6–5TA), filed November 12, 1981. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005. *Plastic products* between points in Kent County, DE, on the one hand, and on the other, points in the U.S. for 270 days. Supporting shipper(s): Consolidated Thermoplastics, Route 13, Railroad Avenue, Harrington, DE 19952.

MC 159211 (Sub-6–1TA), filed November 9, 1981. Applicant: CAMPUS LINK INC., P.O. Box 8536, Moscow, ID 83843. Representative: J. S. Overstreet, 858 Harold Ave., Moscow, ID 83843. *Passengers and express* between points in Nezperce and Latah Counties, ID on the one hand, and on the other, points in Whitman and Spokane and Pullman and Colfax counties WA for 180 days. Supporting shipper(s): University Inn—Best Western, Moscow, ID; Pullman Travel Service, Pullman WA; Linda's World Travel, Inc, Pullman WA; Travel by Thompson, Moscow ID.

MC 156983 (Sub-6–2TA), filed November 12, 1981. Applicant: DIEBEL TRUCK SERVICE INC., 301 D St., Suite 104, Lewiston, ID 83501. Representative: William E. Seliski, POB 8255, Missoula, MT 59807. *Building Materials* from WA, ID, MT, OR to ID, CO, UT, AZ, OK, NV, CA, TX, KS, NE, IA, MO, AK and IL, for 270 days. Supporting shippers: New Pioneer Log Homes, Route 2, P.O.B. 27B Wieppe, ID 83553, Northwest Forest Products, 1202 Powers, Lewiston ID 83501.

MC 159240 (Sub-6–1TA), filed November 10, 1981. Applicant: HO TO LY AND LAI THI NGUYEN, d.b.a. DOUBLE HAPPY TOURS, 751 Greenwich St., San Francisco, CA 94133. Representative: Karl C. Lo, 425 California St., 25th Fl., San Francisco, CA 94104. *Passengers and personal baggages,* from San Francisco, San Jose, Oakland, Stockton and Sacramento, CA to Stateline (Lake Tahoe) and Reno, NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Vietnamese Chinese Mutual Aid and Friendship Association, 374 Eddy St., San Francisco, CA 94102.

MC 159257 (Sub-6–1TA), filed November 12, 1981. Applicant: ELDRIDGE EQUIPMENT, INC., PO Box 98, Sandy, OR 97055. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *Jetty stone,* from points in Wahkiakum County, WA, to points in Tillamook County, OR, for 270 days. An ETA seeks 120 days' authority. Supporting shipper: Eldridge/Marshall, POB 210, Rockaway, OR 97136.

MC 159304 (Sub-6–1TA), filed November 16, 1981. Applicant: INTERMOUNTAIN TRANSIT HOMES, INC., Box 104–C, Inkom, ID 82345. Representative: Eldon E. Bresee, 2881 East 3400 South, Salt Lake City, UT 84109. *Mobile Homes, Buildings, Building Sections, Modules, and parts and acessories thereto* in initial and secondary movements, between points in CO, ID, NV and WY, for 270 days. There are 7 supporting shippers. Their statements may be examined at the Regional office listed above.

MC 147399 (Sub-6–3TA), filed November 10, 1981. Applicant: J. ROBERTSON, INC., d.b.a. JR TRANSPORT, 800 Carden, San Leandro, CA 94577. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *Pulp, paper or allied products,* between Los Angeles and Emeryville, CA, on the one hand, and on the other hand, Portland, OR and Phoenix, AZ, under continuing contract(s) with Westvaco Corp., for 270 days. Supporting shipper: Westvaco Corp., U.S. Envelope Div., 5650 Hollis St., Emeryville, CA 94608.

MC 153264 (Sub-6–2TA), filed November 12, 1981. Applicant: JERRY AND GAYLE TRUCKING, INC., P.O. Box 1016, Yuma, AZ 85364. Representative: Richard J. Herbert, 934 West McDowell Rd., Phoenix, AZ 85007. *Contract,* irregular, *Beverages, Carbonated* and *Non-Carbonated, in cans, bottles and kegs* from points within CA to Yuma, AZ under continuing contract with Sun Valley Beverage Company, Inc., Yuma, AZ, for 270 days. Supporting shipper: Sun Valley Beverage Company, Inc., 536 E. 20th St., Yuma, AZ 85364.

MC 156061 (Sub-6–1TA), filed November 12, 1981. Applicant: LAND AND SEA, INC., Route 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O.B 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: Fencing and building materials between points in AZ, CO, ID, MN, MT, ND, OR, SD, UT, WA and WY, for 270 days. Supporting shipper: Cenex, P.O.B. 43089, St. Paul, MN 55164.

MC 159225 (Sub-6–1TA), filed November 10, 1981. Applicant: HAROLD LEMAY ENTERPRISES, INC., 13502 Pacific Ave., Tacoma, WA 98444. Representative: A. Donald Visser (same address as applicant). *(1) Waste and scrap paper, both baled and loose, and (2) Newsprint,* between points in King, Pierce, Kitsap and Thurston Counties, WA, on the one hand, and, points in Multnomah, Yamhill and Clackamas Counties, OR, on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Independent Paper Stock Co., 802 E. 25th, Tacoma, WA 98421, Publishers Paper Co., 6637 SE 100th Ave., Portland, OR 97266.

MC 147066 (Sub-6–3TA), filed November 9, 1981. Applicant: LUCKY THIRTEEN TRUCKING CO., INC., 1617–B Whipple Rd., Hayward, CA 94544. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Contract Carrier,* Irregular routes: *food and food products, packaging material, supplies and machinery used in the manufacture of food and food products,* between points in the U.S., under continuing contract(s) with Sun-Diamond Growers of California, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sun-Diamond Growers of California, 1320 El Capitan Dr., San Ramon, CA, 94583.

MC 158275 (Sub-6–1TA), filed September 14, 1981. Applicant: MATHIS ENTERPRISES INC., P.O. Box 2111, Cypress, CA 90630. Representative: Jerry Mathis (same as applicant). *Contract;* irregular: (1) *Drive-away and truck-away service,* (2) *machinery and machinery parts,* between points and places in the U.S., for 270 days. Supporting shipper: Cryomec, Inc. 1549 Embassy, Anaheim, CA 92801.

MC 155536 (Sub-6–2TA), filed November 9, 1981. Applicant: R. D. NICKELL TRUCKING COMPANY, INC., 1231 W. 9th St., Upland, CA 91786. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *Contract Carrier,* Irregular routes: *New customized and modified automobiles,* secondary movements, in truckaway service, from Santa Ana and Irvine, CA; Las Vegas, NV; Arlington, TX; Port Sanilac, MI; Providence, RI; Brooklyn, NY; and, Orlando and Jacksonville, FL, to points in the U.S., for the account of American Custom Coachworks, Ltd., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Custom Coachworks, Ltd.,

9229 Sunset Blvd., Beverly Hills, CA 90213.

MC 135241 (Sub-6-6TA), filed November 12, 1981. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 S.W. Edy Rd., Sherwood, OR 97140. Representative: Mona L. Bowen (same as applicant). *Contract Carrier,* Irregular routes: (1) *Fabricated steel products and related products,* from points in and around Redwood City, CA. to points in CA, UT, CO, NV, AZ, ID, OR, WY, MT, and WA., (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities,* in the reverse direction, under continuing contract(s) with Dura-Vent Corp., of Redwood City, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dura-Vent Corp., POB 2249, Redwood City, CA 94064.

MC 159308 (Sub-6-1TA), filed November 12, 1981. Applicant: G. RADEN & SONS, INC., 1915 S. Corgiat Dr., Seattle, WA 98108. Representative: Henry C. Winters, 200 Jafco Office Bldg., 12600 S.E. 38th St., Bellevue, WA 98006. *Pulp, Paper, and Related Products* between points in CA, on the one hand, and, on the other, points in WA, for 270 days. Supporting shipper: Scott Paper Company, Scott Plaza, Philadelphia, PA 19113.

MC 159306 (Sub-6-1TA), filed November 12, 1981. Applicant: EDWARD R. GILLIAM, d.b.a. ROAD RUNNER STAGE LINES, 716 W. 123rd St., Los Angeles, CA 90044. Representative: Edward R. Gilliam (same as above). *Passengers and their baggage* from Los Angeles, Orange, Ventura, San Bernardino Counties CA to Las Vegas, Reno and Lake Tahoe NV and to points in AZ and return for 180 days. Supporting shipper(s): A. D. Sumpter Ltd., 12309 Arbor Pl., Los Angeles, CA 90044; Betty Hill Senior Citizen Center, 3570 So. Denker Ave., Los Angeles, CA 90018.

MC 158002 (Sub-6-3TA), filed November 13, 1981. Applicant: SAHARA EXPRESS, a division of SAHARA PACKING COMPANY, P.O.B 1932, Corona, CA 91720. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Contract carrier,* irregular routes, *General Commodities,* (except classes A and B explosive, hazardous waste materials and used household goods) between points in the U.S. (except AK and HI) under continuing contract with Acme Fast Freight, Inc., for 270 days. Supporting shipper: Acme Fast Freight, Inc., 2110 El Hambra, Los Angeles, CA 90031.

MC 150219 (Sub-6-2TA), filed November 12, 1981. Applicant: SILVER EAGLE SERVICES, INC., P.O. Box 3938, Grand Junction, CO 81502. Representative: James A. Beckwith, 1365 Logan St., Suite 100, Denver, CO 80203. *Contract carrier;* irregular routes: *Commodities dealt in by drug pharmaceutical supply houses together with equipment, materials and supplies* used in the distribution, advertising and marketing thereof between points in Mesa County, CO, on the one hand, and, on the other hand, Sevier and Sanpete Counties, UT for 270 days. Supporting shipper: C. D. Smith Co., 233 S. 5th St., Grand Junction, CO 81501.

MC 159303 (Sub-6-1TA), filed November 12, 1981. Applicant: TWO WAY TRANSPORTATION, LTD., 2527 N. Carson St., Suite 205, Carson City, NV 89701. Representative: A. R. Fairman, (same address as applicant). *Contract:* Irregular: *Satellite Earth Stations, and such commodities (crated and uncrated), and related parts:* Between points to and from Grenada, MS to all (49) states (except HI), Washington, D.C., and all provinces of CD; between points to and from Huntington Beach, CA to all (49) states (except HI), Washington, D.C., and all provinces of CD. Supporting shipper: National Microtech, Inc., Hwy. 8 West, Grenada Plaza, Grenada, MS 38901.

MC 158930 (Sub-6-1TA), filed November 13, 1981. Applicant: U.S. TRANSPORTATION, INC., 585 Valley Boulevard, Bloomington, CA 92316. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Wooden Fencing* from Fresno, CA and its commercial zone to points in AZ, AL, CO, IL, IN, KS, LA, MI, MO, NV, OK, TN, TX and WY, for 270 days. Supporting shipper: Fresno Pallet, 4707 E. Vine, Fresno, CA 93745.

MC 158930 (Sub-6-2TA), filed November 13, 1981. Applicant: U.S. TRANSPORTATION, INC., 585 Valley Boulevard, Bloomington, CA 92316.Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Fabricated metal products,* from Pittsburgh, PA and its commercial zone to points in CO, TX, OR and CA, for 270 days. Supporting shipper: Ductmate Industries, Inc., 1663 Lebanon Church Road, Pittsburgh, PA 15236.

MC 143775 (Sub-6-36TA), filed November 9, 1981. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85311. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001.*Contract,* irrregular. *Such Commodities as are dealt in or used by health food stores, and materials, equipment and supplies used in the manufacture, distribution, and sale of such commodities as are used by or dealt in by health food stores,* between points in the U.S. under continuing contract(s) with General Nutrition Corporation, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Nutrition Corporation, Pittsburgh, PA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34212 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications Decision Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved

fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transactions should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto, filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 16, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14731, filed November 2, 1981. TRANSHIELD TRUCKING, INC. (TRANSHIELD) (1000 North Harvester Rd., West Chicago, IL 60185)—Purchase (Portion)—BAYWOOD TRANSPORT, INC. (BAYWOOD) (2600 University Parks Drive, Waco, TX 76706). Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, D.C. 2001. Transhield seeks authority to purchase a portion of the interstate operating rights and property of Baywood. Nichols-Homeshield, Inc., a non-carrier, is the sole stockholder of Transhield. Anta Corporation, a publicly held non-carrier, is the sole stockholder of Nichols-Homeshield, Inc. Therefore, prior to approval of this transaction, both non-carriers must submit an affadavit stating that they are persons in control of transferee and that they join in this application. Transhield is purchasing the following authority: Certificate No. MC–145950 (Sub-Nos. 10F, 13F, 23F, 38F, 41F, 43F, 51F, 61F, 63F, 73F, 78F, 80F, 82F, 83F, 85F, 88, 89, 90F, 91, 92X (except paragraph No. 3), 93X, 94X, 95, and 96) and Permit No. MC–143607 (Sub-Nos. 5F, 11F, 13F, 16(ml)F, 20F, 25, 27F, 28F, 29F, and 30F). Baywood is retaining that portion of its operating rights contained in MC–1436.07 and paragraph No. 3 of MC–145950 (Sub-No. 92X), which authorize contract carrier authority to provide service to its parent company, Bayly Corporation. The common carrier authority that Transhield is purchasing authorizes the transportation of such commodity groupings as *food and related products, glassware and glassware products, plastic and burlap articles, paper and paper products, petroleum and petroleum products, earthenware and earthenware products, clothing and piecegoods, chemicals and related products, rubber products, and machinery,* throughout various points in the United States, and *general commodities,* (1) between points in Washington County, MD, on the one hand, and, on the other, points in the United States, and (2) between the facilities used by Ralston Purina Company in the U.S., on the one hand, and, on the other, points in KS, NE, IA, and MN. The contract carrier authority that Transhield is purchasing authorizes the transportation of such commodity groupings as *chemicals and related products, textile and textile products, building materials, general commodities, rubber and plastic products,* and *foodstuffs,* between points in the United States. Condition: Authorization and approval of this transaction is subject to Nichols-Homeshield, Inc., and, in turn, Anta Corporation, joining in this application as persons in control of transferee.

Note.—(1) Application for TA has been filed. (2) Transhield operates as a motor common and contract carrier pursuant to authority in MC–148600 and MC–142830 and sub-numbers thereunder.

MC–F–14734, filed November 5, 1981. LIGON CORPORATION (Ligon) (Highway 85—East, Madisonville, KY 42431)—Control—ROBBINS TRUCK LINE, INC. (Robbins) (Route 1, Hardinsburg, KY 40143). Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Ligon, a non carrier, seeks authority to acquire control of Robbins through the purchase by Ligon of all the issued and outstanding stock of Robbins. Herbert A. Ligon, Jr., sole shareholder of Ligon, seeks to acquire control of Robbins through this transaction. Robbins holds interstate motor common carrier authority under MC–98478 and sub-numbers thereunder, authorizing the transportation of general commodities, over regular routes, between portions of KY, IN and OH, and specified commodities such as machinery, furniture, rubber and plastic products, automotive, paper and paper products, etc. from and to named points and facilities in KY, AR, MS, CA, OH, and IN. Ligon also controls Ligon Specialized Hauler, Inc. and Ligon Transportation Company (LTC), motor common carrier, operating, respectively, pursuant to certificates in MC–119777 and MC–117109. LTC controls Ligon Transportation Company (of Tennessee) (LTCT), a motor common carrier operating pursuant to certificates in MC–127834. LTCT controls Ligon Transportation Company (of Georgia), a motor common carrier operating pursuant to certificates in MC–35045. Herbert A. Ligon, Jr., individually, controls Ligon Transport, Inc., a motor common carrier operating pursuant to certificates in MC–109462. Condition: So far as can be ascertained from the evidence of record in this proceeding, Ligon Corporation is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Ligon Corporation will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, subchapter III of chapter 111 relating to reporting and accounting and of 49 U.S.C. 11302 relating to the issuance of securities. Conditions: To the extent that the rights of Robbins Truck Line, Inc., Ligon Specialized Hauler, Inc., Ligon Transportation Company, Ligon Transportation Company (of Tennessee), Ligon Transportation Company (of Georgia), and Ligon Transport, Inc., duplicate, they may not be severed from common ownership by sale or otherwise.

Note.—An application for temporary authority has been filed.

MC–F–14729, filed October 30, 1981. LAIDLAW TRANSPORT LIMITED (Laidlaw) (P.O. 3020, Station B, Hamilton, Ontario, Canada L8L 7X7)—Purchase—DOMTAR INC. (Domtar) (B.P. 7210, Montreal, Quebec, Canada H3C 3M1). Representative: Harold G. Hernly, Jr., Esq., HERNLY & BOOKER, P.C., P.O. Box 1281, Old Town Station, Alexandria, VA 22313 and Robert C. Gunderman, Esq., 101 Niagara Street, Buffalo, New York 14202. Laidlaw seeks authority to purchase the interstate operating rights of Domtar. Laidlaw

Transportation Limited seeks authority to acquire control of said rights through the transaction. Laidlaw seeks to pruchase certificate MC–123503, which authorizes transportation as a motor common carrier, over irregular routes, of *rough* and *dressed lumber*, between ports of entry on the United States-Canada Boundary line at the St. Lawrence, Niagara, and Detroit Rivers, on the one hand, and, on the other points in Michigan, Ohio, Pennsylvania, and New York, (except points in Kings, Queens, Nassau, and Suffolk Counties, NY). Between ports of entry on the United States-Canada Boundary line, located in Michigan and New York, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, points in Kings, Queens, Nassau, and Suffolk Counties, NY, and the District of Columbia. Laidlaw is authorized to operate as a common carrier, over irregular routes, transporting various commodities generally between ports of entry on the International Boundary line between the U.S. and Canada located in Michigan and New York, on the one hand, and, on the other, a variety of states pursuant to authority granted in MC–113784.

Note.-Application for TA has not been filed.

MC–F–14730, filed October 27, 1981. SOURDOUGH EXPRESS, INC. (Sourdough) (P.O. Box 73398, 600 Driveway Street, Fairbanks, AK 99707)—Purchase—COPPER FREIGHT LINES, INC. (MARY BETH ARTUS TRUSTEE IN BANKRUPTCY) (Cooper) (629 L St., Suite 201, Anchorage, AK 99501). Representative: WARREN G. KELLICUT, 437 "E" St., Suite 500, Anchorage, AK 99501. Sourdough seeks authority to purchase the interstate operating rights of Copper. Richard Gregory, Sue A. Gregory, Water P. Schlotfeldt, Leo A. Schlotfeldt and Robert A. Schlotfeldt seek authority to acquire control of said rights through the transaction. Sourdough is purchasing those rights contained in Copper's Certificate in MC–118495 (Sub-No. 2) which authorizes the transportation, as a motor common carrier, over irregular routes, of general commodities, with usual exceptions between Valdez, AK, on the one hand, and, on the other, points in AK located on: Alaska Highways 1, 2, 4, 5 and 10. Sourdough is a common carrier operating under MC–118527 and sub-numbers thereunder.

Note.—Application for TA has been filed.

