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Tuesday
February 9, 1982

Highlights

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5873 **National Poison Prevention Week, 1982** Presidential proclamation.

5990 **Aliens** Justice/INS and State withdraw transit without visa privilege for Afghan citizens. (2 documents) (Part IV of this issue)

5902 **Income Tax** Treasury/IRS proposes regulations on partial exclusion of dividends and interest from gross income.

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5928 **Grant Programs—Education of Handicapped** ED seeks applications for noncompeting continuation projects under the Regional Education Programs for Handicapped Persons.

5974 **Juvenile Delinquency** Justice/JJDPO requests comments on proposed priorities for 1982 and proposed "valid court order" regulations. (2 documents) (Part III of this issue)

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Highlights

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

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Presidential Documents

Title 3—

The President

Proclamation 4895 of February 5, 1982

National Scleroderma Week

By the President of the United States of America

A Proclamation

Scleroderma, a disease that causes hardening of the skin, is a serious connective tissue disorder which affects not only the skin, joints and muscles, but certain internal organs of the body as well. Although the disease can occur at any age, it usually affects several thousands of middle-aged Americans during their productive years and is more prevalent among women than men.

The outlook for victims of scleroderma has improved significantly in recent years. In the past three years, medical researchers have discovered that aggressive treatment with newly-developed antihypertensive drugs succeeds in lowering blood pressure, improving kidney function, and saving lives.

Advances in medical research and education mean that scleroderma patients can now look forward to the opportunity to live more productive and happy lives. Additional research findings and early treatment and diagnoses are vitally needed if we are to eliminate scleroderma and improve the quality of life for its victims.

To increase awareness of scleroderma, recognize progress, and emphasize the need for a continued effort to defeat this disease, the Congress has, by Senate Joint Resolution 57, designated the week of February 7 through February 13, 1982, as National Scleroderma Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of February 7 through February 13, 1982, as National Scleroderma Week. I urge the people of the United States and educational, philanthropic, biomedical research and health care organizations to work together to discover the cause and cure of scleroderma and other rheumatic diseases and to alleviate the suffering caused by these disorders.

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

Ronald Reagan

[FR Doc. 82-3511
Filed 2-5-82; 3:58 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4896 of February 5, 1982

National Poison Prevention Week, 1982

By the President of the United States of America

A Proclamation

The pills and medication we use to relieve pain and sickness as well as the products we use in our homes are a boon for the consumer, but they may also be hazardous to the health of our children. Instinctively, very young children place things within reach into their mouths, including household substances which may be poisonous when not used as intended.

The well-being—even the lives—of our children depend on parental care and alertness. Medicines and other household products must be stored out of reach and, preferably, out of sight. Unfortunately, the warning, "KEEP OUT OF REACH OF CHILDREN," has become so commonplace that it is often carelessly ignored. Because children are naturally curious, parents and those responsible for child care must exercise strict supervision and provide the training which can help eliminate cases of accidental poisoning.

Over the years, manufacturers have worked to improve the quality of child-resistant packaging. Local communities have taken the lead in developing programs which stress the use of safety packaging for potentially toxic substances and emphasize the need for their proper storage, handling, and disposal. Poison control centers have streamlined their operations to provide better service to the public by informing consumers of appropriate first aid, improving treatment procedures, and participating in poison prevention programs. Through increased public awareness and cooperation, we can build upon the progress of the past two decades and actually eliminate the serious injuries to our children which result from the abuse of harmful products.

To aid in encouraging the American people to learn of the dangers of accidental poisoning and to take such preventive measures as are warranted, the Congress, by a joint resolution approved September 26, 1961 (75 Stat. 681), requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 21, 1982, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of Feb., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-3512
Filed 2-5-82; 3:59 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Apple Juice [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Apple Juice. This rule was developed by the U.S. Department of Agriculture (USDA) at the request of the processed apple industry. This rule will: (1) provide uniform descriptive terms for the quality factors of color and flavor; (2) provide a separate defect requirement for Style I and Style II apple juice in Grade A; (3) change the minimum Brix requirement for Grade A; (4) replace dual grade nomenclature with single letter grade designations; and (5) change the format of the grade standards. This revision will improve the standards and promote efficient and orderly marketing.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The processed apple industry, through the Processed Apples Institute, Inc. (PAI), has requested USDA to revise the voluntary U.S. Standards for Grades of Canned Apple Juice. These standards were last revised in 1971.

This final rule will update the grade standards for canned apple juice to meet industry and consumer demands. This rule contains three changes requested by PAI as well as two other changes which are needed to make the standards more effective.

The first change will provide uniform descriptive terms for the quality factors of color and flavor. This action will change the terms "very good" color and "very good" flavor for Grade A to "good" color and "good" flavor. And for Grade A, Style II, Cloudy, the term "hazy" will be changed to "cloudy." This action will also change the terms "good" color and "good" flavor for Grade B to "reasonably good" color and "reasonably good" flavor. These descriptive terms are in line with the terms used in other U.S. grade standards, and this change will not affect the quality requirements.

Secondly, this action will provide separate defect requirements for Style I, Clear and Style II, Cloudy in Grade A apple juice. The defect requirements for Grade A canned apple juice in Style I and Style II in the current standards allow a slight amount of sediment or residue of an amorphous nature. This action will provide that Style I canned apple juice may possess a slight amount of sediment or residue of an amorphous nature and Style II may possess a moderate amount of sediment or residue of an amorphous nature.

The third change will reduce the minimum Brix requirement for Grade A from 11.5 degrees Brix to 11.0 degrees Brix. The various reasons warranting this change include differences in growing conditions in various parts of the country, increased use of more varieties of apples in the manufacture of canned apple juice, consumer preference for a less sweet product, and different processing techniques.

The fourth change will implement the current policy of replacing dual grade nomenclature with single letter designations. Under this action, "U.S. Grade A" or "U.S. Fancy," and "U.S. Grade B" or "U.S. Choice" will become simply "U.S. Grade A" and "U.S. Grade B." Finally, this rule will change the format of the grade standards to make them simple and easy to read.

This action is in concurrence with the recommendations and information submitted by the PAI.

Comments: The proposed rule to revise the voluntary grade standards for canned apple juice was published in the **Federal Register** on September 1, 1981 (46 FR 43836-43838). A total of twenty-three comments were received. The Processed Apples Institute, Inc., a national organization consisting of twenty-five apple processors, fully endorsed the revision of the U.S. Standards for Grades of Canned Apple Juice. Two food products brokers and dealers expressed strong support for the revision of these standards. An assistant professor of food science from Cornell University, Ithaca, New York, fully endorsed the revision of these standards, stating that these changes are in line with goals for uniform product grading and product description. One consumer fully endorsed the revision of these standards.

A college professor from the College of Agriculture at the University of Maryland, commented on the wording in the product description. Consequently,

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

editorial changes in the product description have been made to clarify its meaning. The statement under the product description—"No water may be added directly to the finished food," is not intended to prevent the production of apple juice using new juice extraction technology. A Food and Drug Administration (FDA) official commented on the use of a refractometer as the official Brix measuring device. A Brix hydrometer may be used only as an alternate when a refractometer is not available.

Some Agricultural Commodity Graders (ACG's), representing U.S. Department of Agriculture personnel responsible for grading processed fruits and vegetables also endorsed the revision of these standards with some comments for minor editorial changes. Other ACG's have some reservations about the lower Brix requirement for Grade A, stating it may have an effect on flavor. A lower soluble solids (Brix) content does not have a significant effect on flavor. The restoration of natural volatile apple juice components (apple essence) combined with a good sugar-acid balance, is necessary for a good apple juice flavor.

Two companies and one grower's association from the northwest expressed their opposition to the lower Brix requirement, stating that northwest apples when picked and stored have a Brix average of 12.5 degrees Brix or higher. The Brix requirements provided for in these standards are the minimum requirements for each grade. Lowering the Brix requirement in Grade A by half a degree Brix will accommodate apple processors using varieties that have a lower soluble solids compared with other varieties processed in other parts of the country.

Some editorial changes have been made in the final publication to clarify the standards.

In consideration of the foregoing, Subpart—United States Standards for Grades of Canned Apple Juice (7 CFR 52.301 through 52.312) are hereby revised to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Apple Juice

Sec.

52.301 Product description.
52.302 Styles of canned apple juice.
52.303 Definitions of terms.
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52.305 Fill of container.
52.306 Determining the grade.
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52.310 Score sheet for canned apple juice.
52.311 [Reserved].
52.312 [Reserved].

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Canned Apple Juice

§ 52.301 Product description.

(a) Canned apple juice is the unfermented juice obtained from sound, ripe apples, with or without parts. Concentrated apple juice may be added, provided that any added apple juice concentrate shall not contribute more than one-fourth of the total apple juice solids in the finished apple juice. No water may be added directly to the finished food. Natural volatile apple juice components (apple essence) may be restored to a level that provides a natural apple juice flavor.

(b) The apple juice may be processed with or without the addition of antioxidants and is sufficiently processed to assure preservation of the product in hermetically sealed containers.

§ 52.302 Styles of canned apple juice.

(a) Style I, Clear—typical of clarified apple juice.

(b) Style II, Cloudy—typical of non-clarified apple juice, but not a crushed or disintegrated apple product.

§ 52.303 Definitions of terms.

(a) *Absence of defects* means the degree of freedom from sediment or other residue, dark specks, particles of seeds, coarse particles of pulp, or other defects.

(b) *Acid* means grams of acid, calculated as malic acid, per 100 g of apple juice determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(c) *Brix* means the percent, by weight, of natural apple soluble solids in the apple juice, corrected to 20° C (68° F).

(d) *Color* means the apple juice is typical of freshly pressed juice.

(e) *Flavor* means the degree of excellence and palatability of the apple juice with a distinct flavor and aroma typical of apple juice that has been properly processed.

§ 52.304 Grades.

(a) *U.S. Grade A* is the quality of canned apple juice that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned apple juice that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned apple juice that fails to meet the requirements for U.S. Grade B.

§ 52.305 Fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container is not a factor of quality for the purposes of these standards. It is recommended that each container be filled as full as practicable with apple juice and that the product occupies at least 90 percent of the volume of the container.

§ 52.306 Determining the grade.

(a) The grade of canned apple juice is determined by considering the requirements of each grade with respect to the factors of color, absence of defects, and flavor.

(b) The relative importance of each factor is expressed numerically on the scale of 0 to 100 points. The maximum number of points that may be given each factor is:

Factors	Points
Color	20
Absence of defects	20
Flavor	60
Total score	100

§ 52.307 Determining the rating for each factor.

The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.308 Requirements for grades.

TABLE I.—STYLE I, CLEAR

Factors	Grade A	Grade B
Color	Good (bright, sparkling)	Reasonably good (slightly translucent)
Score points	18–20	16–17
Absence of defects:		
Amorphous sediment or residue	Slight	Moderate
Nonamorphous sediment or residue, dark specks	Trace	Moderate
Particles of seeds, pulp or other defects	None	Slight
Score points	18–20	16–17
Flavor	Good	Reasonably good
Score points	54–60	48–53

TABLE I.—STYLE I, CLEAR—Continued

Factors	Grade A	Grade B
Total score	90–100	80–89
Analytical:		
Brix:		
Minimum (degrees)	11.0	10.5
Acid: (calculated as malic)		
Minimum (g/100 g)	0.24	0.19
Maximum (g/100 g)	0.67	0.77

TABLE II.—STYLE II, CLOUDY

Factors	Grade A	Grade B
Color	Good (slightly translucent to definitely cloudy)	Reasonably good (typical but not off-color)
Score points	18–20	16–17
Absence of defects:		
Amorphous and non-amorphous sediment or residue	Normal	Normal
Dark specks	Trace	Moderate
Particles of seeds, coarse particles of pulp or other defects	None	Slight
Score points	18–20	16–17
Flavor	Good	Reasonably good
Score points	54–60	48–53
Total score	90–100	80–89
Analytical:		
Brix:		
Minimum (degrees)	11.0	10.5
Acid: (calculated as malic)		
Minimum (g/100 g)	0.24	0.19
Maximum (g/100 g)	0.67	0.77

§ 52.309 Determining the grade of a lot.

The grade of a lot of canned apple juice covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.310 Score sheet for canned apple juice.

Size and kind of container .....
Container mark or identification .....
Label .....
Liquid measure (fl. oz and/or ml) .....
Vacuum (in inches) .....
Brix (degrees) .....
Acid (malic: g/100 g) .....

Factors	Score points		
Color	20	(A)	18–20
		(B) [1]	16–17
		(SSTD) [2]	0–15
Absence of defects	20	(A)	18–20
		(B) [1]	16–17
		(SSTD) [2]	0–15
Flavor	60	(A)	54–60
		(B) [1]	48–53
		(SSTD) [2]	0–47
Total score	100		

Grade .....

[1] May not be graded above Grade B.
[2] May not be graded above Substandard.

§§ 52.311 and 52.312 [Reserved]

Done at Washington, D.C. on February 3, 1982.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3392 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 52

United States Standards for Grades of Canned Applesauce [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Applesauce. This final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the processed apple industry. This final rule will: (1) Provide uniform descriptive terms used for the quality factors of color and finish; (2) change the minimum Brix requirement for Grade A in sweetened style; (3) replace dual grade nomenclature with single letter grade designations; and (4) change the format of the grade standards. Its effect will be to improve the standards and promote efficient and orderly marketing.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Romeo V. Villaluz, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-6247.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The U.S. Standards for Grades of Canned Applesauce were last revised in 1974. The revision was made to bring the grade standards in line with the Food and Drug Administration Standards of Identity for Canned Applesauce and the Codex Alimentarius Recommended International Standards for Canned Applesauce.

Recently, the Processed Apples Institute, Inc. (PAI), a national organization consisting of twenty-five apple processors, requested the USDA to revise the voluntary grade standards for canned applesauce. This rule includes two changes requested by PAI as well as two other changes which are needed to make the standards more effective.

The first change will provide uniform descriptive terms for the quality factors of "color" and "finish." This action will change the term "fairly bright" color for artificially colored applesauce in Grade B to "reasonably bright" color and will change the term "fairly good" finish for Grade B applesauce to "reasonably good" finish. These descriptive terms are in line with terms used in other U.S. grade standards, and this change will not affect the quality requirements.

Secondly, this final rule will reduce the minimum Brix requirement for Grade A in sweetened applesauce from 16.5 degrees Brix to 15.5 degrees Brix. The various reasons warranting this change include differences in growing conditions in various parts of the country, increased use of more varieties of apples in the manufacture of canned applesauce, consumer preference for a less sweet product, and different processing techniques.

The third change will implement the current policy of replacing dual grade nomenclature with single letter grade designations. Under this rule, "U.S. Grade A" or "U.S. Fancy," and "U.S. Grade B" or "U.S. Choice" will become simply "U.S. Grade A" and "U.S. Grade B." Finally, this rule will change the format of the grade standards to make them simple and easy to read.

This action is in concurrence with the

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

recommendations and information submitted by the PAI.

COMMENTS: The proposed rule to revise the voluntary grade standards for canned applesauce was published in the Federal Register on September 1, 1981 (46 FR 43838–43840). A total of twenty comments were received. The Processed Apples Institute, Inc., a national organization consisting of twenty-five apple processors fully endorsed the revision of these standards. Agricultural Commodity Graders (ACG's), representing U.S.D.A. personnel responsible in grading processed fruits and vegetables also endorsed the revision of these standards with some comments for minor editorial changes. One consumer fully endorsed the revision of the U.S. Standards for Grades of Canned Applesauce. An assistant professor of food science from Cornell University, Ithaca, New York, fully endorsed the revision of these standards, stating that these changes are in line with goals for uniform product grading and product description. A food products broker and dealer expressed strong support for a revision of these standards. Two companies from the northwest expressed their opposition to lowering the Brix requirement, stating that lowering the Brix requirement may result in the utilization of less fresh product. The change in lower Brix requirement for canned applesauce is only in Grade A sweetened type. There is no change made in the unsweetened type. Therefore, the revision will address the use of less sweeteners—not the use of less apple materials.

Some editorial changes have been made in the final publication to clarify the standards.

In consideration of the foregoing, Subpart—United States Standards for Grades of Canned Applesauce (7 CFR 52.331 through 52.349) are hereby revised to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

* * * * *

Subpart—United States Standards for Grades of Canned Applesauce

Sec.

52.331 Identity.
52.332 Color types.
52.333 Flavor types.
52.334 Types of pack.
52.335 Styles.
52.336 Definitions of terms.
52.337 Grades.
52.338 Fill of container.
52.339 Recommended sample unit size.
52.340 Determining the grade.
52.341 Determining the rating for each factor.
52.342 Requirements for grades.
52.343 Soluble solids determination.
52.344 Determining the grade of a lot.
52.345 Score sheet for canned applesauce.
52.346 through 52.349 [Reserved]

Authority: Agricultural Marketing Act of 1946, Secs 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

§ 52.331 Identity.

"Canned applesauce" is the product represented as defined in the Standards of Identity for Canned Applesauce (21 CFR 145.110) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

§ 52.332 Color types.

(a) *Natural Color.* (1) Canned applesauce in which the color of the finished product is derived wholly from the apple ingredient.

(2) When a spice or spices have been added, consideration is given to the color, if any, imparted by the added spice or spices.

(b) *Artificially colored.* Canned applesauce in which the color of the finished product is derived from an artificial coloring substance as permitted in the Federal Food and Drug definitions and Standards of Identity.

§ 52.333 Flavor types.

(a) *Natural flavor.* Natural flavor canned applesauce is the product in which the flavor is derived from the apple ingredient and other permitted additives exclusive of flavorings or spices.

(b) *Flavored.* Flavored canned applesauce is the product in which the flavor is derived substantially from an added flavoring ingredient, including artificial flavorings.

(c) *Spiced.* Spiced canned applesauce is the product in which the flavor is derived substantially from the added spice or spices.

§ 52.334 Types of pack.

(a) *Unsweetened.* Canned applesauce prepared without the addition of nutritive carbohydrate sweeteners. The product shall test not less than 9 degrees Brix.

(b) *Sweetened.* Canned applesauce with nutritive carbohydrate sweeteners added.

§ 52.335 Styles.

(a) *Regular (or comminuted).* Canned applesauce in which the apple ingredient has been comminuted into granular particles.

(b) *Chunk (or chunky).* Canned applesauce in which the apple ingredient has been chopped into small pieces.

§ 52.336 Definitions of terms.

(a) *Absence of defects* means the degree of freedom from particles of seeds, discolored apple particles, peel, carpel tissue, stamens, and other objectionable particles.

(b) *Brix* means the percent, by weight, of natural apple soluble solids and added sweetener, if any, corrected to 20° C (68° F).

(c) *Carpel tissue* means the tough, sometimes hard and sharp tissue from the center portion (core) of the apple surrounding the seed cavity.

(d) *Color* means the color typical of the variety or varieties used in other than "spice flavored" or "artificially colored."

(e) *Consistency* means the flow characteristic of the product and the degree of separation of free liquid.

(f) *Discolored apple particles* mean apple particles that are discolored by bruise or other means to the extent that they do not blend well with the normal color of the product and are noticeable.

(g) *Finish* means the following: the texture and tenderness of the apple particles; the evenness of the division of apple particles in regular (or comminuted) style; and the proportion of chunks or pieces of apples in relation to fine apple particles in chunk (or chunky) style.

(h) *Flavor* means the degree of excellence of the natural flavor and aroma of the apple ingredient; the apparent relationship of the acidity to sweetness; the freedom from undesirable flavors; and with respect to flavored and spiced types, the flavor balance of the apple ingredient in relation to the added flavor of spice ingredient(s).

(i) *Peel* means apple peel that does not blend well with the normal color of the product and is noticeable or that is tough whether or not it is visually noticeable.

(j) *Seed particles* mean whole seeds or pieces of seed and portion of the core of the apple.

(k) *Stamen* means the dark hairlike substance from the blossom end of the apple.

§ 52.337 Grades.

(a) *U.S. Grade A* is the quality of canned applesauce that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned applesauce that:

(1) Meets the applicable requirements of Table I or Table II; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned applesauce that fails to meet the requirements for U.S. Grade B.

§ 52.338 Fill of container.

The fill of container is not incorporated in the grades of the finished product, since fill of container is not a factor of quality for the purposes of these standards. The standard of fill of container as specified in the Standard of Fill of Container for Canned Applesauce (21 CFR 145.110(c)) issued under the Federal Food, Drug, and Cosmetic Act, is a fill of not less than 90 percent of the total capacity of the containers (21 CFR 130.12(b)); except that in the case of glass containers having a total capacity of 192 ml (6.5 fl oz) or less, the fill is not less than 85 percent.

§ 52.339 Recommended sample unit size.

The sample unit size for evaluating the factors of absence of defects and consistency is the amount of applesauce required to fill level full a cylinder measuring 7.6 cm (3 in) inside diameter and 8.3 cm (3.25 in) high.

§ 52.340 Determining the grade.

(a) The grade of canned applesauce is determined by considering the respective ratings for the factors of color, consistency, absence of defects, finish, and flavor.

(b) The relative importance of each factor that is scored is expressed numerically on the scale of 0 to 100 points. The maximum number of points that may be given each factor is:

Factors	Points
Color	20
Consistency	20
Absence of defects	20
Finish	20
Flavor	20
Total score	100

§ 52.341 Determining the rating for each factor.

The essential variations within each factor that is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor is inclusive (for example, "18 to 20 points" means, 18, 19, or 20 points).

§ 52.342 Requirements for grades.

TABLE I.—REGULAR (OR COMMINUTED)

Factors	Grade A	Grade B
Color:		
Natural	Bright, practically uniform, typical of variety or varieties used, no discoloration due to oxidation or scorching.	Dull, reasonably uniform, typical of variety or varieties used. Slightly brown, slightly pink or slightly grey.
Spice flavored	Characteristic of the color imparted by added spice, free from discoloration due to oxidation or scorching.	The color imparted by added spice may be slightly affected by pink or grey color, but is not off color.
Artificially colored	Bright and distinct	Reasonably bright and distinct.
Score points	18 to 20	16 to 17.
Consistency:		
Product flow	Not more than 6.5 cm (2.5 in)	Not more than 8.5 cm (3.3 in).
Free liquid	Not more than 0.7 cm (0.3 in)	Not more than 1 cm (0.4 in).
Score points	18 to 20	16 to 17.
Absence of defects:		
Dark Stamens	Not more than 3	Not more than 5.
Seed particles, peel, discolored apple particles, carpel tissue.	Not more than 0.5 cm^3 (0.08 in^3) total but	Not more than 1.0 cm^3 (0.16 in^3) total but.
Medium and dark colored particles.	Not more than 0.25 cm^3 (0.04 in^3)	Not more than 0.5 cm^3 (0.08 in^3).
Score points	18 to 20	16 to 17.
Finish	Evenly divided, not lumpy, pasty, or salvy	Evenly divided, slightly salvy or pasty.
Score points	18 to 20	16 to 17.
Flavor	Good natural sugar-acid balance	Reasonably good natural sugar-acid balance.
Unsweetened	Slightly tart or slightly bland. Free from astringent flavor	Moderately tart, may be bland, slightly astringent flavor.
Sweetened	Slightly tart to sweet. Free from astringent flavor	May be tart, not excessively sweet, slightly astringent.
Spice flavored	Flavor is distinct and characteristic of the added spice(s) or flavoring(s) but not strong.	Flavor derived from added flavoring(s) or spice(s) may be slightly weak or strong but not objectionable.
Score points	18 to 20	16 to 17.
Total score	90 to 100	80 to 89
Analytical:		
Brix unsweetened	Not less than 9.0 degrees	Not less than 9.0 degrees.
Brix sweetened	Not less than 15.5 degrees	Not less than 14.5 degrees.

TABLE II.—CHUNK (OR CHUNKY)

Factors	Grade A	Grade B
Color:		
Natural	Bright, practically uniform, typical of variety or varieties used. No discoloration due to oxidation or scorching.	Dull, reasonably uniform, typical of variety or varieties used. Slightly brown, slightly pink or slightly grey.
Spice flavored	Characteristic of the color imparted by added spice, free from discoloration due to oxidation or scorching.	The color imparted by added spice may be slightly affected by pink or grey color, but is not off color.
Artificially colored	Bright and distinct	Reasonably bright and distinct.
Score points	18 to 20	16 to 17.
Consistency:		
Product flow	Not more than 7.5 cm (2.95 in)	Not more than 9.5 cm (3.75 in)
Free liquid	Slight amount	Moderate amount.
Score points	18 to 20	16 to 17.
Absence of defects:		
Dark stamens	Not more than 3	Not more than 5.
Seed particles, peel, discolored apple particles, carpel tissue.	Not more than 0.5 cm^3 (0.08 in^3) total but	Not more than 1 cm^3 (0.16 in^3) total but.
Medium and dark colored particles.	Not more than 0.25 cm^3 (0.04 in^3)	Not more than 0.5 cm^3 (0.08 in^3).
Score points	18 to 20	16 to 17.

TABLE II.—CHUNK (OR CHUNKY)—Continued

Factors	Grade A	Grade B
Finish	High proportion of apple chunks. Any fine apple particles present, do not more than moderately affect the appearance or eating quality of the product.	Fairly high proportion of apple chunks. Any fine apple particles present do not seriously affect the appearance or eating quality of the product.
Score points	18 to 20	16 to 17.
Flavor	Good natural sugar-acid balance.	Reasonably good natural sugar-acid balance.
Unsweetened	Slightly tart or slightly bland. Free from astringent flavor	Moderately tart, may be bland, slightly astringent flavor.
Sweetened	Slightly tart to sweet, free from astringent flavor	May be tart, not excessively sweet, slightly astringent.
Spice flavored	Flavor is distinct and characteristic of the added spice(s) or flavoring(s) but not strong.	Flavor derived from added flavoring(s) or spice(s) may be slightly weak or strong but not objectionable.
Score points	18 to 20	16 to 17.
Total score	90 to 100	80 to 89.
Analytical:		
Brix unsweetened	Not less than 9.0 degrees	Not less than 9.0 degrees.
Brix sweetened	Not less than 15.5 degrees	Not less than 14.5 degrees.

§ 52.343 Soluble solids determination.

The soluble solids content of canned applesauce is the soluble solids as determined by the refractometric method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," except that no correction is made for water-insoluble solids. The soluble solids is expressed as "degrees Brix".

§ 52.344 Determining the grade of a lot.

The grade of a lot of canned applesauce covered by these standards is determined by the procedures set forth in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.345 Score sheet for canned applesauce.

Size and kind of container
Container mark or identification
Label
Net weight (oz or g or kg)
Brix (degrees)
Style
Vacuum (in inches)

Factors		Score points
Color	20	(A) 18 to 20. (B)[1] 16 to 17. (SSTd)[2] 0 to 15.
Consistency	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Absence of defects	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Finish	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Flavor	20	(A) 18 to 20. (B)[1] 16 to 17. (SStd)[2] 0 to 15.
Total	100	
Grade		

[1] May not be graded above Grade B.
[2] May not be graded above Substandard.

§§ 52.346 Through 52.349 [Reserved]

Done at Washington, D.C., on: February 3, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3388 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 52

United States Standards for Grades of Canned Celery [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to establish voluntary U.S. Standards for Grades of Canned Celery. The final rule was developed by the U.S. Department of Agriculture (USDA) at the request of the Florida celery industry. This final rule will promote orderly and efficient marketing.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6193.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

Currently, there are no U.S. grade standards for canned celery. The USDA was petitioned by the Florida celery industry to develop grade standards for canned celery. The grade standards will be based on a numerical score point system (0-100 points) of quality grading, similar to the system used for many other fruit and vegetable items.

These standards will provide incentive for using fresh celery which is customarily wasted. The main sources of this celery are surplus acreage and edible portions which are lost during sorting for the fresh market.

The grade standards will expedite purchasing canned celery for school lunch programs. The standards provide for two (2) types of pack—acidified and brine cooked. The acidified celery is used mainly in salads and other similar items, while the brine cooked is used mainly in the formulation of soups, vegetable mixes, and casseroles.

There will be three (3) styles of canned celery—sliced (cut), diced, and chopped. The grade standards specify two (2) quality levels—U.S. Grade A and U.S. Grade B—because available data indicate two quality levels are needed in marketing canned celery.

The factors of quality for canned celery in the standards are: similar varietal characteristics; brightness; flavor and odor; color; character (e.g., uniformity of texture and freedom from coarseness, stringiness, or toughness); and defects (e.g., freedom from blemishes, basal portions, extraneous

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

vegetable material, celery leaf material, and mechanical damage).

The standards will provide canners and commercial users with uniform guidelines for marketing canned celery.

COMMENTS: The proposed rule to establish voluntary grade standards for canned celery was published in the **Federal Register** on August 21, 1981 (46 FR 42487–42489). Three comments were received. One comment came from the Florida Celery Exchange and another comment came from a celery processor in Florida. Both parties fully endorsed the adoption of the grade standards as proposed. The third comment came from a community college in Colorado stating that they did not have enough information concerning overall quality of canned celery. This third comment did not, however, address the proposed grade standards for canned celery as published in the **Federal Register.**

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 553) since there were no adverse comments to the proposed rule. It is further found that postponing the effective date of this final rule would serve no useful purpose to the celery industry and the consuming public.

Minor editorial changes in the text were made for clarification purposes.

After review of the comments received and in order to promote the orderly and efficient marketing of canned celery, USDA hereby establishes U.S. Standards for Grades of Canned Celery, to be codified as 7 CFR 52.6571 through 52.6582. The Table of Contents will read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

* * * * *

Subpart—United States Standards for Grades of Canned Celery

Sec.

52.6571 Product description.
52.6572 Types of pack.
52.6573 Styles.
52.6574 Definitions of terms.
52.6575 Recommended fill of container.
52.6576 [Reserved].
52.6577 Recommended sample unit size.
52.6578 Grades.
52.6579 Factors of quality.
52.6580 Requirements for grades.
52.6581 Sample size.
52.6582 Lot quality requirements.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Canned Celery

§ 52.6571 Product description.

Canned celery is the product represented as defined in the applicable Standards of Identity for Certain Other Canned Vegetables (21 CFR 155.200) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.6572 Types of pack.

(a) Canned salad celery (acidified).
(b) Canned cooked celery.

§ 52.6573 Styles.

(a) *Diced* means canned celery consisting of stalks that have been cut into approximately cube-shaped units.

(b) *Sliced or cut* means canned celery consisting of stalks that are cut transversely into units approximately 19 mm (3/4 in) or less in length. Sliced may be one of the following sub-styles:

(1) *Straight cut* means canned celery stalks that are cut at approximately right angles to the length of the stalk.

(2) *Bias cut* means canned celery stalks that are cut at approximately 45° angle to the length of the stalk.

(c) *Chopped* means canned celery consisting of stalks that have been randomly chopped into units of varying sizes and shapes.

§ 52.6574 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Basal portion* means the objectionable, fibrous material from the base of the celery plant or roots from below the base of the celery plant which affect the appearance or eating quality.

(b) *Blemished* means any unit of celery which is affected internally or externally by discoloration, insect injury, pathological damage or any other cause to the extent that the appearance or eating quality is affected:

(1) Materially; or

(2) Seriously.

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is affected by dullness from improper processing or any other cause.

(1) Canned celery which has a good characteristic bright appearance typical of the type of pack may be assigned a score of 18 to 20 points.

(2) Canned celery which has a reasonably good characteristic bright appearance typical of the type of pack may be assigned a score of 16 or 17 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably good characteristic bright appearance may be assigned a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product.

(d) *Character* refers to the uniformity of texture and freedom from coarseness, stringiness, or toughness, with consideration given to the type of pack.

(1) *Canned salad celery.* (i) *Good character* means celery which is uniform in texture, and is practically free from coarse, stringy, or tough units. The celery units are crisp and firm. Canned salad celery which has a good character may be assigned a score of 27 to 30 points.

(ii) *Reasonably good character* means celery which lacks uniformity in texture, and is reasonably free from coarse, stringy, or tough units. The celery units lack crispness and firmness. Canned salad celery which has a reasonably good character may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(iii) Canned celery that fails to meet the requirements for reasonably good character may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(2) *Canned cooked celery.* (i) *Good character* means celery which is uniform in texture, practically free from coarse, stringy, or tough units, and is pliable and tender but not soft. Canned cooked celery that has a good character may be assigned a score of 27 to 30 points.

(ii) *Reasonably good character* means celery which lacks uniformity in texture, is reasonably free from coarse, stringy, or tough units, and is lacking pliability and tenderness, and may be soft but not mushy. Canned cooked celery that falls into this classification may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(iii) Canned cooked celery that fails to meet the requirements for reasonably good character may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(e) *Chip* means any unit in diced style that has a volume that is less than one-half of a normal full size unit.

(f) *Color.* (1) *Good color* means canned celery color which is uniform in the range between green to white units characteristic of the type of pack. Canned celery which has a good color

may be assigned a score of 18 to 20 points.

(2) *Reasonably good color* means canned celery color which lacks uniformity in the range between green to white units characteristic of the type of pack. Canned celery which has a reasonably good color may be assigned a score of 16 or 17 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably good color may be assigned a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product.

(g) *Defects* refer to the freedom from extraneous vegetable material, mechanical damage, celery leaf material, blemished units, and basal portions.

(1) *Practically free from defects* means celery which conforms with the applicable tolerances as specified in Table I. Canned celery which is practically free from defects may be assigned a score of 27 to 30 points.

(2) *Reasonably free from defects* means celery which conforms with the applicable tolerances as specified in Table I. Canned celery which is reasonably free from defects may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Canned celery that fails to meet the requirements for reasonably free from defects may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(h) *Extraneous vegetable material (EVM)* means any objectionable vegetable material from other than the celery plant which is harmless.

(i) *Flavor and odor* means the freedom from objectionable flavor and odor of any kind.

(j) *Large piece* means any unit in diced style that is larger than a normal full size unit to the extent that it materially affects the appearance of the sample.

(k) *Leaf* means the celery leaf which is normally removed during processing and exceeds 0.64 cm (0.25 in) in the greatest dimension.

(l) *Mechanical damage* means any unit of celery which is adversely affected by harvesting or processing equipment and includes sizing imperfections.

(m) *Unit* means any individual slice, dice, cut, chop, heart, or piece of canned celery.

(n) *Varietal characteristics* mean the appearance, stalk characteristics and any other indicator of the variety of celery.

§ 52.6575 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purpose of these grades. It is recommended that each container of canned celery be filled with celery as full as practicable without impairment of quality and that the product and packing medium occupy not less than 90 percent of the total capacity of the container.

§ 52.6576 [Reserved]

§ 52.6577 Recommended sample unit size.

The requirements for all factors of quality are based on evaluation of: 900 g of drained product or the entire drained contents of a container, whichever is lesser.

§ 52.6578 Grades.

(a) *U.S. Grade A* is the quality of canned celery that:

(1) Meets the applicable requirements of Table I; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned celery that:

(1) Meets the applicable requirements of Table I; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of canned celery that fails to meet the requirements for *U.S. Grade B.*

§ 52.6579 Factors of quality.

The grade of a lot of canned celery is based on meeting the requirements for the following quality factors:

(a) Varietal characteristics;

(b) Flavor and odor;

(c) Brightness;

(d) Color;

(e) Character; and

(f) Defects.

§ 52.6580 Requirements for grades.

TABLE I.—CANNED CELERY

Factors of quality	Grade A	Grade B
Varietal characteristics	Similar	Similar.
Flavor and odor	Normal	Normal.
Brightness	Good (18 to 20 points)	Reasonably good (16 to 17 points).[1]
Color	Good (18 to 20 points)	Reasonably good (16 to 17 points).[1]
Character	Good (27 to 30 points)	Reasonably good (24 to 26 points).[1]
Defects: (Drained weight basis) [2]	(27 to 30 points)	(24 to 26 points).[1]
	Tolerance	Tolerance.
1. Blemished:		
a. Materially	5% m/m	10% m/m.
b. Seriously	2% m/m	4% m/m.
2. Basal Portion:		
a. Fibrous material	2% m/m	4% m/m.
b. w/roots attached	1% m/m	2% m/m.
3. EVM	1 pc/900 g (31.7 oz)	2 pcs/900 g (31.7 oz).
4. Leaf:		
Diced; chopped	20 pcs/900 g (31.7 oz)	40 pcs/900 g (31.7 oz).
Sliced	10 pcs/900 g (31.7 oz)	20 pcs/900 g (31.7 oz).
5. Mechanical damage:		
a. Diced (chips plus large pieces)	40% m/m	50% m/m.
b. Bias or straight cut [crushed units but not discolored plus units less than 3 mm (⅛ in)]	10% m/m	15% m/m.
6. Other defects not specifically defined	Slightly affect appearance or eating quality	Materially affect appearance or eating quality.

[1] Shall not be graded above U.S. Grade B.

[2] m/m indicates percentage by weight. Example: 10 percent m/m blemished material means 40 g in total 400 g drained celery.

NOTE.—Chips in diced style may be separated by using the sieve method. All units that pass through the meshes of a 5/16 in (8 mm) sieve are counted as chips. The sieve to be used is a five-sixteenths (5/16 in) sieve as listed in Table I of "Standard Specifications for Sieve," published March 1, 1940, in L.C. 584 National Bureau of Standards, U.S. Department of Commerce.

§ 52.6581 Sample size.

The sample size to determine the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83).

§ 52.6582 Lot quality requirements.

A lot of canned celery is considered as meeting the requirements for quality if:

(a) The requirements specified in § 52.6580 are met; and

(b) The sampling plans and acceptance procedures in 7 CFR 52.38 are met.

Done at Washington, D.C., on February 3, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-3390 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Free and Reserve Percentages for the 1981–82 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule designates final marketing percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins from California's 1981 production. The estimated 1981 production of these raisins is in excess of domestic and Western Hemisphere market needs. The percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

EFFECTIVE DATES: August 1, 1981 through July 31, 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 under criteria contained therein.

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 21 handlers.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The relevant provisions of this part require that the percentages designated herein for the 1981–82 crop year apply to all standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired by handlers from the beginning of that crop year; (2) handlers are marketing 1981 crop raisins and this action must be taken promptly to achieve its purpose of making the full free tonnage computed for these varietal types available to handlers; (3) handlers are aware of this action as recommended by the Raisin Administrative Committee (Committee) at an open meeting and require no additional time to comply; and (4) this action relieves restrictions on handlers.

This final rule designates final free tonnage percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins of 80 percent and 89 percent, respectively, for the 1981–82 crop year. Also designated for that crop year are final reserve tonnage percentages for these raisins of 20 percent and 11 percent, respectively. These percentages would apply to all standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired during the 1981–82 crop year.

These final marketing percentage designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes 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 proposal was recommended under § 989.54(b) by the Committee, which is established under the order as the agency to work with USDA in administering the order.

Preliminary percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins for the 1981–82 crop year were issued November 27, 1981, and published in the **Federal Register** on December 3, 1981 (§ 989.235; 46 FR 58640). These percentages made 85 percent of the free tonnage computed for these varietal types available to handlers.

Under § 989.54(b) of the order, no later than February 15 of a crop year the Committee is required to recommend free tonnage percentages which, when applied to the final production estimate of a varietal type, will tend to release the full free tonnage computed for that varietal type. Section 989.54(b) also provides that any difference between the free tonnage percentage and 100 percent shall be the reserve percentage.

On January 15, 1982, the Committee recommended final free and reserve percentages for the 1981–82 crop year, and made its final 1981 production estimates for Natural (sun-dried) Seedless and Dipped Seedless raisins.

The Committee estimated the 1981 production of Natural (sun-dried) Seedless raisins at 224,281 natural condition tons (9,281 tons more than its preliminary estimate of 215,000 natural condition tons). Dividing the computed free tonnage of 180,430 natural condition tons by the estimated production and rounding to the nearest full percent results in a final free percentage of 80 percent, and a final reserve percentage of 20 percent.

For Dipped Seedless raisins, the Committee estimated the 1981 production to be 7,526 natural condition tons (474 tons less than its preliminary estimate of 8,000 tons). Dividing the computed free tonnage of 6,691 natural condition tons by the estimated production and rounding to the nearest full percent results in a final free percentage of 89 percent, and a final reserve percentage of 11 percent.

After consideration of all relevant matter presented, including that in the notice issued in connection with the designation of preliminary free and reserve tonnage percentages applicable to these two varietal types, the information and recommendations submitted by the Committee, and other available information, it is further found that the designation under § 989.55 of the free and reserve percentages for Natural (sun-dried) Seedless and Dipped Seedless raisins, set forth below, will tend to effectuate the declared policy of the act.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Therefore, § 989.235 is revised to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 989.235 Free and reserve percentages for the 1981–82 crop year.

The percentages of standard Natural (sun-dried) Seedless and Dipped Seedless raisins acquired by handlers during the crop year beginning August 1, 1981, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	80	20
Dipped Seedless	89	11

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

Dated: February 4, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-3432 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

[Bulletin 345–89]

Public Information; Appendix A—REA Bulletins Specification for Filled Telephone Cable With Expanded Insulation

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: This rule amends Appendix A by adding Bulletin 345–89. This action will permit the use of expanded insulation as an alternate to solid insulation in filled telephone cable. This Bulletin provides a specification for filled telephone cables containing 200 or more conductor pairs intended for direct burial and underground applications. Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation, PE–89, will supplement, but not replace Bulletin 345–67, Specification for Filled Telephone Cables, PE–39, which addresses cables with solid insulation.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA amends Appendix A by adding Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation, PE–89. This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as "not major". A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

(Catalog of Federal Domestic Assistance as 10.851 Rural Telephone Loans and Loan Guarantees.)

This new specification is being added to allow the use of expanded insulation in multipair telephone cable in REA systems. Expanded insulation represents a major advancement in extrusion techniques and offers the REA borrower the option of using the smaller diameter, material saving, insulation in lieu of solid insulation.

As an option, not promulgating this specification was considered. This was rejected as it would have denied REA borrowers a smaller, lighter weight alternate to solid insulation and would have discouraged further innovation by cable manufacturers. Promulgating this specification as an addendum to the aforementioned Bulletin 345–67 was also considered. However, this was not done since it would have been confusing to specification users.

On May 26, 1981, a Notice of Proposed Rule Making was published in the **Federal Register** (46 FR 28170). A comment to this notice was received from The Essex Group which raised the following points:

1. The limitation of the expanded insulation to only 200 and larger pair cables; and

2. The exclusion of 19-gauge conductors.

The Agency response to these comments is summarized as follows:

1. REA has chosen to limit the use of expanded insulation to the larger size cables to minimize the risk of maintenance to the better staffed companies.

2. Advancements in electronic devices and the expense of the large 19-gauge copper conductor has directed the telephone industry to the smaller copper conductors. REA is reluctant to include the 19-gauge conductor since economics is curtailing its use in telephony.

Therefore, Appendix A (7 CFR 1701) is amended by adding Bulletin 345–89, Specification for Filled Telephone Cable with Expanded Insulation.

(7 U.S.C. 901–950(b), 7 U.S.C. 1921 et seq.).

Dated: February 1, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3296 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

Revision of Commodity Control List Entry No. 4757B

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule revises entry No. 4757B of the Commodity Control List (CCL) to delete extraneous language in the *Code of Federal Regulations* that remained in the entry following the transfer of certain commodities controlled by that entry to entry No. 1757A. The transfer of commodity coverage to entry No. 1757A was published in the **Federal Register** of May 12, 1981, 46 FR 26275–26284, and modification of the entry was announced August 4, 1981, 46 FR 39585–39587.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive

Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, the Commodity Control List, Supplement No. 1 to § 399.1 of the Export Administration Regulations (15 CFR Parts 368–399), is amended as follows:

Entry No. 4757B is revised to read as follows:

Export control commodity No. and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
4757B Single crystal sapphire substrates. (Specify by size and weight.).	.....	PQSTVWYZ	[1] 500	MG	1

[1] The GLV $ value limit for Country Group Q is $100.

Authority: Sections 5, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980).

Dated: December 9, 1981.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–3348 Filed 2–8–82; 8:45 am]

BILLING CODE 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3082]

American Honda Motor Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Gardena, Calif. motor vehicle dealer to cease failing to mail to each owner of a Honda automobile which was purchased as new, or is currently registered in certain states, a "notice package" containing information regarding the company's redress program for premature fender rusting. The company must timely remove and replace, at no cost to the owner, the front fenders of any Honda automobile experiencing premature rusting within 36 months-in-service, and reimburse eligible owners of affected vehicles for monies spent in trying to correct the premature rusting problem. Respondent is also required to inform its dealers of the firm's obligations under the provisions of the order, and provide them with adequate supplies or reimbursements for replacing rusted fenders. Additionally, the order requires respondent to maintain documents demonstrating compliance with the order for a period of not less than three years.

DATES: Complaint and order issued January 22, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Joel Winston, Washington, D.C. 20580, (202) 724–9002.

SUPPLEMENTARY INFORMATION: On Wednesday, August 5, 1981, there was published in the **Federal Register**, 46 FR 39833, a proposed consent agreement with analysis In the Matter of American Honda Motor Co., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosure, § 13.533–25 Displays, in-house, § 13.533–35 Employment of independent agencies, § 13.533–45 Maintain records, § 13.533–55 Refunds, rebates and/or credits, § 13.533–57 Restitution.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 82–3319 Filed 2–8–82; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 13

[Docket No. C–3081]

Renuzit Home Products Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Philadelphia, Pa. manufacturer and distributor of transmission and hydraulic fluids and motor oils to cease making any representations concerning the API Service Classification, SAE Viscosity or any performance or quality characteristic of its motor oils unless the company possesses documentation supporting those representations. Respondent is further prohibited from misrepresenting the purpose, content, or conclusions of any test or survey, and required to furnish all personnel engaged in advertising, quality control or policy-making with a copy of the order.

DATE: Complaint and order issued January 20, 1981.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Michael Dershowitz, Washington, D.C. 20580. (202) 724–0726.

SUPPLEMENTARY INFORMATION: On Wednesday, November 4, 1981, there was published in the **Federal Register**, 46 FR 54758, a proposed consent

[1] Copies of the Complaint and the Decision and Order filed with the original document.

agreement with analysis In the Matter of Renuzit Home Products Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.245 Specifications or standards conformance; § 13.255 Surveys. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements, § 13.533–45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys; § 13.1762 Tests, purported. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 82-3318 Filed 2-8-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-82-957]

Multifamily Housing Mortgage Insurance Eligibility of Mortgages on Existing Projects

Correction

In FR Doc. 82-2455 appearing at page 4507 in the issue of Monday, February 1, 1982, make the following changes:

On page 4508, middle of second column, in the amendatory language for "*§ 207.32a Eligibility of mortgages on existing projects.*", fourth line, "(1)(1)" should read "(e)(1)", and in the fifth line, "(1)(1) should read, "(e)(1)".

BILLING CODE 1505-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Chapters V, IX, XX and Part 3610

[Docket No. R-82-961]

Organizational Changes

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/HUD and Office of the Assistant Secretary for Community Planning and Development/HUD.

ACTION: Final rule.

SUMMARY: The Secretary is making certain technical revisions to Title 24 in order to reflect recent organizational changes within the Department. Prior to this amendment, Chapter IX had been headed by the title of Office of Interstate Lands Sales Registration and Chapter XX had been headed by title of Office of Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection (NVACP); however, NVACP no longer exists as the result of a recent Departmental reorganization. Responsibilities under Chapter IX and under four of the five parts of Chapter XX have now been delegated to the Assistant Secretary for Housing. A fifth part under Chapter XX relates to a program responsibility now delegated to the Assistant Secretary for Community Planning and Development. In order to reflect these organizational changes, Chapters IX and XX are now being entitled "Office of the Assistant Secretary for Housing—Federal Housing Commissioner" and Part 3610, relating to the Neighborhood Self-Help Development Program, is being transferred to Chapter V, Office of the Assistant Secretary for Community Planning and Development.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. Telephone (202) 755-6207. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary finds that comment and public procedure are unnecessary with respect to this rule which governs HUD organization. 24 CFR 10.2. The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)). Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on the effective date set forth above.

The rule has no impact upon the quality of environment and therefore no environmental impact statement or finding of inapplicability has been prepared, in accordance with 24 CFR Part 50.

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

This rule does not constitute a "major" rule as defined by Executive Order 12291 because it is not likely to result in: (a) an annual effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program Numbers are 14.800 and 14.804.

Accordingly, Title 24 is amended by:

(1) Revising the title of Chapters IX and XX to read: Office of Assistant Secretary for Housing—Federal Housing Commissioner.

CHAPTER IX—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

PART 3610—NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM [REDESIGNATED AS PART 595]

(2) Transferring Part 3610,

"Neighborhood Self-Help Development Program," from Chapter XX to Chapter V, and redesignating it as Part 595 with corresponding changes to section numbers and internal references.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Issued at Washington, D.C. on January 18, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-3358 Filed 2-8-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-82-963]

Manufactured Home Procedural and Enforcement Regulations

AGENCY: Department of Housing and Urban Development (HUD)/Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Interim rule.

SUMMARY: The interim rule would amend the manufactured housing procedural and enforcement regulations to provide every state with a period of five years within which to obtain full approval of its state plan for participation as a State Administrative Agency (SAA). Under the present regulation, the participation of many conditionally approved states will soon lapse. Since their participation is vital to the implementation of the Act, the Secretary has concluded that a provision which permits a case by case waiver of the present deadlines is appropriate. Moreover, the Secretary believes that it is important to establish a uniform period of time for obtaining full approval. The interim rule would also authorize the Secretary to extend the period during which a state may participate with conditional approval.

DATES: Effective date February 9, 1982. Comment due date April 12, 1982.

ADDRESS: Comments may be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the document number and date. Copies of the comments will be available during regular business hours, both before and after the specified closing date, at the above address, for examination and copying by interested persons.

FOR FURTHER INFORMATION CONTACT: Tobias A. Gottesman, Director of State and Consumer Liaison Division, Office of Mobile Home Standards, Room 3244, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755-6584 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* (the Act) requires any state which desires to assume responsibility for the enforcement of manufactured home construction and safety standards to submit to the Secretary a plan for enforcement of those standards. Section 623(c) of the Act, 42 U.S.C. 5422(c), specifies eleven standards which the plan must meet before the Secretary may approve it. In 24 CFR 3282.302, the Secretary has established a two-tiered system for review for state plans. Plans meeting all but four of the criteria listed in § 3282.302 (a) and (b) will be given conditional approval, while plans meeting all criteria will be given final approval. Under the present regulation, a state which was granted conditional approval before August 1, 1978, must obtain full approval within five years of gaining conditional approval or its participation will lapse. States granted conditional approval after August 1, 1978, must obtain full approval within three years. There is no provision for waiver of these deadlines.

The first state plans were conditionally approved in the summer of 1976. Since that time, most conditionally approved states have had difficulty in meeting the requirements for full approval. The conditionally approved SAAs have performed valuable services, and their failure to obtain full approval is largely due to circumstances beyond their control. Under the present regulation, the participation of many conditionally approved states will soon lapse. Since their participation is vital to the implementation of the Act, the Secretary has concluded that a provision which permits a case by case waiver of the present deadlines is appropriate. Moreover, the Secretary believes that it is important to establish a uniform period of time for obtaining full approval. Accordingly, the interim rule provides that all states must obtain full approval within five years after receiving conditional approval, and that the Secretary may extend a state's conditional approval if good cause is shown.

The subject matter of this rulemaking action relates to contracts and is therefore exempt from the notice and public comment requirements of section 553 of the Administrative Procedures Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after affectiveness of the action, notwithstanding the statutory exemption. The Secretary has determined that, in this case, notice and public procedure thereon are impracticable and contrary to the public interest and that good cause exists for making this rule effective immediately after publication because the deadline for some states to gain full approval has already passed and deadlines for several others are quickly approaching. A full comment period could cause the participation of many states to terminate. By February 1982, conditional approval for more than half of the states will have expired.

The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this interim rule from the 30-day delay in effectiveness provided in the Administrative Procedure Act (5 U.S.C. 553(d)). Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on February 9, 1982.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 19, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on

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

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

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

This rule was not listed in the Department's Semi-annual Agenda of Regulations published on August 17, 1981, (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Programs number is 14.804 Manufactured Housing.

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Accordingly, 24 CFR 3282.302(c) is revised to read as follows:

§ 3282.302 State plan.

* * * * *

(c) A state plan may be granted conditional approval if all of the requirements of § 3282.302 (a) and (b) are met except paragraphs (b)(2), (b)(3), (b)(6) or (b)(13). When conditional approval is given, the state shall not be considered approved under section 623 of the Act, 42 U.S.C. 5422, but it will participate in all phases of the program as called for in its State plan. Conditional approval shall last for a maximum of five years, by which time all requirements shall be met for full approval, or conditional approval shall lapse. However, the Secretary may for good cause grant an extension of conditional approval upon petition by the SAA.

* * * * *

(Sec. 625, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424)

Issued at Washington, D.C., on January 18, 1982.

Philip D. Winn,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 82-3357 Filed 2-8-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Washington State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Washington State plan including: administrative rules providing for inspections, extension of abatement dates, variances, employee complaints of hazard or discrimination, posting of citations and notices; rules of practice and procedure for contested cases before the Board of Industrial Insurance Appeals; a revised compliance manual for safety operations; and a compliance manual with revisions for the health program operations.

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision and describing the plan.

On April 27, 1976 a notice was published in the **Federal Register** inviting public comment on a supplement to the Washington State plan which provided administrative rules for extension of abatement dates, posting of citations, variances, and employee complaints of hazards. The State of Washington subsequently submitted additional State-initiated and developmental change supplements addressing: rules for employee complaints of discrimination and conduct and scheduling of inspections; rules governing contested cases before the Board of Industrial Insurance Appeals; revisions to the previously approved field compliance manual including clarification on existing variance procedures; and an industrial hygiene field operations manual modeled after the Federal manual, with revisions.

Following Regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for approval. Additional Federal review of the supplements indicated some procedural concerns which the Washington Department of Labor and Industries addressed, in a detailed letter of assurance and clarification to the Regional Administrator dated January 18, 1982.

Description of Plan Supplements

1. Washington Administrative Rules (WAC 296, Chapters 27 and 350). In accordance with the requirements of 29 CFR 1952.123(c), the State of Washington adopted rules providing procedures for extension of abatement dates, conduct and scheduling of inspections, employee complaints of hazard and discrimination, variances, posting of citations and notices, informal review of employee complaints, etc. The State originally submitted regulations which became effective on May 14, 1975, and were subsequently revised effective December 31, 1980 and July 22, 1981.

2. Rules of Practice and Procedure Before the Board of Industrial Insurance Appeals. In accordance with the requirements of 29 CFR 1952.123(c), the State of Washington adopted rules effective April 4, 1975 governing the review of contested cases, which were revised effective March 26, 1976. The rules include procedures for conduct of hearings, duties and powers of hearing examiners, election of party status, etc.

3. Operations Manual, Division of Industrial Safety and Health. The State submitted a revised version of its previously approved compliance manual effective June 23, 1980, with further revisions effective October 20 and December 18, 1980. These revisions reflect both State-initiated and required Federal program changes. In addition to compliance procedures the revised

manual contains details on the procedures for consideration of variances and includes a provision for publication of all variance applications.

4. State of Washington Industrial Hygiene Operations Manual. The State submitted a manual detailing field compliance procedures for its occupational health program effective March 1, 1980. This manual is modeled after the Federal manual and was subsequently revised effective July 1 and September 21, 1981, to reflect all Federal program changes through March 2, 1981.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N–3613, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174

Department of Labor and Industries, General Administration Building, Olympia, Washington 98501

Public Participation

Under 29 CFR 1953.2 the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Washington administrative rules and rules for review of contested cases were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary. The plan supplements which provide the revised manual for safety compliance operations and the manual for industrial hygiene operations are substantially in agreement with requirements of comparable Federal program changes and good cause is therefore found for approval of those supplements without public comment and notice.

Decision

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Washington plan supplements outlined above are approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, § 1952.124 of 29 CFR Part 1952 is amended to reflect the completion of developmental steps by revising paragraph (c) and adding paragraphs (i) and (j) to the list of completed developmental steps as follows:

§ 1952.124 Completed developmental steps.

* * * * *

(c) The Washington State compliance operations manual modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, October 20, and December 18, 1980 and was approved by the Assistant Secretary on January 26, 1982.

* * * * *

(i) An industrial hygiene operations manual, effective March 1, 1980, with revisions effective July 1 and September 21, 1981, modeled after the Federal manual was approved by the Assistant Secretary on January 26, 1982.

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazards and discrimination, posting of citations and notices, effective May 14, 1975 and revisions effective December 31, 1980 and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules effective April 4, 1975 governing practice and procedure for contested cases with revision effective March 26, 1976. These regulations and rules were approved by the Assistant Secretary on January 26, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1600, 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 26th day of January 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-3422 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Certification of Completion of Developmental Steps For Washington State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of Washington on or before January 26, 1976 submitted documentation attesting to the completion of all structural and developmental aspects of its approved State plan. After extensive review of those documents and subsequent revisions, and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the final evaluation phase of State plan development. This certification attests only to the fact that Washington now has in place those structural components necessary for an effective program. It renders no judgment on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as defined by the U.S. Court of Appeals decision in "AFL–CIO v Marshall," 570 F. 2d 1030 (1978).

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two-step procedure. First a State must submit its plan for an initial determination under section 18(b) of the

Act. If the Assistant Secretary, after reviewing the State submission determines that the plan satisfies or will satisfy within a maximum three year developmental period the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with the maintenance of concurrent enforcement authority by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. Pursuant to 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the **Federal Register** (see 29 CFR 1902.34 and 1902.35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine on the basis of actual operations, whether the plan adequately provides safety and health protection to the employees in the State. Certification does not render judgment as to the adequacy of State performance.

The second step of the approval process is final approval of the plan under Section 18(e) of the Act and 29 CFR Part 1902. Final approval may not be granted until at least three years after initial approval and one year after certification of completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the criteria are being met, a decision of final approval may be granted. This decision is based on a thorough evaluation of the State plan under Section 18(e) of the Act and reflects a determination that on the basis of actual operations the plan adequately protects the safety and health of the State's workers. In making this evaluation under Section 18(e), the Assistant Secretary must monitor the continuing development of the State program applying criteria which assure that the State will have an at least as effective program for achieving the goals of the Act, except with respect to staffing and funding levels, which must reflect a fully effective program pursuant to *AFL–CIO v. Marshall*, 570 F. 2d 1030 (1978).

On January 26, 1973, a notice was published in the **Federal Register** (38 FR 2421) initially approving the Washington developmental plan and adopting Subpart F of Part 1952 containing the decision, a description of the plan and the developmental schedule. During the three year period ending January 26, 1976, following commencement of State operations, the Washington Department of Labor and Industries submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Agency review and subsequent explanation and modification of the State's submissions in response to Federal comment, the Assistant Secretary has approved the completion of all individual developmental steps.

Completion of Developmental Steps

All developmental steps specified in the January 26, 1973, notice of initial approval and other relevant steps not explicitly referred to have been completed as follows:

(a) In accordance with the requirements of 29 CFR 1952.123(a) the Washington Industrial Safety and Health Act of 1973, hereinafter referred to as WISHA (S.B. 2386, RCW Chapter 49.17), as signed by the Governor on March 9, 1973, and effective on June 7, 1973, was approved by the Assistant Secretary on July 3, 1974 (39 FR 25326).

(b) In accordance with the requirements of 29 CFR 1952.10, the Washington State Poster submitted on October 6, 1975, was approved by the Assistant Secretary on December 17, 1975 (40 FR 59345).