[FR Doc. 81–34220 Filed 11–27–81; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Application Decision Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 19, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC F 14723, filed October 22, 1981. CAPITOL BUS COMPANY d.b.a. CAPITOL TRAILWAYS OF PENNSYLVANIA (Capitol) (1061 South Cameron Street, Harrisburg, PA 17104)—Purchase (Portion)—TRAILWAYS EDWARDS, INC. d.b.a. TRAILWAYS (Trailways) (1500 Jackson Street, Dallas, TX 75201). Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108–1166. Capitol seeks authority to purchase a portion of the interstate operating rights and property of Trailways. Richard J. Maguire joins in this application as party in control of Capitol and seeks authority to acquire control of said rights and property through the transaction. Capitol is purchasing that portion of Trailways Certificate No. MC 2866 which authorizes the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Williamsport, PA, and Elmira, NY, serving all intermediate points: from Williamsport over U.S. Hwy 15 to Mansfield, PA, thence over U.S. Hwy 6 to junction PA Hwy 549, thence over PA Hwy 549 to the PA–NY State line (also from Mansfield over U.S. Hwy 15 to junction PA Hwy 328, thence over PA Hwy 328 to junction PA Hwy 549, thence

over PA Hwy 549 to the PA–NY State line) and thence over NY Hwy 328 to Elmira, and return over the same routes. Capitol is authorized to operate as a motor common carrier under MC 109736 and sub-numbers thereunder. Capitol filed an extension application, Docket No. MC 109736 (Sub-No. 51), published in this same **Federal Register** issue. Application for TA has not been filed.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's general rules of practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: November 19, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC–109736 (Sub-No. 51), filed October 22, 1981. Applicant: CAPITOL BUS COMPANY d.b.a. CAPITOL TRAILWAYS OF PENNSYLVANIA—Extension, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108–1166. Transporting passengers and their baggage, and express and newspapers in the same vehicles with passengers, (1) between Williamsport, PA, and Sunbury, PA, serving the intermediate points of Milton and Lewisburg, PA: from Williamsport over U.S. Hwy 15 to and across a bridge spanning the Susquehanna River to the city of Sunbury, and return over the same route; from Williamsport over U.S. Hwy 220 to junction PA Hwy 147, then on PA Hwy 147 via Northumberland, PA, to Sunbury, and return over the same route; (2) between the junction of PA Hwy 147 and Interstate Hwy 80 and the junction of Interstate Hwy 80 and U.S. Hwy 15: from the junction of PA Hwy 147 and Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 15, and return over the same route; (3) between the junction of PA Hwy 147 and PA Hwy 254 and the junction of PA Hwy 642 and U.S. Hwy 15: from the junction of PA Hwy 147 and PA Hwy 254, then over PA Hwy 254 to junction PA Hwy 405 at Milton, PA, then over PA Hwy 405 to junction PA Hwy 642, then over PA Hwy 642 to junction U.S. Hwy 15 and return over the same route; (4) between the junction of PA Hwy 147 and PA Hwy 642 and the junction of PA Hwy 642 and U.S. Hwy 15: from the junction of PA Hwy 147 and PA Hwy 642, then over PA Hwy 642 to junction U.S. Hwy 15, and return over the same route; and (5) between the junction of PA Hwy 147 and PA Hwy 45 and the junction of PA Hwy 45 and U.S. Hwy 15: from the junction of PA Hwy 147 and PA Hwy 45, then over PA Hwy 45 to junction U.S. Hwy 15, and return over the same route. Condition: The purpose of this extension application is to enable applicant to provide service between Williamsport and Sunbury. The application was filed in conjunction with MC–F–14723, published in this same **Federal Register** issue, wherein Capitol is purchasing a portion of a route from Trailways Edwards, Inc., d.b.a. Trailways. The route being purchased authorize service between Williamsport, PA, and Elmira, NY. The instant application, filed without shipper support, is premised upon a need for continued service over the described routes, when Trailways Edwards sells a portion of its routes between Williamsport, PA, and Philadelphia, PA, to another carrier. That application is now pending and that route includes service in the area in this application. In actuality, this instant application is not directly related to the proceeding in MC–F–14723, and a filing fee of $350 should be required; however, we will not do so, since the application will be necessary for continued service upon consummation of another transaction. In view of this, however, our approval of this application will be conditioned upon the consummation of the transaction wherein Trailways Edwards is selling a portion of its routes between Williamsport, PA, and Philadelphia, PA, to Ashland and Shamokin Auto Bus Company.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 34219 Filed 11–27–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting

evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note. All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-3-214

Decided: November 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 2095 (Sub-38), filed November 9, 1981. Applicant: KEIM TRANSPORTATON, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612 (913) 233-9629. Transporting *potash, potassium chloride,* and *sulphate of potash magnesia,* between points in Lea and Eddy Counties, NM, on the one hand, and, on the other, points in IL, KS, NE, IA, MO, OK, AR, CO, MN, and SD.

MC 61335 (Sub-16), filed November 12, 1981. Applicant: TRANS-BRIDGE LINES, INC., P.O. Box 146, Phillipsburg, NJ 08865. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017 (212) 532-5100. Over regular routes, transporting *passengers and their baggage,* in the same vehicle with passengers, (1) between Phillipsburg, NJ and Atlantic City, NJ, from Phillipsburg over U.S. Hwy 22 to junction PA Hwy 191, then over PA Hwy 191 to Bethlehem, PA, then over city streets in Bethlehem and Allentown, PA, to junction PA Hwy 145, then over PA Hwy 145 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction PA Hwy 9 (Pennsylvania Turnpike Extension), then over PA Hwy 9 to junction Pennsylvania Turnpike, then over Pennsylvania Turnpike to junction Interstate Hwy 76, then over Interstate Hwys 76 and 676 to junction NJ Hwy 42, then over NJ Hwy 42 and Atlantic City Expressway to Atlantic City, and return over the same route, serving all intermediate points, and (2) between Stroudsburg, PA, and Atlantic City, NJ, from Stroudsburg over U.S. Hwy 209 to junction PA Hwy 33, then over PA Hwy 33 to junction PA Hwy 312, then over PA Hwy 312 to Bethlehem, PA, and junction PA Hwy 378, then over PA Hwy 378 to junction PA Hwy 309 to junction PA Hwy 663, then over PA Hwy 663 to junction PA Hwy 9 (Pennsylvania Turnpike Extension), then over PA Hwy 9 to junction Pennsylvania Turnpike, then over Pennsylvania Turnpike to junction Interstate Hwy 76, then over Interstate Hwys 76 and 676 to junction NJ Hwy 42, then over NJ Hwy 42 and Atlantic City Expressway to Atlantic City, and return over the same route, serving all intermediate points.

MC 65325 (Sub-1), filed November 12, 1981. Applicant: MASTER MOVERS, INC., 6521 Storer Ave., Cleveland, OH 44102. Representative: Earl N. Mervin, 85 East Gay St., Columbus, OH 43215 (614) 224-3161. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, PA, and WV; and (2) *household goods,* between points in OH, on the one hand, and, on the other, points in AR, AL, LA, MS, SC, and TX.

MC 98654 (Sub-1), filed November 9, 1981. Applicant: DON CARTAGE COMPANY, 7881 Conant, Detroit, MI 48211. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 (216) 652-2789. Transporting *transportation equipment,* and *commodities* which because of size or weight require the use of special equipment, between points in MI, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, PA, WV, and WI.

MC 123405 (Sub-85), filed November 6, 1981. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101-1295 (717) 236-9318. Transporting (1) *confectionery and confectionery products,* in vehicles equipped with mechanical refrigeration, between York, Hazleton, Harrisburg and Fogelsville, PA, and Naugatuck, CT, on the one hand, and, on the other, points in CA; and (2) *confectionery,* between Reading, PA, on the one hand, and, on the other, points in CO, AZ, CA, WA, OR and UT.

MC 128235 (Sub-29), filed November 9, 1981. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall NE, Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413 (612) 781-6653. Transporting (1) *glass containers,* between Henryetta, OK, Terre Haute, IN, Warner Robbins, GA, Cliffwood, NJ, and Shakopee, MN, on the one hand, and, on the other, points in the U.S. in and east of NE, SD, NB, KS, OK and TX, and (2) *bakery supplies,* (a) between Minneapolis, MN, on the one hand, and, on the other, points in IL, IA, MN, MO, NB, ND, SD and WI and (b) between points in IA and MO, on the one hand, and, on the other, points in MN.

MC 138575 (Sub-15), filed November 9, 1981. Applicant: GWINNER OIL CO., INC., P.O. Box 38, Gwinner, ND 58040. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402 (612) 340-0808. Transporting *machinery* and *metal products,* between points in the U.S. (except AK and HI).

MC 139614 (Sub-3), filed November 6, 1981. Applicant: ERIN TOURS, INC., 2957 Ave. U, Brooklyn, NY 11229. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022

(212) 838–0600. Transporting *passengers and their baggage*, between points in the U.S. (except AK and HI), under continuing contract(s) with Executive Motor Tours, Inc, of Staten Island, NY.

MC 142694 (Sub-5), filed November 9, 1981. Applicant: JOSEPHINE V. CREAGER d.b.a. JACK CREAGER TRUCKING, 3812 South 243rd St., Kent, WA 98031. Representative: Henry C. Winters, 12600 Southeast 38th St., Suite #200, Bellevue, WA 98006 (206) 644–2100. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, NV, OR, and WA.

MC 143565 (Sub-5), filed November 12, 1981. Applicant: HIGHWAY TRANSPORTATION COMPANY, a corporation, Route 2, Freedom Park, Hermon, ME 04401. Representative: Durward L. Humphrey (same address as applicant) (207) 848–3314. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 146504 (Sub-7), filed November 9, 1981. Applicant: LEO TRUCKING COMPANY, INC., P.O. Drawer F, Poteau, OK 79453. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73083, (405) 348–7700. Transporting (1) *limestone*, (2) *crushed limestone*, and (3) *pulverized limestone*, between points in Sequoyah County, OK, on th one hand, and, on the other, Amarillo, TX, and points in Moore, Sherman and Wichita Counties, TX.

MC 150084 (Sub-3), filed November 9, 1981. Applicant: PRIDE TRANSPORT, 1102 West 2100 South, Salt Lake City, UT 84104. Representative: D. Jeffrey England (same address as applicant), (801) 972–8890. Transporting (1) *steel articles*, between points in Contra Costa County, CA, New London County, CT, Scott County, MO, Middlesex County, NJ, and Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *furniture and fixtures*, between points in Multnomah County, OR, and Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *fluorescent ballasts*, between points in Orange County, CA, and Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *baseboard heaters and thermostats*, between points in Clark County, WA, and Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. (except AL and HI), and (5) *ladders*, between points in Wayne County, OH, and Salt Lake County, UT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151365 (Sub-4), filed November 10, 1981. Applicant: MAC OF WISCONSIN, INC., P.O. Box 85, 806 Elm St., Watertown, WI 53094. Representative: Steven L. Weiman, 4 Professional Dr., Suite 145, Gaithersburg, MD 20879, (301) 840–8565. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in WI, on the one hand, and, on the other, those points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 155294, filed November 10, 1981. Applicant: MARK MONTGOMERY, an individual, P.O. Box 1084, Searcy, AR 72143. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Frost of Arkansas, Inc. of Searcy, AR.

MC 159214, filed November 9, 1981. Applicant: D&L TRANSFER CO., P.O. Box 12311, 1346 Jasper, North Kansas City, MO 64116. Representative: J. C. Phillips (same address as applicant), (816) 842–7365. Transporting *electrical materials, industrial adhesives, food grade starches, paint and industrial chemicals*, between North Kansas City, MO, on the one hand, and, on the other, points in MO, IA, NE, KS, OK and TX.

MC 159215, filed November 9, 1981. Applicant: WELLS BUS SERVICE, INC., 121 Terrace Dr., Jackson, MN 56143. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309, (515) 283–2076. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Jackson, Nobles and Cottonwood Counties, MN, and Dickinson, Emmet, Clay, and Palo Alto Counties, IA, and extending to points in the U.S. (except AK and HI).

MC 159225, filed November 9, 1981. Applicant: JAMES NICHOLAS SAVAGE, JR., 208 N. Witchduck Rd., Virginia Beach, VA 23462. Representative: James Nicholas Savage, Jr., (same address as applicant), (804) 499–1080. As a *broker*, at Virginia Beach, VA, in arranging for the transportation of *passengers and their baggage* in round-trip charter and special operations, beginning and ending at Virginia Beach, Norfolk, Chesapeake, Portsmouth, Hampton, Newport News, and Suffolk, VA, and extending to points in the U.S. (except HI).

MC 159234, filed November 9, 1981. Applicant: ECK CARTAGE COMPANY, 13775 Old Pleasant Valley Road, Cleveland, OH 44130. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215, (614) 224–3162. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Cleveland, OH, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–3–216

Decided: November 19, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 52005 (Sub-7), filed November 16, 1981. Applicant: OREGON–WASHINGTON TRANSPORT, 3322 NW 35th Avenue, Portland, OR 97210. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *general commodities* (except commodities in bulk, household goods and classes A and B explosives), between points in ID, OR and WA.

MC 55665 (Sub-1), filed November 13, 1981. Applicant: GAIN'S EXPRESS, INC., 1635 Main St., Jefferson, MA 01522. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *general commodities* (except clases A and B explosives and household goods), between points in Middlesex and Worcester Counties, MA.

MC 100785 (Sub-7), filed November 13, 1981. Applicant: LAWRENCE E. BULT, d.b.a. BULT CARTAGE, 123 North Williams, Thornton, IL 60476. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, and MI, on the one hand, and, on the other, points in OH, PA, KY, MO, IA, WI, IL, IN, and MI.

MC 125254 (Sub-86), filed November 16, 1981. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *containers*, and *container ends*, between points in the U.S. in the east of ND, SD, NE, CO, and NM.

MC 128235 (Sub-30), filed November 13, 1981. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall St.,

N.E., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., P.O. Box 18300, Minneapolis, MN 55418, (612) 781–6653. Transporting *general commodities* (except classes A and B explosives), between Minneapolis, MN, on the one hand, and, on the other, points in IA, MO, IL, IN, OH, KY, and TN.

MC 142484 (Sub-12), filed November 13, 1981. Applicant: STRINGFELLOW TRANSPORTATION COMPANY, INC., 724 Third Ave., N., Birmingham, AL 35203. Representative: Robert C. Thrasher, 1202 Bankhead Highway, P.O. Box 11043, Birmingham, AL 35202, (205) 252–5549. Transporting (1) *lumber*, (2) *lumber mill products*, (3) *forest products*, and (4) *pipe, fittings, valves, fire hydrants, and castings*, between points in AL, AR, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WV, and WI.

MC 147915 (Sub-7), filed November 13, 1981. Applicant: RUSSO MOTOR EXPRESS, INC., Keim Boulevard and Bridge Plaza, Commerce Square, Burlington, NJ 08016. Representative: Robert R. Harris, 1730 M Street, N.W., Suite 501, Washington, DC 20036, (503) 226–6491. Transporting *general commodities* (except classes A and B explosives commodities in bulk and household goods), between points in NJ, on the one hand, and, on the other, points in CA, and those in the U.S. in and east of MN, IA, MO, OK and TX.

MC 149335 (Sub-1), filed November 13, 1981. Applicant: ROUST VEHICLES, INC., 390 Orenda Rd., Bramalea, Ontario, Canada L6T 1G8. Representative: Robert D. Gunderman, Can-Am Bldg. 101 Niagara St., Buffalo, NY 14202 (716) 854–5870. In foreign commerce only, transporting (1) *Plastic and plastic products* and (2) *such commodities* as are dealt in or used by the horticultural industry, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Kord Products Limited of Bramalea, Ontario, Canada, Dachem Limited of Brampton, Ontario, Canada and Plantco, Inc. of Bramalea, Ontario, Canada.

MC 149535 (Sub-3), filed November 13, 1981. Applicant: ALL FREIGHT, INC., 238 Sheldon Rd., Bera, OH 44017. Representative: E. H. van Deusen P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S.

MC 151814 (Sub-1), filed November 13, 1981. Applicant: DON H. PHIPPS, d.b.a. REFREGERATED TRANSPORT, 3707 Calhoun Ave., Ames, IA 50010. Representative: Don H. Phipps, 3707 Calhoun Ave., Ames, IA 50010 (515) 232–0895. Transporting *printed matter, paper, and related products*, between points in Story and Woodbury Counties, IA, and those points in the U.S. in and west of WI, IL, MO, AR, and MS.

MC 159274, filed November 13, 1981. Applicant: FLEET-RAIL, INC., 8063 Tennessee, Clarendon Hills, IL 60513. Representative: Albert A. Andrin, 180 No. LaSalle St., Chicago, IL 60601 (312) 332–5106. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, WI, KY, MI, MO, OH, PA and TN.

MC 159275, filed November 13, 1981. Applicant: BELINDA TRUCKING, INC., 6647 Molly Pitcher Highway South, Chambersburg, PA 17201. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., N.W., Washington, DC 20036 (202) 659–5157. Transporting *such commodities* as are dealt in or used by retail and wholesale grocery and department stores chains, (1) between points in GA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) between points in the U.S. (except AK and HI).

MC 159284, filed November 16, 1981. Applicant: CHEMICAL MARKETING SERVICES, INC., Fourth National Bank Bldg., Suite 2501, 6th and Boulder, Tulsa, OK 74119. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth St., Tulsa, OK 74103 (918) 583–9000. Transporting *sulphur*, between points in TX, on the one hand, and, on the other, points in NM.

MC 159285, filed November 16, 1981. Applicant: PIER 'N PORT TRAVEL, INC., 3515 Michigan Ave., Cincinnati, OH 45208. Representative: Stephen D. Strauss, 2510–19 Carew Tower, Cincinnati, OH 45202 (513) 621–4607. As a *broker* at Cincinnati, OH, in arranging for the transportation of *passengers and their baggage*, beginning and ending at points in Hamilton, Butler, Montgomery, Clermont, and Warren Counties, OH, Boone, Campbell, Kenton, and Boyd Counties, KY, and Dearborn County, IN, and extending to points in the U.S. (except AK and HI).

MC 159294, filed November 16, 1981. Applicant: ROCKET EXPRESS, INC., 345 Kearny Avenue, Kearny, NJ 07032. Representative: Thaddeus Wasielewski, 19 Geraldine Road, North Arlington, NJ 07032 (201) 991–0018. Transporting *chemicals and related products, tape, sandpaper*, and *paints*, between points in NJ, on the one hand, and, on the other, points in NY, PA, MA, CT, RI, MD, SC, NC, OH, VA, DE, WV and DC.

Volume No. OPY–4–452

Decided: November 18, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 139807 (Sub-5), filed November 10, 1981. Applicant: ALL WEST TOURS, 1851 Soscol Ave., Napa, CA 94558. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Alameda, Contre Costa, Lake, Marin, Mendocino, Napa, Solano, Sonoma, and Yolo Counties, CA, and extending to points in the U.S., including AK, but excluding HI.

MC 145747 (Sub-10), filed November 12, 1981. Applicant: R & S TRANSPORT, INC., 3601 Wyoming Ave., Dearborn, MI 48120. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *clay, concrete, glass or stone products*, between points in Geauga County, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, PA, and WV.

MC 147227 (Sub-11), filed November 9, 1981. Applicant: ATLANTIC MARKETING CARRIERS, INC., 4025 S. Golden State Hwy., Suite 6, Fresno, CA 93725. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., NW., Washington, DC 20005 (202) 347–9332. Transporting *metal products, machinery, building materials, and chemicals and related products*, between Cleveland, OH, Los Angeles, CA, St. Louis, MO, Nashville, TN, points in Calhoun County, MI, Essex County, MA and points in PA.

MC 157457 (Sub-2), filed November 10, 1981. Applicant: CONGOLEUM CARTAGE CORPORATION, 2323 S. 17th St., Elkhart, IN 46514. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603 (312) 263–1600. Transporting *food and related products*, between point in the U.S. (except AK and HI.)

MC 159237, filed November 10, 1981. Applicant: NOCCALULA STAGE LINES, INC., 1197 Tuscaloosa Ave.,

Gadsden, AL 35901. Representative: James C. Kelton Jr., (same address as applicant) (205) 546–5670. Transporting *passengers and their baggage*, between points in Etowah County, AL, to points in AL, MS, TN, GA, and FL.

Volume No. OPY–5–203

Decided: November 19, 1981.

By the Commission Review Board No. 3. Members Krock, Joyce, and Dowell.

MC 37378 (Sub-3), filed October 15, 1981. Published originally in the **Federal Register** November 4, 1981. Applicant: SANDERS TRUCK LINE, INC., P.O. Box 352, Farmington, MO 63640. Representative: Neal A. Jackson, 1156 15th St., NW, Washington, D.C. 20005 202–223–6680. Transporting *general commodities* (except classes A and B explosives, households goods as defined by the Commission, and commodities in bulk), between points in Madison and St. Clair Counties, IL, and St. Louis, Jefferson, Ste. Genevieve, St. Francois, Madison, Iron, Reynolds, Wayne, Bulter and Ripley Counties, MO. This application is republished to show radial in lieu of non-radial authority.

MC 116068 (Sub-6), filed August 27, 1981. Published in the **Federal Register** on September 23, 1981, and republished in the **Federal Register** on October 29, 1981. Applicant: D & F TRANSIT, INC., 4747 Genesee St., Cheektowaga, NY 14225. Representative: Gary E. Thompson, 4304 East-West Hwy., Bethesda, MD 20814 (301) 654–2240. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Niagara, Erie, and Chautauqua Counties, NY, and extending to points in the U.S. This application is republished to show the entire authority sought by applicant.