(c) The Washington State compliance operations manual, modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, 1980, October 20, 1980 and December 18, 1980, and was approved by the Assistant Secretary on January 26, 1982, as set out elsewhere in this issue.

(d) In accordance with 29 CFR 1952.123(c) Washington regulations covering Reassumption of Jurisdiction were adopted by the Washington Department of Labor and Industries on June 7, 1974, and were approved by the Assistant Secretary on March 19, 1976 (41 FR 12655).

(e) In accordance with 29 CFR 1952.123(e) Washington has completed the training as described in that section, which completion was approved by the Assistant Secretary on April 27, 1976 (41 FR 17548).

(f) In accordance with 29 CFR 1952.123(d) Washington has developed and implemented a computerized Management Information System, which action was approved by the Assistant Secretary on April 27, 1976 (41 FR 17548).

(g) In accordance with 29 CFR 1952.123(f) Washington has completed the upgrading of salaries of safety personnel, which completion was approved by the Assistant Secretary on June 11, 1976 (41 FR 23672).

(h) In accordance with 29 CFR 1952.123(c) Washington has adopted rules and regulations covering recordkeeping and reporting of occupational injuries and illnesses requirements, which were initially approved by the Assistant Secretary on November 19, 1976 (41 FR 51016) with revisions approved on August 12, 1980 (45 FR 53459).

(i) An industrial hygiene operations manual, effective March 1, 1980, with revisions effective July 1 and September 21, 1981, modeled after the Federal manual and reflecting changes made in the Federal program through March 2, 1981 was approved by the Assistant Secretary on January 26, 1982 as set out elsewhere in this issue.

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazard and discrimination, posting of citations, and notices of May 14, 1975 with revisions on December 31, 1980 and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules governing practice and procedure for contested cases on April 14, 1975 with revisions on March 26, 1976. These rules and regulations were approved by the Assistant Secretary on January 26, 1982 as set out elsewhere in this issue.

(k) Washington occupational safety and health standards as effective as Federal standards have been promulgated, subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator on August 8, 1975 (40 FR 33500), August 15, 1975 (40 FR 34491), January 30, 1976 (41 FR 4687), February 6, 1976 (41 FR 5465), March 16, 1976 (41 FR 11088), May 4, 1976 (41 FR 18484), June 4, 1976 (41 FR 22655), August 17, 1976 (41 FR 34836), May 5, 1978 (43 FR 19480), May 30, 1978 (43 FR 23024), May 22, 1979 (44 FR 29747),

February 22, 1980 (45 FR 11946), July 15, 1980 (45 FR 47549), July 7, 1981 (46 FR 35229), October 13, 1981 (46 FR 50445), and January 12, 1982 (47 FR 1354). Three additional standards submissions were approved by the Regional Administrator on January 11 and 20, 1982, and by the Assistant Secretary on January 26, 1982.

(1) The personnel operations of the Washington Industrial Safety and Health Administration under merit system rules were certified by the Director of the Seattle Regional Office, United States Office of Personnel Management (previously U.S. Civil Service Commission) as being in accordance with merit system standards by letter of January 21, 1976. The letter also judged Washington's affirmative action plan to be in compliance with the intent of these standards.

This certification covers all occupational safety and health issues covered under the Federal program as well as the State's program covering State and local government employees.

Location of the Plan and Its Supplements For Inspection and Copying

Copies of the supplements along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N–3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210

Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174

Department of Labor and Industries, General Administration Building, Olympia, Washington 98501

Effect of Certification

The Washington plan is certified effective January 26, 1982 as having completed all developmental steps on or before January 26, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

The Washington occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program.

Level of Federal Enforcement

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, under the terms of an operational status agreement entered into between OSHA and the Washington Department of Labor and Industries effective May 30, 1975 (40 FR 44133), the exercise of this authority will continue to be limited to, among other things: complaints about employee discrimination; enforcement of new Federal standards including temporary emergency standards until adopted by the State, enforcement of standards in areas excluded from plan coverage; investigations for fulfillment of monitoring obligations under sections 18 (e) and (f) of the Act; and abatement dates from OSHA-issued citations, which extend beyond the date of State assumption of inspection responsibility Pursuant to 29 CFR 1954.3(f)(1) the agreement provides for resumption of Federal enforcement activity for failure to substantially comply with the provisions of the agreement or as a result of evaluation or other factors.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification 29 CFR 1952.124 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (k) as follows:

§ 1952.124 Completion of developmental steps and certification

* * * * *

(k) In accordance with § 1902.34 of this chapter, the Washington occupational safety and health plan was certified effective January 26, 1982, as having completed all developmental steps specified in the plan as approved on January 26, 1973 on or before January 26, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 26th day of January 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–3421 Filed 2–8–82; 8:45 am]

BILLING CODE 4510–26–M

29 CFR Part 1953

Approval of Washington State Standards

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This notice approves revised State standards comparable to Federal standards under 29 CFR 1926.451 Scaffolding. The State's adoption of the standards constitutes a change to the State's occupational safety and health plan in response to a Federal action proposing to reject previously submitted State construction scaffolding standards. This notice also terminates the rejection proceedings.

EFFECTIVE DATE: January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTAL INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards which are at least as effective as Federal standards promulgated pursuant to an approved State plan in accordance with section 18 (c)(2) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

Consistent with the State's schedule for adoption of State standards, by letter of October 7, 1976, the State submitted standards comparable to 29 CFR Part 1926, as published in the **Federal Register** (39 FR 22801) dated June 24, 1974. The State standards were promulgated after public hearing held on February 19, 1976.

Regional review pursuant to 29 CFR 1953.4 indicated that the State standards for construction scaffolding, WAC 296–155–485, contained additional provisions

under WAC 296–155–485(1)(e), General Requirements and WAC 296–155–485 (18) Plasterers' and Lathers' Tubular Welded Frame Scaffolds, which made the scaffolding standards less effective than those in 29 CFR 1926.451, Scaffolding. On August 16, 1977 a notice of the Regional Administrator's intent to reject the standards, which provided in detail the reasons therefor, was published in the Federal Register (42 FR 56812). Subsequently, a hearing was held before a Federal administrative law judge, Rhea M. Burrow, in Seattle, Washington, November 29, 1977, at the request of the State, to provide opportunity for the State and the Regional Administrator to present their cases. Following the hearing the parties agreed to waive a tentative decision by the Regional Administrator, and the records of the proceedings and post-hearing submissions, together with related material, were sent by way of Judge Burrow to the Assistant Secretary for a final decision.

After his consideration the Assistant Secretary concurred with the Regional Administrator that the standards were less effective than the Federal scaffolding standards. By letter dated November 18, 1981, Assistant Secretary Thorne G. Auchter advised the State designee for the Washington program, Samuel Kinville, Director of the Washington Department of Labor and Industries, that he intended to reject the State's scaffolding standards.

The State responded by using its emergency promulgation procedures to withdraw those portions of its scaffolding standards at WAC 296–155–485(1)(e) and 296–155–485(18) which rendered the original submission, WAC 296–155–485, Scaffolding, less effective than the Federal 29 CFR 1926.451, Scaffolding. The remaining provisions of WAC 296–155–485 are now substantially identical to 29 CFR 1926.451. The State's action took effect December 10, 1981; a copy of the standard reflecting the deletion of the less than effective portions was submitted by letter dated December 15, 1981. The State has expressed an intention to follow this emergency action with permanent promulgation. The State standards comparable to 29 CFR 1926.451 for construction scaffolding are now substantially identical to corresponding Federal provisions.

Location of the Plan Supplement for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room N3613, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, 909 First Avenue, Seattle, Washington 98174; and the Department of Labor and Industries, General Administration Building, Olympia, Washington 98504.

Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause consistent with applicable law. The Assistant Secretary finds that the Washington plan supplement described above is substantially identical to comparable Federal provisions. Good cause is therefore found for the approval of the State standards without further public comment and notice.

Decision

After careful consideration the Washington standards described above, WAC 296–155–485 Scaffolding, are hereby approved under Subpart C of Part 1953 of this Chapter. The rejection proceedings relative to State scaffolding standards began on August 16, 1977 (42 FR 56812) are hereby terminated. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 26th day of January, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 82-3423 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 297

Deletion of Part; Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff Implementation of the DOD Freedom of Information Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense has cancelled the source document of 32 CFR Part 297 on implementation of the DoD Freedom of Information Program. This action removes this Part from the CFR since it is no longer valid.

EFFECTIVE DATE: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mrs. M. S. Healy, Federal Register Liaison Officer, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301, Telephone 202–697–4111.

PART 297—OFFICE OF THE SECRETARY OF DEFENSE/ ORGANIZATION OF THE JOINT CHIEFS OF STAFF IMPLEMENTATION OF THE DEPARTMENT OF DEFENSE FREEDOM OF INFORMATION PROGRAM [REMOVED]

Accordingly, 32 CFR is amended by removing Part 297.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 3, 1982.

[FR Doc. 82-3356 Filed 2-8-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8 FRL 2009-6]

Approval and Promulgation of State Implementation Plans; Revisions to the Wyoming Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving several revisions to the Wyoming State Implementation Plan (SIP). These revisions, submitted on August 26 and 27, 1981, eliminate the possibility for any Class III designations in the State, make several changes to the new source permitting program, provide information on Wyoming's air monitoring program in response to 40 CFR 58, and revise the Emergency Episode Contingency Plan. This Action will be effective on April 12, 1982 unless we receive notice by March 11, 1982 that someone wishes to submit adverse or critical comments.

DATES: This action is effective April 12, 1982.

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

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

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

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

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

SUPPLEMENTAL INFORMATION: The State of Wyoming has submitted two sets of revisions to the Wyoming State Implementation Plan (SIP). The August 26, 1981, submittal contains (1) changes to the new source permitting regulations, (2) the Wyoming Air Monitoring Plan as required by 40 CFR 58, and (3) changes to the Emergency Episode Contingency Plan. The August 27, 1981, submittal consists of revisions to the Prevention of Significant Deterioration Regulation which eliminate references to designations of Class III areas.

Changes to Permit Requirements

Permit requirements in Section 21 of the Wyoming Air Quality Regulations have been revised to achieve three objectives:

(1) Provide for a self-issuance permit system for portable sources.

(2) Establish a requirement that a permit applicant demonstrate ownership of property as part of a permit application.

(3) Provide the Wyoming Air Quality Division Administrator with the specific authority to determine that a proposed minor source has an insignificant emission rate and air quality impact and thus is exempt from the permit system.

EPA has reviewed these changes and has found them to be consistent with the New Source Review requirements in 40 CFR 51.18. The changes will enable Wyoming to streamline its permitting program with no adverse effect on air quality.

Air Monitoring Program

Subpart C of 40 CFR 58 contains the requirements that states must follow in submitting a SIP revision which describes its air quality monitoring plan. The August 26, 1981, submittal contains Wyoming's Air Quality Monitoring Plan which meets the requirements of 40 CFR 58.

Emergency Episode Contingency Plan

This plan is being revised to remove references to Coefficient of Haze measurements as a basis for determining emergency episodes. This measurement method is not a universally accepted technique. Measurement of total suspended particulate is satisfactory for emergency episodes.

Prevention of Significant Deterioration Program Revisions

On August 27, 1981, the State of Wyoming submitted revisions to its Air Quality Standards and Regulations which eliminate references to the possibility of designating areas of the State as Class III under its Prevention of Significant Deterioration Program. Federal regulations (40 CFR 51.24) allow states to designate certain areas to Class III. The air quality in such areas would then be allowed to deteriorate a larger incremental amount than other areas but not further than the National Ambient Air Quality Standards (NAAQS). The intent is to allow for substantial increases in industrial growth in these specified areas.

The State of Wyoming has determined that the preservation of high quality clean air is of prime importance to the citizens of Wyoming and that degradation of this resource would have a detrimental impact on the quality of life for Wyoming residents and the tourist industry. The State has also determined that industrial development is proceeding without the need to designate Class III areas and that clean air is easier to maintain than to restore. Elimination of Class III areas will allow the State to better manage its clean air resource. This provision is more stringent than federal requirements.

EPA today is approving these revisions. The public is advised that this action will be effective April 12, 1982. However, if we receive written notice by March 11, 1982 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 this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of the Regulatory Flexibility 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)(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.

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

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

Dated: January 18, 1982.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

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

(1) In § 52.2620, paragraph (c)(13) is added as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(13) On August 26, 1981 and August 27, 1981, Wyoming submitted revisions to the requirements for Prevention of Significant Deterioration, the Air Quality Monitoring Plan, revisions to the Emergency Episode Contingency Plan, and revisions to stationary source permitting regulations.

[FR Doc. 82-3213-Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 55

[A-1-FRL-2026-4]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Delayed Compliance Order for New England Power Company's Salem Harbor Generating Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the issuance of an administrative order called a Delayed Compliance Order (DCO) to New England Power Company (NEPCO), allowing generating units 1, 2, and 3 of its Salem Harbor Generating Station, located in Salem, Massachusetts to convert from burning oil to burning coal. The increased particulate emissions caused by coal burning will mean that NEPCO will be unable to comply with certain provisions of the Massachusetts

State Implementation Plan (SIP) until December 31, 1985. Between now and December 31, 1985, NEPCO will be allowed to burn coal despite this noncompliance. During this interim period, however, NEPCO must install the pollution control equipment necessary to achieve final compliance with the Masssachusetts SIP. This DCO sets forth a compliance schedule, emissions limitations, and other requirements of Section 113(d)(5) of the Clean Air Act.

EFFECTIVE DATE: February 9, 1982.

ADDRESSES: Copies of all comments received and EPA's responses to these comments are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts; and at the Salem Planning Department, One Salem Green, Church Street, Salem, Massachusetts. All reports required under the DCO also will be available for public inspection at EPA Region I.

FOR FURTHER INFORMATION CONTACT: Brian Hennessey at the U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203 or telephone (617) 223–4448.

SUPPLEMENTARY INFORMATION: On April 15, 1981, NEPCO requested a DCO under Section 113(d)(5) of the Clean Air Act, 42 U.S.C. 7413(d)(5), to enable it to burn coal in generating units 1, 2, and 3 of its Salem Harbor plant in Salem, Massachusetts. These units have a net power output generating capacity of approximately 81, 81, and 148 megawatts respectively when burning coal. NEPCO proposed an immediate conversion from oil to coal burning and stated that this would cause temporary noncompliance at Salem Harbor with the following regulations contained in the EPA-approved Massachusetts SIP:

310 CMR 7.02(8)—limiting particulate emissions to 0.12 pounds per million Btu heat input;

310 CMR 7.05(4)—limiting the ash content of fossil fuels to 9% dry weight (interpreted by the state as measured on a cargo received basis); and

310 CMR 7.06(1)—limiting visible emissions to 20 percent opacity, except up to 40 percent for no more than 6 minutes in any hour.

On July 31, 1981, EPA proposed (46 FR 39175) to issue a DCO to NEPCO, deferring the particulate and VE emission requirements for 43 months after initial burning of coal (or December 31, 1985, whichever is earlier), and the ash content regulation for two months after initial burning of coal (or July 31, 1982, whichever is earlier). EPA's proposal also contained interim pollution control requirements and emission limitations, as well as emissions, ambient air monitoring and reporting requirements. These requirements, as well as EPA's findings on Salem Harbor's eligibility for a DCO, are explained in detail in EPA's proposed rulemaking notice and will not be repeated here.

The comment period on EPA's proposal ran from July 31 to September 24, 1981. A public hearing was held in Salem, Massachusetts on September 2, 1981. Forty-two people testified at the public hearing and/or submitted written comments during the comment period. Of these forty-two commenters, five opposed the proposed DCO, five were neutral, twenty-six favored the proposed DCO, and six favored the DCO but also expressed other concerns. As previously stated, EPA's responses to all the comments submitted are contained in documents which are available for public inspection. Only those comments which address questions posed in EPA's proposed rulemaking notice or which have resulted in substantive changes in EPA's proposal will be discussed in today's notice.

1. *Best Practicable System of Emission Reduction (BPSER)*—NEPCO's original request contained commitments to implement certain upgrading measures and maintenance procedures on the existing electrostatic precipitators (ESPs), coal handling equipment and ash removal system, as well as to evaluate the effectiveness of flue gas conditioning (FGC) on one unit for possible application on all units. NEPCO predicted that these measures would result in emission rates varying from 0.67 to 0.85 pounds per million Btu heat input.

EPA's proposal specified a BPSER emission rate of 0.60 pounds per million Btu heat input for the first four months of burning conforming ash ("new") coal, and a rate thereafter of 0.35 pounds per million Btu heat input. These emission rates were based on projected emissions resulting principally from restoring the ESPs to design condition, installing and operating FGC systems, and installing additional transformer-rectifier (T–R) sets on all three units. However, EPA's proposal did not require the installation and operation of specific controls; rather, EPA proposed to allow NEPCO to select controls to meet the BPSER emission rates, and to submit their selection to EPA for approval prior to coal burning.

One commenter opposed EPA's proposed limits as being too lenient, especially with respect to fine particulates. Another commenter requested that EPA either specify the installation and operation of FGC systems and T–R sets in the Order, or release NEPCO's plan for 30 day public comment prior to any EPA action on the plan. A third commenter, NEPCO, opposed EPA's BPSER limits as being too stringent. During the comment period, NEPCO presented additional data pertaining to the effectiveness of the existing ESPs for controlling particulate emissions resulting from burning the quality coal intended for use at Salem Harbor. NEPCO did not revise its particulate emission estimates. Based on this new information, EPA has revised its estimate of BPSER emission rates of 0.60 and 0.35 pounds per million Btu. Therefore, the emission rates required by the order are 0.60 and 0.45 pounds per million Btu heat input. EPA believes this revision to the proposed limits is reasonable given the uncertainties inherent in this type of engineering estimate of predicting the efficiency of restored ESPs and in estimating the emission benefits of the modifications NEPCO will make to the ESPs.

NEPCO also presented new proposals for BPSER which included installation of FGC on all units, ESP resectionalization, additional upgrading measures on the existing ESPs, performance of ESP gas flow distribution tests, installation of a dry flyash hopper evacuation system, and installation of four new T–R sets with provision for additional T–R installations if FGS proves to be effective. These proposals correspond closely to the control equipment selection upon which EPA based its proposed BPSER emission rates. However, as previously stated, NEPCO did not predict an improvement in particulate control from implementation of these measures; NEPCO prefers to establish a final particulate emission limit after each unit is tested.

Upon consideration of public comment and review of NEPCO's new BPSER proposals, EPA has concluded that the new proposals should be incorporated in the Order. EPA continues to believe that the emission rates contained in the Order are achievable, but that NEPCO is the best judge of the most cost-effective way to achieve these rates. EPA has, therefore, accepted NEPCO's revised plan as described above with two minor modifications. In its revised plan, NEPCO agreed to install FGC systems on all three units. FGC systems from several vendors are available for use at Salem Harbor; FGC effectiveness may vary among the units and systems used. In order to ensure that installation of

FGC has a maximum effect on reducing emissions, EPA is requiring NEPCO to experiment with FGC systems from two vendors and to select, install and operate the more effective system within 6 months of coal burning. In its revised BPSER plan, NEPCO also agreed to perform gas flow distribution tests on two units. The Order requires NEPCO to implement improvements if the tests show that gas flow distribution significantly decreases ESP effectiveness.

2. *Plantwide Emissions Cap or "Bubble"*—EPA's proposal solicited comments on NEPCO's request that EPA impose a total plantwide emission rate as an alternative to specific emission rates for each unit. EPA's proposal further solicited comments on NEPCO's request that such plantwide emission rates be specified in terms of weight of particulates per unit time, and on how such a plantwide emissions cap could be enforced. In addition to NEPCO, four commenters addressed these questions. Two of these commenters supported the concept of a plantwide emissions cap and two opposed it.

NEPCO's comments suggested that EPA implement the plantwide emissions cap by first determining an emission rate in pounds per million Btu's for each unit, then coverting each emission rate to a pounds per hour emission rate assuming full load operation, and finally summing the pounds per hour emission rates for the three units to determine a single pounds per hour plantwide emission rate.

NEPCO suggested that EPA enforce the plantwide emissions cap by first requiring stack tests to determine emission rates as a function of various loads for each unit, next requiring NEPCO to plot graphs of emission rates (expressed in pounds per hour) versus power output (expressed in megawatts) for each unit, then requiring NEPCO to operate the plant such that the sum of the emissions from all units at any given time is less than the plantwide emissions cap, and finally requiring NEPCO to track and record hourly power output correlated with total emissions.

The effect of the plantwide emissions cap as expressed in terms of pounds per hour is to allow pollution credit for reduced load operation. EPA has determined that a plantwide emissions cap is legally permissible in this case. EPA will consider an emissions cap in this case provided the source installs and operates pollution control equipment which satisfies the requirements in the Act for use of the best practicable system of emission reduction. However, at this time, EPA believes that the Salem Harbor units individually are capable of meeting the emission rates contained in today's Order. Therefore, no final action is being taken today on NEPCO's proposal for a plantwide emissions cap. At a future date, EPA may supplement the Order to include such a cap in the event that any of the units fails to demonstrate compliance with the DCO's final emission rates after NEPCO has made all reasonable efforts to comply. Such data will be available for public inspection at the addresses listed above. Currently, EPA is refining the procedures to implement a plantwide emissions cap.

3. *Primary NAAQS for Sulfur Dioxide (SO_2)*—EPA's proposal discussed the potential for violations of the primary NAAQS for SO_2 during the DCO resulting from plume downwash from the three short stacks presently serving units 1, 2, and 3. EPA believes that if an SO_2 problem does presently exist at Salem Harbor, it will be resolved by the end of the DCO period. The permanent coal conversion includes the replacement of the three short stacks with a single taller stack representing good engineering practice, thus eliminating downwash. However, since at the time of proposing the DCO EPA had not required NEPCO to model SO_2 emissions under the tall stack configuration, EPA had no data that would demonstrate NAAQS attainment. One commenter argued persuasively that the public had a right to such a demonstration. EPA therefore required NEPCO to provide this modeling, which NEPCO submitted on December 2, 1981. EPA has reviewed this submission and has performed additional analyses of its own, and has concluded that Salem Harbor will not cause or contribute to a violation of any NAAQS for SO_2 when the tall stack is completed. This modeling, as well as EPA's review, is also available for public inspection.

Additionally, the Massachusetts Department of Environmental Quality Engineering (DEQE), as a condition of their permit to NEPCO allowing the Salem Harbor Plant to burn fuel with a sulfur content up to 1.21 pounds per million Btu heat release potential, has required NEPCO to maintain a supply of low (1%) sulfur oil on site. The DEQE has further required NEPCO to install a telemetry system within the plant to record the ambient SO_2 levels measured at the monitors around the plant. These monitors are required as part of the DCO. If these monitors measure SO_2 concentrations which approach the NAAQS, the DEQE will required NEPCO to convert one or more of its coal burning units to the low sulfur oil until the elevated levels decrease.

4. *Ash Content in Fuel*—NEPCO requested that EPA delay compliance with the Massachusetts 9% (dry weight) coal ash limitation in order to accommodate NEPCO's current contract for coal which specifies a 10% (as received) ash content. NEPCO's experience with this contract shows that occasionaly the coal it receives exceeds 9% ash by dry weight. NEPCO's submissions however show that most of the contracted coal complies with the state's ash regulation. In discussions with NEPCO, EPA had suggested that NEPCO monitor the ash content of coal shipments before delivery, so that lower ash shipments may be sent to Salem Harbor and higher ash shipments to another NEPCO plant. While monitoring and shipping arrangements to accomplish this may pose problems, NEPCO has not shown that these problems are insurmountable. More importantly, NEPCO has not documented that it cannot obtain coal elsewhere which complies with the state regulation.

NEPCO will be permitted to burn the high ash coal currently on-site, but only for a 60 day period. Due to severe space limitations this on-site coal must be disposed of before complying coal can be stored. All coal burned after this 60 day period must conform to the state regulation.

5. *Miscellaneous Testing and Reporting Requirements*—Based on comments received pertaining to the frequency, nature and timeliness of proposed data reporting requirements, EPA has revised its proposal in the following areas:

(a) increased the number of particulate stack tests,

(b) decreased the number of correlations of stack opacity with observations of visible emissions,

(c) accelerated the operation of the ambient monitoring network,

(d) reduced the sampling frequency of certain TSP monitors,

(e) changed the range of operation of the SO_2 monitors,

(f) added a provision for potential future analysis of TSP filters for fine particulates,

(g) extended the ambient data reporting deadlines,

(h) increased the availability of ambient data records to the public,

(i) extended the time for stack testing and installing opactiy monitors.

In addition, EPA made other minor administrative changes to its proposal. These changes are discussed more fully in EPA's responses to public comments.

Therefore, after considering all comments received, the DCO request by the New England Power Company, EPA's findings, and the written concurrence from the Governor of the Commonwealth of Massachusetts, this Order is hereby issued. In addition, this Order is being made effective February 9, 1982.

(42 U.S.C. 7413(d))

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

Before the United States Environmental Protection Agency Region I, John F. Kennedy Federal Building, Boston, MA 02203.

Statutory Authority

This Order is issued under sections 113(d)(5) and 114 of the Clean Air Act [the Act], as amended, 42 U.S.C. 7413(d)(5) and 7414. This Order contains a compliance schedule, interim requirements, monitoring and reporting requirements and other requirements which satisfy the terms of these Sections of the Act. Public notice has been provided under section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Governor of the Commonwealth of Massachusetts has concurred with issuance of this Order.

In consideration of the foregoing, 40 CFR Part 55 is amended as follows:

PART 55—FEDERAL ADMINISTRATIVE ORDERS ISSUED UNDER SECTION 113(d)(5) OF THE CLEAN AIR ACT

Subpart W—Massachusetts

1. By adding § 55.472 to read as follows:

§ 55.472 Federal administrative orders issued under Section 113(d)(5) of the Act.

Findings

The Administrator of EPA (Administrator) makes the following findings:

1. New England Power Company (NEPCO) owns and operates the Salem Harbor Generating Station (Salem Harbor) located in Salem, Massachusetts.

2. Salem Harbor is a major stationary source, having the potential to emit more than 100 tons per year of particulates and sulfur dioxide (SO_2) while using pollution control equipment.

3. Currently, units 1, 2 and 3 at Salem Harbor burn residual oil.

4. On April 3, 1980, the U.S. Department of Energy (DOE) published a proposed order under the Powerplant and Industrial Fuel Use Act (FUA), 42 U.S.C. 8301 *et seq.*, which would prohibit units 1, 2 and 3 from burning oil. On June 10, 1981, DOE published a Notice of Intent to Proceed on the Salem Harbor Prohibition Order (46 FR 30682).

5. A state implementation plan (SIP) to regulate air pollution in Massachusetts has been approved by the Administrator of EPA under Section 110 of the Act, 42 U.S.C. 7410.

6. 310 CMR 7.02(8), which concerns emission limitations, is part of the applicable SIP within the meaning of Section 113(d)(5) of the Act and reads in pertinent part as follows:

> No person owning, leasing, or controlling the operation of any fossil fuel utilization facility shall cause, suffer, allow, or permit emissions therefrom in excess of those emission limitations set forth in the following tables * * * [0.12 lbs. of particulate per million Btu heat input].

7. 310 CMR 7.05(4), which concerns ash content of fuels, is part of the applicable SIP within the meaning of section 113(d)(5) of the Act and reads in pertinent part as follows:

> (b) No person shall cause, suffer, allow or permit the burning in the District [Boston Metropolitan] of any fossil fuel containing an ash content in excess of nine per cent (9%) by dry weight.

8. 310 CMR 7.06(1), which concerns visible emissions, is part of the applicable SIP within the meaning of section 113(d)(5) of the Act and reads in part as follows:

> (a) No person shall cause, suffer, allow, or permit the emission of smoke which has a shade, density, or appearance equal to or greater than No. 1 of the Chart [20%] for a period, or aggregate period of time in excess of six minutes during any one hour, provided that at no time during the said six minutes shall the shade, density, or appearance be equal to or greater than No. 2 of the Chart. [40%].

9. EPA has determined that units 1, 2 and 3 will be unable to meet the requirements of 310 CMR 7.02(8), 7.05(4) and 7.06(1) if the units convert to coal burning.

10. Salem Harbor is located in the Metropolitan Boston Air Quality Control Region (AQCR). The city of Salem is located within this AQCR and EPA has designated Salem as an area which is attaining the primary national ambient air quality standard (NAAQS) for total suspended particulates (TSP).

11. The Administrator has determined that the emission limits, requirements respecting pollution characteristics of coal and other enforceable measures contained in the following Order are sufficient to assure that the burning of coal at Salem Harbor will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any primary NAAQS for such pollutant.

12. The Administrator also has determined that the compliance schedule in the following Order requires compliance with 310 CMR 7.02(8), 7.05(4) and 7.06(1) as expeditiously as practicable and before December 31, 1985.

13. Furthermore, the Administrator has determined that the interim requirements of the following Order require the best practicable systems of emission reduction (BPSER) to protect the public health and minimize noncompliance with 310 CMR 7.02(8), 7.05(4) and 7.06(1).

Based on the foregoing findings, it is hereby ordered:

I. SIP Limitation

As specified in this Order, units 1, 2 and 3 of the Salem Harbor Generating Station owned by NEPCO shall comply with the interim limitations, compliance schedules, and other enforceable requirements set forth in this Order. The emission limits contained in this Order are authorized only until NEPCO can install the pollution control equipment necessary to achieve compliance with Sections 310 CMR 7.02(8), 7.05(4), and 7.06(1) of the Massachusetts SIP while burning coal at Salem Harbor. These regulations govern particulate emissions, coal ash content and visible emissions, respectively.

As used in this Order, the term "old coal" means the high ash (over 17%) coal on site at Salem Harbor before April 15, 1981, when NEPCO petitioned EPA to allow coal burning at the plant. "New coal" as used in this Order, refers to coal which complies with the 9% ash limit of 310 CMR 7.05(4) (interpreted by the state as measured on a cargo received basis).