MC 119399 (Sub-150), filed October 26, 1981. Originally published in the **Federal Register** on November 10, 1981. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64802. Representative: Keith R. McCoy, (same address as applicant) 417–623–5229. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in U.S.

Note.—Republished to correct territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34237 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 201]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

November 24, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

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

Amendments to the restriction removal applications are not allowed.

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

Findings:

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

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

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

Agatha L. Mergenovich,

Secretary.

MC 200 (Sub. 591X), filed October 6 1981. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, (same as applicant). Subs 314F, 318F, 321F, 322F, 323F, 324F, 325F, 328F, 329F, 330F, 333F, 336F, 337F, 338F, 341F, 343F, 349F, 350F, 351F, 355F, 356F, 359F, 360F, 364F, 365F, 369F, 370F, 373F, 376F, 377F, 378F, 379F, 384F, 386F, 389F, 402F, 407F, 408F, 409F, 410F, 411F, 413F, 414F, 420F, 422F, 423F, 424F, 426F, 434F, 436F, 437F, 441F, 442F, 443F, 444F, 445F, 446F, 447F, 449F, 450F, 451F, 452F, 453F, 455F, 456F, 458F, 459F, 460F, 461F, 462F, 463F, 464F, 465F, 466F, 467F, 468F, 474F, 475F, 476F, 478F, 479F, 481F, 490F, 491F, 492F, 493F, 494F, 495F, 496F, 497F, 498F, 499F, 500F, 501F, 502F, 504F, 505F, 506F, 508F, 509F, 510F, 511F, 516F, 517F, 520F, 522F, 523F, 526F, 527F, 541F, 542F, 543F, and 544F: (A) remove all exceptions, except classes A & B explosives, in the general commodity authority in Subs 325, 351, 411, 426, 456, 464, 465, 468, 474, 490, 495, 498, 500, 502, 504, 511, 516, 520, 522, 523, and 526; (B) remove the commodities in bulk, mechanical refrigerated equipment, tank vehicles, in containers, or in trailers restrictions in Subs 314, 318, 321, 322, 323, 329, 330, 333, 336, 337, 338, 341, 349, 356, 359, 365, 369, 378, 379, 384, 386, 402, 409, 413, 420, 411, 443, 447, 449, 453, 458, 481, 501, 510 and 541; (C) broaden (1) meats, meat products, meat by-products, and articles distributed by meat packing houses, foodstuffs; foodstuffs (except frozen); cheese, cheese by-products & cheese products; pet foods; confectionery; carbonated soft drink beverage compounds; starch; dairy products; and noodles, & noodles products to "food & related products" in Subs 314, 318, 322, 323, 324, 329, 330, 336, 349, 356, 365, 369, 378, 379, 384, 389, 402, 409, 413, 424, 434, 441, 446, 449, 458, 479, 481, 499 and 509; (2) plastic containers; plastic materials, plastic lids & expanded plastic foam products; plastic bottles; tread rubber; plastic water & sewer pipe & fittings, cement; plastic sheet or plate; rubber hose; expanded polystyrene products; fiberglas tanks & materials, equipment & supplies, etc.; plastic articles & materials, equipment & supplies etc.; & plastic pails to "rubber & plastic products" in Subs 328, 350, 359, 376, 422, 423, 451, 463, 467, 475, 492, 493 and 542; (3) catalogs, magazines & books to "printed matter" in Subs 337, 338, and 410; (4) lumber; lumber products to "lumber and wood products" in Subs 343, 414, 496 and 517; (5) welding wire; steel; brass, bronze & copper sheet in coils; aluminum ingots, slabs, coil, flat sheets; rough casting; iron and steel articles; aluminum cans; nickle, ferro & nickle cathodes, bars, crowns, granules, & cobalt cathodes; pure nickle & ferro nickel ingots, shot & granules; iron and steel nuts, bolts, washers; rough steel forgings; empty steel cylinders for oxygen and gas; insulated copper wire; and empty steel shipping cylinders to "metal products" in Subs 355, 360, 377, 408, 437, 442, 443, 453, 462, 478, 494, 506, 508, (6) chemicals, chemical compounds; agricultural chemicals; toilet preparations; tree & weed killing compounds; ferrous sulphate; paints, stains, varnish, thinners, cleaners & materials, supplies etc., cleaning products, soaps, softeners, toiletries & pharmaceuticals to "chemicals and related products" in Subs 355, 359, 373, 420, 445, 459, 491, and 510; (7) glass bottles & containers; glass tubing; fibrous glass products, materials, products, & supplies etc. to "clay, concrete, glass or stone products" in

Subs 407, 444 and 455; (8) cooling coils & air handling equipment to "machinery" in Sub 497; and (9) boxes, packing materials, corrugated bracing, blocks, bulkheads & panels to "pulp, paper & related products" in Subs 444 and 505; (D) remove the limitation of ex-water restriction in Subs 411 and 468; (E) remove originating at or destined to named facilities or points limitations in Subs 314, 318, 321, 322, 323, 324, 330, 336, 349, 356, 365, 369, 370, 377, 378, 379, 384, 389, 402, 409, 413, 414, 420, 441, 442, 443, 444, 445, 446, 447, 449, 450, 451, 452, 453, 455, 456, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 474, 475, 476, 478, 479, 492, 493, 496, 497, 499, 501, 504, 506, 508, 509, 516, 522, 541, 542, 543 and 544; (F) remove the limitation of traffic moving on bills of lading of freight forwarders in Sub 325; (G) change facility limitations and off-route points to county-wide authority as follows: In Sub 314, Denison, IA to Crawford County, IA; Sub 321, Quakertown, PA, to Bucks County, PA; Sub 323, Crete, NE, to saline County, NE, and Denison, Carroll and Iowa Falls, IA, to Carroll, Crawford & Hardin Counties, IA; Sub 324, Newman Grove, NE, to Madison County, NE; Sub 328, Sharonville, OH, to Hamilton County, OH, Iowa City and Ft. Madison, IA, to Johnson and Lee Counties, IA; Sub 329, Ft. Dodge, IA to Webster County, IA; Sub 330, Dodge City, KS, to Ford County, KS; Sub 333, Milwaukee, WI, to Milwaukee County, WI; Sub 336, Storm Lake, IA, to Buena Vista County, IA; Sub 337, Glasgow, KY, to Barren County, KY, and Gallatin, TN, to Sumner County, TN; Sub 338, Mattoon, IL, to Coles County, IL; Warsaw, IN, to Kosciusko County, IN; and Willard, OH, with Huron County, OH; Sub 341, Akron & Buchanan, NY, with Erie and Westchester Counties, NY; Milford, VA, with Caroline County, VA; and Wilmington, DE, with New Castle County, DE;

Sub 343, St. Joseph, MO, with Buchanan County, MO; Sub 349, Mason City and Britt, IA, with Cerro Gordo and Hancock Counties, IA; Sub 350, Middletown, DE, with New Castle County, DE; and Waseca, MN, to Waseca County, MN; Sub 355, Chester, WV, with Hancock County, WV; Sub 356, Logansport, IN, with Cass County, IN; Sub 360, Trenton, MO; with Grundy County, MO; Sub 364, Grafton, WV, with Taylor County, WV; Sub 365, Benton Harbor, MI, with Berrien County, MI; South Bend and Logansport, IN, with Cass and St. Joseph Counties, IN; Sub 369, Dunkirk, NY, with Chautauqua County, NY; Erie, PA, with Erie County, PA; and Champaign and Urbana, IL, with Champaign County, IL; Sub 370, Golden, CO, with Jefferson County, CO; Sub 373, St. Joseph, MO, with Buchanan County, MO, Milwaukee, WI, with Milwaukee County, WI; Sub 377, Omal, OH, with Monroe County, OH, Sub 378, and 409, facilities at Omaha, NE, with Omaha, NE; Sub 379, Cozad, NE, with Dawson County, NE; Sub 384, Van Wert, OH, with Van Wert County, OH; and Plymouth, WI, with Sheboygan County, WI; Sub 386, Lansford, PA, with Carbon County, PA, and Decatur, IN, with Adams County, IN; Sub 389, Denison and Sherman, TX, with Grayson County, TX; Sub 402, Oakland, IA, with Pottawattamie County, IA; Sub 407, Millsboro, DE, with Sussex County, DE; Sub 408, Siloam Springs, AR, with Benton County, AR; Sub 410, Westminister, MD, with Carroll County, MD; Sub 413, Logansport, IN, with Cass County, IN; Sub 414, Conroe, TX, with Montgomery County, TX; Sub 422, Franklin, IN, with Johnson County, IN; Cedar Rapids, IA, to Linn County, IA; Subs 420 and 445, facilities at Baltimore, MD, with Baltimore, MD; Sub 423, Muscatine, IA, with Muscatine County, IA; Sub 424, Terre Haute, IN, with Vigo County, IN; Sub 434, Bryan, OH, with Williams County, OH; Sub 436, Golden, CO, with Jefferson County, CO; Sub 437, Midland, PA, with Beaver County, PA; Sub 441, Scott City, Sikeston and Mexico, MO, with Audrain and Scott Counties, MO; Eldorado, IL, with Saline County, IL; Sub 442, Woodbridge, NJ, with Middlesex County, NJ; Middletown, NY, with Orange County, NY; Sub 443, facilities at Detroit, MI, with Detroit, MI; Sub 444 Vineland, NJ, with Cumberland County, NJ, Pittston, PA, and with Luzerne County, PA; Sub 446, Lyons, IL, with Vermilion County, IL; Dorsey, MD, with Howard County, MD; Sub 447, Commerce, TX, with Hunt County, TX; Sub 449, Vacaville, CA, with Solano County, CA; Sub 450, St. Joseph, MO, with Buchanan County, MO; Belvidere, IL, with Boone County, IL; Sub 451, Vestal, NY, with Broome County, NY; Sub 452, Woodbridge, NJ, with Middlesex County, NJ; Middletown, NY, with Orange County, NY; Sub 455, McPherson, KS, with McPherson County, KS; Sub 456, Chicago, IL, with Cook County, IL; Sub 458, Hanover, PA, with York County, PA; Sub 459, San Leandro, CA, with Alameda County, CA; Sub 460, Fall River, MA, with Bristol County, MA; Sub 461, Manchester, NH, with Hillsboro County, NH; Niles, IL, with Cook County, IL; Sub 463, Grand Prairie, TX, with Dallas County, TX; Winthrop, IA, with Buchanan County, IA; Sub 464, Maryville, MO, with Nodaway County, MO; Sub 465, Jeffersonville, IN, with Clark County, IN; Birmingham, AL, with Jefferson County, AL; Sub 466, Denison, TX, with Grayson County, TX; Chester, VA, with Chesterfield County, VA; Sub 467, Red Oak, IA, with Montgomery County, IA; Maryville, MO, with Nodaway County, MO; Sub 468, Groveport, OH, with Franklin County, OH; Sub 474, facilities at Suffolk, VA, with Suffolk, Va; Sub 475, Riverside, CA, with Riverside County, Ca; Sub 476, Siloam Springs, AR, with Benton County, AR; Clearfield, UT, with Davis County, UT; Sub 478, Somerset, KY, with Pulaski County, KY; Sub 479, LaHarbra, CA, with Orange County, Ca; Sub 493, Reno and Sparks, NV, with Washoe County, NV; Sub 495, Washington, MO, with Franklin County, MO; Sub 497, High Ridge, MO, with Jefferson County, MO; Sub 499, Jersey City, NJ, with Hudson County, NJ; Sub 501, Carlsbad, CA, with San Diego County, CA; Sub 502, Sparta, IL, with Randolph County, IL; Sub 505, Waco, TX, with McLeannan County, TX; Sub 509, Fresno, CA, with Fresno County, CA; Jacksonville, IL, with Morgan County, IL; Sherman, TX, with Grayson County, TX; Mayville, WI; with Dodge County, WI; Humboldt, TN, with Gibson County, TN; Sub 510, Ashtabula, OH, with Ashtabula County, OH; Hopkinton, MA, with Middlesex County, MA; Sub 517, St. Joseph, MO, with Buchanan County, MO; Ilion, NY, with Herkimer County, NY; Sub 522, Chicago, IL, with Cook County, IL; Sub 523, Chicago, IL, with Cook County, IL; Flint, MI, with Genesee County, MI; Sub 527, St. Joseph, MO, with Buchanan County, MO; Sub 541, Lima, OH, with Allen County, OH; Sherman, TX, with Grayson County, TX; Oxnard, Sacramento, and Modesto, CA; with Ventura, Sacramento and Stanislaus Counties, CA; Sub 542, Englewood, CA, with Los Angeles County, CA; Phoenix, AZ, with Maricopa County, AZ; Sub 543, Centralia, IL, with Marion County, IL; and Sub 544, Pitman, NJ, with Gloucester County, NJ; Terre Haute, IN, with Vigo County, IN; Santa Maria, CA, with Santa Barbara County, CA; (i) change one-way to radial authority Subs 314, 318, 322, 323, 324, 325, 328, 329, 330, 336, 343, 350, 356, 359, 360, 364, 365, 369, 370, 373, 376, 377, 378, 379, 384, 389, 402, 409, 413, 420, 436, 437, 441, 442, 443, 445, 446, 449, 450, 451, 452, 453, 456, 458, 459, 460, 461, 463, 465, 468, 475, 478, 479, 481, 493, 499, 542 and 543; (j) delete the Gainesville and Denton, TX, restriction as intermediate points in connection with regular route service between Ardmore, OK, and Ft. Worth, TX, in Sub 426; (k) delete exception against service to Van Wert, OH, in Sub 384.

MC 74416 (Sub-32X), filed October 28, 1981. Applicant: LESTER M. PRANGE, INC., Box 1, Kirwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., N.W., Washington, D.C. 20005. Lead and Sub-Nos. 6, 7, 8, 13, 14, 15, 16(M1), 18F, 21F, 24F, 26F, and 28F. (1) broaden (a) lead certificate, to "farm products, and food and related products," from agricultural commodities, grain, hay, straw, vegetables, and animal and poultry feed: to "chemicals and related products," from fertilizer, insecticides, germicides, fungicides, disinfectants, and weed killing compounds: to "lumber and wood products," from lumber: and to "machinery," from animal and poultry equipment, and garden sprayers and dusters; (b) Sub-No. 6, to "food and related products," from dairy products; (c) Sub-Nos. 7, 8, 15, 18, and 24, to "metal products and machinery," from fabricated sheet metal products, heating and air conditioning systems, and equipment, materials and supplies used in the installation of sheet metal products and heating and air conditioning systems; (d) Sub-No. 13, to "clay, concrete, glass or stone products," from concrete, cinder and slag products, cast stone, lime, brick and clay products, masonry building units, and refractories: to "metal products," from scrap metal: to "chemicals and related products," from fertilizer: and to "building materials," from road building materials, and masonry building units; (e) Sub-Nos. 14 and 16, to "clay, conrete, glass or stone products," from concrete, cinder and slag products; and (f) Sub-No. 26, to "lumber and wood products," from lumber and lumber products; (2) delete commodity and vehicle restrictions with reference to: "commodities in bulk," "in tank or hopper type vehicles," "size and weight commodities," "prestressed and poststressed concrete products," "limestone, sand and gravel to and from the named points," and "refractory brick," wherever such appears; (3) change regular-route territory to two-way authority, and irregular-route to radial authority; (4) broaden off-route points to countywide: lead certificate, Lancaster, Chester, Lebanon and York Counties, PA and Cecil and Harford Counties, MD (points within 25 miles of New Providence); (5) broaden irregular-route points and plantsites to countywide: (a) Lead certificate, Lancaster and Chester Counties, PA (Quarryville and Oxford): Lancaster, Chester, Delaware, Berks and York Counties, PA (Christiana, and points in PA within 25 miles thereof): and New Castle County, DE and Salem County, NJ (Wilmington, DE and points within one mile thereof): (b) Sub-Nos. 6 and 21, Lancaster County, PA (New Holland, plansite); (c) Sub-Nos. 7 and 8, Bucks County, PA (plantsites in Lower South Hampton Township), and Philadelphia, PA (plantsites in Philadelpia); (d) Sub-No. 13, Dauphin, Perry and Cumberland Counties, PA (Harrisburg): York County, PA (York): Chester, Cambria, Lancaster, Washington, Alleghany, Westmoreland and York Counties, PA (Coatsville, Johnstown, Lancaster, Monongahela, Pittsburgh, and York): Prince Georges County, MD (facilities at Fairmont Heights, MD): Baltimore, MD (plantsite at Baltimore): Clinton, Eaton and Ingham Counties, MI (Lansing): Orange County, VA (plantsite at Somerset): York County, PA (West Manchester Township): and Suffolk, Orange, Nassau and Sullivan Counties, NY (Amagansett, Chester, Franklin Square, Monticello, Great Neck, Manhasset, and Riverhead), Mercer and Burlington Counties, NJ and Bucks County, PA (Trenton, NJ), Morris County, NJ (Mountain Lakes), Middlesex and Somerset Counties, NJ (New Brunswick), and New Castle and Kent Counties, DE, Cecil County, MD, Chester County, PA and Salem County, NJ (Newark, Wilmington, Smyrna, and Dover, DE; (e) Sub-No. 14, York County, PA (York); (f) Sub-No. 15, Cobb, DeKalb, Fulton, Clayton, Fayette, Douglas and Henry Counties, GA (facilities at Atlanta), and Rockdale County, GA (facilities at Lithonia); (g) Sub-No. 16, Delaware County, PA and Gloucester County, NJ (Eddystone, PA), and New Castle County, DE and Salem County, NJ (Wilmington, DE); and (h) Sub-No. 24, Orleans and Niagara Counties, NY (Medina), and DeKalb and Rockdale Counties, GA (Lithonia); (6) delete "originating at and destined to "restrictions in Sub-Nos. 7, 8, 15, and 21; and (7) delete exceptions to transportation of traffic at points less-than-countywide: lead, sheet 3, "Belfry, PA and points within 10 miles of the Belfry, PA railroad station," and "points within 25 miles of New Providence, PA, in the 3 named PA counties."

MC 101474 (Sub-30X), filed October 29, 1981. Applicant: RED TOP TRUCKING CO., INC., 7020 Cline Ave., Hammon, IN 46323. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491. Lead and Subs 18, 21, 22, 24, 25F, and 27: (A) Broaden to (1) "transportation equipment" from self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies moving in connection therewith, lead; (2) "machinery" from (a) asphalt and road building, excavating, grading, and underground construction machinery, lead and Sub 24; (b) asphalt-mix storage tanks and conveyors, and materials, equipment and supplies used in the manufacture of the above commodities, Sub 18; (c) asphalt-mix storage tanks and parts thereof, Sub 21; (d) contractor's machinery, equipment, supplies and materials, Sub 22; (3) "metal products" from (a) fabricated iron and steel and iron and steel articles and iron and steel, nuts, bolts, and rivets, and materials, equipment an supplies used in the manufacture and processing of iron and steel articles, lead; (b) iron and steel articles, Subs 22 and 27; and (4) "waste or scrap materials not identified by industry producing" from materials for recycling and scrap metal, Sub 25; (B) Remove (1) "except commodities in bulk" and/or "in tank vehicles" restriction, lead, (sheet 3) and Subs 18, 22, 24, and 27; (2) "sizes or weight" restriction lead (sheet 2); (3) "originating at and/or destined to" restriction, lead and Sub 22; and (4) restriction prohibiting the transportation of specified commodities, lead (sheet 2); (C) Broaden to (1) county-wide authority: (a) lead, (Peotone) Will County, IL, and (plant site-Putnam County) Putnam County, IL; (b) Sub 18, (Glasgow, MO and Leavenworth, KS) Howard County, MO and Leavenworth County, KS; (c) Sub 21, (facilities—Kansas City) Kansas City, MO; and (d) Sub 27, (facilities—East Chicago, IN) Cook County, IL and Lake County, IN; and, (2) radial authority, lead and Subs 18, 21, and 22.

MC 123919 (Sub-2X), filed November 9, 1981. Applicant: HAROLD TRUCKING, INC., Route 2, Seminary, MS 39479. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Sub 1 permit broaden to between points in U.S., under continuing contract(s) with named shipper.

MC 150747 (Sub-2X), filed November 12, 1981. Applicant: L AND O TRUCKING COMPANY, INC., 2179 Freemont, Memphis, TN 38114. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 Sub 1F: broaden concrete pipe, and accessories for concrete pipe, iron and steel articles, and aluminum articles to "concrete products and metal products and related articles."

[FR Doc. 81-34218 Filed 11-27-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 219]

Motor Carriers; Permanent Authority Applications; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 53965 Sub-190 (Republication), filed April 6, 1981, published in the **Federal Register** issues of April 23, 1981, May 29, 1981 and September 9, 1981, respectively, and republished this issue. Applicant: GRAVES TRUCK LINES, INC., 2130 South Ohio, P. O. Box 1387, Salina, KS 67401. Representative: Larry E. Gregg, 641 Harrison St., P. O. Box 1979, Topeka, KS 66601. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided October 22, 1981, served October 30, 1981 and a Decision of the Commission, Review Board Number 3 decided July 31, 1981, and served August 19, 1981, finds on further consideration that the performance by applicant of the service as described herein will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in Shawnee County, KS, on the one hand, and, on the other, points in the United States. NOTE: The above authority may be tacked or joined at points in Shawnee County, KS, with the carrier's regular-route authority in No. MC 53965 and Sub-Nos. 15, 16, 17, 20, 27, 30, 36, 47, 48, 54, 56, 60, 61, 62, 64, 67, 68, 72, 86, 88, 93, 95, 96, 100, 101, 112, 113, 116, 117, 123, 134, 144, 150, 160, 167, 169, 172 and 176; No. MC 85969 (Sub-No. 7); and a portion of MC 8948 (see No. MC-F-13161); that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission regulations. The purpose of this republication is to indicate that applicant can tack its irregular-route authority granted herein with its existing regular-route authority through Shawnee County.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34218 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81-31319, appearing on page 53531 of the issue of Thursday, October 29, 1981, make the following correction.

On page 53537, first column, under MC 144628 (Sub-1), the twentieth line reading: "Waukesha Counties, and extending to" should read "Waukesha Counties, WI, and extending to".

BILLING CODE 1505-01-M

[Ex Parte No. 387 (Sub-No. 64)]

Baltimore and Ohio Railroad Co., Et Al., Exemption for Contract Tariff ICC-BO-C-0009; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713 (e) and its contract and contract tariff to be filed may be made effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Baltimore and Ohio Railroad Company and The Chicago, South Shore and South Bend Railroad filed on November 13, 1981, a joint petition for exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). They request that we permit them to make tariff ICC-BO-C-0009 effective on one day's notice. The contract tariff was filed with the Commission on November 13, 1981, and bears the statutorily required effective date of December 13, 1981.

Under 49 U.S.C. 10713(e) contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. CF. former section 10762(d)(1). However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition is granted. The shipper, party to the contract, has secured an order requiring an export movement which, due to ship sailing schedules, requires that loading of the vessel commence in the immediate future. To insure meeting the ship's schedule, the rail shipments must begin immediately. We conclude that this is the type of exceptional circumstances which warrants an exemption. Petitioners' contract tariff may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505 (c) if protests are filed within 15 days of publication in the **Federal Register.**

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

Dated: November 20, 1981.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34214 Filed 11-27-81 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 65]

Boston and Maine Corp., Robert W. Meserve and Benjamin H. Lacy, Trustees, Exemption for Contract Tariff ICC-BM-C-0004; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e) and its contract and contract tariff to be filed may be made effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), filed on November 16, 1981, a petition for exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit it to make tariff ICC-BM-C-0004 effective on one day's notice.

The contract between petitioner and the shipper provides for track storage of pulp, paper, and paper products (STCC-26 commodity series) at local stations on the BM in equipment carrying BM reporting marks.

Under 49 U.S.C. 10713(e) contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirements. CF. former section 10762(d)(1). However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper has developed a production problem and requires the immediate storage of some of its product. Since it does not have suitable storage facilities at the plant, it needs the contract arrangement as soon as possible in order to continue its production on an uninterrupted basis. We conclude that this is the type of exceptional circumstance which warrants an exemption. Petitioner's contract tariff ICC-BM-C-0004 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register.**

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

Dated: November 20, 1981.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34213 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29765]

The Central Indiana Traffic and Transportation Corp.—Purchase—Consolidated Rail Corp. Between North Bend, OH, and Indianapolis Belt Railway Junction at Beech Grove, Ind.; Intent To Purchase

On November 17, 1981, the Central Indiana Traffic and Transportation Corporation (Shipper Corp.) filed a notice of its intent to request the Commission to require the sale of trackage. Shipper Corp. seeks to acquire the track of Consolidated Rail Corporation (Conrail) between North Bend, OH, and the Indianapolis Belt Railway Junction at Beech Grove, IND, pursuant to the feeder line development provisions of 49 U.S.C. 10910. Shipper Corp. elects no exemption from the provisions of the Interstate Commerce Act and, if a sale is ordered substantially as sought, will not impose any preconditions to service in excess of the lawfully established tariff charges.

Shipper Corp. may file its application no earlier than February 15, 1982. When an application is filed, any interested party may submit comments to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29765 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Carl M. Miller, Miller & Miller, 407 Broadway, New Haven, IN 46774, (219) 493-4451.

For further information contact Wayne A. Michel (202) 275-7657 or Ellen D. Hanson, (202) 275-7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34215 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 419]

Conrail Abandonments Under Nersa; Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission announces the guidelines it will follow in processing rail line abandonment applications filed by Consolidated Rail Corporation (Conrail) pursuant to the Northeast Rail Service Act of 1981 (Pub. L. 97-35). They differ from the proposed guidelines published October 13, 1981 (46 FR 50425) in two significant respects.

Initially, the Commission expressed the view that Conrail must continue service after the abandonment is approved until the discount purchase procedures of section 308(e) expire. The Commission now believes that Conrail must be permitted to discontinue operations as soon as the abandonment is granted. Parties concerned about interruptions in service should use the offer of financial assistance procedures of section 308(d).

Also, the Commission initially stated that partial line purchases could only be made pursuant to the financial assistance procedures. The Commission has now decided to allow partial purchases under the discount purchase procedures.

DATE: This policy statement is effective November 30, 1981.

FOR FURTHER INFORMATION CONTACT:

Ellen Hanson, (202) 275-7245; or

Wayne Michel, (202) 275-7657

For copies of the full decision: Write to: Interstate Commerce Commission, Room 2227, Washington, DC 20423; or call toll-free: 800-424-5403.

SUPPLEMENTARY INFORMATION: The Commission's decision in Ex Parte No. 419 being served concurrently with this publication, contains further information

and an explanation of the change in views.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-34366 Filed 11-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 81-33022 appearing at page 56513 in the issue for Tuesday, November 17, 1981, make the following correction:

On page 56515, in the second column, in the second paragraph, under MC 158003 (Sub-2), application of Sahara Express, in the first line, "MC 158003 (Sub-2)" should have read "MC 158002 (Sub-2)."

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committees on Africa, Asia, Latin America and the Caribbean, the Near East and Foreign Disaster Assistance

Before any advisory committee may operate, the Federal Advisory Committee Act, 5 U.S.C. App. I, and GSA regulations, 41 CFR Part 101-6, require publication in the **Federal Register** of the agency head's certification that the advisory committee is necessary and in the public interest. A description of the nature and purpose of the committee must also be published.

The Administrator of the Agency for International Development signed the following certification on September 10, 1981:

The Advisory Committees on Africa, Asia, Latin America and the Caribbean, the Near East and Foreign Disaster Assistance are needed by the Agency for International Development to provide continuing advice on the direction of the foreign assistance program and ways to increase its effectiveness.

Accordingly, I hereby determine pursuant to the provisions of the Federal Advisory Committee Act that establishment of those committees is in the public interest.

The comittees are intended to provide the Administrator with continuing advice on the direction of the U.S. foreign assistance program in the indicated geographic regions and for the foreign disaster assistance program. They will also advice the Administrator on ways to increase effectiveness of those programs.

For further information contact: Jan. W. Miller, Office of the General Counsel (202-632-8428).

Dated: November 19, 1981.

John R. Bolton,

General Counsel.

[FR Doc. 81-34265 Filed 11-27-81; 8:45 am]

BILLING CODE 6116-01-M

LEGAL SERVICES CORPORATION

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996/, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Oklahoma Indian Legal Services, Inc., in Oklahoma City, to serve Native Americans in the state of Oklahoma.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, Native American Desk, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 81-34290 Filed 11-27-81; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Future Meeting Dates

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold meetings on the days listed below in calendar year 1982. The times and location will be announced at a later date.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The meeting dates are as follows:

Monday and Tuesday—January 18 and 19
Monday and Tuesday—March 1 and 2
Monday and Tuesday—April 12 and 13
Monday and Tuesday—May 24 and 25
Monday and Tuesday—July 19 and 20
Monday and Tuesday—August 30 and 31
Monday and Tuesday—October 25 and 26
Monday and Tuesday—December 13 and 14

The public is welcome at the sessions and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, D.C. 20235. The telephone number is 202/653-7818.

Dated: November 24, 1981.

Steven N. Anastasion,

Executive Director.

[FR Doc. 34306 Filed 11-27-81; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL SCIENCE FOUNDATION

Permits Issued or Modified Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permits Issued or Modified Under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued or modified under the Antarctic Conservation Act of 1978. This is the required notice of permits issued or modified.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7934.

SUPPLEMENTARY INFORMATION: On October 2, 13 and 16, 1981, the National Science Foundation published notices in the **Federal Register** of permit applications received. On November 17, 1981 permits were issued to: Harold W. Borns, William M. Hamner, Robert W. Risebrough.

On November 10, 1981 NSF approved a modification to the permit awarded on September 16, 1981 to C. R. Grau, Department of Avian Sciences, University of California, Davis, California. The modification allows the permit holder to import up to 5 bird specimens (Adelie Penguin) into the United States.

Edward P. Todd,

Permit Officer.

[FR Doc. 81-34246 Filed 11-27-81; 8:45 am]

BILLING CODE 7555-01-M

Membership of National Science Foundation's Senior Executive Service Performance Review Board

Announcement of revised membership of the National Science Foundation's Senior Executive Service Performance Review Board.

Dr. Donald N. Langenberg, Deputy Director, National Science Foundation, Chairperson
Mr. Thomas Ubois, Assistant Director, Directorate for Administration, Executive Secretary
Dr. Harvey Averch, Assistant Director, Directorate for Scientific, Technological, and International Affairs
Dr. Eloise Clark, Assistant Director, Directorate for Biological, Behavioral, and Social Sciences
Dr. H. Frank Eden, Senior Science Associate, Directorate for Astronomical, Atmospheric, Earth and Ocean Sciences
Dr. Jerome Fregeau, Director, Office of Audit and Oversight
Dr. Lewis Gist, Director, Division of Scientific Personnel Improvement, Directorate for Science and Engineering Education
Dr. Richard Nicholson, Acting Deputy Assistant Director, Directorate for Mathematical and Physical Sciences
Dr. Frank Scioli, Jr., Section Head, Political and Policy Sciences Section, Division of Social and Economic Science, Directorate for Biological, Behavioral, and Social Sciences
Mr. Jeremiah Barrett, Office of Personnel Management, Observer

Dated: November 24, 1981.

Fred K. Murakami,

Director, Division of Personnel and Management.

[FR Doc. 81-34275 Filed 11-27-81; 8:45 am]

BILLING CODE 7555-01-M

Schedule for Awarding Senior Executive Service Bonuses

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The National Science Foundation intends to award Senior Executive Service bonuses for the performance rating cycle of October 1, 1980 through September 30, 1981, with payouts scheduled by December 27, 1981.

Dated: November 24, 1981.

Fred K. Murakami,

Director, Division of Personnel and Management.

[FR Doc. 81-34276 Filed 11-27-81; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on December 10-12, 1981, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published in the **Federal Register** on October 29, 1981.

The agenda for the subject meeting will be as follows:

Thursday, December 10, 1981

8:30 a.m.-8:45 a.m.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 a.m.-11:45 a.m.: Combustion Engineering Standard Safety Analysis Report, CESSAR-80 (Open)—The Committee will hear and discuss the reports of its subcommittee and consultants who may be present regarding the request for final design approval of this standardized nuclear steam supply system. Representatives of the NRC Staff and the Applicant will make presentations and respond to questions regarding design and operation of this facility.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

11:45 a.m.-12:45 p.m. and 1:45 p.m.-3:45 p.m.: Palo Verde Nuclear Plant Units 1, 2, and 3 (Open)—The Committee will hear and discuss the reports of its subcommittee and consultants who may be present regarding the request for an operating license for this nuclear plant.

Representatives of the Applicant and the nuclear steam system supplier will make presentations and respond to questions regarding proposed operation of this plant.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

3:45 p.m.-5:45 p.m.: Plan for Early Resolution of Safety Issues (Open)—The Committee will hear and discuss the report of its subcommittee on Generic Items regarding a proposed NRC plan for early resolution of safety issues that pertain to nuclear power plants. Representatives of the NRC Staff and nuclear industry will participate as appropriate.

5:45 p.m.-6:30 p.m.: ACRS Subcommittee Reports (Open)—The Committee will hear and discuss reports of designated subcommittees on safety related matters including proposed changes in NRC Regulatory Guides.

Friday, December 11, 1981

8:30 a.m.-9:30 a.m.: ACRS Discussion of Safety Related Items (Open)—The ACRS members will discuss safety related topics scheduled for discussion with the NRC Commissioners including the content/scope of ACRS reports on the safety research budget, qualifications of nuclear power plant operating organizations and documentation of safety related issues.

9:30 a.m.-10:30 a.m.: Meeting with NRC Commissioners (Open)—The ACRS will meet with the NRC Commissioners to discuss safety related issues noted above. (This session is tentative and may be revised in scope and/or rescheduled as appropriate).

10:30 a.m.-12:30 p.m.: Nuclear Safety Research, Development and Demonstration Act of 1980 (Pub. L. 96-567) (Open)—The Committee members will discuss proposed ACRS comments regarding the proposed DOE plan to implement Pub. L. 96-567.

Representatives of the NRC Staff and the Department of Energy will make presentations and participate in the discussion as appropriate.

1:30 p.m.–3:00 p.m.: Alternate Decay Heat Removal Systems (Open)—The members will hear and discuss the report of the ACRS subcommittee and consultants who may be present regarding the proposed NRC action plan (Task A–45) to evaluate alternate decay heat removal systems for nuclear power plants. Representatives of the NRC Staff and the nuclear industry will make presentations and participate in discussions as appropriate.

3:00 p.m.–4:00 p.m.: Licensee Event Reporting System (Open)—The Committee will hear and discuss the report of its subcommittee and consultants who may be present regarding proposed changes in NRC requirements (10 CFR 50.72) for the reporting of events by licensees. Representatives of the NRC Staff and the nuclear industry will make presentations and participate in the discussions as appropriate.

4:00 p.m.–4:30 p.m.: Future ACRS Activities (Open)—The ACRS members will discuss proposed ACRS subcommittee and full Committee activities, and the scope/organization of its annual report to the U.S. Congress on the proposed NRC safety research program budget for FY 1983.

4:30 p.m.–5:30 p.m.: Preparation of ACRS Reports to NRC (Open)—The ACRS members will discuss proposed Committee reports to the NRC regarding CESSAR–80 and the Palo Verde Nuclear Plant.

Portions of this session will be closed as necessary to discuss information which will be involved in an adjudicatory proceeding and Proprietary Information related to these projects.

5:30 p.m.–6:00 p.m.: ACRS Subcommittee Reports (Open)—The ACRS members will hear and discuss a proposed report regarding application of industrial standards in the design and construction of nuclear power plants.

Saturday, December 12, 1981

8:30 a.m.–11:30 a.m.: Preparation of ACRS reports to NRC (Open)—The Committee members will continue discussion of proposed reports to NRC regarding CESSAR–80 and the Palo Verde Nuclear Plant and will discuss proposed reports to NRC and DOE regarding other matters considered during this meeting.

Portions of this session will be closed as necessary to discuss information which will be involved in an adjudicatory proceeding and Proprietary Information related to these projects.

11:30 a.m.–12:30 p.m. Concluding Session (Open)—The Committee will elect its Chairman and Vice-Chairman for Calendar Year 1982. The members will also hear and discuss reports and comments by ACRS subcommittee chairmen and members regarding current activities related to matters such as the proposed NRC rule (10 CFR Part 50) on Application of TMI–2 Lessons Learned to Operating Licensees; the reliability of nuclear power plant electrical power supply systems; and the policies, requirements, and research of Japanese nuclear regulatory and development agencies.

Portions of this session will be closed as necessary to discuss information considered privileged and provided in confidence by a foreign source.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this prupose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information relating to the matter being considered (5 U.S.C. 552b (c)(4)), information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)), and information considered privileged and provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EDT.

Dated: November 23, 1981.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 81-34267 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–443A and 50–444A]

Public Service Company of New Hampshire, et al.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Public Service Company of New Hampshire, et al.,[1] pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information concerns a proposed additional ownership participant, the Canal Electric Company (Canal) in the Seabrook Station, Units 1 and 2. The change involves the transfer of ownership from the Commonwealth Electric Company to Canal.

The information was filed in connection with the application submitted by the construction permit holders for operating licenses for two pressurized water reactors. Construction was authorized on July 7, 1976 at the Seabrook site located in Rockingham County, New Hampshire.

The original application was docketed on July 9, 1973, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matters was published in the **Federal Register** on August 9, 1973 (38 FR 21522). The Notice of Receipt of Application for Facility Operating Licenses; Notice of

[1] The current applicants for the operating licenses for Seabrook Station are: Bangor Hydro-Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Commonwealth Energy Systems, Connecticut Light & Power Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, The United Illuminating Company, and Vermont Electric Cooperative, Inc.

Availability of Applicants' Environmental Report; and the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the **Federal Register** on October 19, 1981 (46 FR 51330).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

Any person who wishes to have his views on the antitrust matters wih respect to the Canal Electric Company presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation, on or before January 29, 1982.

Dated at Bethesda, Maryland, this 16th day of November, 1981.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 81-34273 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee), which revised the Operating License and the Technical Specifications for operation of the H.B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to provide for reduced primary coolant temperature operation for the remainder of the current fuel cycle. In addition, the Operating License Condition 3.I.a is revised.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 11, 1981, (2) Amendment No. 61 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D. C. and at the Hartsville Memorial Library , Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November 1981.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Branch Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-34268 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 45 to Facility Operating License No. DPR-61, issued to the Connecticut Yankee Atomic Power Company (the licensee), which revised the Technical Specifications for operation of the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment adds operability and surveillance requirements for fire protection equipment added by plant modifications in accordance with the requirements of Amendment No. 28, dated October 3, 1978.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which, are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 2, 1981, (2) Amendment No. 45 to license No. DPR-61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut 16457.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this twentieth day of November 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-34269 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative; Notice of Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the LaCrosse-Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment revised the testing frequency for Type B and C Reactor Containment penetrations to be consistent with the requirements of Appendix J to 10 CFR Part 50.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the application for amendment dated October 26, 1981, (2) Amendment No. 27 to License No. DPR-45, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this twentieth day of November, 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-34210 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to accommodate plant operation with up to 12% of the steam generator tubes plugged.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 2, 1981, (2) Amendment No. 40 to License No. DPR-64, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November 1981.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Branch Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-34272 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0850]

Volume 1 of "Preliminary Assessment of Core-Melt Accidents at the Zion and Indian Point Nuclear Power Plants and Strategies for Mitigating Their Effects"; Issuance and Availability

The U.S. Nuclear Regulatory Commission (NRC) has prepared a report entitled, "Preliminary Assessment of Core-Melt Accidents At The Zion and Indian Point Nuclear Power Plants and Strategies For Mitigating Their Effects: Volume 1" (NUREG-0850) dated November, 1981. This report, when issued in its final form, together with its companion, Volume 2 will provide part of staff's technical basis for recommendations to the Commission on whether or not to require changes in design features at these facilities. This issue was identified as an item for action in the TMI Action Plan, NUREG-0660—Item II.B.6.