II. Interim Requirements

EPA has determined that the following interim requirements ensure that the burning of old or new coal in units 1, 2 and 3 will not cause or contribute to violations of the primary NAAQS for TSP:

A. Preliminary and General Measures

1. Prior to the burning of any coal at Salem Harbor, NEPCO shall submit to EPA a detailed program for minimizing fugitive particulate emissions from coal and coal ash handling. Upon approval by EPA, this program shall become enforceable under this Order.

2. (a) Prior to the burning of old coal in any unit Salem Harbor, NEPCO shall install a flue gas conditioning system in that unit to enhance the collection efficiency of its electrostatic precipitator. This flue gas conditioning system shall remain in operation when the unit converts to burning new coal.

(b) Prior to the burning of new coal in a second unit at Salem Harbor, NEPCO shall install another flue gas conditioning system in that unit. This second flue gas conditioning system shall be supplied by a different vendor than the one that supplied the system required by (a) above.

(c) Prior to the burning of new coal in the third unit at Salem Harbor, NEPCO shall install a flue gas conditioning system in that unit. This third flue gas conditioning system may be supplied by any vendor.

(d) Within 180 days after initial burning of old coal at Salem Harbor, NEPCO shall evaluate the effectiveness of the flue gas conditioning systems, shall select the more effective system, and shall install the more effective system on all three units. In the event that the systems are ineffective, EPA may eliminate the requirement for installation and operation of the system.

(e) For the duration of this Order, the selected flue gas conditioning systems shall be operated in a manner recommended by the supplier of the conditioning agents.

3. (a) Within 180 days after initial burning of old coal at Salem Harbor, NEPCO shall complete implementation of all measures identified as best practical system of emission reduction of NEPCO's September 24, 1981 submittal to EPA, summarized as

items 1–10 in Figure 12 of the testimony of G. P. Sasdi.

(b) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA for approval a plan which details any corrective measures NEPCO intends to implement as a result of gas flow distribution tests (Item 7 in Figure 12). NEPCO shall be required to implement corrective measures if tests show that the existing gas flow distribution significantly decreases the effectiveness of the electrostatic precipitators. Upon approval by EPA, the terms of the above plan shall become enforceable under this Order.

4. (a) Within 30 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA a preliminary plan to optimize particulate emission reduction from operating the flue gas conditioning system or systems.

(b) In addition, NEPCO shall submit to EPA monthly status reports on the implementation of this plan.

(c) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall conduct particulate emission tests on each unit to demonstrate optimization of the flue gas conditioning systems.

(d) Within 210 days after initial burning of old coal at Salem Harbor, NEPCO shall submit to EPA for approval a plan for installing any additional new transformer-rectifier sets. NEPCO shall be required to install additional new transformer-rectifier sets if flue gas conditioning optimization tests show that flue gas conditioning significantly enhances the effectiveness of the electrostatic precipitators. Upon approval by EPA, the terms of the above plan shall become enforceable under this Order.

(e) Within 240 days after initial burning of old coal, NEPCO shall submit to EPA a final plan to optimize particulate emission reduction from operating the flue gas conditioning system. Upon approval by EPA, this final plan shall become enforceable under this Order.

B. *Old Coal Burn*

1. Not later than 14 days before burning old coal in any unit, NEPCO shall submit to EPA written notice of the date it intends to start burning old coal in that unit.

2. (a) NEPCO shall be authorized to burn old coal for no more than 60 actual days of coal burning following the effective date of this Order, and not later than July 31, 1982.

(b) NEPCO shall burn old coal during this period only in either unit 2 or unit 3, but not in both units at the same time.

(c) During this time, unit 1 shall not burn any coal.

3. For the 60 days of burning of old coal under this Order, net electric power generation from coal burning shall not exceed the following rates:

(a) Unit 2: 64 MW

(b) Unit 3: 100 MW

Compliance with this limitation shall be based upon the monitoring and reporting required by IV(B)(5) of this Order.

4. For the 60 days of burning of old coal under this order, no unit shall burn coal at any time unless all fields of its electrostatic precipitator are fully energized and operating properly. Compliance with this requirement shall be verified by electrostatic precipitator records kept as required by IV(A)(6) of this order.

C. *New Coal Burn*

1. Not later than 14 days before burning new coal in any unit, NEPCO shall submit to EPA written notice of the date it intends to start burning new coal in that unit.

2. (a) Upon initial burning of new coal in any unit, particulate emissions from that unit shall not exceed 0.60 pounds per million Btu gross heat input.

(b) Within 60 days of initial burning of new coal in any unit, and not later than 150 days from the initial burning of any coal at Salem Harbor, NEPCO shall conduct particulate emission tests on that unit to demonstrate compliance with this emission limit.

3. (a) Within 240 days of initial burning of any coal at Salem Harbor under this Order, particulate emissions from each unit shall not exceed 0.45 pounds per million Btu gross heat input.

(b) Within 240 days of initial burning of any coal at Salem Harbor, NEPCO shall conduct a particulate emission test on each unit to demonstrate compliance with this emission limit.

(c) Eighteen months after completing (b) above, NEPCO shall conduct an additional particulate test on each unit to demonstrate continued compliance with the emission rate.

4. Within 30 days of completing each set of particulate emission tests required by II(C)(3), NEPCO shall submit to EPA a report which correlates visible emissions from each unit as determined by EPA Method 9 (40 CFR Part 60, Appendix A) as a function of particulate emissions from coal burning.

(a) Each report shall propose an enforceable visible emissions opacity limit for each unit covered by this Order.

(b) EPA shall set an opacity limit for enforcement under this Order within 30 days of receipt of each report.

(c) Each report also shall propose an opacity monitor reading which correlates with particulate emissions from coal burning.

(d) Within 30 days of receipt of each report, EPA shall set an opacity monitor reading which will be used as an indicator of continuous compliance with the emission limits of this Order.

(e) EPA may require NEPCO to submit additional visible emission analyses under IV(A)(5) of this Order, and may use the additional data to revise opacity limits applicable to coal burning under this Order.

III. Compliance Schedule

Before commencing the burning of old coal under this Order, NEPCO shall continue to comply at all times with 310 CMR 7.02(8), 7.05(4), and 7.06(1). Once the burning of old coal has commenced, NEPCO shall proceed as expeditiously as practicable to achieve compliance with 310 CMR 7.02(8), 7.05(4), and 7.06(1).

A. Increments of Progress

NEPCO shall achieve the following increments of progress towards final compliance no later than the earlier of the times specified in the following compliance schedule:

Compliance Schedule and Increment of Progress

1. Prior to the initial burning of old coal in any unit, or May 31, 1982—Hire an architect/engineer for coal conversion project design and engineering.
2. 2 months after initial burning of old coal in any unit, or July 31, 1982—Attain compliance with 310 CMR 7.05(4). (Compliance shall be determined from reports and fuel analyses required under (IV)(B) of this Order.)
3. 9 months after initial burning of old coal in any unit, or February 28, 1983—Enter contracts or place purchase orders for all major equipment including electrostatic precipitators, and ductwork, necessary for final compliance with 310 CMR 7.02(8) and 7.06(1).
4. 21 months after initial burning of old coal in any unit, or February 28, 1984—Initiate on-site construction or installation of electrostatic precipitators and ductwork.
5. (a) 31 months after initial burning of old coal in any unit, or December 31, 1984—Tie unit 1 into its completed electrostatic precipitator and ductwork.

(b) 35 months after initial burning of old coal in any unit, or April 30, 1985—Tie unit 2 into its completed electrostatic precipitator and ductwork.

(c) 39 months after initial burning of old coal in any unit, or August 31, 1985—Tie unit 3 into its completed electrostatic precipitator and ductwork.

6. (a) 34 months after initial burning of old coal in any unit, or March 31, 1985—Perform an emission test demonstrating compliance of unit 1 with 310 CMR 7.02(8) and 7.06(1).

(b) 38 months after initial burning of old coal in any unit, or July 31, 1985—Perform an emission test demonstrating compliance of unit 2 with 310 CMR 7.02(8) and 7.06(1).

(c) 43 months after initial burning of old coal in any unit, or December 31, 1985—Perform an emission test demonstrating compliance of unit 3 with 310 CMR 7.02(8) and 7.06(1).

B. Force Majeure

In the event NEPCO is unable to comply with any of the schedule increments established in III(A) above, and such failure is due to an act of God, war, strike, or other causes beyond its control, NEPCO may petition EPA to extend the time for compliance with such schedule increment and all subsequent schedule increments by a period equal to the delay caused by such circumstances. NEPCO shall bear the burden of proving that a delay is caused by circumstances clearly beyond its control. Any delay caused by such circumstances shall not be deemed a violation of this Order. In no event, however, shall final compliance be achieved later than December 31, 1985.

C. Compliance Reporting Requirements

1. NEPCO shall submit written notice of its compliance status with each of the above listed compliance milestones within 10 calendar days after the date for achieving such milestones.

2. If noncompliance is reported, notification should include the following information:

(a) A description of the noncompliance;
(b) A description of any actions taken or proposed by NEPCO to comply with the elapsed schedule requirements;
(c) A description of any factors which tend to explain or mitigate the noncompliance;
(d) An approximate date by which NEPCO will perform the required action.

3. Furthermore, NEPCO shall submit calendar quarterly construction progress reports to EPA for the duration of this Order.

IV. Monitoring and Reporting Requirements

A. Emissions Monitoring and Reporting Requirements

1. All particulate emission testing shall be conducted in accordance with Reference Method 5, 40 CFR Part 60, Appendix A, under operating conditions approved by EPA and in the presence of EPA personnel or EPA representatives.
(a) NEPCO shall provide safe access to safe sampling platforms on all units to be tested.
(b) For the purposes of this Order, a particulate emission test shall consist of four Method 5 sampling runs. If NEPCO chooses to sootblow its boilers continuously as its normal mode of boiler operation, then each sampling run shall be conducted under continuous sootblow. If NEPCO chooses not to sootblow continuously, however, then one of the four sampling runs shall be conducted during the normal boiler sootblowing cycle, and three runs shall be conducted without sootblowing.
(c) The average emission rate for a particulate emission test shall consist of the arithmetic average of the three non-sootblow runs prorated in a manner specified by EPA to account for the change in emissions encountered during the sootblow run.

2. For all particulate emission tests required by II(A)(4)(c) of this Order, the following additional requirements shall apply:
(a) Two sets of tests shall be performed on each unit; one set while the flue gas conditioning system is operating, and one set while it is not operating.
(b) The same type of coal shall be burned during both sets of tests.
(c) The boiler load, sootblowing operations and the amount of excess air shall be the same for both sets of tests.
(d) Both sets of tests shall be made while the unit and its electrostatic precipitator are operating under normal operating conditions.
(e) The tests with conditioning agents shall be preceded by at least 10 days of operation with conditioning agents to allow the precipitator to stabilize. Similarly, the tests without conditioning agents shall be preceded by a period of precipitator operation without conditioning agents, as specified by EPA.
(f) After the flue gas conditioning systems have been optimized on new coal, if the approximate composition or usage rate of the conditioning agent changes at any time during the life of this Order, NEPCO shall notify EPA in writing within 15 days of the change. If such change occurs after NEPCO has performed the testing detailed above, EPA may require additional tests. If EPA decides to require additional tests, NEPCO shall be notified in writing. NEPCO shall perform the additional tests within 30 days of receipt of the written notice.

3. For any emission or performance specification testing under this Order:
(a) NEPCO shall submit a pretest report to EPA at least 30 days before the proposed test date for any unit.
(b) No fewer than 5 days before NEPCO conducts any such test, appropriate NEPCO personnel and any representatives of the contractor responsible for the performance of the tests shall meet with EPA to discuss and finalize the testing protocol.
(c) NEPCO shall submit a written emission test report to EPA within 30 days of completing any EPA required emission testing.
(d) Pretest reports and emission test reports shall contain information as required by EPA and shall be presented in a format specified by EPA.

4. NEPCO shall install and operate continuous opacity monitoring equipment on each unit before burning new coal in that unit.
(a) NEPCO shall demonstrate that each opacity monitor complies with performance specifications within 30 days after coal is burned in the unit on which the monitor is installed. NEPCO shall comply with the provisions of 40 CFR Part 51, Appendix P, and the performance specification test requirements cross-referenced under 40 CFR Part 60, Appendix B. If two or more opacity monitors are used to report opacity from any single boiler, NEPCO shall submit to EPA prior to conducting performance specifications tests for the monitors, an approvable method for correlating each monitor to the total opacity at the stack outlet at any time after the effective date of this Order. NEPCO shall notify EPA 10 days before removing any monitor from its location. This notification also shall include data which demonstrates that the new location for the monitor or its replacement meets the requirements of 40 CFR Part 60, Appendix B. Additionally, the monitor or its replacement shall be completely recertified according to 40 CFR Part 60, Appendix B before it is reinstalled. Data demonstrating recertification shall be provided to EPA upon request.
(b) Not later than 30 days prior to initial start-up of the continuous opacity monitoring equipment, NEPCO shall submit to EPA an approvable quality assurance program for the monitoring system.
(c) NEPCO shall report to EPA on a monthly basis all hourly average opacity readings for each opacity monitor which exceed the limits specified by EPA under II(c)(4) of this Order. These summary reports shall be submitted to EPA within 15 days of the end of each month; records of all hourly average opacity readings shall be retained at Salem Harbor for inspection for the duration of this Order.

5. NEPCO shall perform any additional testing required by EPA within 30 days of receipt of written notification of such requirement. Among other things, additional testing may be required to quantify changes in emissions due to such factors as changes in coal characteristics or changes in boiler or precipitator operations. Additional tests also may be required to quantify suspected changes in emissions indicated by frequent opacity exceedences. Any proposal made by NEPCO to limit total station emissions by derating one or more generating units may result in additional testing requirements for that unit or units at any proposed generation levels.

6. NEPCO shall maintain a logbook available for EPA inspection containing the following data for each electrostatic precipitator serving a unit burning old or new coal under this Order.
(a) NEPCO shall log secondary voltage, secondary current, and spark rate for each transformer-rectifier set every 4 hours while the unit is burning old or new coal.
(b) NEPCO shall log voltage current relationships across each transformer-rectifier set's operating range every 15 days for the first 60 days after initial burning of old coal. Thereafter the data shall be logged every 30 days for the duration of this Order.

B. Coal Monitoring and Reporting Requirements

Within 30 days of the effective date of this Order, NEPCO shall submit an approvable fuel monitoring plan to EPA. As a minimum, such plan shall include a commitment on the part of NEPCO to do the following:

1. NEPCO shall perform proximate analyses of all coal cargoes off-loaded at the Salem Harbor Generating Station.
(a) ASTM D 3172 shall be used for the performance of the proximate analyses.
(b) ASTM D 2234, with systematic spacing shall be used for sample increment collection.
(c) Paragraph 7.1.5.2 and Table 2 of ASTM D 2234 shall be used to determine the number and weight of increments required per gross sample.
(d) One gross sample shall be collected for each shipment or for each 10,000 tons of coal, whichever is less.

2. NEPCO shall perform daily coal sampling and analyses for sulfur content, ash content and gross calorific value for coal burned at the station under this Order.
(a) ASTM D 2234, with systematic spacing shall be used for sample increment collection.
(b) As a minimum, one increment shall be collected from each coal conveyor during each hour that an individual conveyor is in operation. Such increments from all conveyors are to be composited for analysis on a daily basis.
(c) Table 2 of ASTM D 2234 shall be used to determine the weight of each increment.

(d) ASTM D 2013 shall be used for sample preparation.
(e) ASTM D 3177 or an equivalent method approved by EPA shall be used for sulfur analysis.
(f) ASTM D 3174 shall be used for ash analysis.
(g) ASTM D 2015 or ASTM D 3286 shall be used for gross calorific value determinations.

3. NEPCO shall participate in the EPA coal analysis methods audit program conducted by the Quality Assurance Division, Environmental Monitoring Systems Laboratory in Research Triangle Park, North Carolina. Coal audit samples shall be analyzed according to ASTM procedures for percent sulfur, moisture, ash content and gross calorific value and will be provided by EPA on a periodic basis.

4. Monthly reports containing coal cargo shipment sizes, coal analyses, cargo and daily coal analyses shall be submitted to EPA within 15 days of the close of each month in a format approved by EPA.
(a) Such reports also shall contain 30-day "rolling average" sulfur content values for the coal burned, calculated for each day of the month.
(b) The results of any audit coal sample analyses performed during that month also shall be included.
(c) All coal analysis data shall be presented on a dry basis.

5. NEPCO shall submit to EPA on a monthly basis, hourly average net megawatts generated by each unit. Monthly data shall be reported within 15 days of the end of each month in a format approved by EPA.

C. Ambient Monitoring and Reporting Requirements

1. (a) Within 60 days of the effective date of this Order but in no case later than the start of coal burning and subject to the provisions of IV(C)(5) of the order, NEPCO shall install and operate a network of ambient monitors to measure SO_2 concentration on a continuous basis, and TSP concentration on a frequency as specified in IV(C)(2) below.

(b) As a minimum, NEPCO shall place both TSP and SO_2 monitors near each of the following locations:
(i) Water Tower, Green Street, Marblehead
(ii) Winter Island Dam, Salem
(iii) NEPCO right-of-way, north of Fort Avenue, Salem
(iv) NEPCO property southeast of Derby and English Streets
(v) Beverly north of Mackerel Cove

(c) The burning of coal at Salem Harbor under this order constitutes acceptance by NEPCO that ambient monitoring data collected on its property is representative of ambient air quality levels in the surrounding area. EPA may use this data as such for any purpose appropriate under the Act.

2. The sampling frequency at the Green Street, Marblehead and Beverly TSP sites shall be once every three days unless an exceedence of the secondary NAAQS for TSP is measured. In this event, daily sampling is required. The sampling frequency at all the remaining TSP sites shall be daily; however, the sampling frequency at any TSP monitoring site may be reduced to once every three days if the following conditions are met at such site during any continuous 365 day period after new coal has been burned at all three units:
(a) Every 24-hour TSP concentration measured at the site must be less than 200 micrograms per cubic meter and;
(b) The annual geometric mean for TSP measured at the site must be less than 60 micrograms per cubic meter.

3. All ambient monitoring locations and equipment installations must be approved by EPA prior to operation and must meet 40 CFR Part 58, Appendix B (Quality Assurance), Appendix C (Ambient Air Quality Monitoring Methodology), and Appendix E (Probe Siting Criteria).
(a) All SO_2 analyzers are to be operated on the 0.5 ppm or 1.0 ppm ranges unless ambient air quality levels exceed this concentration. If this case occurs, then any such instrument must be operated on the appropriate higher range.
(b) Within 30 days of the effective date of this Order, NEPCO shall submit in writing to EPA an approvable quality control program.
(c) EPA will accept performance audits by the Massachusetts Department of Environmental Quality Engineering (DEQE) to satisfy the requirements for the quarterly accuracy audit (40 CFR Part 58, Appendix B, Section 3), but it will be NEPCO's responsibility to provide independent performance audits for any calendar quarter not audited by DEQE.

4. Within 60 days of the effective date of this Order, NEPCO shall construct a meteorological tower at a location near the company right of way north of Fort Avenue.
(a) NEPCO shall operate continuous monitoring instruments on this tower to measure and record wind speed and direction.
(b) The exact location and height of the tower shall be selected by NEPCO and approved by EPA in writing before the tower is constructed.
(c) All meteorological instrumentation shall comply with EPA requirements as specified in EPA Guideline 450/4–80–012.
(d) All meteorological monitoring procedures must be submitted to EPA for approval at least 30 days before they are implemented.

5. NEPCO shall obtain all the necessary permits, easements or permissions necessary to locate the monitors and meteorological towers required by IV(C)(1) and (4) of this Order. EPA may grant time extensions for monitor siting, select alternative sites, or eliminate sites altogether, but NEPCO shall bear the burden of establishing that a change is necessary.

6. NEPCO shall receive permission in writing from EPA prior to conducting any further analysis of the TSP filters. NEPCO must keep all TSP filters in a suitable condition for further analysis for a period of 12 months after termination of this order. NEPCO must supply any of these filters to EPA upon request for further analysis. If the Federal Reference method for total suspended particulates is modified or replaced during the period of this Order, EPA reserves the right to require NEPCO to modify or replace any or all existing particulate monitors.

7. All monitoring and meteorological data shall be submitted to DEQE within 30 days of the close of each month in machine-readable SAROAD format.
(a) The data reported to DEQE shall be for individual hourly observations of SO_2, wind speed, and direction, as well as daily averages for TSP.
(b) NEPCO shall insure that EPA receives the above information within 90 days of the end of each calendar quarter.
(c) NEPCO shall notify EPA of any exceedence of any primary NAAQS for SO_2, within 72 hours of its occurrence. NEPCO shall notify EPA of any exceedence to any primary NAAQS for TSP within 15 days of its occurrence.
(d) Within 30 days of the close of each month, NEPCO shall submit to both EPA and the DEQE, Northeast Regional Office, Woburn, one paper copy of all monitoring and meteorological data. This data will be maintained for public inspection at the EPA Regional Office, Boston, and the DEQE Regional Office, Woburn, during normal working hours.
(e) EPA may grant time extensions to these reporting requirements for this Section, but NEPCO shall bear the burden of establishing that extensions are necessary.

8. Within 30 days of the occurrence of any violation of the primary NAAQS for TSP, NEPCO shall submit to EPA all relevant data under Section 113(d)(5)(D)(i) through (iii) of the Act.

V. General Requirements

A. This Order shall not be effective during any interval after EPA finds, and notifies NEPCO, that (1) a primary NAAQS for TSP is being exceeded in the Metropolitan Boston AQCR (Section 113(d)(5)(D)), and (2) NEPCO has failed to prove that the requirements of Sections 113(d)(5)(D)(i) through (iii) of the Act have been satisfied. During any such intervals, NEPCO shall comply with 310 CMR 7.02(8), 7.05(4) and 7.06(1). If NEPO violates these regulations, it shall be subject to enforcement action under any and all authorities of the Act.

B. Nothing herein shall affect the responsibility of NEPCO to comply with any applicable local, state or federal regulations except as specified in this Order.

C. NEPCO shall submit a copy of all correspondence and reports required under this Order to the Director, Air and Waste Management Division, EPA, Region I, JFK Federal Building, Boston, MA 02203.

NEPCO may assert a business confidentiality claim covering part or all of the information requested by this Order, in the manner described by 40 CFR 2.203(b). Information covered by such a claim will be disclosed by EPA only as set forth in 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to NEPCO. Certain categories of information are not properly the subject of such a claim. For example, the Act provides that emission data

shall in all cases be made available to the public. See 42 U.S.C. 7414(c).

D. NEPCO is hereby notified that its failure to achieve final compliance at its Salem Harbor Station with 310 CMR 7.02(8), 7.05(4) and 7.06(1) by the compliance date specified in III(A)(6) of this Order may result in an assessment of a noncompliance penalty under section 120 of the Act, 42 U.S.C. 7240. This penalty may be imposed at an earlier date, as provided under section 113(d) and section 120 of the Act, in the event that this Order is terminated or violated as provided in V(E) and (F) below. In either event, NEPCO will be formally notified of its noncompliance, under section 120(b)(3) of the Act or any regulations promulgated thereunder.

E. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines, on the record, after notice and opportunity for hearing, that the inability of NEPCO to comply with 310 CMR 7.02(8), 7.05(4), and 7.06(1) as approved by EPA, no longer exists with respect to its Salem Harbor Station. Additionally, if NEPCO demonstrates compliance with 310 CMR 7.02(8), 7.05(4), and 7.06(1) prior to the applicable compliance dates specified in III(A)(2) and (6) of this Order, then this Order shall be terminated at that earlier date.

F. Under section 113 (d)(9) of the Act, 42 USC 7413(d)(9), violation of any requirement of this Order shall result in one or more of the following actions:

1. Enforcement of such requirement under section 113(a), (b), or (c) of the Act, 42 U.S.C. 7413(a), (b), or (c);
2. Revocation of this Order, after notice and opportunity for a public hearing;
3. Notification of noncompliance and assessment of a noncompliance penalty under section 120 of the Act.

G. This order is effective upon publication in the Federal Register and after having received concurrence from the Governor of the Commonwealth of Massachusetts.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

[FR Doc. 82-3435 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 62

[A-3-FRL-2045-5]

Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of correction of final rule.

SUMMARY: This notice clarifies and corrects the language contained in the rulemaking sections of EPA's approval of two revisions to Pennsylvania's State Implementation Plan (SIP), published in the Federal Register on October 26, 1981 (46 FR 52107) and on November 30, 1981 (46 FR 58083).

In the rulemaking sections of the notices approving the SIP revisions, the paragraphs appeared out of sequence. This notice merely corrects the rulemaking section, presenting it as it should appear in the Code of Federal Regulations. These changes do not in any way affect the regulations that were submitted to and approved by EPA.

FOR FURTHER INFORMATION CONTACT: Gregory D. Ham (3AW11), Air Media and Energy Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, (215) 597-2745.

[42 U.S.C. 7401-7642]

Dated: January 22, 1982.

Peter N. Bibko,

Regional 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:

1. Section 62.9600, Identification of Plan—negative declaration, is revised to read as follows:

§ 62.9600 Identification of Plan—negative declaration.

(a) The Pennslyvania Department of Environmental Resources submitted on December 1, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

(b) The Allegheny County Bureau of Air Pollution Control submitted a letter on August 18, 1978 certifying that there are no phosphate fertilizer plants in the County subject to part 60, Subpart B of this Chapter.

2. Section 62.9601, Identification of Plan—negative declaration, is amended by the following change in title and by the revision of paragraphs (a) and (b) as follows:

§ 62.9601 Identification of Plan.

(a) The Allegheny County Bureau of Air Pollution Control submitted a letter on August 18, 1978 certifying that there are no sulfuric acid plants in the County subject to Part 60, Subpart B of this Chapter.

(b) A plan for the control of 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. 82-3434 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-38-M

Proposed Rules

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

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

Rural Electrification Administration

7 CFR Part 1701

REA Bulletins 181–1, Uniform System of Accounts Prescribed for Electric Borrowers and 181–3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletins 181–1, Uniform System of Accounts Prescribed for Electric Borrowers, and 181–3, Accounting Interpretations for Rural Electric Borrowers, to include the criteria, as specified in Financial Accounting Standard No. 43, for accuring the borrower's liability arising from compensated employee absences. A previous proposal was issued in the May 5, 1981, **Federal Register** (Vol. 46, No. 86, p. 25096). In response to questions concerning the accounting procedures necessary to implement that proposal, we are revising our rulemaking to include an accounting interpretation on that topic.

DATE: Public comments must be received by REA no later than April 12, 1982.

ADDRESS: Persons interested in the proposed revision may submit written data, views, suggestions, or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4063, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 382–9550. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A to 7 CFR 1701 be revising REA Bulletins 181–1, Uniform System of Accounts, and 181–3, Accounting Interpretations for Rural Electric Borrowers. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation. Since no significant effect on the economy will occur, since no significant increase in cost for consumers, industries or government will result, and since no significant impact on economic conditions will be caused, this action has been determined to be "not major."

The Regulatory Flexibility Act (Pub. L. 96–354) is not applicable to this action, therefore a Regulatory Flexibility Analysis will not be prepared.

Current accounting procedures prescribed by REA in Bulletin 181–1, Uniform System of Accounts Prescribed for Electric Borrowers, provide for the accrual of vacation and holiday leave. It states that the employer has no obligation to the employee for sick leave unless sickness occurs. Accrued sick leave, therefore, is only a contingent liability and as such, is not recorded on the general books.

The Financial Accounting Standards Board recently issued Financial Accounting Standard (FAS) No. 43, Accounting for Compensated Absences, in which four criteria were established for the accrual of employee compensation for future absences (vacation, holiday, sickness). They are as follows:

1. The employer's obligation for payment for future absences is attributable to employees' services already performed;

2. The obligation relates to employee rights which vest or accumulate; (Vested rights are considered those for which the employer is obligated to make payment even if the employee terminates. Rights which accumulate are those earned but unused rights to compensated absences which may be carried forward to one or more periods subsequent to the period in which they are earned.)

3. Payment of the compensation is probable; and

4. The amount can be reasonably estimated.

The obligation related to employees' accumulating rights (nonvested) to receive compensation for future absences that are contingent on the absences being caused by an employee's future illness may be excluded from the accrual if they cannot be reasonably estimated.

We are proposing to revise Account 242.3, Accrued Employees' Vacations and Holidays, in REA Bulletin 181–1 to adopt the principles of FAS No. 43 as outlined above. The revision is detailed below.

Proposed Revision to REA Bulletin 181–1—Uniform System of Accounts

Page REA–9

242.3 Accrued Compensated Absences

All borrowers shall account for compensated absences. Accordingly, borrowers shall accrue a liability for employee's compensation costs covering absences from employment for vacation, holiday, sickness or other personal activities for which it is expected that an employee will be paid. Accumulated rights to receive compensation for future absences (those rights that are contingent on the absences being caused by an employee's future illness and for which the employee will receive no benefit upon termination) may be excluded from the accrual if they cannot be reasonably estimated.

In addition, we are proposing to establish a new account 435.1, Cumulative Effect on Prior Years of a Change in Accounting Principle, to account for the non-restated cumulative effect of this change and other changes in accounting principles.

Page REA–13

435.1 Cumulative Effect on Prior Years of a Change in Accounting Principle

This account shall include the cumulative effect on prior years' earnings of a change in accounting principle.

This account is closed to operating margins at year's end.

We are also proposing the following accounting interpretation to provide the necessary accounting procedures.

Proposed Accounting Interpretation—REA Bulletin 181–3

I. *General:* Financial Accounting Standard (FAS) #43, Accounting for Compensated Absences, requires employers to accrue a liability for certain costs of employees' paid absences. Under accural accounting, the employer's expense for compensated absences should be recorded when they are earned rather than when they are paid.