The purpose of this preliminary two-volume study of Zion and Indian Point is to determine whether practical design features for mitigating the consequences of core-melt accidents would contribute significantly to safety at these plants. Volume 1 analyzes various containment buildings failure modes which could result from core-melt accidents and determines requirements for preventing these failure modes. Volume 2, on which work is still underway, will evaluate features that prevent containment building failure.

The findings of this program, combined with those from a probabilistic risk assessment program for Zion and Indian Point, will form the technical basis for recommendations to the Commission on whether or not to require changes in design features at these facilities.

Public comments are being solicited from interested organizations, groups and individuals. The staff will evaluate the comments received, and where applicable, incorporate them into the final NUREG report.

Copies of the "For Comment" report will be available after November 30, 1981. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Single copies to the extent of supply may be obtained by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, N.W., Washington D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 492-7536.

Comments should be forwarded in writing to Dr. James F. Meyer, Division of Systems Integration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by February 1, 1982.

For the Nuclear Regulatory Commission.

L. S. Rubenstein,

Assistant Director, Core and Plant Systems, Division of System Integration, Office of Nuclear Reactor Regulation.

[FR Doc. 81-34271 Filed 11-27-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**. But occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3627

New

- Bureau of the Census

Property Values Survey Real Property Sales Phase

GP-31

Nonrecurring

Individuals or households

Buyers or sellers of real property

Other advancement and regulation of commerce: 170,000 responses; $650,000 Federal cost; 56,667 hours; 1 form; not applicable under 3504(h)

Statistical Policy Branch, 202-395-7313

Provides the only aggregates of the market value of real property and of assessment-sales price ratios uniformly presented nationwide for States and for selected county and major city areas. census publication, taxable property values and assessment/sales price ratios. Mailing of forms GP-31 will begin on July 1, 1982.

- International Trade Administration

Export Experience, Problems, and Prospects of Three Targeted Industries

ITA-4087P, ITA-4088P, ITA-4089P

Nonrecurring

Businesses or other institutions

Firms in the telecom., computers, peripherals & bus., etc.

SIC: 335, 349, 355, 357, 366, 381, 382, 383, 386, 737

Small businesses or organizations

Other advancement and regulation of commerce: 450 responses; $24,407 Federal cost; 225 hours; 3 forms; not applicable under 3504(h)

William T. Adams, 202-395-4814

Data collected in the questionnaire survey will be used to develop an export profile for each industry specified in item 23 and to identify the major problems that have prevented each industry from realizing its full export potential. The completed study will help the Commerce Department tailor and target its trade development activities specifically to the needs of the industries. Starting date will be the date OMB clearance is approved.

DEPARTMENT OF LABOR

Agency Clearance Officer—Mr. Paul E. Larson—202-523-6331

New

- Occupational Safety and Health Administration [1]

Post Inspection Employer Questionnaire

OSHA-240

On occasion

Busness or other institutions

All employers inspected by OSHA, includes businesses of all types

[1] This form has been approved for use by OMB because of urgent need as described by the agency. Public comments will still be carefully considered and any changes indicated will be made either immediately or in the next revision of the report as warranted.

SIC: Multiple
Small business or organization: 5,000 responses; $20,500 Federal cost; 750 hours; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–396–6880

OSHA's goal is to foster cooperative relationships with employers to promote safety and health most effectively. To achieve this, OSHA must rely on the professional conduct of its compliance officers. This survey will allow employers to react to OSHA's inspections and provide the information needed to develop a cooperative, non-adversarial program.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5394

New

• Internal Revenue Service
Letter for Perfecting Exemption Certificate of Windfall Profit Tax
SWR E–2489
Nonrecurring
Farms/businesses or other institutions
Organizations who file claim for exemption from WPT
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 25,000 responses; $25,000 Federal cost; 25,000 hours; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

The law imposes a windfall profit tax. Taxpayers may be able to qualify for exemption by filing a claim of exemption. This letter is used to deny any organization's claim of exemption from WPT, and to request execution of IRS form 6458 and filing of any returns due.

• Internal Revenue Service
Personnel Processing Master Form
SWR 2552
Nonrecurring
Individuals or households
Employment applicants in southwest region
Central fiscal operations: 20,000 responses; $20,000 Federal cost; 20,000 hours; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is given to all job applicants to obtain a complete history prior to their entrance on duty or acceptance for employment. The data is then input to word processing for subsequent printout on the various investigative forms required by the Internal Revenue Manual (SF–85, data for nonsensitive or noncritical-sensitive position, IRS form 3408, background investigation data, form 5012, new employee tax verification).

• Internal Revenue Service
Certified Mail Letter
SWR–2546
Nonrecurring
Individuals or households
Emp. w/incomp. emp. appl. absent from work for extended per.
Central fiscal operations: 15 responses; $15 Federal cost; 1 hour; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This letter is used when employees fail to respond to our request for further information to complete their employment applications. If such employees are absent from work because they do not intend to return, a resignation is required. SWR–2546 is used as the resignation letter. Failure to respond results in termination.

Extensions (Burden Change)

• Bureau of Alcoholic, Tobacco and Firearms
Transportation in Bond and Notice of Release of Puerto Rican Cigars, Cigarettes, Cigarette Paper or Tubes
ATF F 3072 (5210.14)
On occasion
Businesses or other institutions
Tob. products factories & manuf. of cigarette papers & tubes
SIC: 211 212 519 262
Small businesses or organizations
Federal law enforcement activities: 1,000 responses; 250 hours; $10,150 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary to document a shipment of taxable tobacco articles brought into the U.S. from Puerto Rico in bond. Describes the shipment, allows for shipment into the U.S. to a bonded licensee, and provides certification by U.S. Customs that the shipment was brought into the U.S. Is used to account for the bonded licensee's amount of tax liability and adjustments of tax to the Puerto Rican Government.

• Bureau of Alcohol, Tobacco and Firearms
Tax Information Authorization
ATF F 1534–A
On occasion
Individuals or households/businesses or other institutions
Any person or organization involved w/ taxes collected by ATF
SIC: 208 518 581
Small businesses or organizations
Federal law enforcement activities: 50 responses; 50 hours; $110 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This form is required to be filed when a representative of a principal, not having power of attorney, wished to obtain confidential information regarding the principal. When this form is properly filled out, the information can be released to the representative. This is in accordance with 26 CFR Part 601

• Bureau of Alcohol, Tobacco and Firearms
Application for Distilled Spirits Stamps (Puerto Rico)
ATF F 3039 (5100.13)
On occasion
Businesses or other institutions
Producers of bottlers of distilled spirits in Puerto Rico
SIC: 208 518
Small businesses or organizations
Federal law enforcement activities: 300 responses; 75 hours; $175 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary for any perons who is to bring into the U.S. from Puerto Rico Taxpaid spirits. A distilled spirits stamp must be affixed to show tax was determined before coming into the U.S. Form describes the person, need for stamps, containers to which the stamps are to be affixed, and certification by a Puerto Rican Government Officer of the Issuance of the stamps.

• Internal Revenue Service
Application to use LIFO Inventory Method
970
Nonrecurring
Businesses of other institutions
Bus. w/Inventory that want to use the LIFO inventory method
SIC: Multiple
Small businesses or organizations
Central fiscal operations: 500 responses; 500 hours; $5,411 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

IRC section 472 allows a taxpayer (individual or corporation) to value his or her inventory under the last-in- first-out (LIFO) method if he or she siles form 970 or a statement containing all the information called for on form 970. The information notifies the IRS that the taxpayer is electing the LIFO method.

• Bureau of Alcohol, Tobacco and Firearms
Record of large cigars
ATF F 3065 (5210.4)
On occasion monthly
Businesses or other institutions
Manufacturers of large cigars
SIC: 212
Small businesses or organizations

Federal law enforcement activities: 300 responses; 75 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary for tobacco products manufacturers whose commercial business records are inadequate to protect the revenue on taxable tobacco products. On a daily basis this form describes the receipt, manufacture, and disposition of all large cigars by the tobacco products manufacturer. Serves as a basis for accounting of large cigars by ATF and the manufacturer.

• Bureau of Alcohol, Tobacco and Firearms
Formula for Distilled Spirits Under the Federal Alcohol Administration Act
ATF F 5110.38
On occasion
Businesses or other institutions
Distilled spirits plants
SIC: 208
Small businesses or organizations
Federal law enforcement activities: 4,000 responses; 4,000 hours; $1,262 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Form is necessary to determine the classification of spirits for labeling and consumer protection purposes. Describes person filing, type of product to be made, how it is made and restrictions regarding labeling or manufacturer. Is used by ATF to audit distilled spirits operations to ensure that a product is made properly and labeled properly.

• Internal Revenue Service
Employee's Report of Tips to Employer
Informe para el Empleador de Las Propinas Del Empleado
4070 4070PR
Monthly
Individuals or households
Employees receiving tips
Central fiscal operations: 6,000,000 responses; 3,000,000 hours; $21,667 Federal cost; 2 forms; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Employees receiving tips must report these tips to their employers.

Employees must collect income tax and social security (or railroad retirement) taxes on the tips. Form 4070 and 4070PR are used by employees to report tips to their employers. The data is used by employers to determine the amount of employment taxes to collect on tip income and the amount of tip income and withheld taxes to report to IRS.

• Internal Revenue Service
(1) Application for Determination Upon Term, Notice of Merger, Consol. or Trans. of Plan Assets and Liabil. Notice of Intent to Term, (2) Distributable Benefits
5310 6088
Nonrecurring
Farms/busjnesses or other institutions
Employers with qualified deferred compensation plans
SIC: All
Small businesses or organizations
Central fiscal operations: 26,364 responses; 96,731 hours; $57,064 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. They are required to notify IRS of any plan mergers, consolidations or transfer of plan assets or liabilities to another plan. Form 5310 is used to make the required notificiations and the request for a determination letter. IRS uses the data on forms 5310 and 6088 to determine whether a plan still qualifies and whether there is any discrimination in benefits.

• Bureau of Government Financial Operations
Quarterly Financial Report
TFS 6309
Quarterly
Businesses or other institutions
Companies holding certificates of authority
SIC: 641
Small businesses or organizations
Central fiscal operations: 1,220 responses; 610 hours; $8,366 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

This report is used by insurance companies to report their financial condition as of the end of each quarter.

• Bureau of Government Financial Operations
Memo Concerning Operations, Classes of Business, Underwriting or Management Agreements, Etc.
None
On occasion
Businesses or other institutions
Companies holding certificates of authority
SIC: 641
Small businesses or organizations
Central fiscal operations: 20 responses; 20 hours; $1,624 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

This memo is used to obtain information from insurance companies applying for a certificate of authority to write or reinsure Federal Bonds.

• Internal Revenue Service
Deduction From, or Exclusion of, Income Earned Abroad
2555
Annually
Individuals or households/businesses or other institutions
Individuals living abroad
SIC: 501 502 503 152 171 172 521 523 525 526
Central fiscal operations: 82,000 responses; 448,704 hours; $215,538 Federal cost; 1 form; not applicable under 3504(h)
Irene Montie, 202–395–6880

Used by U.S. citizens and certain resident aliens who qualify for deduction from or exclusion of earned income from sources outside the United States. This information is used by the service to determine if a taxpayer qualifies for a deduction from or exclusion of income.

Extensions (No Change)

• Bureau of Alcohol, Tobacco and Firearms
Referral of Information
ATF F 5000. 21
On occasion
State or local governments
State or loc. gov. regulatory or criminal enforcement agncs.
SIC: 922 931 965
Small businesses or organizations
Federal law enforcement activities: 500 responses; 500 hours; $225 Federal cost; 1 form; not applicable under 3504 (h)
Irene Montie, 202–395–6880

Form may be used by ATF personnel to refer potential violations of State or local laws uncovered during an ATF investigation. It asks State or local regulatory compliance agency to respond to whether any action will be taken and if so, the action planned. The form is also used to evaluate whether referrals are useful to such State or local government agencies.

COMMISSION ON CIVIL RIGHTS

Agency Clearance Officer—Victoria P. Thomas—202–254–6507.

New

• Update Readership Survey
Nonrecurring
Individuals or households/businesses or other institutions
Individuals/organizations interested in civil rights
SIC: 881, 913, 823, 938

Federal law enforcement activities: 1,700 responses; 510 hours; $1,341 Federal cost; 1 form; $1,341 public cost; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The evaluation of the commission's monthly newsletter, civil rights update, is intended to provide information concerning the impact and use of publications. The results of the evaluation are to be used for in-house review and will not be published.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742.

New

- Survey of Operating and Financial Characteristics of Community Water Systems

Nonrecurring
State or local governments/businesses or other institutions
Public and privately owned community water systems
SIC: 494
Small businesses or organizations
Pollution control and abatement: 1,068 responses; 1,816 hours; $60,000 Federal cost; 1 form not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Will provide improved basis for assessing regulatory impacts and alternative policies to satisfy E.O. 12291, reg. flex. and SDWA, documentation of changes and trends in industry since 1975 for use in new industry baseline projections.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202–566–1164.

New

- FPDC Individidual Contract Report for Contracts Exceeding $175,000 for the Purchase of Supplies and Equipment

Quarterly
Individuals or households
Federal Agencies
General property and records management: 12,190 responses; 3,048 hours; $100,000 Federal cost; 1 form not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

This report is a quarterly summary of the total number and value of individual contracts exceeding $175,000 for the purchase of supplies and equipment as required by P.L. 96–39, Trade Agreements Act of 1979. It also identifies the country of the manufacturer, goods purchased through solicitation of a single source and goods purchased under small and minority business set-asides.

- EPDC Report of Total Procurement of Supplies and Equipment

Quarterly
Individuals of households
Federal agencies
General property and records management: 212 responses; 212 hours; $250,000 Federal cost; 1 form; not applicable under 3504(h)
Franklin S. Reeder, 202–395–3785

This report is a quarterly summary of the total value of contracts for supplies and equipment purchased by covered executive agencies using either appropriated or non-appropriated funds as required by P.L. 96–39, Trade Agreements Act of 1979.

INTERNATIONAL COMMUNICATION AGENCY

Agency Clearance Officer—Mary Jane Winnett—202–523–4308.

New

- Foreign Residence Data

IAP–10
On occasion
Individuals or households
Indiv. who have simult. resided overseas with appl. employ.
Foreign information and exchange activities: 200 responses; 100 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

The form is used to obtain contacts who are back in the United States who have knowledge of overseas residence or employment of applicants for employment in the domestic or foreign service for security clearance purposes.

Extensions (Burden Change)

- Exchange-Visitor Program Application

IAP–37
Weekly
Individuals or households/State or local governments/farms/businesses or other institutions
Business firms and other institutions
SIC: all
Small businesses or organizations
Foreign information and exchange activities: 50 responses; 50 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

Under the Mutual Educational and Cultural Exchange Act of 1961, as amended, USICA has been delegated the authority to designate exchange visitor programs for both U.S. Government agencies and private institutions for the purpose of promoting international understanding through educational exchange. The designation of an exchange visitor program gives the concerned U.S. Gov't agency or private institution the auth. to use IAP–66 to bring stud., scholars, and trainees to the U.S.

NUCLEAR REGULATORY COMMISSION

Agency Clearange Officer—Stephen Scott—301–492–8585

Revisions

- I&E Bulletin Surveillance of Mechanical Snubbers

Nonrecurring
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, policy, and regulation: 32 responses; 96,000 hours; $40,000 Federal cost; 1 form; $40,000 public cost; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

NRC issued a bulletin to have mechanical snubbers reviewed for safety and report results of such review to NRC for assessment.

Extensions (Burden Change)

- Registration Certificate in Vitro Testing With Byproduct Material Under General License, 10 CFR 31.11

483
On occasion
Businesses or other institutions
Physician, clinical laboratory, hospital, veterinarian
SIC: 074, 807, 801, 806
Small businesses or organizations
Energy information, policy, and regulation: 425 responses; 50 hours; $16,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Provides specific data for agency review in regard to in visit testing with byproduct material.

- Export and Import of Nuclear Equipment and Material, 10 CFR 110

On occasion
Businesses or other institutions
Exporters and importers of nuclear material
SIC: 281
Energy information, policy, and regulation: 930 responses; 300 hours; $530,480 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Provides application, reporting and recordkeeping requirements in regard to the export and import of nuclear equipment and material.

- Criteria and Procedures for Determining Eligibility for Access to Control Over Special Nuclear Material, 10 CFR 11

On occasion

Businesses or other institutions
NRC licenses and applicants
SIC: 493
Energy information, policy, and regulation: 43 responses; 1,097 hours; $140 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Covers the application, reporting and recordkeeping requirements associated with established program regarding the criteria and procedures for determining access to and control over special nuclear material.

Extensions (No Change)

- Application for Source Material License

NRC–2
On occasion
Businesses or other institutions
NRC licensees
SIC: 281
Energy information, policy, and regulation: 75 responses; 600 hours; $20,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Applications for specific licenses for possession and use of source material shall be filed on NRC form 2.
NRC Form 57
On occasion
Individuals or households
individuals requesting documents from the public doc. room
Energy information, policy, and regulation: 84,000 responses; 1,400 hours; $21,280 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

To ensure file integrity, NRC Form 57 is used as a suspense slip for documents charged out of the public document room.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692.

Revisions

- Applications for Spouses Annuity Under the RR Act

AA–3, G–346
On occasion
Individuals or households
Applicants for spouse annuities under RRA
General retirement and disability insurance; 44,000 responses; 18,333 hours; $2,031,400 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the act. The application will obtain information supporting the claim for benefits based on being a spouse of an annuitant. The information will be used for determining entitlement to and amount of annuity applied for.

Extensions (No Change)

- Certification Regarding Rights to Unemployment Benefits

UI–45
On occasion
Individuals or households
Claimants for benefits under RUIA
Multiple functions: 3,500 responses; 583 hours; $61,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

In administratering the disqualification for the voluntary work leaving provision for section 4 of the Railroad Unemployment Insurance Act, an unemployment claim indicating the claimant left work voluntarily will be investigated. The certification will obtain information of date left work, other employment and if the applicant filed for other benefits. The certification will be used to obtain information needed to determine if the leaving was in good cause.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

New

- Form N–8B–4, Registration Statement for Face-Amount

Certificate Companies Under the Investment Company Act of 1940
SEC: 1285
Nonrecurring
Businesses or other institutions
Face-amount certificate companies
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 2 responses; 340 hours; $920 Federal cost; 1 form; $25,500 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Form N–8B.4 is the registration statement used by face-amount certificate companies to register as Investment Companies Under the Investment Company Act of 1940.

- Notification of Changes in Securities Admitted to Unlisted Trading Privileges—Rule 12F–2 (17 CFR 240.12F–2) and Form 27 (17 CFR 249.27)

1855
On occasion, other—see SF83
Businesses or other institutions
National securities exchanges
SIC: 623
Small businesses or organizations
Other advancement and regulation of commerce: 1 response; 7 hours; $17 Federal cost; 1 form; $27 public cost; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 12F–2 & Form 27 under the Securities Exchange Act of 1934 ("Act"), adopted in 1934 and 1955, respectively, are designed to inform the Commission of certain changes in securities admitted to unlisted trading privileges. This information is necessary to enable the Commission to discharge its statutorily-mandated oversight responsibilities with respect to unlisted trading privileges and, generally to update the Commission's records regarding such securities.

- Terminations or Suspension of Unlisted Trading Privileges

Rule 12F–3 (17 CFR 240.12F–3) and Form 28 (17 CFR 249.28)
484
On occasion
Businesses or other institutions
Reg. Nat. Sec. Exchanges, issu. of the sec. involved, etc.
SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 100 responses; $3,300 Federal cost; $4,100 public cost; 100 hours; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Rule 12F–3 and form 28 under the Securities Exchange Act of 1934 ("Act") which were adopted in 1934 and 1955, respectively, prescribe the information which must be included in an application for and notice of termination of suspension of unlisted trading privileges. This information is necessary for the Commission to discharge its oversight responsibilities under section 12(f)(4) of the Act.

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—Ms. Elizabeth Zaic—202–653–7738

New

- 8(a) Business Plans To Be Used for Negotiation of [2] Participation Terms for Firms in the Program

SBA–1010–R, S, T, U
Nonrecurring
Businesses or other institutions
Small bus. owned by soc. & econom. disadvantaged indiv.
Small businesses or organizations

[2] Action may be taken on this information collection before the ten-day waiting period expires so that firms in the program will be able to submit revised business plans within 60 days of SBA's rulemaking, as required by Pub. L. 96–481.

SIC: Multiple
Small businesses or organizations
Other advancement and regulation of commerce: 1,800 responses; $40,000 Federal cost; $250,000 public cost; 14,400 hours; 4 forms; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Public Law 96–481 requires the negotiation of fixed periods of participation for all firms participating in SBA's 8(a) program. The proposed forms collect new information required to negotiate such terms.

Barbara F. Young,

Acting Chief, Reports Management.

[FR Doc. 81-34283 Filed 11-27-81; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsbility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Agricultural Marketing Service
California-Arizona Lemons—Marketing Order No. 910
On occasion, weekly
Farms/businesses or other institutions
California-Arizona Lemon Growers and Handlers Under M.O. 910
SIC: 017 515
Small businesses or organizations
Agricultural research and services: 4,586 responses; 249 hours; $613 Federal cost; 10 forms; $1,520 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The lemon administrative committee forms are used to obtain information from growers and handlers relating to the quantities of lemons shipped and utilized in various outlets during specified time periods, and by growers and handlers to apply for permission to ship lemons to certain non-regulated outlets.

• Agricultural Marketing Service
California Desert Grapefruit—Marketing Order No. 904
On occasion, weekly
Businesses or other institutions
California Desert Grapefruit Handlers and Processors Under M.O. 904
SIC: 515 203
Small businesses or organizations
Agricultural research and services: 1,904 responses; 198 hours; $532 Federal cost; 5 forms; $1,353 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

California Grapefruit Administrative Committee forms are used to obtain information from desert grapefruit handlers and processors relating to the grapefruit disposed of by them, as well as make application for special handling permits to take certain types of shipments as provided for in the marketing order.

• Forest Service
Timber Sale Bid Forms
FS–2400–14 2400–42A
Other—see SF83
Businesses or other institutions
Prospective purchasers of national forest timber sales
SIC: 241, 242, 243, 249
Small businesses or organizations
Conservation and land management: 30,000 responses; 5,000 hours; $900 Federal cost; 2 forms; $50,000 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

To buy national forest timber, purchasers are required to competitively bid using forms FS–2400–14 or FS 2400–42A. FS–2400–42A is used for short notice solicitations, while FS–2400–14 is used for 30 day or more formally advertised sales.

Revisions

• Forest Service
Fuelwood and Post Production in Selected States
Annually
Individuals or households/businesses or other institutions
Logging contractors and households
SIC: 999
Small businesses or organizations
Conservation and land management: 6,264 responses; 626 hours; $17,000 Federal cost; 1 forms; $2,357 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The revisions are needed to (1) allow data collection by phone, (2) lower collection costs, (3) estimate production from growing stock and from urban and suburban areas, (4) determine the critical impact of fuelwood and post production on the forest resource, and (5) determine the importance of forests in supplying energy and post requirements.

Department of Energy

Agency Clearance Officer-John Gross—202–633–9770

Reinstatements

• Conservation and Solar Energy
Industrial Energy Conservation Program—Plant, Corporate and Sponsor Reporting Forms
CE–189P, C S
Annually
Businesses or other institutions
Plants, corporations and sponsors using more than 1 trillion BTU's
SIC: Multiple
Energy Conservation: 15,504 responses; 337,894 hours; $202,000 Federal cost; 3 forms; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The information collected is used to measure progress toward the achievement of industrial energy efficiency targets and to reccoment to Congress ways in which additional improvements can be achieved. The information is published in an annual report sent to the President and Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488.

Extensions (Burden Change)

• Office of Assistant Secretary for Health
OHMO Progress Report on Planning Grants
PHS 6100
Quarterly
Business or other institutions
Health maintenance organizations
SIC: 808
Small businesses or organizations
Health: 104 responses; 208 hours; $3,000 Federal cost; 1 form; $2,080 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880.

This report will follow the progress of a given grant in the budget period allotted, and will be beneficial to regional as well as central office personnel in following their progress. The regional office also adds their interpretation and comments to the report.

Reinstatements

• National Institutes of Health
Hybridoma Characterization Sheet
On occasion
Individuals or households
Cancer research investigators
Health: 200 responses; 60 hours; $10,000 Federal cost; 1 form; $600 public costs; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

Data collected with the use of this form will facilitate and promote the exchange among cancer research investigators of both information on hybridoma cell lines and the actual cell lines

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Highway Administration
Waiver—Initial and Renewal
Biennially
Individuals or households, businesses or other institutions
Drivers & motor carriers oper. in interst. & forgn. commerce
SIC: 999
Small businesses or organizations
Ground transportation: 125 responses; 88 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340.

Persons not physically qualified to drive a commercial motor vehicle because of a loss of foot, leg, hand, arm or certain impairments may be issued a waiver under 49 CFR 391.49. Waivers must be renewed every 2 years.

Extensions (Burden Change)

• Coast Guard
Masters Report of Seamen Shipped or Discharged
CG–735T
On occasion
Individuals or households/businesses or other institutions
U.S. merchant seamen & their shipping companies & represent.
SIC: 441 442
Water transportation: 18,000 responses, 9,000 hours; $30,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340.

Statement that contractual agreement is in effect between master and crew coastwise merchant vessels. Form shows date and place of sign-on and discharge of each crew member and allows agency to maintain employment records, crew lists and vessel activity files (46 USC 643 (1)).

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Office—Christine Scoby—202–382–4742

New

• Applications for Motor Vehicle Emission Certification and Fuel Economy Labeling
Annually
Businesses or other institutions
Motor vehicle and motor vehicle engine manufacturers
SIC: 371
Small businesses or organizations
Pollution control and abatement: 70 responses; 1,650,000 hours; $3,300,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Product information supplied by the manufacturers is used to verify that test requirements have been satisfied. Test results are reviewed to determine if emission standards have been met and to establish fuel economy values.

RAILROAD RETIREMENT BOARD

Agency Clearance Office—Pauline Lohens—312–751–4692

Revisions

• Application for Employee Annuity Under the Railroad Retirement Act
AA–1, AA–1D, AA–4, G–251
On occasion
Individuals or households
Applicants for retirement annuities
General retirement and disability insurance: 35,860 responses; 26,430

hours; $2,125,800 Federal cost; 4 forms; not applicable under 3504(h)
Robert Neal, 202-395-6880

The Railroad Retirement Act provides for payment of age and disability annuities to qualified employees. The application obtains information about the applicant's family, work history, military service, benefits from other Government agencies and public or private pension. The information is used to determine entitlement to and amount of annuity applied for.

Arnold Strasser,

Chief, Reports Management (Acting).

[FR Doc. 81-34378 Filed 11-27-81; 8:56 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18262; SIPA-100]

Regulation of Broker-Dealers; Interest-Bearing Free Credit Balances

AGENCY: Securities and Exchange Commission.

ACTION: Notice to Broker-Dealers Concerning Interest-Bearing Free Credit Balances.

SUMMARY: The Securities and Exchange Commission today cautioned broker-dealers against soliciting customers to deposit or leave funds with a broker-dealer for the purpose of creating or maintaining cash balances solely to earn interest. The Securities Investor Protection Act of 1970 protects "customer" claims up to $500,000 per customer, no more than $100,000 of which can be claims for cash. Protection under that Act is available for a cash balance, however, only if that balance is in an account for the purpose of purchasing securities or as a result of a sale of securities. Cash balances created or maintained solely for the purpose of earning interest are not protected under that Act. Therefore, misrepresentations by broker-dealers about the availability of protection under that Act and other misleading broker-dealer advertising, promotional or selling practices that could result in a denial of "customer" status and thus protection under that Act—because such practices, among other things, induce investors to deposit or leave funds with a broker-dealer solely for the purpose of earning interest—will be deemed violations of the rules of the self-regulatory organizations and the Commission. Advertisements that misrepresent the availability of protection under the Securities Investor Protection Act of 1970 also will be deemed violations of section 15(d) of that Act.

DATE: November 17, 1981.

FOR FURTHER INFORMATION CONTACT: Harry Melamed (202/272-2897), Senior Special Counsel, or Thomas V. Sjoblom (202/272-2913), Branch Chief, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Some broker-dealers current by state, in oral communications and in written advertisements, that they pay interest on customers' free credit balances.[1] The Commission believes that the payment of interest by broker-dealers on free credit balances that arise as an incidence of customer securities activities is a business matter between a broker-dealer and its customer and normally will not raise regulatory concerns.[2] When broker-dealers engage in certain advertising, promotional or selling practices to obtain these funds, however, those practices may constitute violations of the Securities Investor Protection Act of 1970 ("SIPA") and the rules of self-regulatory organizations ("SRO's") and the Commission.

I. Protection of Customer Funds Under SIPA

SIPA provides specific, limited protection to customers of broker-dealers that are forced to liquidate. Currently, the limits of protection are $500,000 per customer, no more than $100,000 of which can be claims for cash.[3] Section 16(2) of SIPA, however, defines the term "customer" to include, among others, "any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities * * *" If a person is not a "customer" as that term is defined in Section 16(2) of SIPA, free credit balances will not be protected under SIPA.

For purposes of determining whether persons creating or maintaining interest-bearing free credit balances are customers under SIPA, the Securities Investor Protection Corporation ("SIPC") has adopted the following policy:

> Cash balances are protected under the Securities Investor Protection Act if the money was deposited or left in a securities account for the purpose of purchasing securities. This is true whether or not the broker pays interest on the cash balances. Of course, cash balances maintained solely for the purpose of earning interest are not protected.
>
> SIPC presumes that cash balances are left in securities accounts for the purpose of purchasing securities. It would require substantial evidence to the contrary to overcome this presumption. Standing alone, the fact that a cash balance was earning interest and was not used to purchase securities for a considerable period of time, say four or five months, would not be sufficient to overcome the presumption.[4]

SIPC's policy statement essentially provides a rebuttable presumption that customers' cash (free credit) balances on which interest is paid are created and maintained for the purpose of purchasing securities. SIPC's statement refers to both money "deposited" and money "left" in a securities account for the purpose of purchasing securities. This dual reference thus encompassess not only funds that are initially given to a broker-dealer by the customer, but also monies paid to a broker-dealer as dividends or interest on the customer's securities or as proceeds from the sale of the customer's securities. SIPC's statement, however, explicitly excludes from SIPA coverage interest-bearing cash (free credit) balances that are maintained solely for the purpose of earning interest.

SIPC's statement also indicates that the payment of interest in and of itself for a period of four or five months would not overcome the presumption of SIPA coverage. SIPC has retained the right, however, to challenge this presumption in any liquidation proceeding of a broker-dealer by the introduction of substantial evidence to the contrary showing that the investor's funds were maintained in an account solely for the purpose of earning interest.

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[1] Free credit balances are customers' funds held by broker-dealers that may be withdrawn by customers on demand. Usually, they are generated when (i) a customer gives cash to the broker-dealer with advice that instructions for the purchase of securities will follow; (ii) a broker-dealer receives interest or dividends on the customer's securities held in "street" name and does not immediately transmit those funds to the customer; or (iii) a broker-dealer sells a customer's securities and holds the proceeds pending reinvestment or other instruction from the customer. *See* SEC, Report of the Special Study of the Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess., pt. 1, ch. III, at 393-94 (1963). Free credit balances are liabilities owed by the broker-dealer to the customer. *See* 17 CFR 240.15c3-3(a)(6).

[2] The Commission also believes, however, that there may be a regulatory distinction, for purposes of application of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940, between the conventional type of interest-bearing free credit balance that arises as an incidence of maintaining a securities account for a customer and an interest-bearing account that is, in economic reality, a separate security.

[3] *See* Section 9(a)(1) of SIPA, 15 U.S.C. 78fff-3(a)(1).

[4] SIPC, Semi-Annual Report, June 30, 1981.

Since SIPA protection is available only for a cash balance in an account for the purpose of purchasing securities or as a result of a sale of securities, the Commission cautions persons who deposit or leave money with a broker-dealer solely for the purpose of earning interest that, based on SIPC's statement, they would not be entitled to SIPA protection. The Commission also cautions broker-dealers that they must consider this limitation in connection with their advertising, promotional and selling practices regarding interest-bearing free credit balances.

II. Advertising, Promotional and Selling Practices by Broker-Dealers

Some broker-dealers appear to be engaging in questionable advertising, promotional and selling practices when soliciting funds from existing customers or when soliciting funds for new accounts from other investors specifically for the purpose of creating or maintaining free credit balances on which interest will be paid. These practices raise questions under SIPA and under the rules of SRO's and the Commission when they induce investors to deposit or leave funds with a broker-dealer solely for the purpose of earning interest.

Pursuant to section 15(d) of SIPA, members of SIPC must comply with the prohibition on advertising specified in SIPC's bylaws.[5] In addition, Rule 436 of the New York Stock Exchange, Inc. ("NYSE") prohibits a member organization (other than a member organization that is subject to supervision of state banking authorities) from paying interest on any free credit balance created for the purpose of receiving interest.[6] Finally, the NYSE's constitution and rules, the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") and the Commission's SECO Rule 15b10-2 under the Securities Exchange Act of 1934 require member and nonmember broker-dealers to observe "high standards of commercial honor" and "just and equitable principles of trade" in the conduct of their business.[7]

Misrepresentations by broker-dealers about the availability of SIPA protection and other misleading advertising, promotional and selling practices by broker-dealers that could result in a denial of "customer" status under SIPA because such practices induce investors to deposit or leave funds with a broker-dealer solely for the purpose of earning interest are inconsistent with just and equitable principles of trade.[8] Those practices not only are unethical but also may violate NYSE Rule 436 or section 15(d) and SIPC's advertising bylaw. In addition, broker-dealers opening a new customer account or holding customer funds in an existing account establishing a free credit balance have a duty not to misrepresent the circumstances under which SIPA coverage for that balance may be available.[9] Accordingly, broker-dealers that pay interest on free credit balances should review their procedures to ensure that they are not misleading their customers as to the existence of SIPA coverge.

Some of the advertising, promotional and selling practices by broker-dealers that may raise questions under the above rules include:

1. Advertising the payment of interest on customers' free credit balances and representing the availability of SIPA coverage without disclosing the limitations on that coverage.

2. Encouraging customers not to invest in money market funds because of the absence of SIPA protection; and instead, based on representations of the availability of SIPA coverage for free credit balances, encouraging customers to deposit funds with a broker-dealer in accounts establishing those balances solely to earn interest.

3. Inducing customers to create and maintain interest-bearing free credit balances on the basis that those balances will be invested in Treasury bills or maintained in a special reserve account when in actuality the broker-dealer uses the funds primarily to finance other customers' margin loans as permitted by Rule 15c3-3.[10]

4. Compensating salesmen on the basis of the amount of free credit balances in the accounts of customers, so that salesmen induce customers to create, maintain or increase interest-bearing free credit balances, without regard to market conditions, for long periods of time without related securities transactions.[11]

Therefore, misrepresentations by broker-dealers about the availability of SIPA protection for interest-bearing free credit balances and other misleading advertising, promotional and selling practices that could result in a denial of "customer" status under SIPA will be deemed violations of section 15(d) of SIPA, NYSE Rule 436 and the rules of the self-regulatory organizations and the Commission concerning just and equitable principles of trade.

By the Commission.

Dated: November 17, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-33056 Filed 11-27-81; 8:45 am]

BILLING CODE 8010-01-M

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[5] SIPC's advertising bylaw, among other things, prohibits member firms from (i) either displaying any sign or symbol or including in any advertising, promotional or other material any statement or explanation relating to SIPC or SIPC membership other than the official brochure, symbol, advertising or explanatory statement approved by SIPC, and (ii) advertising by means of the official symbol, official advertising statement or official explanatory statement if SIPA would not under most circumstances provide protection with respect to the investment advertised. *See* Article 11, Section 4(g) of SIPC's bylaws. A broker-dealer that advertises SIPA protection of customers' funds when the broker-dealer's practices induce customers to deposit those funds solely for the purpose of earning interest is violating SIPC's advertising bylaw.

[6] NYSE Rule 436 states that: No member organization, unless subject to supervision by State banking authorities, shall pay interest on any credit balance created for the purposes of receiving interest thereon. Credit balances arising out of transactions in securities or commodities or incidental to any business regularly carried on by a member organization prior to August 2, 1933, shall not be subject to the provisions of this Rule unless it appears that such credit balances have been increased solely for the purpose of receiving interest thereon.

In addition, the NYSE has interpreted that rule as follows:

Reinvestment: Interest may be paid on 'free' credit balances left with a member organization for the purpose of reinvestment or temporarily being held awaiting investment. Member organizations should, however, devise a method for determining whether the credit balance is left for investment or reinvestment purposes to ensure that such funds are fully protected by SIPC (e.g., not being deposited solely to earn interest) and that its activities do not violate applicable banking laws. (Also see definition of 'customer' in the Securities Investor Protection Act, Section 16(3) [sic]. NYSE Guide-Volume 3.)

Solicitation of Credit Balances: Member organizations and their associated persons may not solicit the deposit or retention of free credit balances from customers for the purpose of paying interest thereon, unless the member organization is registered under and subject to the banking laws. Special compensation paid to associated persons in this regard may be deemed evidence of solicitation.

NYSE, *Interpretation Handbook*, NYSE Rule 436, at 4380 (September 1981).

[7] *See* Article I, Section 2(a) of NYSE constitution; Article III, Section 1 of the NASD's Rules of Fair Practice, NASD Manual (CCH) ¶2151; and 17 CFR § 240.15b10-2.

[8] For a discussion of the meaning of "just and equitable principles of trade," *see In re Valley Forge Securities Co.*, 41 S.E.C. 488 (1963); *In re NASD, Inc.*, 19 S.E.C. 424, 480 (1945) (Comm'r Healey, dissenting in part); L. Loss, *The SEC and The Broker-Dealer*, 1 Vand. L. Rev. 516, 521 (1948); II L. Loss, *Sec. Reg.* 1359, 1363-64 & n.11 (2d ed. 1961). *See also Buchman v. Securities & Exchange Comm'n*, 553 F.2d 816, 821 (2d Cir. 1977) (test for violation of ethical standard embodies in Article III, Section 1 of the NASD's Rules of Fair Practice is "bad faith").

[9] If a broker-dealer makes any representation about the availability of SIPA protection, he must be sure that representation does not mislead customers as to the nature and extent of SIPA coverage.

[10] *See* 17 CFR § 240.15c3-3.

[11] *See also* interpretations of NYSE Rule 436, *supra* note 6.

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 20, 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 Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Ener Serv Products Inc.
Common Stock, $1 Par Value (File No. 7-6090)
Heizer Corporation
Common Stock, $.01 Par Value (File No. 7-6091)
Integrated Energy, Inc.
Common Stock, $.01 Par Value (File No. 7-6092)
OKC Limited Partnership
Depository Receipt (File No. 7-6093)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 14, 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 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. 81-34277 Filed 11-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22283; (70-6656)]

New England Electric System; Proposal To Issue and Sell Common Stock Pursuant to a Dividend Reinvestment and Common Share Purchase plan

November 20, 1981.

New England Electric System ("Company"), 25 Research Drive, Westborough, Massachusetts 01581, a resgistered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(1)(a) and 5(a)(5) promulgated thereunder.

By order dated August 1, 1977 (HCAR No 20121) the Company was authorized to issue and sell through August 1, 1979, a maximum of 500,000 shares of its authorized common shares, $1 par value, pursuant to a Dividend Reinvestment and Common Share Purchase Plan ("Plan"). All 5000,000 shares have been issued thereunder. By further order, dated June 7, 1979 (HCAR No. 21091), the Company was authorized to extend the period for issuing additional common shares through December 31, 1981, and to issue an additional 1,500,000 common shares, or an aggregate of 2,000,000 shares, pursuant to the Plan. As of September 30, 1981, approximately 900,000 of the additional 1,500,000 shares have been issued thereunder.

The Company proposes to extend the period for issuing common shares to December 31, 1985 and to issue an additional 3,000,000 of its authorized but unissued common shares ("Additional Common Shares") or an aggregate of 5,000,000 shares pursuant to the Plan. On October 28, 1981 the closing price on the New York Stock Exchange-Composite Transactions of NEES common shares was $23.50 per share. If the additional 3,000,000 shares were sold at that price, the proceeds would aggregate $70,500,000 through December 31, 1985, which is the end of the requested authorization period. The proceeds from the sale will be used for investment in the Company's subsidiaries, payment of indebtedness of the Company or general purposes of the Company.