FAS #43 goes on to state that the obligations related to employees' accumulating rights to receive compensation for future absences that are contingent on the

absences being caused by an employee's future illness may be excluded from the accrual if they cannot be reasonably estimated.

The provisions of the Statement do not, however, apply to severance or termination pay, post-retirement benefits, deferred compensation, stock or stock options, long-term disability pay, group insurance or other long-term fringe benefits.

The following questions and answers are designed to provide uniformity in accounting for employees' compensated absences.

II. *Questions and Answers:*

1. *Question:* What criteria have been established for accruing compensated absences?

Answer: The following criteria have been established:

a. The employer's obligation for payment for future absences is attributable to employees' services already performed;

b. The obligation relates to employee rights which vest or accumulate; (Vested rights are considered those for which the employer is obligated to make payment even if the employee terminates. Rights which accumulate are those earned but unused rights to compensated absences which may be carried forward to one or more periods subsequent to the period in which they are earned.)

c. Payment of the compensation is probable; and

d. The amount can be reasonably estimated.

All four criteria must be met.

2. *Question:* How should the liability for compensated absences be calculated?

Answer: A company's liability should be estimated (using current labor costs) based on the payments it expects to make for employees' work already performed. This estimate should be updated yearly to account for changes in employee leave patterns and labor costs.

3. *Question:* How should the monthly liability be recorded in the utility's accounting records?

Answer: The following journal entry should be made: Dr. Account 926, Employee Pensions and Benefits, Cr. Account 242.3, Accrued Compensated Absences. Account 926 should then be credited for the amounts directly attributable to plant construction and retirement activities if a direct distribution to those accounts was not made.

4. *Question:* What entry in the accounting records is necessary to account for the cumulative effect of the unrecorded liability from previous years?

Answer: The cumulative effect of this accounting change should be applied retroactively. In the year it is first applied, the financial statements should disclose the nature of any restatement and its effect on income before extraordinary items and net income for each year restated. If retroactive restatement of all years presented is not practicable, the financial statements presented should be restated for as many consecutive years as practicable and the cumulative effect should be included in determining net income of the earliest year restated. If it is not practicable to restate any prior year, the cumulative effect should be included in the net income of the current period. Account 435.1, Cumulative Effect on Prior Years of a Change in Accounting Principle, should be charged with the cumulative amount. The balance in this account is closed, at year's end, to operating margins.

(Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 1, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3298 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-83-80]

Partial Exclusion of Dividends and Interest; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the partial exclusion of dividends and interest from gross income. The applicable law was amended by the Crude Oil Windfall Profit Tax Act of 1980 and the Economic Recovery Tax Act of 1981. The statutory amendments expanded the scope of the exclusion to include interest in addition to dividends and increased the amount of the exclusion for taxable years beginning in 1981. The regulations would provide individuals and certain payors of interest and dividends with guidance in determining what portion of dividends and interest received during an individual's taxable year beginning in 1981 is eligible for the exclusion.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 12, 1982. The amendments are proposed to be effective for dividends and interest received by an individual in the individual's taxable year beginning in 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-83-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Phoebe A. Mix of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 202-566-3297, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 116, 854, 857, and 1232 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 404 of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223, 94 Stat. 305) and section 302(b)(1) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 272). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Amendments

Section 116 of the Internal Revenue Code prior to amendment by the Crude Oil Windfall Profit Tax Act provided an exclusion from gross income of $100 of dividends received by an individual. A married couple filing a joint return could exclude $200 if each spouse received at least $100 of dividends. For taxable years beginning in 1981 and 1982, section 404 of the Crude Oil Windfall Profit Tax Act increased the amount of the exclusion to $200 for individuals ($400 for married couples filing joint returns, without regard to which spouse received the dividends) and expanded the exclusion to apply to certain types of interest received by individuals from domestic corporations. Section 302(b)(1) of the Economic Recovery Tax Act of 1981 limited these amendments to taxable years beginning in 1981.

Section 116(c)(1) lists five categories of indebtedness interest on which qualifies for the exclusion; it also provides that the list may be expanded through regulations to include other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public. The proposed regulations add commercial paper and repurchase agreements to the list and provide that original issue discount with respect to any listed category of indebtedness shall be treated as qualifying interest. In addition, the proposed regulations would provide that original issue discount excluded under section 116 would be considered included in gross income under the basis adjustment provisions of section 1232(a)(3)(E). The result would be that even though original issue discount is excluded from gross income under section 116 it would be added to the bondholder's basis in the obligation under section 1232(a)(3)(E).

In the case of distributions received by individuals from conduit-type entities (such as trusts, regulated investment companies, and real estate investment trusts), sections 116, 854 and 857 as amended provide that the distributions generally qualify for the exclusion to the same extent that the gross income of the entity consists of eligible dividends or eligible interest. The proposed regulations would provide that the taxable year of the individual in which the individual receives the distribution will determine the amount and the scope of the distribution which the taxpayer may exclude from gross income under section 116.

Under the proposed regulations, a regulated investment company or a real estate investment trust would compute the percentage of gross income which qualifies for the exclusion on the basis of its gross income for its taxable year but would use the date of distribution to the shareholder to determine which items qualify for exclusion. To simplify preparation of notices to shareholders with respect to the excludability of dividends, the proposed regulations would provide that the entity could assume that the taxable year of all recipient shareholders is the calendar year. Shareholders whose taxable year is not the calendar year would be allowed to request a special notice from the entity based on the shareholder's different taxable year.

Comments and Requests for a Public Hearing

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

Regulatory Flexibility Act

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

Drafting Information

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

Proposed Amendments to the Regulations

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

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

Paragraph 1. The following new § 1.116–3 is to be added after § 1.116–2.

§ 1.116–3 Special rules for taxable years beginning after December 31, 1980 and before January 1, 1982.

(a) *In general.* This section provides special rules for taxable years beginning after December 31, 1980 and before January 1, 1982. The provisions of § 1.116–1 are applicable to those taxable years to the extent that those provisions are consistent with the rules of this section. References to "dividends" in § 1.116–1 shall be deemed to be references to "interest" as well, where appropriate for purposes of this section.

(b) *Amount excludable.* Section 116 excludes from gross income the first $200 of dividends from domestic corporations and interest received by an individual in a taxable year which begins after December 31, 1980, and before January 1, 1982. In the case of a joint return, the first $400 of dividends from domestic corporations and interest may be excluded, without regard to which spouse was the actual recipient of the dividends and interest.

(c) *Interest defined*—(1) *In general.* The only payments or credits included within the term "interest" for purposes of section 116 are enumerated in section 116(c)(1) and paragraph (c)(4) of this section.

(2) *Evidences of indebtedness issued in a registered form.* The phrase "evidences of indebtedness" includes bonds, debentures, notes, certificates and other similar instruments regardless of how denominated. An evidence of indebtedness is in registered form if it is registered as to both principal and interest (or, for purposes of reporting with respect to orignial issue discount, if it is registered as to principal) and if its transfer must be effected by the surrender of the old instrument and either the reissuance by the corporation of the old instrument to the new holder or the issuance by the corporation of a new instrument to the new holder.

(3) *Original issue discount.* Original issue discount that, prior to application of section 116, would be properly includable in income in the taxable year shall be considered interest for purposes of the exclusion provided in section 116, if interest on the underlying obligation (if the obligation were interest-bearing) would be interest within the meaning of section 116(c)(1). See § 1.1232–3A(c) for rules relating to adjustments to basis in respect of any original issue discount excluded from gross income under the provisions of this paragraph.

(4) *Other evidences of indebtedness issued by a domestic corporation.* Interest paid in respect of commercial paper issued by a domestic corporation and interest paid pursuant to a repurchase agreement with a domestic corporation shall be considered interest for purposes of section 116.

(d) *Distributions from real estate investment trusts.* Distributions from real estate investment trusts qualify for exclusion under section 116 to the extent provided in section 857(c) and § 1.857–6(d)(2).

(e) *Time dividends and interest are received.* The general rule provided in § 1.116–1(f), relating to the determination of when dividends are received, shall apply for purposes of determining the amount of the exclusion applicable to dividends or interest received by a beneficiary from an estate or trust. The special rule provided in § 1.116–1(g) shall not apply to amounts includable in income of beneficiaries for taxable years beginning after December 31, 1980 and before January 1, 1982.

Par. 2. Section 1.854–1 is amended by adding new paragraphs (c) (4) and (e). These new paragraphs read as follows:

§ 1.854–1 Limitations applicable to dividends received from regulated investment company.

* * * * *

(c) *Rule for dividends other than capital gains.* * * *

(4) For special rules with respect to dividends received in a taxable year of the shareholder beginning after December 31, 1980 and before January 1, 1982, see paragraph (e) of this section.

* * * * *

(e) *Special rule for dividends (other than capital gain dividends) for taxable years beginning after December 31, 1980 and before January 1, 1982*—(1) *In general.* In the case of a dividend (other than a capital gain dividend) received from a regulated investment company (which meets the requirements of

section 852(a) for the taxable year during which it paid the dividends) by a shareholder in a taxable year of the shareholder which begins after December 31, 1980 and before January 1, 1982, this paragraph shall apply.

(2) *Portion of the dividend eligible for exclusion under section 116*—(i) *Entire amount.* When either the aggregate interest received or the aggregate dividends received by a regulated investment company constitute at least 75 percent of its gross income for that taxable year, the entire dividend paid by the regulated investment company to the shareholder may be treated as an amount qualifying for exclusion under section 116.

(ii) *Partial amount.* When the aggregate interest received by a regulated investment company during a taxable year is less than 75 percent of its gross income and the aggregate dividends received by it are less than 75 percent of its gross income, the portion of the dividend received by the shareholder that may be treated as an amount qualifying for exclusion under section 116 is that amount that bears the same ratio to the amount of the entire dividend as the sum of the aggregate dividends and the aggregate interest received by the regulated investment company bears to the gross income of the regulated investment company.

(iii) *Adjustment for interest deduction.* For purposes of computing the portion of the dividend eligible for the exclusion under section 116, gross income and aggregate interest received shall each be reduced by the lesser of—

(A) The deduction allowable by section 163 for the taxable year, or

(B) The aggregate interest received for the taxable year (computed without regard to this subdivision).

(iv) *Gross income.* For purposes of this paragraph, the term "gross income" does not include gain from the sale or other disposition of stock or securities.

(v) *Aggregate dividends received.* For purposes of this paragraph, the term "aggregate dividends received" includes only dividends received from domestic corporations other than dividends described in section 116(b)(2) (relating to dividends not eligible for exclusion from gross income). Accordingly, dividends received from foreign corporations will not be included in the computation of "aggregate dividends received".

(vi) *Aggregate interest received.* For purposes of this paragraph, the term "aggregate interest received" includes only interest described in section 116(c)(1) and § 1.116–3(c).

(3) *Notice to shareholders.* In preparing the notice to shareholders described in section 854(b)(3) and § 1.854–2, the regulated investment company shall assume:

(i) That the taxable year of every shareholder is the calendar year, and

(ii) That all dividends are received by shareholders on the date on which they are distributed by the regulated investment company. The regulated investment company shall upon request provide any shareholder with respect to whom these assumptions result in an erroneous determination for purposes of section 116 a special notice that takes into account the actual facts of the case. The special notice shall be deemed to be a timely notice for purposes of section 854(b)(3) if it is mailed within 45 days of the date that the regulated investment company receives a request from a shareholder.

(4) *Examples.* The following examples illustrate the provisions of this paragraph:

Example (1). (i) R, a regulated investment company having a fiscal year ending June 30, makes regular distributions to its shareholders on September 1, December 1, March 1, and June 1 each year.

(ii) For its taxable year ending June 30, 1981, R has the following items of gross income:

$66,000	Dividends (all of which qualify for exclusion under section 116).
35,000	Interest (all of which qualifies for exclusion under section 116).
5,000	Capital gains from the sale of securities.
6,000	Other income.
112,000	

R has $7,000 of interest expenses which are deductible under section 163 for its taxable year ending June 30, 1981.

(iii) In computing the portion of the distributions that may qualify for exclusion under section 116, R assumes that its shareholders are calendar year taxpayers who receive distributions on the date of distribution. Therefore, R assumes that its shareholders received the September and December distributions in the taxable year beginning January 1, 1980 and the March and June distributions in the taxable year beginning January 1, 1981. Applying the rules of paragraph (c) of this section, R determines that 61.68 percent (66/107) of the September and December distributions (other than capital gains dividends) may be excluded. R applies the rules of this paragraph (e) to determine the portion of the March and June distributions that qualifies for exclusion under section 116.

(iv) For purposes of computing the portion of the March and June distributions that qualifies for exclusion under section 116, R's gross income is deemed to be $100,000 and R's aggregate interest is deemed to be $28,000. These amounts are determined as follows:

$112,000	gross income received.
−5,000	capital gains from sale of securities.
107,000	gross income prior to adjustment for interest expense.
−7,000	interest expense.
100,000	gross income net of interest expense.
35,000	aggregate interest received prior to adjustment for interest expense.
−7,000	interest expense
28,000	aggregate interest received net of interest expense.

(v) Neither the aggregate dividends received ($66,000) nor the aggregate interest received ($28,000) constitute at least 75 percent of R's gross income ($100,000). Therefore, it is necessary to determine what portion of the dividend qualifies for the partial exclusion under section 116. Applying the rules of paragraph (e), R determines that 94 percent ($66,000 + $28,000/$100,000) of the March and June distributions (other than capital gains dividends) qualify for the partial exclusion under section 116.

Example (2). Assume the same facts as in example (1), except that S is a fiscal year taxpayer whose taxable year ends March 31. In July, 1981, S requests that R provide S with a special notice taking into account the fact that S is a fiscal year taxpayer and designating the amount of each dividend eligible for the section 116 exclusion. Within 45 days, R notifies S that 61.68 percent of the September, December, and March distributions and 94 percent of the June distribution will qualify for exclusion. The excludable portion of the March 1981 dividend is computed under the rules of paragraph (c) of this section because S received the dividend in a taxable year of S which began before January 1, 1981.

Example (3). Assume the same facts as in example (1), except that in addition to the four regular distributions R declares a dividend on July 15, 1981 which it distributes to its shareholders on August 28, 1981. R elects under section 855 to treat the August dividend as paid in its taxable year ending June 30, 1981. Because of this election, R refers to its gross income for its taxable year ending June 30, 1981, for purposes of determining what percentage of the August dividend qualifies for exclusion under section 116. R assumes that its shareholders use the calendar year as the taxable year and that the shareholders receive the dividend on August 28, 1981, the date of distribution. Therefore, R notifies the shareholders that 94 percent of the August dividend qualifies for exclusion under section 116.

Example (4). Assume the same facts as in example (3) except that R distributes the dividend on January 2, 1982, and does not make the regular distributions in September and December of 1981. Since the shareholders receive the distribution in 1982 and since interest cannot be excluded under section 116 in 1982, R takes only excludable dividends into account in determining the percentage of the distribution that qualifies for exclusion. Therefore R notifies its shareholders that 61.68 percent (see paragraph (iii) of example (1)) of the January dividend qualifies for exclusion under section 116.

Par. 3. Paragraph (d) of § 1.857–6 is revised to read as follows:

§ 1.857–6 Method of taxation of shareholders of real estate investment trusts.

* * * * *

(d) *Dividend received credit, exclusion, and deduction not allowed.*— (1) *In general.* Any dividend received from a real estate investment trust which, for the taxable year to which the dividend relates, is a qualified real estate investment trust shall not be eligible for the dividend received exclusion under section 116 (except as provided in subparagraph (2) of this paragraph), or the dividend received deduction under section 243.

(2) *Special rule for dividends (other than capital gain dividends) for taxable years beginning after December 31, 1980 and before January 1, 1982*—(i) *In general.* In the case of dividends (other than capital gain dividends) received from a real estate investment trust by a shareholder in a taxable year of the shareholder which begins after December 31, 1980, and before January 1, 1982, this subparagraph shall apply.

(ii) *Portion of the dividend eligible for exclusion under section 116.*—(A) *Entire amount.* When the aggregate interest received by the real estate investment trust constitutes at least 75 percent of its gross income for the taxable year, the entire dividend received by the shareholder may be treated as an amount qualifying for exclusion under section 116.

(B) *Partial amount.* When the aggregate interest received by the real estate investment trust during its taxable year is less than 75 percent of its gross income, the portion of the dividend received by the shareholder that may be treated as an amount qualifying for exclusion under section 116 is that amount that bears the same ratio to the entire dividend as the aggregate interest received by the real estate investment trust bears to its gross income.

(C) *Adjustment for interest deduction.* For purposes of computing the portion of the dividend eligible for exclusion under section 116, gross income (within the meaning of paragraph (d)(2)(ii)(D) of this section) and aggregate interest received (within the meaning of paragraph (d)(2)(ii)(E) of this section) shall each be reduced by the lesser of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust), or the aggregate interest received for the taxable year (computed without regard to this subdivision (C)).

(D) *Gross income.* For purposes of this paragraph, the term "gross income" means gross income reduced by the sum of the net capital gain of the real estate investment trust in the taxable year and the taxes imposed by paragraphs (4), (5) and (6) of section 857(b).

(E) *Aggregate interest received.* For purposes of this paragraph, the term "aggregate interest received" means interest described in section 116(c)(1) and § 1.116–3(c).

(iii) *Notice to shareholders.* In preparing the notice to shareholders described in section 857(c)(5), the real estate investment trust shall assume—

(A) That all shareholder recipients are calendar year taxpayers, and

(B) That all dividends are received by the shareholders on the date they are distributed by the real estate investment trust.

The real estate investment trust shall upon request provide any shareholder with respect to whom these assumptions result in an erroneous determination for purposes of section 116 a special notice that takes into account the actual facts of the case. The special notice shall be deemed to be a timely notice for purposes of 857(c)(5) if it is mailed within 45 days of the date that the real estate investment trust receives a request from a shareholder for such a notice.

(3) *Examples.* The following examples illustrate the provisions of this paragraph:

Example (1). (i) R, a real estate investment trust having a fiscal year ending June 30, makes regular distributions to its shareholders on December 1 and June 1 of each year.

(ii) In its fiscal year ending June 30, 1981, R has $115,000 of gross income, $80,000 of which is interest income and $7,000 of which is net capital gains. R has $40,000 of interest expenses which are deductible by R under section 163 in its taxable year ending June 30, 1981, $32,000 of which represents interest paid on mortgages on real property owned by R. No tax is imposed on R under section 857(b)(4), (5), or (6) for that taxable year.

(iii) In computing the portion of the distributions (other than amounts designated as capital gains dividends) that may qualify for exclusion under section 116, R assumes that its shareholders are calendar year taxpayers who receive distributions on the date of distribution. Therefore, R applies the rules of paragraph (d)(1) of this section to determine that no portion of the December 1980 distribution qualifies for exclusion under section 116. R applies the rules of paragraph (d)(2) of this section to determine the portion of the June distribution that qualifies for exclusion under section 116 because it is assumed that that distribution is received by shareholders in a taxable year beginning in 1981.

(iv) For purposes of computing the portion of the June distribution that qualifies for exclusion under section 116, R's gross income is deemed to be $100,000 and R's aggregate interest received is deemed to be $72,000. These amounts are determined as follows:

$115,000	gross income received
−7,000	net capital gains.
108,000	gross income prior to adjustment for interest expense.
−8,000	interest expense.
100,000	gross income net of interest expense.
80,000	aggregate interest received prior to adjustment for interest expense.
−8,000	
72,000	aggregate interest received net of interest expense.

(v) The aggregate interest received does not exceed 75 percent of R's gross income. Therefore, R notifies its shareholders that 72% of the June distribution (other than capital gains dividends) qualifies for exclusion under section 116.

Example (2). Assume the same facts as in example (1), except that in addition to its regular distributions R declares a dividend August 1, 1981 which it distributes to its shareholders November 1, 1981. R elects under section 858 to treat the November dividend as paid in its taxable year ending June 30, 1981. Because of this election, R refers to its gross income for its taxable year ending June 30, 1981, for purposes of determining what percentage of the November dividend qualifies for exclusion under section 116. R assumes that its shareholders use the calendar year as the taxable year and that the shareholders receive the dividend on November 1, 1981, the date of distribution. Therefore R notifies its shareholders that 72 percent of the November dividend qualifies for exclusion under section 116.

Example (3). Assume the same facts as in example (2) except that R distributes the dividend on January 2, 1982 and does not make the regular distribution in December of 1981. Since the shareholders receive the distribution in 1982 and since interest cannot be excluded under section 116 in 1982, R determines that no portion of the January distribution qualifies for exclusion under section 116.

* * * * *

Par. 4. Paragraph (c) of § 1.1232–3A is amended by adding the following new sentence at the end:

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(c) *Basis adjustment.* * * * Any original issue discount that is considered interest and excluded from gross income under section 116 and § 1.116–3(c)(3) will be considered included in gross income for purposes of

the basis adjustment under section 1232(a)(3)(E) and this section.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-3427 Filed 2-4-82; 5:07 pm]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-052C]

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice requests comments regarding OSHA's reevaluation of the occupational health standard regulating employee exposure to cotton dust, 29 CFR 1910.1043. The purpose of this notice is to assess the effects of the current standard and to gather additional information concerning those provisions which may be made clearer, more effective or less burdensome. Major issues include the cost effectiveness of various provisions, permissible exposure limits, incorporation of an action level, alternative provisions for small businesses, the use of sampling devices other than the vertical elutriator, and other technical issues.

Information is requested on the health effects of the cotton dust exposures in non-textile industries, including knitting, where the standard is generally not in effect, and on whether a significant risk is presented in those industries. Comments are also requested on health effects and on the exposure levels set for the textile industry including the potential for implementing more cost-effective compliance methods.

DATES: Comments must be submitted by March 26, 1982.

ADDRESSES: Written comments should be submitted in quadruplicate to the Docket Officer, Occupational Safety and Health Administration, Docket No. H-052C, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Occupational Safety and Health Administration, Room N-3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Introduction

On June 19, 1978, the Occupational Safety and Health Administration (OSHA) issued an occupational health standard regulating exposure to cotton dust, 29 CFR 1910.1043, at 43 FR 27350. This new standard was intended to supersede the previous OSHA standard which had been adopted by OSHA pursuant to section 6 (a) of the Occupational Safety and Health Act from the prior federal rule under the Walsh-Healey Act.

The apparent necessity for a more stringent and comprehensive regulation was based on the body of scientific and medical evidence showing a severe risk of debilitating respiratory disease, particularly among cotton textile workers. The standard included a permissible exposure limit for airborne concentrations of cotton dust to be met through engineering controls, supplementary use of respirators, implementation of specified work practices, a medical surveillance program, and a program for employee education and training. OSHA found that these elements of the standard were both technologically and economically feasible.

The standard was immediately challenged in the Court of Appeals by affected employees and by various groups of affected employers. On pre-enforcement review, the United States Court of Appeals for the District of Columbia Circuit upheld the standard as it applied to the textile industry, among others, in *AFL-CIO, et al.* v. *Marshall, et al.*, 617 F.2d 636 (1979). The textile industry petitioned for review in the Supreme Court of the United States, asserting that the standard was invalid because of the failure of the agency to justify it on a cost-benefit basis and because the industry argued that OSHA had not adequately demonstrated economic feasibility.

The Supreme Court in *American Textile Manufacturers Institute Inc., et al. (ATMI)* v. *Donovan*, 101 S.Ct 2478 (1981) upheld the decision issued by the Court of Appeals concluding that the Occupational Safety and Health Act requires that exposure levels be reduced to the most protective levels, limited only by the significance of the risk and by feasibility, and that cost-benefit analysis was not to be used in setting exposure limits for toxic substances.

The Court also held that OSHA had demonstrated feasibility, and consequently affirmed the standard. However, it vacated and remanded the provision for wage retention following medical transfers because the agency had not adequately demonstrated the need for the provision.

On March 31, 1981, before the Supreme Court's decision, OSHA published a **Federal Register** notice at 46 FR 19501 requesting comments on some of the issues discussed in this notice as well as on the use of cost-benefit analysis in setting exposure levels. Information already submitted in response to the March, 1981 advance notice of proposed rulemaking need not be resubmitted. As noted, the *ATMI* v. *Donovan* decision precludes consideration of many of the comments submitted on the cost-benefit issue and has made it inappropriate to apply the use of a cost-benefit test in setting exposure levels for cotton dust. However, new health data and consideration of more cost-effective compliance methods may result in reconsideration of the present exposure levels.

Status of the Standard

The status of the cotton dust standard varies for different industries. The Cotton dust standard (as printed at 29 CFR 1910.1043 (1980)) remains in effect in the "cotton textile" industry which primarily includes yarn production and weaving and slashing.

All provisions are in effect except the completion of the installation of engineering controls which, if not delayed, are required by March 27, 1984 (§ 1910.1043(m)(2)) and the wage retention provision of § 1910.1043(f)(2)(v) which was vacated by the Supreme Court.

OSHA administratively stayed the new standard (45 FR 50328, July 29, 1980) for the warehousing and classing industries to review the significance of the health risk in those segments in response to the Supreme Court's decision regarding OSHA's benzene standard, *Industrial Union Department, AFL-CIO* v. *American Petroleum Institute, (IUD* v. *API)*, 448 U.S. 607 (1980).

OSHA has also administratively stayed the new standard for the knitting and hosiery industries for the same reasons and in order to review the results of medical surveillance data which had been submitted by the knitting industry. Although knitting, by ordinary definition, would be considered part of the textile industry, the standard included it with the non-textile segments, and this classification has been maintained.

The cotton dust standard has been stayed by the District of Columbia Circuit of Appeals Court for the waste processing, cotton batting, bedding and

upholstery industries pending judicial review. The agency has undertaken a review of the record and the standard as it applies to these industries and has made a preliminary determination that the preamble may not provide an adequate statement of rationale for imposing the standard on these industries, in light of the decision in *IUD* v. *API*. The agency has also concluded that it is appropriate to reopen the record for additional evidence of the health risk in these industries. Since the agency has decided to reconsider the standard, it will request a remand from the Court of Appeals for that purpose.

The District of Columbia Court of Appeals vacated the standard for the cottonseed oil industry based on a lack of economic feasibility information, *AFL–CIO* v. *Marshall*, 617 F.2d 636 (1979).

The Fifth Circuit Court of Appeals vacated a separate standard issued for the cotton ginning industry (43 FR 27418, June 23, 1978; 29 CFR 1910.1044) on the ground that the record did not demonstrate a significant risk of adverse health effects. *Texas Ind. Ginners Assoc.* v. *Marshall*, 630 F.2d 398 (1980).

A major purpose of this Advance Notice and the subsequent rulemaking is to finally resolve the status of the standard in the segments where it is not in effect. The first step in the process will be to determine whether a significant health risk exists in those segments.

Proposed Rulemaking

While the agency has determined that the application of cost-benefit analysis to this standard is precluded by the Supreme Court's decision, the agency has concluded that it is totally appropriate to reexamine new health data and alternative compliance approaches, as well as other matters relevant to the implementation and enforcement of the cotton dust standard. This proceeding is also to provide the opportunity to reconsider and reevaluate several issues which have created difficulties in the monitoring, medical surveillance and enforcement of the standard and to allow the agency to set a more technically accurate and cost-effective standard. For the most part, the issues set forth for comment pertain to provisions of the standard which have been identified by labor, industry and governmental agencies as needing improvement, or which may be made clearer, more effective or less burdensome. In addition, a review of the health effects from exposure to cotton dust in the non-textile segements is necessary to determine whether a significant risk of adverse health effects is present at current exposure levels. A review of new health data regarding the textile segments is also appropriate.

OSHA is not dissolving at this time existing stays in the non-textile and knitting segments where evidence of adverse health effects is more controversial, pending the ongoing review of those effects. OSHA will periodically review those stays, depending both on health data submitted and reasonable progress on ongoing studies.

Issues

OSHA requests written comments and information on the following issues:

1. *Health effects in the non-textile industries.* The standard has been vacated and remanded or administratively or judicially stayed for most of the non-textile segments of the cotton industry (which includes knitting). Resolution of the issues involving the application of this standard to the non-textile industries is important. Necessary to this resolution is a review of health data on the non-textile industry sectors.

The Supreme Court in the benzene decision ruled that there must be sufficient data to support a determination of significant risk of adverse health effects in order to justify issuing new standards. In this regard, the National Institute for Occupational Safety and Health (NIOSH), has conducted research on some non-textile industry segments and has indicated that this data will be available in the near future. In addition, representatives of the knitting industry have submitted to OSHA a study involving a review of their industry's medical surveillance data and this information will be entered into the record. Evidence on health effects in the non-textile sectors in the existing record will be considered along with new information which is submitted.

OSHA requests comments and information on the following:

(a) What is the evidence of risk of adverse health effects in workers exposed to cotton dust in non-textile industries?

(b) What significant epidemiological studies on the effects of exposure to cotton dust in non-textile industries are presently available? What conclusions may be drawn from these studies?

(c) Does the medical surveillance data from workers in non-textile industries show significant risk of adverse health effects from exposure to cotton dust?

(d) What are the specific and average cotton dust exposure levels to which workers are exposed in the non-textile industries? What sampling methods were used to determine employee exposures?

(e) What are the types of occupations, job classifications and industries other than textiles in which workers are exposed to cotton dust? How many workers are exposed in each of the above categories?

(f) Do certain workplaces, processes or occupations expose workers consurrently to toxic substances in addition to cotton dust, which may result in adverse health effects for employees?

2. *New health data in the textile industries.* On review, the United States Court of Appeals for the District of Columbia Circuit upheld the standard as it applied to the textile industry and approved the extensive analysis of health data set forth in the preamble to the standard. After petition by the textile industry, the Supreme Court of the United States reviewed the Court of Appeals' decision and upheld the Secretary's determination that exposure to cotton dust represents a significant health hazard to employees. However, OSHA is aware that there may be new studies to justify reopening the issue of health effects and permissible exposure limits in the textile segments.

OSHA requests comments and information on the following:

(a) What new epidemiological studies on the effects of exposure to cotton dust in textile industries are presently available? What conclusions may be drawn from these studies?

(b) Based upon medical surveillance data from workers in textile industries, what are the levels of risk of adverse health effects to those workers from exposure to cotton dust?

(c) What are the specific and average cotton dust exposure levels to which workers are exposed in the textile industries? What sampling methods were used to determine employee exposures?

(d) What are the types of occupations and job classifications in which workers are exposed to cotton dust? How many workers are exposed in each of the above categories?

(e) Do certain workplaces, processes or occupations expose workers concurrently to toxic substances in addition to cotton dust, which may result in adverse health effects for employees?

3. *Action level.* The cotton dust standard does not contain an action level. An action level is an exposure level below the permissible exposure limit, frequently one-half of the permissible exposure limit, at which some provisions of the standard begin to

apply. Where appropriate, action levels would reduce or eliminate regulatory burdens in instances where the health risks are low. Also, in the case of non-threshold toxins it may improve employee health by encouraging employers who can readily do so to control employee exposures to a level below the permissible exposure limit in order to avoid most or all regulations. It should be noted, however, that in some cotton industry segments, health data show adverse health effects at very low levels and it may not be appropriate to exclude all medical surveillance provisions in those instances.

Some segments of the cotton industry appear to show some evidence of risk at higher levels, but most exposures are substantially below the § 1910.1043 exposure limits, and at those low levels, there appear to be few health problems. An action level is a method to insure that employers will perform initial measurement of worker exposure to determine whether dust levels are either low enough to exclude the workplace from regulation, or high enough to require worker protection from adverse health effects. Because the determination is made on a plant-by-plant basis, an action level may be a more cost-effective approach than either complete coverage or complete exclusion.

OSHA requests comments and information on the following:

(a) Is an action level appropriate for some or all segments of the cotton industry? What impact would an action level have on employee health?

(b) What are appropriate exposure limits for action levels in the various industry segments? Which regulatory provisions should be eliminated when exposures are under the action level?

(c) What would be the cost savings resulting from an action level provision?

4. *Definitions.* OSHA has received inquiries concerning the definition of various terms which are used in the current standard. Specifically, the definitions of the terms "cotton dust" and "washed cotton" have been questioned.

Under the present standard, "cotton dust" is defined to include, "dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods." The definition does not exclude oil mists, mineral dust from various sources and other miscellaneous contaminants which are measured together with raw cotton dust by the vertical elutriator. The issue is complex because the health data used to set the permissible exposure limits are based on studies in which the "cotton dust" evaluations and measurements contained some of these various components. Excluding these components from the measurements may, therefore, increase the health risk at a given exposure level.

In addition, the effect of other potential contaminants has not been fully considered in relation to the measurement of "cotton dust." An example of this situation is the contribution of synthetic fibers to the measurements of "cotton dust" in a blending operation. Such synthetic fibers may not have been adequately considered in the studies upon which the standard is based.

Some health studies indicate that "washed cotton" does not have adverse effects on human health. The current standard provides an exemption for "washed cotton," but is restrictive in its definition of that term. It has been suggested that a clearer and broader definition would encourage the development and use of commercially acceptable washing techniques.

OSHA requests comments and information on the following:

(a) How should "cotton dust" be defined?

(b) If the term "cotton dust" were more narrowly defined would there be an acceptable method of measuring the quantity of certain individual contaminants? Are there any analytical methods which can test single samples both qualitatively and quantitatively; that is, methods that can separate raw cotton dust from other materials and quantify the amount of raw cotton dust in a single sample?

(c) If the term "cotton dust" were more narrowly defined, could an alternative monitoring approach be developed that would permit adjustment of a total sample by a factor representing the amount of non-toxic substance likely to be present?

(d) Would narrowing the definition of "cotton dust" result in any increased risk for employees? Would such action have any major economic affects? If the definition were more narrowly defined, what would be the relationship between the amount of raw cotton dust and the existing permissible exposure limits?

(e) How should "washed cotton" be defined?

(f) Could the definition of "washed cotton" be improved by adopting a performance definition keyed to respiratory effects? What criteria could be used to set performance requirements and to certify compliance?

(g) What would be the health and economic effects of changing the definition of "washed cotton"?

5. *Compliance methods—Engineering controls.* The current standard requires employers to institute a program of engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit. The standard permits the use of respirators, however, in those cases where the employer can demonstrate that engineering and work practice controls are not feasible. Recent information and comments from news articles, State and Federal compliance officers, labor and industry, and representatives of larger establishments have indicated that many segments of the cotton textile industry are rapidly approaching a substantial level of full compliance with the current standard. Apparently, such compliance has come about through the use of a new generation of textile equipment that is more productive, produces higher quality yarn and cloth, and keeps dust levels lower. Indeed, low dust levels are often needed for the efficient operation of this equipment. Examples include automatic opening, chute-fed and high speed cards, open-end spinning, and shuttleless looms.

OSHA requests comments and information on the following:

(a) Are there more cost-effective ways of reducing cotton dust related illnesses?

(b) Are there specific areas where there are unusual technical difficulties in meeting the present engineering control and work practice requirements?

(c) Are there particular operations where there are persistent problems in meeting the permissible exposure limits through the use of engineering controls? If so, do these problems exist in newly designed plants that have new equipment?

6. *Tiering.* "Tiering" is the tailoring of regulatory requirements to fit the special circumstances of designated classes of regulated entities, such as small businesses. Consideration of tiering to make standards less burdensome for small businesses is a requirement of the recently enacted Regulatory Flexibility Act (5 U.S.C. 601 et seq.) for standards proposed or amended after January 1, 1981.

OSHA requests comments and information on the following:

(a) Is there a need for alternative compliance methods for small businesses? What statistical and economic data, resource limitations and other data indicate this need?

(b) What kinds of alternative compliance methods should be considered? Would longer compliance periods be appropriate? Could such alternatives provide employees of small businesses with adequate protection?

7. *Cotton dust sampling devices.* The cotton dust standard requires that either the vertical elutriator cotton dust sampler or an equivalent device be used to measure or monitor levels of lint-free respirable dust. The vertical elutriator was the dust sampling instrument used in the epidemiological studies on which the cotton dust standard was based and therefore measurements utilizing it correlate best with the then existing health data.

The use of the vertical elutriator, however, has resulted in several technical problems. It is heavy and hard to set up, a technician or industrial hygienist can take few measurements per work day and disputes can develop over proper location or placement of the device.

New cotton dust sampling instruments are now available and these alternative instruments may be accepted as equivalent to the vertical elutriator if they meet the criteria specified in the standard. There have been very few attempts, however, to qualify these alternative instruments as equivalent to the vertical elutriator, although an alternative instrument has been accepted as capable of equivalency in specific situations.

OSHA requests comments and information on the following:

(a) What problems exist with the use of the vertical elutriator?

(b) Are there more appropriate methods of monitoring than the vertical elutriator?

(c) Are there better methods of criteria for establishing equivalency? Can equivalency criteria be developed so that alternate methods could be accepted under most conditions?

(d) Are there any devices that can be shown to have a record of equivalency to the vertical elutriator throughout the various cotton industries or in specific major industry segments?

(e) Are there any devices that can measure cotton dust and other contaminants both qualitatively and quantitatively in a single sample?

(f) What monitoring frequency is necessary? Are there substantial differences between the exposure levels of various work shifts at the same physical locations?

8. *Medical surveillance requirements.* Several questions have been raised concerning the medical surveillance program contained in the present standard. Interested parties appear not to disagree either with the need for or with the general requirements of the program. They have argued, however, that a number of specific requirements are inappropriate and/or place an unnecessary burden on the industry.

An example is the requirement for pre-employment physical examinations. Many plants hire only one or two people per week and do not have a company physician. It may be difficult for these employers to provide the required pre-employment exam within the time prescribed by the current standard. It has been suggested that this requirement could be made more flexible, while providing employees the same protection at a lower cost.

OSHA requests comments and information on the following:

(a) Should the section which deals with initial medical examinations be modified to allow more latitude for the physicians in regard to the specific examination requirements? If so, how should the section be modified?

(b) Should the standard require a system to be used to determine the dyspnea and bronchitis grade for each employee? If so, what system should be used?

(c) If an action level were incorporated into the standard, what provisions of the medical surveillance section could be excluded for those establishments which comply with such an action level?

(d) Should the standard require that all employees exposed to cotton dust be informed of the additive adverse effects which may be caused by cigarette smoking?

(e) Should the section of the standard that deals with maintaining records of the medical surveillance program be modified? If so, what modifications should be made?

(f) Should the paragraph which describes what information an employer must provide to the examining physician be modified? If so, how should it be modified?

(g) Should the paragraph which describes the information which must be contained in the physician's written opinion be modified? If so, how should it be modified?

(h) Should the requirement for six month follow-up examinations for certain categories of employees be modified? If so, how should it be modified?

9. *Wage retention following medical transfer.* Section 1910.1043(f)(2)(v) provides generally that if a physician determines that an employee is unable to wear any form of respirator where its use is necessary, that employee is to be given the opportunity to transfer to a location or job where cotton dust levels are below the permissible exposure limit, if such locations or jobs are available. The standard also provided that employers should guarantee no loss of earnings because of such a transfer.

The Supreme Court decision vacated and remanded to the agency for further consideration the wage guarantee provisions of the standard. The Supreme Court did not address the question of whether OSHA had statutory authority to include such provisions but stated that the agency had not explained how the provision was related to employee health.

In response to the remand, OSHA requests comments and information on the following:

(a) Would a wage retention provision contribute either directly or indirectly to employee health?

(b) How many employees have been transferred due to their inability to wear a respirator? Did the employees who were transferred suffer any loss in earnings? Have employees who were unable to wear respirators been discharged from employment? What is the current practice concerning employees who are unable to wear respirators?

(c) What were the actual costs associated with the wage retention provision prior to the Supreme Court's decision and what cost estimates can be projected for provisions which would require employee wage retention following medical removal?

(d) Should a wage retention provision be included in the cotton dust standard and, if so, what should the provision contain?

10. *Economic Data.* OSHA's rulemaking will comply with Executive Order 12291, which requires the preparation of a regulatory impact analysis for all major actions; and with the Regulatory Flexibility Act, which requires the preparation of regulatory flexibility analyses for actions having a significant economic impact on a substantial number of small entities. Consequently, OSHA is soliciting information on the financial condition of the affected industries, and the economic implications of compliance with the present cotton dust standard.

OSHA requests comments and information on the following:

(a) For each industry affected by the cotton dust standard, what are the major production processes for which workers are exposed to respirable cotton dust? How many workers are exposed at each process and at what dust level?

(b) What has the industry spent to implement the various provisions of the current cotton dust standard? How effective were these controls in reducing dust levels? How has the more modern machinery affected productivity at the plant while limiting dust emissions? Have these controls helped to reduce other workplace hazards such as toxic emissions or high noise levels?

(c) Where compliance with the current standard for dust exposure has not yet been achieved, what methods will be used to achieve such compliance? Which dust-control operations will rely upon retrofitting existing plant and equipment and which will depend upon the purchase of new modernized equipment? What will be the cost of implementing these procedures and controls, and what effect will these new technologies have on plant productivity and output levels? How does the time required for the installation of engineering controls affect these costs? Do these estimates apply to small as well as large firms?

(d) Over the previous 5 years, what was the industry's annual employment turnover rate? What percentage of the new hires were not previously engaged in that same industry?

11. *Environmental effects.* The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Council on Environmental Quality (CEQ) regulations (40 CFR Part 1500; 43 FR 55978, November 29, 1978), and the Department of Labor (DOL) NEPA Compliance Regulations (29 CFR Part 11; 45 FR 51187 et seq., August 1, 1980) require that Federal agencies give appropriate consideration to environmental issues and impacts of proposed actions significantly affecting the quality of the human environment. OSHA is currently collecting written information and data on possible environmental impacts that may occur outside of the workplace as a direct or indirect result of promulgation of a revised standard for occupational exposure to cotton dust. Such information should include any negative or positive environmental effects that could result from the revised regulation.

OSHA requests comments and information on the following:

(a) In particular, how would alternative regulations of worker exposure to cotton dust alter ambient air quality, water quality, solid waste, or land use?

Public Participation

Interested parties are asked to submit written comments by March 26, 1982 in quadruplicate to the Docket Officer, Docket No. H–052C, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. All written comments submitted in response to this notice will be available for inspection and copying in the Docket Office, Room S–6212 at the above address between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday. All timely written submissions, as well as other information gathered by this agency will be considered in determining the nature of any proposal.

(Sec. 6, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 4th day of February 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-3480 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1926

[Docket No. S–301]

Concrete, Concrete Forms, and Shoring; Advance Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is planning to revise its safety standards contained in Subpart Q of 29 CFR Part 1926 §§ 1926.700 through 1926.702. The existing standards cover safety hazards associated with concrete and masonry construction.

The purpose of this notice is to solicit information regarding the appropriate content and scope of a complete revision of Subpart Q as a future rulemaking action. This notice is not a proposal to revise Subpart Q. When a proposal is developed, it will be referred to the Advisory Committee for Construction Safety and Health for review and recommendations before publication in the Federal Register.

DATE: The written information requested in this notice should be postmarked on or before April 10, 1982.

ADDRESS: Written comments, data, or information requested in this notice should be submitted in quadruplicate to the Docket Officer, Docket No. S–301, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. Roger McClellan, Directorate of Safety Standards Programs, Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3510, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523–7198.

SUPPLMENTARY INFORMATION:

Background

The provisions currently in Subpart Q of Part 1926 were promulgated by OSHA in 1971 as established Federal standards, under Section 6(a) of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 655(a). The standards in Subpart Q, §§ 1926.700 through 1926.702 cover safety hazards associated with concrete construction.

The hazards addressed in Subpart Q include those associated with concrete construction including premature removal of forms, form erection, shoring, reshoring, concrete pumping, reinforcing steel erection, concrete curing, and concrete placement.

The question of the adequacy of the existing standards in Subpart Q has received considerable attention as a result of several concrete construction accidents over the past few years, including the disastrous collapses of the Willow Island, West Virginia cooling tower, the Skyline Tower Plaza in Fairfax County, Virginia and the condominium in Cocoa Beach, Florida.

Several factors indicate to OSHA that a comprehensive revision of its Subpart Q may be necessary. One factor is that OSHA has been petitioned by interested parties to adopt standards requiring in-place testing of concrete and to make other changes to the existing standards.

Another factor concerns the possible need for broader coverage of precast concrete and masonry operations. For example, current OSHA standards may not adequately address significant hazards associated with precast concrete placement and the bracing of masonry walls during construction.

OSHA also recognizes that since the adoption of Subpart Q in 1971, there have been advances in technology and construction practices associated with concrete and masonry construction. These changes may have created a need for revising the present Subpart Q standards to better address concrete safety.

For these reasons, OSHA has concluded that a comprehensive review and revision of its Subpart Q standards may be necessary to assess the appropriateness of the existing standards under current conditions and to provide more effective protection, if

feasible, for employees who are engaged in concrete and masonry construction.

This will also enable the Agency to continue its efforts to streamline and simplify standards while focusing on the more serious workplace hazards.

Any rulemaking proceeding to revise Subpart Q will be conducted in accordance with section 6(b) of the Act (29 U.S.C. 655(b)) and 29 CFR Part 1911, and will provide adequate public notice of the opportunity to comment on proposed changes. In addition, under Section 107 of the Construction Safety Act (40 U.S.C. 333), any proposed revisions to Subpart Q will be submitted to the Construction Safety and Health Advisory Committee for review and recommendation.

Comments and Information Requested

Through this advance notice, OSHA invites interested persons and organizations to provide written comments relating to the need for and content of a Subpart Q revision. In particular, OSHA invites comments regarding any needed changes, additions, or deletions to Subpart Q and information in response to the questions below.

OSHA also invites comments pertaining to the cost effectiveness of alternative approaches to reducing the workplace hazards associated with concrete, concrete forms and shoring. Therefore, OSHA requests specific estimates of the costs of various methods of reducing risks in these areas. OSHA further requests that any available accident and injury data relating to concrete construction be provided where applicable.

The revision of OSHA's concrete construction standards may have an economic impact on a substantial number of small entities, particularly small businesses. In accordance with the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601 et seq.)), OSHA invites information regarding the economic impact which either the contemplated revisions or the existing provisions of Subpart Q may have on small businesses, and solicits data on alternative risk reduction measures which may be more appropriate for small entities.

All of the standards in Subpart Q will be subject to discussion in this advance notice. Discussions will be limited to safety issues and will not address health issues. OSHA invites written or oral comments and information regarding the following general and specific issues concerning Subpart Q.

A. *General Issues:* Several issues have been raised which are common to a number of the concrete construction standards contained in Subpart Q. OSHA invites comments on these general issues.

(1) Should OSHA use a different regulatory approach in revising its concrete construction standards? Should this approach involve the use of performance standards that are accompained by several nonmandatory appendices which contain compliance guidelines? In this format, compliance can be effected through the means suggested in the appendices or in some other manner as long as the level of performance required by the standard is met. Additionally, an Appendix to Subpart Q could also contain a list of applicable references to provide additional information which will be helpful in the implementation of the mandatory performance standards. Comments are invited on the advantages or disadvantages of such a format. For an example of the use of such a format, see revised Subpart L of Part 1910 (Fire Protection).

(2) Do particular provisions of Subpart Q need simplification or clarification? For example, § 1926.700(a) incorporates ANSI A10.9–1970 by reference. Would it be simpler to set forth within the text of Subpart Q, those provisions of ANSI A10.9 which are appropriate for OSHA purposes, thus eliminating the need for incorporation by reference? If so, what provisions of ANSI A10.9 should be applicable to concrete construction and masonry work? Comments which identify those Subpart Q provisions in need of simplification or clarification are invited as well as recommendations as to how best to revise these provisions.

(3) Are there significant gaps in the coverage of Subpart Q with regard to both the hazards and types of workplaces covered? For example, current OSHA standards do not address the hazards associated with flying deck forms, and unbraced masonry walls. How can OSHA best eliminate these gaps; through the revision of existing standards, the development of new standards, or both?

(4) What accident and injury data are available concerning employees performing concrete construction activities? What information is available on the causative factors related to accidents and injuries in concrete construction?

(5) Should OSHA establish different levels of requirements for different classes of concrete construction? How should structure or construction be classified? What criteria should be used for classification?

(B) *Specific Issues.* In addition to the general issues discussed above, OSHA invites comments on the following specific issues relating to concrete and masonry construction.

(1) OSHA's standards for testing and determining the time concrete forms must remain in place and support wet concrete are contained in § 1926.700(a), as prescribed in sections 6.4.7 and 6.4.8 of ANSI A10.9–1970. OSHA has received requests to modify these standards to require additional or alternative tests to determine form removal time. In recent years a number of nondestructive and other situ test methods have been tried with varying degrees of success to determine in-place strength of concrete. Before any of these methods can be adopted as standard test methods, technical data is needed to evaluate the effectiveness of the methods.

OSHA wishes to receive well-documented research and field data which can be used to evaluate potential test methods for in-place strength determination of concrete. In addition, OSHA invites comments on the following questions: What are the skills and abilities required to perform the alternative tests? What training should be required for anyone performing these tests? What specialized equipment is used in this testing, and is such equipment readily available? To what extent are the alternative tests used by employers today? What economic impact would be placed upon employers if OSHA required the alternative tests? Would these tests place small businesses at a competitive disadvantage? Should OSHA require specific compressive strengths prior to form removal? If so, what should these strengths be?

(2) Ceiling drop wires supported by concrete decks are often installed to support ceilings. OSHA has received requests to provide new standards for employees working in or around these wires. OSHA seeks information on potential hazards these ceiling drop wires create. Are new standards needed to cover these hazards? If so, what should they require? What alternative means of protection are available? Are these methods generally feasible for all installation of ceiling drop wires? What would be the economic impact and cost effectiveness of these alternative approaches?

(3) The existing standard, § 1926.700(d)(6), covering pumpcrete systems, only requires the employer to provide pipe supports designed for 100 percent overload. What hazards, if any, of pumpcrete systems does this standard not cover? What specific standards are

needed to cover these hazards? Do pipe connectors also need to be designed for 100 percent overload?

(4) Single post shores require horizontal braces in both the longitudinal and transverse directions along with diagonal bracing, in accordance with § 1926.701(d)(1). OSHA has received requests to eliminate these bracing requirements. What hazards, if any, would the elimination of bracing requirements create? What standards are needed to protect employees exposed to these hazards?

(5) Tests have been developed to determine the air content and slump of concrete prior to placement. These qualities can affect the setting of the concrete. Should OSHA require that such tests be performed? Should the person performing these tests be certified, and by whom? Are there currently people available to perform these tests? What hazards, if any, would these tests help prevent? Are additional standards needed to cover these hazards? What would be the economic impact of a requirement for air and slump tests by a certified technician? What would be the competitive effect of this requirement on small businesses? What records of air and slump tests should be mandated and for how long?

(6) Should the standards require the employer to designate a competent person to determine when concrete is strong enough for forms to be removed? What should this person's qualifications be? What criteria should this person employ in his determination?

Public Participation

Written Comments and Information

The written comments and information requested in this notice should be postmarked by April 10, 1982, and submitted in quadruplicate to the Docket Officer, Docket No. S–301, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

All information gathered by the Agency will be considered by OSHA in the development of revisions to Subpart Q. In addition, these submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); sec. 107, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 4th day of February 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–3481 Filed 2–8–82; 8:45 am]

BILLING CODE 4510–26–M

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–3–FRL–2017–7]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan

Correction

In FR Doc. 82–2638 appearing on page 4704 in the issue of Tuesday, February 2, 1982, third column, last line under DATE, "February 12, 1982." Should read "March 4, 1982."

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 10)]

Rail General Exemption Authority; Hops

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; exemption.

SUMMARY: Responding to a petition filed by Union Pacific Railroad Co. and Burlington Northern Railroad Co., the Commission is proposing to exercise its authority under 49 U.S.C. 10505 to exempt hops (STCC No. 01–192) from regulation to permit rail carriers to compete more effectively with motor carriers for this traffic.

COMMENT DATE: March 11, 1982.

ADDRESS: An original and ten copies of comments should be sent to: Room 5340, Interstate Commerce Commission.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company and Burlington Northern Railroad Company, petitioners, request that the Commission exempt interstate rail transportation of hops (STCC No. 01–192) from regulation.

Hops are used primarily in brewing beer. Although hop production has increased over the years (by approximately 12,000 tons between 1975–1980), the rail market share decreased from 38 percent in 1971 to 28 percent in 1980. The two petitioning railroads also show that the total tonnage of hops transported annually is relatively small (37,726 tons in 1980).

Petitioners transport hops throughout the United States from the four major producing States of Oregon, Idaho, Washington, and California. They argue that the transportation is subject to the same competitive forces as are fresh fruits and vegetables and should be exempt from regulation for the same reasons. They point out that they compete with motor carriers for this traffic. Hops transportation by motor carrier is exempt from regulation.

We have also undertaken our own analysis. The 1980 DOT 1-percent waybill sample contains 7 shipments of hops. Six originated in Washington, and one in Oregon. Each was a 1-carload movement.

As amended by section 213 of the Staggers Rail Act of 1980 (Pub. L. 96–448), 49 U.S.C. 10505 authorizes the Commission to exempt certain traffic from regulation when: (1) regulation is not necessary to carry out the transportation policy enumerated in 49 U.S.C. 10101a; and (2) either the service is of limited scope or abuses of market power are unlikely to occur.

Regulation here does not appear necessary to carry out the transportation policy of section 10101(a). In fact, paragraphs (1), (2), and (3) of section 10101a appear especially to support this exemption. Morever, the service appears to be of limited scope. Tonnages seem low, and the production area is limited. Abuses of market power also appear unlikely because there seems to be strong motor carrier competition, and the rail market share has been declining. The exemption could enhance intermodal competitive forces. Furthermore, the 1-percent waybill sample shows that hops move in 1-car lots an average of 25.5 tons). As such, hops appear to be easily divertable to motor carriage. The 1-percent waybill sample also indicates a limited number of hops movement by rail.

We request comments on these tentative conclusions, as well as prospective competition and rail market power.

This action does not significantly affect the quality of the human environment or conservation of energy resources. We also certify that the proposed exemption will not significantly affect a substantial number of small entities.

(Sec. 49 U.S.C. 10505, 5 U.S.C. 553)

Decided: January 27, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham dissented in part.[1]

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3368 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council and the National Marine Fisheries Service will jointly be holding public hearings to receive comments on the 1982 Amendment and Draft Supplemental Environmental Impact Statement (DSEIS) of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California.

DATES: Written comments on the 1982 Amendment and the DSEIS for the ocean salmon plan from members of the public are invited until March 15, 1982.

Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

February 26, 1982—Seattle, Washington
February 26, 1982—Astoria, Oregon
February 26, 1982—Eureka, California
February 27, 1982—Sacramento, California
February 27, 1982—North Bend, Oregon
March 1 1982—Pocatello, Idaho

The hearings in Seattle, Astoria, Eureka, and Pocatello will start at 7 p.m. and adjourn at approximately 10 p.m. or when all public testimony has been received. The hearings in Sacramento and North Bend will start at 2 p.m. and adjourn at approximately 5 p.m. or when all public testimony has been received.

The hearings will be recorded and the recordings will be filed as official transcripts of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to:

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, or

H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Washington 98115

HEARING LOCATIONS:

February 26, 1982

Park Hilton Hotel, Sixth and Seneca Street, Seattle, Washington 98101, Glacier/Yellowstone Room.

Astoria Middle School, 1100 Klaskanine, Astoria, Oregon 97103.

Eureka Inn, 7th and J Streets, Eureka, California 95501.

February 27, 1982

California Department of Fish and Game, Committee Room, Resources Building, 1416 Ninth Street, Sacramento, California 95814.

Pony Village Lodge, Virginia Avenue, North Bend, Oregon 97459.

March 1, 1982

Idaho State University, Rooms 406 and 407, Student Union Building, 8th Street, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221-6352, or

H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Washington 98115, (206) 527-6150.

SUPPLEMENTARY INFORMATION: The hearings will deal with the proposed 1982 amendment ot the fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California.

The amendment consists of a discussion of 1982 salmon fishery management problems, a review of the 1981 commercial and recreational salmon fisheries, an evaluation of 1981 ocean salmon management (including an assessment of harvest guidelines and quotas), a discussion of the socio-economic trends in the ocean salmon fisheries, a preliminary report on the resource status in 1982, and a presentation of management alternatives and strategies for the 1982 fisheries.

The most recent information on the status of the Pacific salmon stocks and fisheries indicates that respecification and adjustment of the 1981 management measures are necessary to meet the plan's goals for 1982.

The Council proposed five management options for the coastwide ocean commercial troll fishery and three management options for the coastwide ocean recreational fishery. The options range from less restrictive than to more restrictive than the 1981 regulations.

Management measures for the 1982 ocean salmon seasons will be determined from among these options by the Pacific Fishery Management Council at its March 17-19 meeting in Portland, Oregon.

The draft 1982 salmon plan amendment, including the DSEIS, will be mailed to individuals and organizations who are currently on the Council's mailing list. A limited number of copies also will be available at the public hearings.

Dated: February 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-3433 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-22-M

[1] Commissioner Gresham, dissenting in part, would grant a "provisional exemption" using the more streamlined procedures adopted by the Commission in Ex Parte No. 346 (Sub-No. 6), *Rail General Exemption Authority*, 365 ICC 40 (1981).

Notices

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

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

Committee on Public Access and Information; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Public Access and Information of the Administrative Conference of the United States, to be held at 10:30 a.m., Wednesday, February 17, 1982, in the Library of the Administrative Conference, 2120 L Street, NW, Suite 500, Washington, D.C.

The Committee will meet to discuss the scope of any response by the Committee to proposed recommendations of the ACUS Committee on Regulation of Business on the subject of the treatment of confidential business information under the FOIA. The meeting was previously scheduled for January 12, 1982, and then cancelled (*see* notice of cancellation, 47 FR 1157).

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 concerning this meeting, contact Michael W. Bowers (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
February 3, 1982.
[FR Doc. 82–3327 Filed 2–8–82; 8:45 am]
BILLING CODE 6110–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with § 800.6(d) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that a special meeting of the Advisory Council on Historic Preservation will take place on February 22–23, 1982, in Wallace, Idaho. The meeting will begin at 9:00 a.m. The meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior; Agriculture; Housing and Urban Development; Treasury; Transportation; the General Services Adminstrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conferenced of State Historic Preservation Officers; a Governor; a Mayor, and eight non-Federal members appointed by the President.

At the meeting, the Council will consider, in accordance with Section 106, the proposed construction of Interstate Highway 90 through Wallace, Idaho, an undertaking funded by the Federal Highway Administration. It has been determined that this undertaking will have an adverse effect upon various properties listed in or potentially eligible for the National Register, including the Northern Pacific Depot and the Wallace Historic District.

The Council will also conduct its regular business during this meeting. The provisional agenda for the meeting includes the following:

I. Consideration of the Proposed Construction of Interstate 90 through Wallace, Idaho.

A. Introduction by the Executive Director.

B. Tour of Wallace Historic District and report of the Idaho State Historic Preservation Officer.

C. Report of the Secretary of the Interior.

D. Report of the Federal Highway Administration.

E. Statements from State and local agencies and the Public.

F. Conclusions by Executive Director.

G. Development of comments.

II. Consideration of Revised Section 106 Regulations.

III. Conflict of Interest Regulations.

IV. Litigation Report.

V. Budget Discussion.

VI. New Business.

Pesons wishing to make brief oral remarks should notify the Executive Director no later than Wednesday, February 17. Those wishing to have written statements distributed to Council members prior to the meeting should ensure that the Executive Director receives copies of their statements no later than February 10. Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, NW., Washington, D.C. 20005, 202–254–3967.