Participants in the Plan may (a) have cash dividends on all of their common shares automatically reinvested at a 5% discount, (b) have cash dividends on only a portion of their shares automatically reinvested at a 5% discount, (c) continue to receive their cash dividends and invest by making optional cash payments (with no discount) not more frequently than once a month of not less than $25 per payment, or (d) reinvest all or a portion of their cash dividends at a 5% discount, and in addition, invest by making optional cash payments (with no discount). The Company reserves the right to refuse any optional cash payment in excess of $5,000. The price of common shares purchased with reinvested cash dividends will be 95% of the average of the daily averages of the high and low prices of the Company's common shares reported for the New York Stock Exchange-Composite transactions listing during each of the last five trading days ending with the Investment Date. The price of common shares purchased with optional cash payments will be 100% of such average. The above pricing formula or any other provisions of the plan may be changed as required by the rules and regulations issued by the U.S. Internal Revenue Service, pursuant to the Economic Recovery Tax Act of 1981.

The Company requests an exception from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) with respect to the issuance and sale of Additional Common Shares through the optional cash payments provision of the Plan.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 16, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in 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 isued in this matter. After said date the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-34307 Filed 11-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18280; (SR-PSE-81-17)]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

November 20, 1981.

On September 10, 1981, the Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, Calif. 90014, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change to modify PSE Rule III, section 9 relating to short sales to conform it to Rules 10a-1 and 10a-2 under the Securities Exchange Act of 1934. In addition, the proposed rule change

would prohibit registered specialists and market makers on the PSE from utilizing the equalizing exemption in circumstances where the Board of Governors determines that short sales in a security for which trades are reported in a consolidated system shall be effected based upon the last sale of such security, regular way, on the PSE.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18136, October 1, 1981) and by publication in the **Federal Register** (46 FR 50454, October 13, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-34308 Filed 11-27-81; 8:45 am]

BILLING CODE 8010-01-M

[SR-MCC-81-7 etc.; Rel. No. 18277]

Midwest Clearing Corp. et al.; Filing of and Order Approving Proposed Rule Changes.

November 20, 1981.

In the matter of Midwest Clearing Corporation, 120 South LaSalle Street, Chicago, Illinois 60603 (SR-MCC-81-7), Pacific Clearing Corporation, 301 Pine Street, San Francisco, CA 94104 (SR-PCC-81-2), Stock Clearing Corporation of Philadelphia, 1900 Market Street, Philadelphia, PA 19103 (SR-SCCP-81-6).

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") notice is hereby given that on November 18, 1981, Midwest Clearing Corporation ("MCC"), Pacific Clearing Corporation ("PCC") and Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Commission proposed rule changes that make uniform the over-the-counter ("OTC") comparison systems used by the various clearing agencies. Upon approval of the proposed rule changes MCC, PCC and SCCP will convert from the OTC comparison mode operated by PCC to the system operated by National Securities Clearing Corporation ("NSCC"), which should enhnace the accuracy of OTC trade comparison and facilitate the resolution of uncompared trades. The coversion will extend certain OTC comparison features currently offered NSCC participants to participants in MCC, PCC and SCCP. These features, among others, include use of "Executed By" broker information on trade input and "Demand-As-Of" Advisory Notices for trades that fail to compare during the initial comparison cycle. In addition, the system will continue to provide the standard As-Of, Withhold and Advisory features.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Person desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File Nos. SR-MCC-81-7, SR-PCC-81-2 and SR-SCCP-81-6.

Copies of the submission, with accompanying exhibits, and of all written comments, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing, for several reasons. First, accelerated approval would facilitate the prompt and accurate clearance and settlement of securities by establishing immediately, and on a national basis, a uniform comparison system for OTC trades submitted to participating registered clearing agencies. Second, accelerated approval would extend immediately, to participants in MCC, PCC and SCCP, the beneficial features of the NSCC OTC comparison system, thereby expediting resolution of uncompared trades on a uniform, national basis. Third, accelerated approval would decrease for broker-dealers the administrative burdens and financial cost of carrying uncompared trades, by reducing the number of aged uncompared trades. Finally, need for delayed implementation does not exist because policy and other issues relating to the specific features of the OTC comparison system were fully considered and resolved when the Commission reviewed SR-NSCC-80-17 (45 FR 37789) and approved SR-NSCC-80-16 (45 FR 60100).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-34313 Filed 11-27-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4-A]

Assistant Administrator for Policy, Planning and Budgeting; Redelegation of Financial Management Authority

I. Pursuant to the authority delegated by the Administrator in Delegation of Authority No. 4 (46 FR 52267), to the Assistant Administrator for Policy, Planning and Budgeting, the following authority is hereby redelegated to the specific positions as indicated herein:

A. *Financial Management.*

1. *Controller.* To assign, endorse, transfer, deliver or release (but in all cases without representation, recourse, or warranty) promissory notes, bonds, debentures and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

2. *Director, Office of Accounting Operations.* Same as paragraph A.1 above.

3. *Chief, Accounting Section.* Same as paragraph A.1 above.

4. *Chief, Fiscal Section.* Same as paragraph A.1 above.

II. The specific authorities delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as acting in that position.

Effective date: November 30, 1981.

Dated: November 20, 1981.

Joe Garcia,

Assistant Administrator for Policy, Planning and Budgeting.

[FR Doc. 81-34178 Filed 11-27-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2015; Amdt. No. 2]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 46 FR 55174) and amendment No. 1 (See 46 FR 56533) are amended by adding Clay County as a result of damage caused by flooding which occurred on October 12–16, 1981. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on December 24, 1981 and for economic injury until the close of business July 23, 1982.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 5, 1981.

Michael Cardenas,

Administrator.

[FR Doc. 81-34177 Filed 11-27-81; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Companies; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 303(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective December 1, 1981, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.195 percent per annum.

Dated: November 20, 1981.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 81-34290 Filed 11-27-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATON

Federal Highway Administration

Environmental Impact Statement; Loudon and Knox Counties, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Loudon and Knox Counties and the City of Knoxville, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway Suite A-926, Nashville, Tennessee 37203, telephone (615) 251-5394.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to increase the level of service of a section of Interstate 40/75 in Loudon and Knox Counties. The proposed improvement would involve the widening of the existing Interstate facility or the development of an alternative which would decrease traffic volumes on the existing Interstate facility. The proposed improvement would be from the Interstate 75 Directional Interchange with Interstate 40 (Hope Gap Interchange; I-40 mile marker 368 in Laudon County to the Papermill Road Interchange (I-40 mile marker 383) in Knoxville, Knox County and would have a length of approximately fifteen (15) miles. Improvement of the corridor is considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) mass transit; (3) transportation system management (TSM); (4) a bypass, and (5) widening and upgrading the existing route.

A public meeting was held in Knoxville on May 28, 1981. Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State and local agencies on October 8, 1981. In addition, another public meeting and a corridor public hearing and a design public hearing will be held. Public notice will be given of the time and place of the public meeting and hearings. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and project apply to this program)

Dated: November 18, 1981.

Edward G. Oakley,

Division Administrator, Tennessee Division, Nashville, Tennessee.

[FR Doc. 81-34258 Filed 11-27-81; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 79-11; Notice 4]

Highway Safety Innovative Project Grant Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of Awards for FY 1981.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the award of 19 project grants funded under the Highway Safety Innovative Project Grant Program. The administrative procedure for application, selection and award of these grants was established by notice in the **Federal Register** on December 22, 1980 (45 FR 84195).

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Livingston, Associate Administrator, Office of Traffic Safety Programs, 400 Seventh Street SW., Washington, D.C. 20590 (202) 426-0837.

SUPPLEMENTARY INFORMATION: Awards for Innovative Project Grants were made on September 29, 1981, to the following organizations in the amounts designated:

1. Vermont—Seat Belts Eliminate Automobile Tragedies (SEAT), Burlington, $60,000.

The grantee will assess the effectiveness of an educational program to improve child passenger usage, using observation studies in four settings.

2. American Trauma Society, San Francisco, CA, $8,697.

The grantee will provide child restraint information to both expectant parents and parents whose babies have been delivered. The usage rates of child safety seats in each group will then be compared.

3. Remove Intoxicated Drivers (RID), Schenectady, New York $50,000.

The grantee will create new methods to promote existing RID chapters and determine their impact on highway safety.

4. National Safety Council, IL, $70,000.

The grantee will develop non-traditional constituencies (among industry) to support highway safety efforts.

5. Public Technology, Inc., Washington, D.C., $70,000

The grantee will prepare an Alcohol Safety Action Guide for Local Governments, with city group members participating in its development, and promote its adoption by local governments nationwide.

6. California League of Alternative Service Programs (CLASP), Oakland, California, $95,000.

The grantee will develop an alternative community service sentencing resource center for traffic safety. Written standards and procedures for alternative sentencing will be developed.

7. Highway Safety Research Center, University of North Carolina, Chapel Hill, North Carolina, $70,000.

The grantee will look at experimental strategies involving incentives for increasing safety belt usage.

8. Michigan Association of Traffic Safety, Lansing MI, $19,000.

The grantee will promote occupant restraint use within 20 to 25 companies in Michigan.

9. School of Public Health, University of California, Los Angeles, California, $30,000.

The grantee will assess the effectiveness of an educational program designed for preschool children to develop the habit of using car safety seats.

10. California Mothers Against Drunk Drivers (MADD), Fair Oaks, California, $60,000.

The grantee will establish 17 MADD chapters nationally and publish a survivors' rights manual.

11. Mid-Hudson Remove Intoxicated Drivers (RID), Kingston, New York, $50,000.

The grantee will monitor law enforcement and court procedures in an effort to influence the adjudication process and thus achieve an increase in conviction rates.

12. Public Policy Research Organization, University of California, Irvine, California, $95,000.

The grantee will investigate motor vehicle related injuries in non-crash events using medical facilities as monitoring sites.

13. National Public Services Research Institute, Alexandria, Virginia, $35,000.

The grantee will assess the impact of early suspension of drivers licenses for short durations from two perspectives: accident/conviction reduction and the threat value.

14. Indiana University Foundation, Indianapolis, Indiana, $19,000.

The grantee will analyze and estimate the "biases" inherent in the case control method for collecting data on driver and vehicle exposure to risk of accident.

15. College of Health Science and Hospital School of Medicine, Kansas City, Kansas, $50,000.

The grantee will compare usage rates of child restraints, using post test design. Grantee will gather data at offices of participating physicians when babies are brought in at four weeks, six weeks, six months, and one year.

16. Highway Safety Research Institute, Ann Arbor, Michigan, $35,000.

The grantee will develop a version of a multiple contingency table analysis program into a form for use in one or more small computers, and prepare the documentation necessary to make it usable by analysts in traffic safety related operational agencies.

17. Central Virginia Education Television, Richmond, Virginia, $88,000.

The grantee will develop, together with the Virginia Department of Transportation, the Virginia Department of Education and WCVE/WCVW-TV, a television learning package designed for potential drivers and young adults.

18. The Rehabilitation Institute of Chicago, Chicago, Illinois, $35,000.

The grantee will plan, organize and train a medical network of safety restraint proponents at McGraw Medical Center to be used as a model for development of similar networks of health care personnel.

19. School of Hygiene and Public Health, Johns Hopkins University, Baltimore, Maryland, $60,000.

The grantee will enlist the involvement of Health Departments in highway safety programs by gathering, analyzing and presenting information describing the current highway safety efforts of State health agencies.

Issued: November 24, 1981.

Charles F. Livingston,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 81-34284 Filed 11-27-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

Carolyn Churchill; Petition to Commence Defect Proceeding; Denial

This notice sets forth the reasons for a denial of a petition to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On February 10, 1981, Ms. Carolyn Churchill of Colorado Springs, Colorado, petitioned for an investigation into three alleged safety related defects in her 1980 Volkswagen Rabbit diesel passenger car. The conditions involved a potential engine runaway problem, a throttle mechanism that occasionally stuck without warning, and a defective fuel injection pump.

The runaway engine problem and throttle mechanism are the subject of current NHTSA investigations C80-04 and C81-02. Accordingly, a copy of Ms. Churchills letter was placed in each of these files, and her petition was deemed moot on these subjects.

NHTSA's investigation of the fuel injection pump allegation uncovered 28 consumer complaints, none of which alleged accident or injury, as well as numerous warranty claims processed by Volkswagen on this item. Some owners of vehicles covered by the engine runaway investigation had replaced fuel pumps in an attempt to correct the runaway condition. NHTSA believes that many fuel injection pump problems actually are similar to incidents associated with engine runaway, and thus that the current investigation covers the pump problem as well. Therefore, on November 2, 1981, NHTSA denied Ms. Churchill's petition.

(Secs. 124, 152 Pub. L. 93-492, 88 Stat. 1470.2, 15 U.S.C. 1410a, 1412); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on November 23, 1981.

Lynn Bradford,

Associate Administrator for Enforcement.

[FR Doc. 81-34176 Filed 11-27-81; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 81-289]

Gerry Schmitt & Co.; Cancellation Without Prejudice of Customhouse Broker License 2333

Notice is hereby given that the Commissioner of Customs, on November 2, 1981, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(a) Customs Regulations, as amended, upon the specific request of Geraldine Schmitt, Detroit, Michigan (d.b.a. Gerry Schmitt & Co.) cancelled without prejudice individual customhouse broker's license No. 2333 issued to her April 18, 1955, for Customs District No. 38. The Commissioner's decision is effective as of November 2, 1981.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 81-34202 Filed 11-27-81; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 229
Monday, November 30, 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 DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:50 a.m. on Tuesday, November 24, 1981, the Board of Directors of the Federal Deposit Insurance Corporation met in closed executive session, by telephone conference call, to consider certain personnel matters.

In calling the meeting, the Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Charles E. Lord (Acting Comptroller of the Currency), concurred in by Director Irvine H. Sprague (Appointive), that Corporation business required its consideration of the matters 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 matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Dated: November 24, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1782-81 Filed 11-25-81; 12:06 pm]

BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, December 4, 1981.

PLACE: 1700 G Street, N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Concurrently Submitted Applications—(1) Branch Office Application, Anchor SB, FSB, Northport, New York. (2) Branch Office Application, Anchor SB, FSB, Northport, New York. (3) Merger; Increase in Accounts of an Insurable Type, First Federal Savings and Loan Association of Hamburg, Hamburg, New York INTO Anchor SB, FSB, Northport, New York

Merger; Maintenance of Branch Office; Cancellation of Membership and Insurance; and Transfer of Stock—Calhoun Federal Savings and Loan Association, Calhoun, Georgia *into* First Federal Savings and Loan Association, Savannah, Georgia

Request for further Extension of time to open a Branch Office—First Federal Savings and Loan Association, Cedartown, Georgia

Permission to Organize a New Federal Association—Billy R. Lewis, et al., West Monroe, Louisiana

Designation of—Donald W. Wente and Harlan G. Halsne as Supervisory Agents as Provided for by Section 583.5(b) of the Holding Company Regulations

Delegation of Trust Department Applications

Negotiable Certificates of Deposit

No. 568, November 25, 1981.

[S-1780-81 Filed 11-25-81; 12:06 pm]

BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 56536, Tuesday, November 17, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, November 23, 1981.

CHANGES IN THE MEETING:

One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: (This matter was originally announced for a meeting on November 9, 1981.)

Federal Reserve Bank and Branch director appointments.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 24, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1783-81 Filed 11-25-81; 12:45 pm]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-81-37]

TIME AND DATE: 10 a.m., Tuesday, December 1, 1981.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 337-TA-97 (Certain Steel Rod Treating Apparatus and Components Thereof)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1785-81 Filed 11-25-81; 4:13 p.m.]

BILLING CODE 7020-02-M

5

[2P0401]

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters)

TIME AND DATE: 9:30 a.m., Tuesday, December 1, 1981.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 12 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals

Board, United States Parole Commission (301) 492–5987.

[S-1781-81 Filed 11-25-81; 12:06 pm]

BILLING CODE 4410-01-M

6

POSTAL SERVICE

Board of Governors; Meeting

The Board of Governors of the united States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 3:00 p.m. on Wednesday, December 2, and at 7:00 a.m. on Thursday, December 3, 1981, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. The Wednesday meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On November 6, 1981, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for December 3, 1981, which is expected to be attended by the following persons: Governors Hardesty, Ching, Babcock, Camp, Hughes, Hyde, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary to the Board Cox; and Counsel to the Governors Califano.

The meeting to be closed will consist of a discussion among the members of compensation for certain postal executives.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Review of the Annual Comprehensive Statement to the Congress.
   (Pub. L. 94–421 amended 39 U.S.C. 2401 to require the Postal Service to present a "Comprehensive Statement" to the Legislative and Appropriations Committees of the Congress having cognizance over postal matters. The Comprehensive Statement is to describe the plans, policies, and procedures of the Postal Service designed to comply with the policies of the Postal Reorganiation Act; postal operations generally; and financial summaries and projections. The Comprehensive Statement is on the Board's agenda because approval of the annual Comprehensive Statement is included in the list of matters that the Board has reserved for its own decision.)
4. Review of Capital Investment Program.
   (Mr. Biglin will review the general status and accomplishments under the Postal Service's Capital Investment Program.)
5. Procurement of Printers and Envelopers.
   (The Board will consider a proposed capital investment for additional printing and paper handling equipment to be used for computer-originated mail.)
6. National Academy of Public Administration Contract.
   (The Board will discuss the Postal Service's contract with the Academy for an assessment of the Postal Service progress under the Postal Reorganization Act.)
7. Adjustment of certain preferential postage rates.
   (The Governors will consider an adjustment to the rates for nonprofit and other subclasses of mail in view of the reduction in Congressional appropriations for these subclasses.)
8. Review of Postal Service Budget Program.
   (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the Postal Service's budget for FY 1983 as it is proposed for transmission to OMB and the Congress.)
9. Express Mail Forwarding and Address Correction Service.
   (The Board will consider the Recommended Decision of the Postal Rate Commission, issued November 19, 1981, on changes to the Domestic Mail Classification Schedule concerning forwarding and address correction for Express Mail (Commission Docket No. MC81–5).)
10. Attached Mail Proceeding.
    (The Board will consider a Recommended Decision of the Postal Rate Commission issued on November 20, 1981, on changes in classification and rates for pieces of First-Class Mail which form incidental attachments to pieces of certain other classes of mail (Commission Docket Nos. MC81–2 and R81–1).)

Louis A Cox,

Secretary.

[S-1779-81 Filed 11-25-81; 9:28 am]

BILLING CODE 7710-12-M

7

TENNESSEE VALLEY AUTHORITY

[No. 1279]

TIME AND DATE: 9 a.m. (e.s.t.), Wednesday, December 2, 1981.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

Action Items

B—Purchase Awards

1. Req. No. 29–193034—Tractor-scraper unit for Kingston and Johnsonville Fossil plants.
2. Req. No. 6–120599—500-kV power transformers for Murphy Hill, Alabama, Substation 300-kV.
3. Req. No. C3–586108—Indefinite quantity term contract for No. 2 diesel fuel oil for any TVA project or warehouse.
4. Contract for interruptible natural gas supply for Colbert Steam Plant gas turbine units.

C—Power Items

1. Adoption of supplemental resolution authorizing 1981 Series E Power Bonds.
2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1981 Series E Power Bonds.
3. Lease agreement with City of Gallatin, Tennessee, covering arrangements for consolidated 69–kV service at TVA's Gallatin 161–kV Substation.
4. Bill of sale and quitclaim deed covering conveyance of substation and transmission line facilities and properties to the city of Greenville, Tennessee.
5. Supplement to contract with UOP Inc., for evaluation of Dowa flue gas desulfurization system at TVA's Shawnee scrubber test facility.

D—Personnel Actions

1. Amendment to Personal Services Contract with ITT Grinnell Corporation, Providence, Rhode Island, for services in connection with the design of onsite pipe supports for the Bellefonte Nuclear Plant, requested by the Office of Engineering Design and Construction.

E—Real Property Transactions

1. Sale to the city of Courtland, Alabama, of a permanent easement for the construction, operation, and maintenance of sewage treatment facilities and access road affecting approximately 25.59 acres of the Courtland Plant site in Lawrence County, Alabama.
2. Agreement with Marshall County, Alabama, covering arrangements for highway adjustments necessitated by site preparation work and construction of proposed Murphy Hill Coal Gasification Plant.

*Grant of 19-year lease for commercial recreation development affecting approximately 13 acres of Fort Loudon Reservoir land on Tennessee Highway 33 (Old Maryville Pike) in Knox County, Tennessee—Tract No. XTFL–117L.

4. Abandonment of right of way easement affecting approximately 62.23 acres of the Columbia-Murfreesboro Transmission Line right of way in Maury, Rutherford, and Williamson Counties, Tennessee—Tract Nos. CMB–7, –8, –11, –12, –13, –14, –15, –44, –50, –51, –52, –53, –72, –73, –74, –75, –76, –77, –79, –80, –97, –98, –99, –100, –101, –102, –103, –104, –108, –109, –110, –112, –113, –114, –126, –127, and –128.
5. Filing of condemnation suits.

F—Unclassified

*Item approved by individual Board members. This would give formal ratification to the Board's action.

1. Selection of Park National Bank of Knoxville as an additional Retirement System trustee; and amendments to the System's trust agreements with American National Bank and Trust Company of Chicago, the Bank of New York, First American National Bank of Nashville, and Third National Bank in Nashville to increase investment flexibility.

Dated: November 25, 1981.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to request for information about this meeting. Call (615) 632–3247, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–1784–81 Filed 11–25–81; 8:45 am]

BILLING CODE 8120–01–M

federal register

Monday
November 30, 1981

Part II

Department of the Interior

Bureau of Land Management

Outer Continental Shelf Minerals and Rights-of-Way Management, General; Amendment to Streamline and Clarify Existing Provisions

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3300

Outer Continental Shelf Minerals and Rights-of-Way Management, General; Amendment to Streamline and Clarify Existing Provisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking will clarify and streamline provisions of the existing regulations on Outer Continental Shelf Minerals and Rights-of-Way Management, General and make them easier to understand. In addition, it makes a few changes needed to update the existing provisions.

DATE: Comments should be submitted by December 28, 1981.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Samuels, (202) 343–5121.

SUPPLEMENTARY INFORMATION: Since the regulations on Outer Continental Shelf Minerals and Rights-of-Way Management, General were promulgated in 1979, a number of sales have been held and this has resulted in the discovery of provisions that need to be streamlined. In addition, new and better procedures have been identified. This proposed rulemaking is designed to make these needed changes.

The first change that would be made is to replace the Call for Nominations and Comments on Tracts that is provided for in the existing regulations with a Call for Information on Areas. This change will allow the Department of the Interior to ask for information on broad areas for consideration for lease. Tentative Tract Selection would be replaced by Identification of Areas for environmental study and consideration for leasing. The period for consideration of bids would be extended from 60 to 120 days. These amendments will accommodate streamlining of the leasing process for industry and the Federal Government.

Existing regulations refer to Appendix B and require its use by all joint bidders. The appendix suggests a form of statement to be used by joint bidders to certify that they have complied with the joint bidding procedures contained in the regulations. The form and the requirement for its use would be deleted by this proposed rulemaking. The requirement is not needed because all joint bidders are bound by the provisions of the joint bidding provisions of the regulations whether they sign the form or not. The deletion of the form will remove a burdensome and duplicative provision.

Additional changes would clarify the distinction between those provisions of the regulations which apply to oil and gas leasing and those which apply to the leasing of hard minerals.

Another change that would be made by the proposed rulemaking would accommodate the new alternative bidding systems provided for in the regulations of the Department of Energy.

The proposed rulemaking makes a change that is designed to reduce the paperwork burden on bidders and the Federal Government by altering the form of qualifications documents required to be filed by those participating in the oil and gas leasing program.

Finally, the proposed rulemaking would make an amendment requiring the use of a new form created by the Department of the Treasury in remitting the balance of any bonus due and the first year's rental at the time of acceptance of an oil and gas lease by the United States. The new document would be called a Federal Reserve Check. This new procedure would make the acceptance of any amount due more efficient.

The principal author of this proposed rulemaking is Robert Samuels, Division of Offshore Resources, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities.

The information collection requirements contained in the amendments to 43 CFR Part 3300 (Subparts 3310, 3315, 3316, 3318, 3319, 3340 and §§ 3313.1 and 3320.1) have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), it is proposed to amend Part 3300, Group 3300, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3300—OUTER CONTINENTAL SHELF MINERALS AND RIGHTS-OF-WAY MANAGEMENT; GENERAL

1. Section 3300.2 is amended by:

(a) Revising paragraph (a) to read:

§ 3300.2 Information to States.

(a) The information covered in this section is prepared by or directly obtained by the Director. Such information is typically not considered to be proprietary or privileged, with the primary exception of specific indications of interest in an area by industry received in response to a Call for Information issued by the Secretary. All other proprietary and privileged information is obtained by or under the control of the Geological Survey which is responsible for its release in accordance with its regulations (See 30 CFR Parts 250, 251 and 252).; and

* * * * *

(b) Revising paragraph (d) to read:

* * * * *

(d) Upon request, the Director shall provide relative indications of interest in areas as well as any comments filed in response to a Call for Information for a proposed sale. However, no information transmitted shall identify any particular area with the name of any particular party so as not to compromise the competitive position of any participants in the process of indicating interest.

2. Section 3300.4 is revised to read:

§ 3300.4 Payment.

(a) Payment of the balance of the bonuses, including deferred bonuses, and the first year's rental shall be by Federal Reserve Check drawn on the Federal Reserve Bank in or serving the city in which the office conducting the particular lease sale is located and payable to the Bureau of Land Management. Such payments, as well as filing charges and fees, annual rentals and costs for grant of pipeline rights-of-way shall be made to the Managers of the appropriate OCS field office. All payments other than the balance of the bonus bid and the first year's rental for leases shall be made by cash, check or bankdraft payable to the Bureau of Land Management unless otherwise directed by the Secretary.

(b) Federal Reserve Checks originate at Federal Reserve Bank member banks

and represent a charge against their Federal Reserve Bank reserve account. Cut-off times for presentation of the checks to the Bureau field office and the required Federal Reserve Bank or Branch against which they shall be drawn shall be detailed at the time that leases are transmitted to successful bidders for execution.

(c) All other payments required by a lease or the regulations in this part shall be payable to the United States Geological Survey.

3. The title of Subpart 3310 is revised to read:

Subpart 3310—Oil and Gas Leasing Program

§ 3310.2 [Amended]

4. Section 3310.2 is amended by:

(a) Revising the title of the section to read:

§ 3310.2 Review by State and local governments and other persons.; and

(b) Amending paragraph (b) by inserting in the third sentence after the phrase "or local government" the phrase "or other persons".

5. Subpart 3313 is amended by revising the title to read:

Subpart 3313—Call for Information

6. Section 3313.1 is revised to read:

§ 3313.1 Information on areas.

(a) The Director may receive and consider indications of interest in areas for mineral leasing.

(b) In accordance with an approved program and schedule for the leasing of OCS lands which may contain oil and gas, the Director shall issue Calls for Information on areas for leasing of such minerals in specified areas. The Call for Information shall be published in the **Federal Register** and may be published in other publications as desirable. Information on areas shall be addressed to the Manager of the appropriate OCS office, with a copy to the appropriate Regional Conservation Manager of the Geological Survey. The Director shall also request comments on areas which should receive special concern and analysis. For an oil and gas lease sale Call area, the Director may request comments concerning geological conditions, including bottom hazards; archeological or cultural sites on the seabed or nearshore; multiple uses of the proposed leasing area, including navigation, recreation and fisheries; and other socioeconomic, biological and environmental information.

§ 3313.2 [Amended]

7. Section 3313.2 is amended by:

(a) Revising the title to read:

§ 3313.2 Areas near Coastal States.; and

(b) Revising paragraphs (a) and (b) to read:

(a) At the time information is solicited for leasing of areas within 3 geographical miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of that State information required under section 8(g)(1) of the Act. The Director shall furnish information identifying the areas for leasing as well as all relevant available environmental data for such areas (See 30 CFR 251.14).

(b) After receipt of information on areas within the area described in paragraph (a) of this section, the Secretary shall inform the Governor of those areas that are to be given further consideration for leasing. The Secretary shall enter into consultation with the Governor to determine whether the area may contain oil or gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State.

* * * * *

8. The title of Subpart 3314 is revised to read:

Subpart 3314—Area Identification and Tract Size

9. Section 3314.1 is revised to read:

§ 3314.1 General.

(a) The Director, in consultation with the Director, Geological Survey and other appropriate Federal agencies, shall recommend to the Secretary areas identified for environmental analysis and consideration for leasing. The Director, on his/her own motion, in consultation with the Geological Survey, may include in the recommendation areas in which interest has not been indicated in response to a Call. In making a recommendation, the Director shall consider all available environmental information, multiple-use conflicts, resource potential, industry interest and other relevant information. Comments received from States and local governments and interested parties in response to Calls for Information shall be considered in making recommendations.

(b) The Director shall evaluate fully the potential effect of leasing on the human, marine and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations. The views and recommendations of Federal agencies, State agencies, local governments, organizations, industries and the general public shall be used as appropriate. The Director may hold public hearings on the environmental analysis after appropriate notice.

(c) In general, the Director shall seek to inform the public as soon as possible of additions or deletions that occur after the identification of areas.

10. Section 3314.2 is revised to read:

§ 3314.2 Tract size.

(a) A tract selected for oil and gas leasing shall consist of a compact area not exceeding 5,760 acres, unless the authorized officer finds that a larger area is necessary to comprise a reasonable economic production unit.

(b) The tract size for the leasing of other minerals shall be specified in the notice of sale.

11. Section 3315.4(b) is revised to read:

§ 33154.4 Notice of sale.

* * * * *

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. A suggested format for bidder submissions appears in Appendix A of this part.

* * * * *

12. Section 3316.4(e) is revised to read:

§ 3316.4 Submission of bids.

* * * * *

(e) If the bidder is a corporation, the following information shall be submitted with the bid:

(1) A statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of either a certified copy of the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so; or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

* * * * *

13. Section 3316.4 is amended by removing paragraph (g) in its entirety

and renumbering paragraphs (h) and (i) as paragraphs (g) and (h).

14. Section 3316.5(e) is revised to read:

§ 3316.5 Award of leases.

* * * * *

(e) If the authorized officer fails to accept the highest valid bid for a lease within 120 days after the date on which the bids are opened, all bids for that lease shall be considered rejected.

* * * * *

15. Section 3316.6 is revised to read:

§ 3316.6 Lease form.

Oil and gas leases and leases for sulphur shall be issued on forms approved by the Director. Other mineral leases shall be issued on such forms as may be prescribed by the Secretary.

§ 3317.1 [Amended]

16. Section 3317.1 is amended by:

(a) Amending paragraph (a) by removing the word "fixed";

(b) Amending paragraph (b) by removing from the first sentence the word "fixed"; and

(c) Amending paragraph (e) by removing the word "fixed" in the two places it appears.

17. Section 3317.2 is amended by adding a new paragraph (c) to read:

§ 3317.2 Royalties.

* * * * *

(c) Royalties on other minerals shall be at the rate specified in the notice of sale.

Appendix B [Removed]

18. Appendix B is removed in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 30, 1981.

[FR Doc. 81-34204 Filed 11-27-81; 8:45 am]

BILLING CODE 4310-84-M

federal register

Monday
November 30, 1981

Part III

Department of Agriculture

Federal Grain Inspection Service

Grain Standards; Inspection Points; Designations and Terminations

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Request for Applications for Official Agency designation in the State of Alaska

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Federal Grain Inspection Service (FGIS) is requesting applications for official agency designation in all of the State of Alaska, excluding export port locations.

DATE: Applications to be postmarked on or before December 28, 1981.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, D.C. 20250; telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1521–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f) (1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant meets the conditions as stated therein and is better able than any other applicant to provide official inspection services in an assigned geographic area.

The geographic area that is available for assignment is all of the State of Alaska, excluding export port locations. FGIS will continue to provide official services at any export port locations in the State of Alaska in accordance with section 7(e)(1) of the Act.

Section 7(h) of the Act provides FGIS authority to perform official inspection services at any location other than export port locations where the Administrator determines such services are needed and there is no official agency designated. Under section 7(h), FGIS has been providing official inspection services in Alaska for 2 years. FGIS can provide official inspection services at such locations only until such time as the services can be provided on a regular basis by a designated official agency.

Under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder, interested parties are hereby given opportunity to apply for designation as the official agency to perform official inspection services in the geographic area as described above. This designation for official inspection services in this area will terminate no later than 3 years from the date of designation. Parties wishing to apply for the designation should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information.

Applications must be postmarked not later than December 28, 1981. (30 days after publication).

In making a determination as to which applicant will be designated to provide official inspection services in the geographic area, consideration will be given to all applications submitted and all other information available to the Administrator. All applications submitted pursuant to this notice will be available for public inspection at the Regulatory Branch, Compliance Division, during regular business hours.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: November 23, 1981.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 34241 Filed 11–27–81; 8:45 am]

BILLING CODE 3410-EN-M

Termination of Designations of the Little Rock Grain Exchange Trust and the Memphis Grain and Hay Association

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the designations of two official agencies will terminate on May 31, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection services in the geographic areas currently serviced by each of the two present agencies. The two official agencies are the Little Rock Grain Exchange Trust and the Memphis Grain and Hay Association.

DATE: Applications to be postmarked on or before December 28, 1981.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.* at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able then any other applicant to provide official inspection services in an assigned geographic area.

The Little Rock Grain Exchange Trust (Little Rock), 600 Olive Street, Building B, North Little Rock, Arkansas 72119, was designated as an official agency under the Act for the performance of offical grain inspection functions on February 1, 1979. The Memphis Grain and Hay Association (Memphis), 1390 Channel Avenue, P.O. Box 13302, Memphis, Tennessee 38113, was designated as an official agency under the Act for the performance of official grain inspection functions on February 1, 1979. The two agencies' designations will terminate on May 31, 1982. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Little Rock in the States of Texas and Arkansas pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the following:

In Texas, the area includes Bowie and Cass Counties.

In Arkansas, the area shall be

Bounded on the North by the northern Arkansas State line from the western Marion County line east to the eastern Clay County line,

Bounded on the East by the eastern Clay Greene Lawrence, Jackson,

Woodruff, Monroe, Arkansas, Desha, and Chicot County lines;

Bounded on the South by the southern Arkansas State line from the eastern Chicot County line west to the western Miller County line; and

Bounded on the West by the western Miller, Little River, Howard, Pike, Clark, Hot Spring, Garland, Perry, Conway, Pope, Searcy, and Marion County lines.

An exception to the described geographic area is the following location situated inside Little Rock's area which has been and will continue to be serviced by Memphis: Lockhart-Thompson Grain Elevator in Augusta, Arkansas in Woodruff County.

The geographic area presently assigned to Memphis in the States of Arkansas and Tennesse pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the following:

In Arkansas, the area includes Craighead, Crittenden, Cross, Lee, Mississippi, Phillips, Poinsett, and St. Francis Counties.

In Tennessee, the area includes Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton Counties.

Also, the following locations which are outside of the foregoing contiguous area, and which are presently assigned to Memphis and which are part of the geographic area that may be assigned to the applicant selected for designation are:

1. Lockhart-Thompson Grain Elevator in Augusta, Arkansas, in Woodruff County; and

2. Sullivan Grain, Inc., Tiptonville; West Tennessee Soya, Tiptonville; and Planters Gin, Ridgely, all in Lake County, Tennessee.

Interested parties, including Little Rock and Memphis, are hereby given opportunity to apply for designaton as the official agency for each respective specified geographic area, as described above, under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period beginning June 1, 1982, and terminating May 31, 1985. Parties wishing to apply for any of these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than December 28, 1981 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection service in the geographic areas, consideration will be given to all applications submitted and all other information available to the Administrator. All applications submitted pursuant to this notice will be available for public inspection at the Regulatory Branch, Compliance Division, during regular businesss hours.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: November 13, 1981.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 81-34238 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Gibson City Grain Inspection Department, Indianapolis Grain Inspection and Weighing Service, Inc., and the Wyoming Department of Agriculture.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Gibson City Grain Inspection Department, (Gibson City), Indianapolis Grain Inspection and Weighing Service, Inc. (Indianapolis), and the Wyoming Department of Agriculture (Wyoming). The three designations terminate effective 12 p.m., March 31, 1982.

DATE: Comments to be postmarked on or before Janaury 27, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, FGIS, USDA, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-9172. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 447-9172.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The October 1, 1981, issue of the **Federal Register** (46 FR 48418) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to Gibson City, Indianapolis, and Wyoming, respectively. Applications were to be postmarked by November 2, 1981.

One applicant requested designation for all of the geographic area currently assigned to Gibson City. That applicant is the Gibson City Grain Inspection Department, Gibson City, Illinois, Owner and Chief Inspector: Donald Swanstrom. Gibson City applied for a renewal of designation for an additional 3-year period.

One applicant requested designation for all of the geographic area currently assigned to Indianapolis. That applicant is the Indianapolis Grain Inspection and Weighing Service, Inc., Owner and Chief Inspector: W. D. Myers, Jr. Indianapolis applied for a renewal of designation for an additional 3-year period.

One applicant requested designation for all of the geographic area currently assigned to Wyoming. That applicant is the Wyoming Department of Agriculture, Director, Marketing Division: William Hovey. Wyoming applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to Regulations and Directives Management, specified in the address section of this notice, and postmarked not later than January 27, 1982

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873, (7 U.S.C. 79))

Dated: November 13, 1981.

J. T. Abshire,

Director, Compliance Division.

[FR Doc. 81-34239 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-EN-M

Renewals of Designation of Agricultural Seed Laboratories, Decatur Grain Inspection, Inc., and the South Carolina Department of Agriculture

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of Agricultural Seed Laboratories (Agri Seed), Decatur Grain Inspection, Inc. (Decatur), and the South Carolina Department of Agriculture (South Carolina) as official agencies responsible for providing grain inspection services under the U.S. Grain Standards Act (7 U.S.C. 71, *et seq.*) (Act).

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, Chief, Regulatory Branch, Compliance Division, FGIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250; telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The July 30, 1981, issue of the **Federal Register** (46 FR 39079) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that the designations of Agri Seed, Decatur, and South Carolina were terminating on December 31, 1981, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by August 31, 1981.

FGIS announced the names of the applicants for designation for each of the three agencies and requested comments on the applicants in the October 1, 1981, issue of the **Federal Register** (46 FR 48419). Comments were to be postmarked by November 2, 1981.

No comments were received regarding the renewal of designation of Agri Seed (the only applicant) as the official agency in the area cited in the July 30, 1981, issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Agri Seed is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the July 30, 1981, issue of the **Federal Register.**

No comments were received regarding the renewal of designation of Decatur (the only applicant) as the official agency in the area as cited in the July 30, 1981, issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Decatur is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the July 30, 1981 issue of the **Federal Register.**

No comments were received regarding the renewal of designation of South Carolina (the only applicant) as the official agency in the area as cited in the July 30, 1981, issue of the **Federal Register.**

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that South Carolina is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the July 31, 1981, issue of the **Federal Register.**

Effective January 1, 1982, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Agri Seed, Decatur, and South Carolina, respectively. Designations of each of the three Agencies will terminate December 31, 1984.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all other areas within their geographic area.

Interested persons may obtain a list of the specified service points by contacting the specific Agencies at the following addresses:

Agricultural Seed Laboratories, 212 S. 25th Avenue, Phoenix, AZ 85005
Decatur Grain Inspection, Inc., 3434 East Wabash Avenue, Decatur, IL 62521
South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211

Interested persons may also contact the Regulatory Branch at the address specified in the information section to obtain the information concerning specified service points.

(Sec. 8, Pub. L. 94-582, Stat. 2870 (7 U.S.C. 79))

Dated: November 13, 1981.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 81-34240 Filed 11-27-81; 8:45 am]

BILLING CODE 3410-EN-M

Reader Aids

Federal Register

Vol. 46, No. 229

Monday, November 30, 1981

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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