Dated: February 2, 1982.

Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 82–3347 Filed 2–8–82; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Burley Tobacco; 1982 National Marketing Quota for Burley Tobacco; Determination

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determination of 1982–83 Marketing Quota.

SUMMARY: The purpose of this notice is to announce a number of determinations with respect to the 1982 crop of burley tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. Along with other determinations, the Secretary has declared that the 1982 marketing quota for burley tobacco shall be 681 million pounds, 3 percent above last year's quota. The Secretary is required by

statute to announce the 1982 marketing quota by February 1, 1982.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736,South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual effect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have 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.

It has been determined that Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice is issued in accordance with the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), in order to announce for the 1982 marketing year for burley tobacco the following.

1. The amount of the national marketing quota.
2. The national factor.
3. The national reserve.
   a. For establishing quotas for new farms.
   b. For making corrections and adjusting inequities in old farms.

Producers approved in a referendum (45 FR 40095) marketing quotas on a poundage basis for the 1980, 1981, and 1982 marketing years.

The determinations by the Secretary issued in this notice have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a notice (46 FR 57942) given in accordance with the provisions of 5 U.S.C. 553 and Executive Order 12291.

Discussion of Comments

A total of 19 comments was received from producers, manufacturers, state departments of agriculture, farm bureaus and other interested parties. Five comments recommended that the 1982 burley quota remain the same; four requested increases ranging from 2½ percent to 12 percent. Ten other respondents either gave no specific recommendations or commented on unrelated matters.

In addition, a meeting was held in the producing area to get views and recommendations. There was a total of 14 responses. Ten recommended that the quota remain unchanged, while four recommended increases of up to 12 percent.

The major concern of most commenters was that adequate supplies be maintained in the face of a worldwide shortage of burley tobacco.

Section 319(c) of the Act provides that the national marketing quota determined under such section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount no in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms.

In accordance with section 319(e) of the Act, the 1982 farm marketing quota for burley tobacco is required to be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under section 31q(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for 1982: *Provided,* that such national factor shall not be less than 95 percent.

The reserve supply level is defined in Section 301(b) of the Act as 105 percent of the normal supply. The normal supply is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption, in accordance with Section 301(b)(11)(B) of the Act, is the yearly average quantity of burley tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports are defined in Section 301(b)(12) of the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 years marketing immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,678 million pounds, based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds. The average domestic usage for the past 10 marketing years amounts to 507 million pounds. However, domestic usage has trended downward. The 10 year average exports amounted to 97 million pounds. Exports have averaged 120 million pounds during the past three marketing years and are expected to continue their upward trend in the future as foreign manufacturers upgrade their blends. In view of these data and estimates, a reserve supply level of 1,678 million pounds appears reasonable.

The total supply for the 1981–82 marketing year, October 1 carryover stocks plus estimated production of the 1981 crop, is 1,717 million pounds. This is 39 million pounds above the reserve supply level.

Total disappearance for the 1982–83 marketing year is estimated at 663 million pounds. Depsite burley tabacco being in excess of the reserve supply level it has been determined that an upward adjustment of the quota is necessary to maintain adequate supplies due to a worldwide shortage of this kind of tabacco. Accordingly, the national marketing quota for burley tobacco for the marketing year beginning October 1, 1982, is determined to be 681 million

pounds. The sum of the preliminary farm marketing quotas for the 1982–83 marketing year is 660,148,806 pounds. The quota of 681 million pounds, less a national reserve of 1,000,000 pounds, results in a national factor of 1.03.

Since farmers are now making their plans for 1982 production of burley tobacco and need to know immediately the marketing quota for their farms for the 1982–83 marketing year and since Section 319(b) of the Act requires that this announcement be made by February 1, 1982, it is hereby determined that no further rulemaking is required. Therefore, this notice shall be effective February 1, 1982.

Determinations 1982–83 Marketing Year

For burley tobacco for the marketing year beginning October 1, 1982:

(a) *National marketing quota.* The national marketing quota on a poundage basis is 681 million pounds. This quota is based upon expected utilization and exports for the 1982–83 marketing year with an upward adjustment of 18 million pounds, due to a worldwide shortage.

(b) *National factor.* The national factor determined under § 319(e) of the Act is 1.03.

(c) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm marketing quotas and for establishing marketing quotas for new farms is 1,000,000 pounds.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 85 Stat. 23, 52 Stat. 66, as amended, 7 U.S.C. 1301, 1314e 1375)

Signed at Washington, D.C. on February 3, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-3321 Filed 2-4-82; 10:13 am]

BILLING CODE 3410-05-M

1982 National Marketing Quotas and Acreage Allotments For Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 & 52), and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 & 55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination of 1982–83 Marketing Quota and Acreage Allotments.

SUMMARY: The purpose of this notice is to announce a number of determinations with respect to the 1982 crops of fire-cured, dark air-cured, sun-cured, cigar-binder, and cigar-filler and binder tobacco. Along with other determiantions, USDA has declared national acreage allotments for the following kinds of tobacco: Fire-cured (type 21), 9430.70 acres; fire-cured (types 22–24), 26,353.99 acres; dark air-cured (types 35 & 36), 11,986.68 acres; Virginia sun-cured, 1,320.11 acres; cigar binder (types 51 & 52), 3223.95 acres; cigar-filler and binder (types 42–44; 53–55), 15,194.53 acres. The law requires that these announcements be made by February 1, 1982. In addition, separate referendums for fire-cured and dark air-cured tobaccos will be held during the period February 22–26 by mail to see whether or not these producers favor quotas for the next three marketing years.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Argicultural Economist, Analysis Division, ASCS, Room 3736 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5187. The Final Regulatory Impact Analysis describing the options considered in developing this notie and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformity with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This action has been classified as "not major" since implementation of these determinations will have an annual effect on the economy of less than $100 million.

The title and number of the Federal Assistance Program that this notice applies to is: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have 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

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act," requires the Secretary to proclaim national marketing quotas for fire-cured (type 21), fire-cured (types 22 & 24), and dark air-cured (types 35–36) tobaccos for each of the three marketing years beginning October 1, 1982, October 1, 1983 and October 1, 1984. The Act also requires the Secretary to announce the reserve supply level and the total supply of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco for the marketing year beginning October 1, 1981, and to announce for the 1982–83 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder, cigar-filler and binder tobaccos.

These determinations have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from tobacco producers and ohers as provided in a notice (46 FR 61157) given in accordance with the provisions of 5 U.S.C. 553.

It is determined that acreage-poundage quotas will not be announced for the 1982–83 marketing year for any of these kinds of tobacco.

Discussion of Comments

Six written responses were received. Some responses contained recommendations on more than one kind of tobacco. A summary by kind of tobacco is as follows:

Fire-cured (type 21)—Two comments were received recommending that quotas remain unchanged.

Fire-cured (types 22–24)—One comment was received recommending quotas remain unchanged.

Dark air-cured (types 35–36)—One comment was received recommending quotas be reduced 7½ percent.

Virginia sun-cured (type 37)—Two comments were received recommending quotas remain unchanged.

Cigar binder (types 51–52)—Two comments were received. One recommended a ten percent reduction in quotas while the other recommended that quotas be suspended for the 1982–83 marketing year.

Cigar-filler and binder (types 42–44; 53–55)—One comment was received recommending that quotas be reduced ten percent.

There were no comments regarding the method or period for holding the referendums.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a

kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it is determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Definitions

Section 301(b)(14)(B) of the Act defines "reserve supply level" as the normal supply, plus 5 percent thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. The "normal supply" is defined in Sections 301(b)(10)(B) of the Act as a normal Year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover. A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the Act as the average quantity produced and consumed in the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1981–82), adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the Act as the average quantity produced in and exported from the United States during the ten marketing years immediately preceding the marketing year in which the quota must be announced (1981–82), adjusted for current trends in such exports.

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1981–82 marketing year was about 1.9 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was 3.6 million pounds (farm sales weight basis). Domestic use has trended upward, while there does not seem to be a pattern to exports. Accordingly, a normal year's domestic consumption has been set at 2.2 million pounds while a normal year's exports has been set at 3.6 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 12.6 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1981, as 8.3 million pounds. The 1981 fire-cured (type 21) tobacco crop is estimated to be 4.9 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1981–82 marketing year is 13.2 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 5.0 million pounds. By deducting this disappearance from the total supply, a carryover of 8.2 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 4.4 million pounds represents the quantity of fire-cured (type 21) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 52 percent of the announced national marketing quotas during the past 5 marketing years has been produced, it is hereby determined that a national marketing quota of 8.448 million pounds is necessary to make available production of 4.4 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 10.138 million pounds is deemed to be justified in order to avoid undue restriction of marketing. This results in a national marketing quota of 10.138 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,075 pounds per acre, results in a 1982 national acreage allotment of 9,430.70 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 20 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire-Cured (types 22–24) Tobacco

The yearly average quantity of fire-cured (Types 22–24) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 15.4 million pounds. The average annual quantity of fire-cured (types 22–24) tobacco produced in the United States and exported during the 10 marketing years preceding the 1981–82 marketing year was 20.0 million pounds (farm-sales weight basis). Domestic use has recently trended upward, while exports are very irregular. Accordingly, a normal year's domestic consumption has been set at 20.0 million pounds and a normal year's exports at 22.0 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 95.9 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–24) tobacco held on October 1, 1981, as 63.1 million pounds. The 1981 fire-cured (types 22–24) crop is estimated to be 37.0 million pounds. Therefore, the total supply of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1981 is 100.1 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 36.0 million pounds. By deducting this disappearance from the total supply, a carryover of 64.1 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 31.8 million pounds represents the quantity of fire-cured (types 22–24) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 81 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 39.3 million pounds is necessary to make available production of 31.8 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 47.2 million pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 47.2 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,791 pounds per acre, results in the 1982 national acreage allotment of 26,353.99 acres.

Pursuant to the provisions of Section 313(g), a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 65 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

Dark Air-Cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 14.9 million pounds, and the average annual quantity produced domestically and exported during this period was 2.3 million pounds (farm-sales weight basis). Exports have trended downward slightly while domestic use has been erratic. With this in mind, 16.7 million pounds have been used as a normal year's domestic consumption and 2.2 million pounds as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 52.0 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1981, as 36.4 million pounds. The 1981 dark air-cured crop is estimated to be 17.4 million pounds. Therefore, the total supply for the marketing year beginning October 1, 1981, is 53.8 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 16.0 million pounds. By deducting this disappearance from the total supply, a carryover of 37.8 million pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 14.2 million pounds represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 79 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 18.0 million pounds is necessary to make available production of 14.2 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 21.6 million pounds is deemed to be justified in order to avoid undue restrictions of marketings. This results in a national marketing quota of 21.6 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,802 pounds per acre, results in a 1982 national acreage allotment of 11,986.68 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of .90 is determined by dividing the national acreage allotment, less a national reserve of 40.0 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1981–82 marketing year was about 740 thousand pounds, and the average annual quantity produced in the United States and exported during the same period was about 190 thousand pounds (farm-sales weight basis). Both domestic use and exports have trended downward. Accordingly, 600 thousand pounds have been used as a normal year's domestic consumption and 140 thousand pounds have been used as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 1,975 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1981, as 1,626 thousand pounds. The 1981 Virginia sun-cured tobacco crop is estimated to be 649 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1981–82 marketing year is 2,275 thousand pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 800 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,475 thousand pounds for the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 500 thousand pounds represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 41 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 1,220 thousand pounds is necessary to make available production of 500 thousand pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the quota by 20 percent to 1,464 thousand pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 1,464 thousand pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota, divided by the 1977–81 5-year national average yield of 1,109 pounds per acre, results in a 1982 national acreage allotment of 1,320.11 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 12.0 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51 and 52) Tobacco

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year, was about 2.6 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was 0.1 million pounds (farm-sales weight basis). Domestic use and exports are erratic. Accordingly, 2.7 million pounds have been used as a normal year's domestic consumption and 0.1 million pounds have been used a normal year's exports. Application of the formula presecribed by the Act results in a reserve supply level of 8.0 million pounds. Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1981, as 6.1 million pounds. The 1981 cigar-binder crop is estimated to be 3.1 million pounds.

Therefore, the total supply of cigar-binder tobacco for the 1981–82 marketing year is 9.2 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 2.5 million pounds. By deducting the estimated disappearance during the 1981–82 marketing year from the total supply, a carryover of 6.7 million pounds at the beginning of the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover

on October 1, 1982, of 1.3 million pounds represents the quantity of cigar-binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 28 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 4.7 million pounds is necessary to make available production of 1.3 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the computed quota by 20 percent to 5.6 million pounds is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 5.6 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota of 5.6 million pounds, divided by the 1977–81 5-year national average yield of 1,737 pounds per acre, results in a 1982 national acreage allotment of 3,223.95 acres.

Pursuant to the provisions of Section 313(g), a national acreage factor of 0.85 is determined by dividing the national acreage allotment, less a national reserve of 25 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder Tobacco

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1981–82 marketing year was about 23.4 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1981–82 marketing year was less than .1 million pounds. Domestic use is increasing, while exports are steady.

Accordingly, a normal year's domestic consumption has been set at 28.4 million pounds while a normal year's exports has been set at 0.06 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 82.1 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder tobacco held on October 1, 1981, as 57.8 million pounds. The 1981 cigar-filler and binder crop is estimated to be 28.6 million pounds. Therefore, the total supply of cigar-filler and binder tobacco for the 1981–82 marketing year is 86.4 million pounds. During the 1981–82 marketing year, it is estimated that disappearance will total about 22.5 million pounds. By deducting this disappearance from the total supply, a carryover of 63.9 million pounds at the beginning of the 1982–83 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1982, of 18.2 million pounds represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 76 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 24.1 million pounds is necessary to make available production of 18.2 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the computed quota by 20 percent to 28.9 million pounds, is deemed to be justified in order to avoid undue restriction of marketings. This results in a national marketing quota of 28.9 million pounds.

In accordance with Section 313(g) of the Act, the 1982 national marketing quota of 28.9 million pounds, divided by the 1977–81 5-year national average yield of 1,902 pounds per acre, results in the 1982 national acreage allotment of 15,194.53 acres. Pursuant to the provisions of Section 313(g), a national acreage factor of .80 is determined by dividing the national acreage allotment, less a national reserve of 60 acres, by the total of the 1982 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less the national reserve, to old farms.

Reasons for Immediate Implementation

Since section 312 of the Act requires that the amount of the national marketing quotas for the 1982 crops of the minor kinds of tobacco be announced by February 1, 1982, it is hereby determined that no further public rulemaking is required. Therefore, this notice shall become effective February 1, 1982.

Proclamations 1982–83 Marketing Year

For fire-cured tobacco for three consecutive years beginning October 1, 1982. Since the 1981–82 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for fire-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1982, October 1, 1983, and October 1, 1984 is hereby proclaimed.

For dark air-cured tobacco for three consecutive years beginning October 1, 1982. Since the 1981–82 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for dark air-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1982, October 1, 1983, and October 1, 1984, is hereby proclaimed.

Method and Period for Holding Referendums

It is hereby determined and announced that separate referendums of farmers engaged in 1981 production of fire-cured and dark air-cured tobaccos will be conducted by mail ballot during the period February 22–26, 1982 inclusive. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning October 1, 1982.

Determinations 1982–83 Marketing Year

For fire-cured (type 21) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (type 21) tobacco is 12.6 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 2.2 million pounds and a normal year's exports of 3.6. million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1981, is 13.2 million pounds, calculated in accordance with the Act, from a carryover of 8.3 million pounds and estimated 1981 production of 4.9 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1982, is 8.2 million pounds, calculated in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 5.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 4.4 million pounds. Because producers have been producing only about 52 percent of the announced national marketing quota during the past 5 marketing years, it is

[1] Rounded to the nearest tenth of a million.

hereby determined that a national marketing quota of 8.448 million pounds is necessary to make available production of 4.4 million pounds. Accordingly, a national marketing quota of 8.448 million pounds is hereby announced.

It is determined, however, that a national marketing quota in an amount of 8.448 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 10.138 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calulated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,075 pounds, is 9,430.70 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 20.0 acres, of which 10.0 acres are made available for 1982 new farms, and 10.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

For fire-cured (types 22–24) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (types 22–24) tobacco is 95.9 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 20.0 million pounds and a normal year's exports of 22.0 million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (type 22–24) tobacco for the marketing year beginning October 1, 1981, is 100.1 million pounds calculated, in accordance with the Act, from a carryover of 63.1 million pounds and estimated 1981 production of 37.0 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1982, is 64.1 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 36.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (types 22–24) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 31.8 million pounds. Because producers have been producing only about 81 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 39.3 million pounds is necessary to make available production of 31.8 million pounds. Accordingly, a national marketing quota of 39.3 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 39.3 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent.

Therefore, the amount of the national marketing quota for fire-cured (types 22–24) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 47.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,791 pounds, is 26,353.99 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 65 acres, of which 10 acres are made available for 1982 new farms, and 55 acres are made available for making corrections and adjusting inequities in old farm allotments.

For dark air-cured tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply level for dark air-cured tobacco is 52.0 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 16.7 million pounds and a normal year's exports of 2.2 million pounds.

(b) *Total supply.*[1] The total supply of dark air-cured tobacco for the marketing year beginning October 1, 1981, is 53.8 million pounds calculated, in accordance with the Act, from a carryover of 36.4 million pounds and estimated 1981 production of 17.4 million pounds.

(c) *Carryover.*[1] The estimated carryover of dark air-cured tobacco for the marketing year beginning October 1, 1982, is 37.8 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 16.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of dark air-cured tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 14.2 million pounds. Because producers have been producing only about 79 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 18.0 million pounds is necessary to make available production of 14.2 million pounds. Accordingly, a national marketing quota of 18.0 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 18.0 million pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for dark air-cured (types 35–36) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 21.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,802 pounds, is 11,986.68 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .90. It was calculated in accordance with the Act by dividing the national acreage allotment, less the reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 40 acres, of which 10 acres are made available for 1982 new farms, and 30 acres are made available for making corrections and adjusting inequities in old farm allotments.

For Virginia sun-cured tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[2] The reserve supply level for Virginia sun-cured tobacco is 1,975 thousand pounds calculated, as provided in the Act, from

[2] Rounded to the nearest thousand pounds.

a normal year's domestic consumption of 600 thousand pounds and a normal year's exports of 140 thousand pounds.

(b) *Total supply.*[2] The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1981, calculated in accordance with the Act, is 2,275 thousand pounds, consisting of carryover of 1,626 thousand pounds and estimated 1981 production of 649 thousand pounds.

(c) *Carryover.*[2] The estimated carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1982, is 1,475 thousand pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 800 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 500 thousand pounds. Because producers have been producing only about 41 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 1,220 thousand pounds is necessary to make available production of 500 thousand pounds. Accordingly, a national marketing quota of 1,220 thousand pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 1,220 thousand pounds would result in undue restriction of marketings during the 1982–83 marketing year. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for sun cured (type 37) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 1,464 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,109 pounds, is 1,320.11 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982.

(g) *National reserve.* The national acreage reserve is 12 acres, of which 5 acres are made available for 1982 new farms, and 7 acres are made available for making corrections and adjusting inequities in old farm allotments.

For cigar-binder (types 51 & 52) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[2] The reserve supply level for cigar-binder (types 51 & 52) tobacco is 8.0 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 2.7 million pounds and a normal year's exports of 0.1 million pounds.

(b) *Total supply.*[1] The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1981, is 9.2 million pounds, calculated in accordance with the Act, from a carryover of 6.1 million pounds and estimated 1981 production of 3.1 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1982, is 6.7 million pounds, calculated, in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 2.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 1.3 million pounds. Because producers have been producing less than 28 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 4.7 million pounds is necessary to make available production of 1.3 million pounds. Accordingly, a national marketing quota of 4.7 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 4.7 million pounds would result in undue restriction of marketings during the 1982–83 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-binder (types 51 & 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 5.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,737 pounds, is 3,223.95 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .85. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 25 acres of which 10 acres are made available for new farms, and 15 are for making corrections in adjusting inequities in old farm allotments.

For cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year October 1, 1982.

(a) *Reserve supply level.*[1] The reserve supply for cigar-filler and binder (types 42–44, 53–55) tobacco is 82.1 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 28.6 million pounds and a normal year's exports of 0.08 million pounds.

(b) *Total supply.*[1] The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1981, is 86.4 million pounds, calculated in accordance with the Act from a carryover of 57.8 million pounds and estimated 1981 production of 28.6 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1982, is 63.9 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1981, of 22.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1982, a supply equal to the reserve supply level of such tobacco is 18.2 million pounds. Because producers have been producing less than 76 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 24.1 million pounds is necessary to make available production of 18.2 million pounds. Accordingly, a national marketing quota of 24.1 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 24.1 million pounds would result in undue restriction of marketings during the 1982–83 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent.

Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42–44; 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1982, is 28.9 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing qutoa for the 1982–83 marketing year by the 5-year (1977–81) national average yield of 1,902.pounds, is 15,194.53 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1982–83 marketing year is .80. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1982 old farms.

(g) *National reserve.* The national acreage reserve is 60 acres, of which 50 acres are made available for 1982 new farms, and 10 acres are made available for making corrections and adjusting inequities in old farm allotments.

The provisions of this subpart are issued under Section 301, 312, 375, 52 Stat. 38, as amended, 46, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375.

Signed at Washington, D.C. on February 3, 1982.

John R. Block,

Secretary.

[FR Doc. 82-3320 Filed 2-4-82; 10:15 am]

BILLING CODE 3410-05-M

Forest Service

Apache National Forest Grazing Advisory Board; Meeting

The Apache National Forest Grazing Advisory Board will meet at 10:30 A.M., March 19th at the Safire Restaurant in Springerville, Arizona. The purpose of this meeting is to include a discussion on expenditure of Range Betterment funds for F.Y. 1983 for the Apache Forest. Discussion on Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938 (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: Any interested persons besides the Advisory Board members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: January 27, 1982.

Nick McDonough,

Forest Supervisor.

[FR Doc. 82-3369 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-11-M

Sitgreaves National Forest Grazing Advisory Board; Meeting

The Sitgreaves National Forest Grazing Advisory Board will meet at 10:00 a.m., March 17th at the Maxwell House Restaurant in Show Low, Arizona. The purpose of this meeting is to include a discussion on expenditure of Range Betterment funds for FY 1983 for the Sitgreaves Forest. Discussion on Allotment Management Planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938 (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: Any interested persons besides the Advisory Board members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: January 27, 1982.

Nick McDonough,

Forest Supervisor.

[FR Doc. 82-3370 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare a supplemental environmental impact statement in connection with proposed supplemental financing assistance by REA for Soyland Power Cooperative, Inc., (Soyland) of Decatur, Illinois, and Western Illinois Power Cooperative, Inc., (WIPCO) of Jacksonville, Illinois. This action by REA will enable Soyland and WIPCO to finance their ownership share for the completion of the Clinton nuclear power plant (Project) which is being constructed by Illinois Power Company (IPC) of Decatur, Illinois.

The environmental effects of the Project are discussed and evaluated in the Final Environmental Statement issued in October 1974, the Operating License Stage Environmental Report issued in June 1981, and the Borrower's Environmental Report dated July 1981.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the Project are adequately considered in the above listed documents.

Based upon REA's independent review of these documents, a Finding of No Significant Impact was reached in accordance with REA.

Various alternatives were considered by REA. The alternatives include no action (end participation), purchased power from other sources, and completion of the project now under construction. After considering these alternatives, REA determined that the proposed action of providing additional financing assistance to Soyland and WIPCO for completion of the Project is an acceptable alternative.

Copies of REA's Finding of No Significant Impact and the support documents listed previously may be reviewed in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–1400 or at the offices of Soyland Power Cooperative, Inc., P.O. Box A1606, Decatur, Illinois 62525 and Western Illinois Power Cooperative, Inc., P.O. Box 609, Jacksonville, Illinois 62650.

(Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated at Washington, D.C., this 2d day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3312 Filed 2-8-82; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

Vermont Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory

Commiittee to the Commission will convene at 10:00 a.m., and will end at 11:00 a.m., on February 24, 1982, at the Post Office and Courthouse, 87 State Street, 3rd Floor, Montpelier, Vermont, 05602. The purpose of this meeting is to conduct a press conference to release the report Civil Rights Developments in Vermont, 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, Hoff, Wilson and Powell, P.C., 192 College Street, Burlington, Vermont, 05401 (802) 658–4300 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

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

Dated at Washington, D.C., February 5, 1982

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–3352 Filed 2–8–82; 8:45 am]

BILLING CODE 6335–01–M

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and Regulations of the U.S Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on March 5, 1982, at the Edgewater Hotel, 666 Wisconsin Avenue, Madison, Wisconsin, 53701. The purpose of this meeting is to discuss the Business Incentives and Minority Employment projects and approve the final draft of the Bilingual Assessment report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Herbert M. Hill, 2127 Van Hise Avenue, Madison, Wisconsin, 53705, (608) 263–1642 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7479.

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

Dated at Washington, D.C., February 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–3353 Filed 2–8–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1–82]

Proposed Foreign-Trade Zone, Mobile, Alabama; Public Hearing Rescheduled

The public hearing which was originally scheduled for February 5, 1982, concerning the foreign-trade zone application of the City of Mobile (47 FR 992, 1–8–82) has been rescheduled to March 25, 1982 at the applicant's request. The hearing will be held in the Conference Room of Building A, City Hall, Dauphin Street and I–65, Mobile, beginning at 9:00 a.m.

The period for public comments has been extended to April 23, 1982.

Dated: February 3, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82–3419 Filed 2–8–82; 8:45 am]

BILLING CODE 3510–25–M

[Docket No. 7–82]

Proposed Foreign-Trade Zone-San Antonio, Texas; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Antonio, Texas, requesting authority to establish a general-purpose foreign-trade zone in San Antonio and Bexar County, within and adjacent to the San Antonio Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 1, 1982. The applicant is authorized to make this proposal under Article 1446.10 of Vernon's Annotated Revised Civil Statutes of the State of Texas.

The proposed zone will cover a total of 556 acres on three separate parcels. Site 1 is a 52-acre parcel in an industrial area on Coliseum Road at Interstate 35 in San Antonio. Three buildings totaling 287,000 square feet are available for initial zone processing and warehousing operations. Site 2 covers 4 acres at 315 Medina Street adjacent to the downtown business district with 174,000 square feet of warehouse space. Site 3 is located within the Southwest Industrial Center on Quintana Road and Interstate 35 in Bexar County. Covering 500 acres this site will be used to accommodate firms requiring their own facilities and to provide standby space for future zone development. The City has designated Scobey Moving and Storage Company as operator for the zone project.

The application contains evidence of the need for zone services in the San Antonio area. Prospective users have indicated an interest in zone procedures for storage, exhibiton, testing, packing and assembly of machinery, fabricated metal products, roofing materials, medical equipment, household appliances, wood products, electronic components and products,clothing, footwear, paper products, and beer.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Director (Inspection and Control), U.S. Customs Service, Region VI, 500 Dallas Street, Houston, Texas 77002; and Colonel Donald J. Palladino, District Engineer, U.S. Army Engineer District, Ft. Worth, P.O. Box 17300, Fort Worth, Texas 76102.

As part of its investigation, the Examiners Committee will hold a public hearing on March 4, 1982, beginning at 9:00 a.m., in the City Council Chambers, City Hall, Commerce and Flores Streets, San Antonio. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by February 24, 1982. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through April 3, 1982. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 1802 N.E. Loop 410, San Antonio, Texas 78217

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721,

14th and Constitution, NW.,
Washington, D.C. 20230

Dated February 3, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-3420 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Agriculture Subcommittee of the President's Export Council; Notice of Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The Agriculture Subcomittee was formed by the Council to study agricultural trade issues.

TIME AND PLACE: February 24, 1982, at 10:00 a.m. The meeting will take place at the Hall of States, 444 North Capitol St., Washington, D.C., Room 263–265.

AGENDA: *General Session.*

10:00 Welcome by Chairman.

10:15 Trade Barriers to U.S. Agricultural Exports.

11:15 Foreign Infrastructure Development.

12:30 Foreign Market Development Cooperator Program; Panel Discussion.

4:30 Adjournment.

Public Participation: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mr. Jeffrey Jackson, President's Export Council Staff, Room 2128, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–1125.

Dated February 4, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-3417 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel I-Beams From Belgium; Reopening of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Reopening of antidumping investigation.

SUMMARY: The Department of Commerce is reopening the cost of production aspect of the antidumping investigation of certain steel I-beams from Belgium, in accordance with an order from the U.S. Court of International Trade. As ordered by the Court, the final results will be provided to the court no later than March 24, 1981.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Room 3075, Washington, D.C. 20230 (202–377–1276).

SUPPLEMENTARY INFORMATION:

Reopening of Investigation

As ordered by the Court of International Trade, we are reopening the antidumping investigation on certain steel I-beams from Belgium for the purpose of seeking additional information regarding cost of production as specifically requested by the Court in its order of November 24, 1981. The Court has ordered that we report the final results of this reopened investigation by March 24, 1982.

Background

On September 20, 1979, a notice of "Determination of Sales at Not Less Than Fair Value" was published in the **Federal Register** (44 FR 54579). For the purposes of both that determination and this notice the term "certain steel I-beams" means hot-rolled steel I-beams with symmetrical flanges or with one or more flanges offset, less than six inches in height and weighing not over 4½ pounds per linear foot, provided for under item number 609.80 of the Tariff Schedules of the United States.

On February 27, 1980, the Department of Commerce (the Department) published a "Notice of petition filed by an American manufacturer indicating a desire to contest a determination by the Secretary under 19 U.S.C. 160" in the **Federal Register** (45 FR 12589). On March 12, 1980, counsel for the petitioner filed suit in the U.S. Customs Court to challenge the Department's final antidumping determination (*Connors Steel Company* v. *United States*, 80–3–00478). The plaintiff alleged, *inter alis*, that the Secretary erred in failing to investigate whether Cockerill-Sambre S.A. of Seraing, Belgium, was selling the merchandise in question at less than the cost of production.

On November 24, 1981, the U.S. Court of International Trade (successor to the U.S. Customs Court) ordered that the Secretary of Commerce "shall conduct an investigation into whether the sales of these beams in the home market were at prices representing less than their cost of production and shall report his findings to the Court within 120 days from the date of this decision".

The United States has moved for a rehearing and modification of the Court's order in this case. If the Court modifies its order in such a way as to make this investigation unnecessary, we will publish a notice announcing termination of the investigation. Otherwise, we will continue the investigation. If continued, we will not publish a preliminary determination, nor hold a hearing. We will publish a notice announcing the final results of this reopened investigation.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-3400 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Negative Countervailing Duty Determination; Potassium Permanganate from Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Negative Countervailing Duty Determination.

SUMMARY: We have preliminarily determined that the government of Spain is not giving its manufacturers, producers and exporters of potassium permanganate benefits that constitute bounties or grants. If our investigation proceeds normally, we will make our final determination by April 19, 1982.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Supervisory Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–1273.

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is no reason to believe or suspect that through the "Desgravacion Fiscal a la Exportacion" program and the operating capital loans program, that the government of Spain is giving its manufacturers, producers or exporters

of potassium permanganate benefits that constitute bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act of 1930 as amended (the "Act"). If our investigation proceeds normally, we will make our final determination by April 19, 1982.

SUPPLEMENTARY INFORMATION:

Case History

On November 10, 1981, we received a petition in proper form from counsel representing the Carus Chemical Company of La Salle, Illinois. The petition alleged that the government of Spain subsidizes its producers and exporters of potassium permanganate through a tax rebate which exceeds the amount of indirect taxes physically incorporated and borne by the final product. This rebate is provided through a program called the "Desgravacion Fiscal a la Exportacion." The petitioner estimated the amount of the rebate for this program to range from 10 percent to 12 percent of the value of the product.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an investigation. Therefore, on December 4, 1981, we announced our initiation (46 FR 59282).

Section 303 of the Act applies to this investigation, because Spain is not a "country under the Agreement" within the meaning of section 701(b) of the Act. In addition, the merchandise covered in this investigation is dutiable. Therefore, no injury determination is required.

Scope of Investigation

The merchandise we have investigated, potassium permanganate, is a purple salt used primarily as an oxidant in the manufacture of organic chemicals, as a disinfectant, as a deodorizer, and as a bleach. It is currently classifiable under item 420.28 of the Tariff Schedules of the United States.

We presented a questionnaire to the government of Spain concerning programs which we believed, or suspected to be, bounties or grants. On January 20, 1982, we received a response to our questionnaire.

In its response, the government of Spain provided data for the calendar year of 1980 and for the first nine months of 1981. Asturquimica, S.A. is the only known Spanish producer and exporter of this merchandise to the United States. Based on its response, two programs, "Desgravcion Fiscal a la Exportacion", and an operating capital loan program, have been utilized by the Spanish exporter.

Analysis of Programs

(1) Desgravacion Fiscal a la Exportacion—Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy and services used in the final stage of production. The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy in order to determine more precisely the cumulative indirect tax incidence on the exported product, in this case, potassium permanganate. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation the total indirect taxes calculated to be physically incorporated and borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: 1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Department of Commerce's Regulations) and 2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation must be determined for each product in each case. We will verify the information provided in response to our questionnaire, and we will determine the extent to which each input is physically incorporated into the final product.

In this case, we have preliminarily determined that the following items are physically incorporated in the final product: pyrolusite, caustic potash, secondary/free flowing materials, electricity (used in the electrolysis process), packing and final stage taxes.

Additionally, we have preliminarily determined that the following items are not physically incorporated in the final product: fuel oil, electricity (used as a fuel source for utilities), depreciation, and other manufacturing expenses.

The rebate of the following additional final stage taxes is allowable when calculating whether or not there is an overrebate of indirect taxes under the Desgravacion Fiscal: the tax on export freight and insurance, the parafiscal tax on export licenses, and the IGTE sales tax applicable to the final stage transaction.

As of January 1, 1982, the Spanish government increased the turnover tax rate from 2.4 percent to four percent. We have reviewed the Spanish government study of the tax incidence of physically incorporated inputs and final stage taxes and have taken this tax rate increase into account. Based upon this review, we have determined preliminarily that there is no overrebate of indirect taxes with respect to this product.

(2) Operating Capital Loans—The government of Spain requires banks to set aside funds to provide short term (less than one year's duration) operating capital loans. These loans are made at a 10 percent interest rate that is 1.5 percent below the commercially available rate of 11.5 percent. These rates have been in effect in Spain since November of 1981; previously the rates had been 8 percent and 9.5 percent, respectively. These operating capital loans are available to exporters of certain goods including potassium permanganate, which are specified by the government of Spain. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card. Asturquimica, S.A., the only known Spanish producer exporting potassium permanganate to the United States, does not have an exporter's card and its maximum eligibility on potassium permanganate is 20 percent of the value of its exports of this product. The net benefit conferred to Asturquimica is 0.2 percent ad valorem, which is *de minimis*.

We have preliminarily determined that no benefit which constitutes a bounty or grant is provided to the Spanish producer and exporter of potassium permanganate under the Desgravacion Fiscal a la Exportacion program and that the benefit received under the operating capital loan program is 0.2 percent. Therefore, we preliminarily find the total benefit bestowed to be *de minimis*.

Verification

In accordance with § 355.39 of the Commerce Department's Regulations, we will verify all data used in this investigation before making our final determination.

Public Comment

As described in § 355.35 of the Commerce Department's Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. This hearing is scheduled to be held on February 26, 1982, at 10:00 a.m. at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

All requests for hearings must be submitted within ten days of this notice's publication in the Federal Register to the Deputy Assistant Secretary for Import Administration, Room 3099–B, 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 lost of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 19, 1982. Oral presentations will be limited to the issues raised in the briefs. All written briefs should be filed in accordance with 19 CFR 355.34, on or before March 11, 1982, at the above address, and in at least ten copies.

This determination is published in accordance with section 703(f) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary.

February 3, 1982.

[FR Doc. 82–3116 Filed 2–8–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Marine Recreational Policy; Availability of Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of new marine recreational fisheries policy and availability of report.

SUMMARY: NOAA issues notice that the National Marine Fisheries Service has adopted a new policy for marine recreational fisheries (MRF) and makes available to the public a final report on that policy. The main purpose of this policy change is to integrate more fully MRF throughout all of the Agency's major program offices and activities.

DATE: Effective October 13, 1981.

ADDRESS: Report of the Task Group dated April 24, 1981, is available at a cost of five dollars ($5.00) from Dr. Robert F. Hutton, Marine Recreational Fisheries Coordinator, National Marine Fisheries Service, Washington, D.C. 20235; checks should be made payable to NOAA/Commerce.

FOR FURTHER INFORMATION CONTACT: Dr. Robert F. Hutton 202–254–5536.

SUPPLEMENTARY INFORMATION:

Background: Marine recreational fishing is important to the United States in terms of its popularity, economic contributions, source of food, and consequence to management of marine fisheries resources. It is estimated that in 1970, the most recent year for which national catch statistics are available, 1.6 billion pounds of finfish were caught in marine waters by recreational anglers. The major portion of those fish was consumed. In 1975, an estimated 16.4 million anglers spent an estimated 207.2 million days sport fishing in marine waters and contributed approximately $3.5 billion in direct expenditures to the Nation's economy. In 1980, NMFS estimates that direct expenditures approached $6 billion, not including the total indirect economic impacts generated from these expenditures. In addition, marine recreational fishing helps to improve the quality of life for U.S. citizens in many ways that are not easily quantified.

Although the National Marine Fisheries Service (NMFS) has responsibilities for living marine resources, (both commercial and recreational), under the Magnuson Fishery Conservation and Management Act of 1976, as amended, and other laws, the marine recreational fishing (MRF) activities of NOAA have been limited and fragmented. Traditionally, MRF activities of NMFS have been in biological research and data collection geared toward providing better information for conservation and management of the fisheries resources. The NMFS has been involved in other MRF activities on an ad hoc basic such as technical assistance on artificial reef research and development, sponsoring MRF symposia, and various other liaison activities with State, other Federal agencies, and various interest groups.

Marine Recreational Fisheries Policy: At the request of the NMFS Assistant Administrator for Fisheries, a Task Group was established to recommend a policy that would integrate more fully MRF into all of the Agency's major program offices and activities.

Using the MRF evalution report prepared by the evaluation staff of the NMFS Office of Policy and Planning as a starting point, the Task Group developed and recommended an Agency MRF policy. Their recommendations were presented to the Assistant Administrator for Fisheries in the final report of the MRF Task Group dated April 24, 1981. The Task Group defined MRF in terms of three elements—the resource (fish and habitat), the users (fishermen, consumers, general public), and the industry (supporting industries which provide goods and services, e.g., bait, tackle, boats, motors, charter/headboat services, etc.). Problems associated with each of these three elements were discussed in the report. The policy recommended by the Task Group states that:

> MNFS, through its various programs, will protect, conserve, enhance, manage, and develop fishery resources of importance to the Nation in order to increase the Nation's food supply; promote increased opportunity for both commercial and marine recreational fishermen consistent with the concept of optimum yield; and promote activities which will assist the commercial and marine recreational fishing industries to thrive and expand.

This policy carries out the NOAA Administrator's guidance on policy and management priorities, and emphasizes international competitveness of American industry, improving productivity and innovation by American enterprise, and reducing Government regulation of industry. The Task Group also made ten recommendations with respect to implementation of the policy.

William G. Gordon, Assistant Administrator for Fisheries, NMFS, agreed with recommendations of the MRF Task Group, and formally adopted the MRF policy for the Agency on October 13, 1981. That policy is now being implemented through the strategic planning process of NMFS, taking into account Federal budgetary constraints.

Dated: February 4, 1982.

Robert K. Crowell,

Acting Executive Director, National Marine Fisheries Services.

[FR Doc. 82–3415 Filed 2–8–82; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additions to the Textile Category System

February 3, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Additions to the Textile Category System to provide for proper category placement of apparel articles imported as parts of apparel entireties.

(For purposes of the textile program, the term "entireties" is used to describe

sets of apparel, such as jackets and skirts, or sweaters and skirts, among others which are customarily sold together and intended to be worn together.)

(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: Beginning on January 1, 1982, the U.S. Customs Service denied entry to some parts of apparel sets because the category of the items visaed was not correct. This resulted from the lack of 7-digit T.S.U.S.A. numbers in the new tariff classification for particular apparel product categories. (For further details, see 47 FR 842, January 7, 1982). The list of new 7-digit numbers to correct the situation follows this Federal Register Notice. The automatic visa waiver procedure established by the Committee for the Implementation of Textile Agreements on January 7, 1982, will remain in effect until February 8 to allow all U.S. Customs Ports of Entry the time necessary to obtain the new 7-digit numbers.

EFFECTIVE DATE: February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 1, 1982 Additions to the Textile Category System

Category and Addition

334

379.6445 Other men's and boys' wearing apparel, of cotton, not ornamented, not knit: Coats imported as parts of sets

379.0833 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Coats imported as parts of sets

335

383.0857 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Coats imported as parts of sets.

383.3075 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Coats imported as parts of sets

383.5078 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Coats imported as parts of sets

336

383.3085 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Dresses imported as parts of sets

383.5088 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Dresses imported as parts of sets

339

383.0355 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Blouses and shirts imported as parts of sets

383.3065 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Blouses and shirts imported as parts of set

340

379.0836 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Shirts, imported as parts of sets

379.6455 Other men's and boys' wearing apparel of cotton, not ornamented, not knit: Shirts imported as parts of sets

341

383.0856 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Blouses and shirts imported as parts of sets

383.5082 Other women's, girls' and infants' wearing apparel of cotton, not ornamented not knit: Blouses and shirts imported as parts of sets

342

383.0265 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Skirts imported as parts of suits

383.0632 Other women's, girls' and infants' wearing apparal, of cotton, ornamented, not knit: Skirts imported as parts of suits

345

383.0360 Other women's, girls' and infants' wearing apparel of cotton, ornamented, knit: Sweaters imported as parts of sets

383.3070 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Sweaters imported as parts of sets

347

379.3338 Other men's and boys' wearing apparel of cotton, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

348

383.0859 Other women's, girls' and infants' wearing apparel of cotton, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

383.3080 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, knit: Trousers, slacks and shorts imported as parts of sets

383.5086 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

350

379.6450 Other men's and boys' wearing apparel of cotton, not ornamented, not knit: Dressing gowns, including bathrobes and beachrobes imported as parts of sets

383.5080 Other women's, girls' and infants' wearing apparel of cotton, not ornamented, not knit: Dressing gowns, including bathrobes and beachrobes imported as parts of sets

359

383.0635 Women's, girls' and infants' cotton ornamented, knit suits, vests, trousers, slacks and shorts: Other

435

383.1137 Other women's, girls' and infants' wearing apparel of wool, ornamented, knit: Coats, imported as parts of sets

383.5840 Other women's, girls' and infants' wearing apparel of wool, not ornamented knit, valued not over $5 per pound: Coats imported as parts of sets

383.6390 Other women's, girls' and infants' wearing apparel of wool, not ornamented, knit, valued over $5 per pound: Coats imported as parts of sets

383.6660 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Coats imported as parts of sets

383.7570 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Coats imported as parts of sets

440

383.1617 Other women's, girls' and infants' wearing apparel of wool, ornamented, not knit: Blouses and shirts imported as parts of sets

383.6655 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Blouses and shirts imported as parts of sets

383.7565 Other women's, girls' and infants' wearing apparel of wool, not ornamented, not knit, valued not over $4 per pound: Blouses and shirts imported as parts of sets

634

379.3332 Other men's and boys' wearing apparel of man-made fiber, ornamented, not knit: Coats imported as parts of sets

379.9637 Other men's and boys' wearing apparel of man-made fiber, not ornamented, not knit: Coats imported as parts of sets

635

383.2056 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented knit: Coats imported as parts of sets

383.2354 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented not knit: Coats imported as parts of sets

383.8667 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Coats imported as parts of sets

383.9273 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Coats imported as parts of sets

639

383.2052 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Blouses and shirts imported as parts of sets

383.8663 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Blouses and shirts imported as parts of sets

640

379.3334 and 379.3336 Other men's and boys' wearing apparel of man-made fiber, ornamented, not knit: Dress shirts imported as parts of sets. Other shirts imported as parts of sets

379.9639 and 379.9641 Other men's and boys' wearing apparel of man-made fiber, not ornamented, not knit: Dress shirts imported as parts of sets. Other shirts imported as parts of sets

641

383.2352 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Blouses and shirts imported as parts of sets

383.9270 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Blouses and shirts imported as parts of sets

646

383.2054 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Sweaters imported as parts of sets

383.2358 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Sweaters imported as parts of sets

383.8665 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Sweaters imported as parts of sets

647

379.3338 Other men's and boys' wearing apparel of man-made fiber, ornamented not knit: Trousers, slacks and shorts imported as parts of set

379.9643 Other men's and boys' wearing apparel of man-made fiber, not ornamented not knit: Trousers, slacks and shorts imported as parts of set

648

383.2058 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, knit: Trousers, slacks and shorts imported as parts of sets

383.2356 Other women's, girls' and infants' wearing apparel of man-made fiber, ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

383.8669 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, knit: Trousers, slacks and shorts imported as parts of sets

383.9276 Other women's, girls' and infants' wearing apparel of man-made fiber, not ornamented, not knit: Trousers, slacks and shorts imported as parts of sets

[FR Doc. 82-3418 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Autodin II: Advisory Committee Meeting

The Defense Science Board Task Force on Autodin II will meet in closed session on March 4–5, 1982 in Washington, D.C.

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 the meeting on March 4–5, 1982 the Task Force will be briefed by members of the Defense Communications Agency AUTODIN II Evaluation Group and concerned members of the Defense Department.

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.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 3, 1982.

[FR Doc. 82-3350 Filed 2-8-82; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement (DEIS) for Proposed Water Supply Storage in Abiquiu Reservoir, Rio Chama, New Mexico.

AGENCY: Army Corps of Engineers, Albuquerque District, DOD.

ACTION: Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Action and Alternative Solutions.* The proposed action is the storage of imported San Juan-Chama water in Abiquiu Reservoir, Rio Chama, New Mexico. The reservior is an existing Corps of Engineers project which was initially authorized for flood control and sediment storage. Public Law 97–140, enacted on 29 December 1981, authorized storage of up to 200,000 acre-feet of water. The proposed action would provide the city of Albuquerque and other water users with a storage area to meet future water supply needs. Alternatives under consideration consist of no action and water storage ranging from the present sediment pool of 63,000 acre-feet to about 650,000 acre-feet.

2. *Public Involvement and Scoping processes.* The process for determining the scope of issues to be addressed and identifying significant issues related to the action and alternatives has been initiated through a general public involvement program. An initial public meeting has been held to identify significant issues. A scoping process will be carried out in which all interested persons and agencies will be provided opportunity to identify and determine the scope of the DEIS and to further identify significant issues to be addressed. Affected Federal, State and local agencies, Indian Tribes, and other interested private organizations and individuals will be invited to participate.

This study is being coordinated with the U.S. Fish and Wildlife Service pursuant to the requirements of the Fish and Wildlife Coordinaton Act of 1958 (72 Stat. 563) (Pub. L. 85–624) and the Endangered Species Act of 1973, as amended (87 Stat. 884) (Pub. L. 93–205). Consultation with Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Officer and the National Park Service will be initiated pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915) as amended (94 Stat. 2987) and the Reservoir Salvage Act of 1960 (74 Stat. 220), as amended (88 Stat. 174 and 94 Stat. 2987).

3. *Significant Issues to be Analyzed.* Significant issues to be analyzed in depth in the DEIS will include the impact of the action on the rural hispanic social setting and effects of higher pool levels on terrestrial and aquatic habitats.

4. *Public Review.* The present estimated date that the DEIS will be available for public review is 1 December 1983.

5. *Further Information.* Questions regarding the proposed action and the DEIS may be directed to:

Ms. Anita E. Culp, Biologist, Albuquerque District, Corps of Engineers, P.O. Box 1580, Albuquerque, NM 87103, Phone: (505) 766–3577, (FTS) 474–3577

or

Mr. William E. Huntley, Study Manager, Albuquerque District, Corps of Engineers, P.O. Box 1580, Albuquerque, NM 87103, Phone: (505) 766–3862, (FTS) 474–3862

Dated: January 28, 1982.

Julian E. Pylant,

Lieutenant Colonel, CE, Commanding.

[FR Doc. 82-3328 Filed 2-8-82; 8:45 am]

BILLING CODE 3710-KK-M

DEPARTMENT OF EDUCATION

Regional Education Programs for Handicapped Persons

AGENCY: Department of Education.

ACTION: Application notice establishing closing date for transmittal of applications for the Regional Education Programs for handicapped persons—

continuation demonstration grants for fiscal year 1982.

Applications are invited for noncompeting continuation projects under the Regional Education Programs for Handicapped Persons.

Authority for this program is contained in section 625, Part C of the Education for the Handicapped Act (20 U.S.C. 1424a).

The purpose of this program is to develop and operate specially designed or modified programs of vocational, technical, postsecondary or adult education for deaf or other handicapped persons.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 31, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.078D, 400 Maryland Avenue, SW, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW, Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Available Funds: Funding for the second year demonstration projects is anticipated to range between $15,000 and $50,000 per project.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to Regional Education Programs for Handicapped Persons, Special Education Programs, Department of Education, 400 Maryland Avenue SW, (Donohoe Building) Washington, D.C. 20202–4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that only the information required by the application form and instructions be submitted.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Regional Education Programs for Handicapped Persons (34 CFR Part 338, formerly 45 CFR Part 121k). Amendments to these regulations were published on April 3, 1980 (45 FR 22533) and January 19, 1981 (46 FR 5381–5382). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c).

FOR FURTHER INFORMATION CONTACT:

Dr. Joseph Rosenstein, Regional Education Program, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Donohoe Building) Washington, D.C. 20202–4714, telephone (202) 245–9722.

(20 U.S.C. 1424a)

(Catalog of Federal Domestic Assistance No. 84.078, Regional Education Programs)

Dated: January 29, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3367 Filed 2–8–82; 8:45 am]

BILLING CODE 4000–01–M

National Diffusion Network Program

Correction

In FR Doc. 82–2378 appearing on page 4329 in the issue of Friday, January 29, 1982; on page 4330, first column, sixth and seventh lines should be removed. They read as follows:

"$39,000 up to 84 Continuing Developer Demonstrator projects, averaging".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 81–CERT–028]

American Cyanamid Company; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 15, 1981, American Cyanamid Company (American Cyanamid), One Cyanamid Plaza, Wayne, New Jersey 07470, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of up to 3,000 Mcf of natural gas per day to displace approximately 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at its acrylic fiber plant located in Pensacola, Florida. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District (Conecuh-Monroe), and the gas will be transported by United Gas Pipe Line Company. Notice of that application was published in the Federal Register (47 FR 3159, January 22, 1982) 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 February 5, 1981, American Cyanamid received a recertification (ERA Docket No. 81-CERT-002) of an eligible use of natural gas at the Pensacola Plant purchased from Conecuh-Monroe for a period of one year, which expires February 4, 1982.

The ERA has carefully reviewed American Cyanamid's application for recertificaiton 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 American Cyanamid's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification, is available for public inspection at the Natural Gas Branch Docket Room, Room 6013, 2000 M Street, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3407 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-003]

Consolidated Edison Co. of New York, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On January 26, 1982, Consolidated Edison Company of New York, Inc. (Con Edison), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for certification of an eligible use of approximately 750 million cubic feet of natural gas until March 31, 1982, which is estimated to displace approximately 121,900 barrels of residual fuel oil (0.3 percent sulfur), approximately 2,700 barrels of kerosene (0.05 percent sulfur), and approximately 700 barrels of No. 2 fuel oil (0.2 percent sulfur) between February 1, 1982, and March 31, 1982, at its Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street steam and electric generating facilities in New York City. The eligible seller of the natural gas is Cabot Corporation, 1400 Charleston National Plaza, P.O. Box 1473, Charleston, West Virginia 25325. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77001.

Con Edison has requested that the certification be issued expeditiously in order that Con Edison may be in a position to purchase all of the natural gas and to displace the full volumes of fuel oil.

The ERA has carefully reviewed Con Edison's application for certification 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 Con Edison's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, NW, Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10-day public comment period because it involves the displacement of large volumes of fuel oil, and it is in the public interest to maximize the displacement of fuel oil. The application also states that the use of this natural gas will be available to displace fuel oil only for a limited period ending March 31, 1982. Given the limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited. Based upon the applicant's representatations as to the limited availability of the gas and because they form the basis for our granting expedited treatment, the certificate will expire on March 31, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Natural Gas Branch, Room 6304, RG-13, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Paula Daigneault, on or before February 19, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any inerested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Con Edison and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3408 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-001]

Energy Systems Co., Division of InterNorth, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On January 18, 1982, Energy Systems Company, Division of InterNorth Inc. (Energy Systems), formerly Energy Systems Division of Northern Natural Gas Company, 25 Main Place, Council Bluffs, Iowa 51501, 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 550,000 Mcf of natural gas per year, which is estimated to displace the use of approximately 4 million gallons (95,238 barrels) of No. 2 fuel oil (0.2 to 0.3 percent sulfur) per year at Energy Systems' Howard Street Plant facility located in Omaha, Nebraska. The eligible seller of the natural gas is Peoples Natural Gas Company, Division of InterNorth, Inc.

The gas will be transported by the Northern Natural Gas Company (Northern), an interstate pipeline company, and by Metropolitan Utilities District, a local distribution company. Incidental transportation of the natural gas to Northern will be provided by Panhandle Eastern Pipeline Company, an interstate pipeline. Notice of that application was published in the **Federal Register** (47 FR 4549, February 1, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. Previously, on January 18, 1981, Energy Systems had received recertification (ERA Docket No. 80-CERT-038) of an eligible use of natural gas purchased from Peoples Natural Gas Company for use at this same facility for a period of one year expiring on January 17, 1982.

Energy Systems explained in its application that its earlier identical recertification had inadvertently lapsed

and requested expedited processing of its application to minimize disruption in the use of gas to displace fuel oil. On January 25, 1982, ERA received from the applicant a letter again requesting expedited action on its application to enable it to minimize the interruption of currently available gas to displace fuel oil. In its letter, Energy Systems further indicated that it had inadvertently failed to file its application on time due to the transfer of key personnel. It also stated that it has a contracted supply of gas available and the disruption of the gas, because its previous certificate has expired, is causing a loss of oil displacement. This loss of oil displacement amounts to approximately one thousand (1,000) barrels per day of No. 2 heating oil. The cost savings to Energy Systems and its customers of using natural gas in lieu of fuel oil is approximately $25,000 per day. Energy Systems' customers consist primarily of schools, hospitals, and local and county government agencies. It is, therefore, not in the public interest to delay or interrupt unnecessarily the displacement of this fuel oil.

The ERA has carefully reviewed Energy Systems' 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 Energy Systems' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, RG–13, 2000 M Street, NW, Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Due to the lateness in the applicant's filing for recertification, continuity with the earlier recertification was not possible. However, to minimize the unavoidable interruption, this recertification is being issued prior to the expiration of the 10-day comment period and being made effective on issuance.

The recertification involves the potential immediate displacement of fuel oil and it is in the public interest to maximize such displacement, especially since this same purchase and use of gas at this facility has qualified as an "eligible use" for the past two years. Therefore, we are granting this recertification before the end of the public comment period. Public comments will still be accepted by ERA for the remainder of the ten (10) day public comment period. If, as a result of any comment, we find there is reason not to allow the continued extension of this certification, the Administrator can terminate a recertification for good cause (10 CFR 595.08).

Issued in Washington, D.C., on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-3409 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

Turbo-Resources; Petition for Exemption and Availability of Certification

[Docket No. ERA-FC-82-002; OFC Case No. 67040-8216-21-24]

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification.

SUMMARY: On January 19, 1982, Turbo-Resources filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) (FUA or the Act). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in new powerplants and certain major fuel burning installations (MFBIs). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are published in the Federal Register at 46 FR 59872 (December 7, 1981) ("final rules"). The cogeneration exemption is contained in § 503.37 of the final rules. Turbo-Resources' petition addresses both the noncertification public interest and certification oil and natural gas savings criteria for the exemption. In light of the different procedures applicable to certification and non-certification exemptions, Turbo-Resources has indicated its concurrence in proceeding solely on the certification portion of its petition at this time.

The powerplant for which the petition was filed is a 48 MW refinery fuel gas or natural gas fired combined cycle cogeneration facility to produce electricity for sale to the Pacific Gas and Electric Company and steam and heat for sale to Tosco Corporation (Tosco) at Tosco's Bakersfield, California, refinery. Tosco will operate the facility for Turbo-Resources in accordance with provisions of an agreement between Tosco and Turbo-Resources. ERA has determined that the petition includes sufficient evidence to support an ERA determination, and is therefore accepted pursuant to § 501.3 of the final rules. A review of the petition is provided in the **SUPPLEMENTAL INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and §§ 501.31 and 501.33 of the final rules interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request to the case manager identified below. ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period of public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the Federal Register.

DATES: Written comments are due on or before March 26, 1982. A request for a public hearing must also be made on or before March 26, 1982.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room 6114, 2000 M Street NW., Washington, D.C. 20461.

Docket No. ERA-FC-82-002 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW, Room 6114J, Washington, D.C. 20461, Telephone (202) 653-3379

Allan Stein, Office of General Counsel, Department of Energy, Forestal Building, Room 6B-178, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-2967

SUPPLEMENTAL INFORMATION: Turbo-Resources plans to install a 48 MW refinery fuel gas or natural gas fired (with fuel oil backup) cogeneration powerplant to produce electricity and steam at Tosco's Bakersfield, California, refinery. The cogeneration facility, which will be operated by Tosco and owned by Turbo-Resources, will consist of two 20 MW General Electric LM 2500 gas turbine generators connected to two supplementary fired waste heat recovery boilers, one carbon monoxide boiler operated in conjunction with an existing fluid coker unit, one thermal catalytic cracker carbon monoxide boiler, and one 8 MW steam turbine generator. All electricity produced in the combined cycle cogeneration facility will be sold to Pacific Gas and Electric Company. Approximately 25 percent of the cogeneration facility's total energy output will be in the form of electricity. The balance of the facility's output, in the form of steam and heat, will be sold to Tosco for process and other uses within the refinery. The cogeneration facility is classified as a powerplant under FUA because more than 50 percent of its annual electric power generation will be sold. Turbo-Resources expects the cogeneration facility to have a 95% capacity factor and to have it placed in service in early 1983.

Seciton 212(c) of the Act provides for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the certification procedures of § 503.37 (a)(1) of the final rules, Turbo-Resources certified 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; and

2. The use of a mixture of oil and gas and an alternate fuel in the cogeneration facility is not feasible.

In accordance with the evidentiary requirements of § 503.37(c), Turbo-Resources has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under § 503.13 of the final rules, including a description of the facility and its proposed operations and fuel capability, a description of the existing environment, direct and indirect environmental impacts of the proposed action, and a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for the proposed facility.

Pursuant to § 501.3 of the final rules, ERA herby accepts Turbo-Resources' petition for a permanent cogeneration exemption. The acceptance of the petition by ERA does not constitute a determination that Turbo-Resources is entitled to the exempton requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on February 3, 1982.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 82-3410 Filed 2-8-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51393; TSH-FRL-2045-6]

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 two PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-60 & 82-61, March 30, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51393]" 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 (202-382-3532).

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, (202-382-3729).

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

PMN 82-60

Close of Review Period. April 29, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Zinc, O,O-bis alkylphosphorodithioate.

Use. The manufacturer states that the PMN substance will be used as a lubricant additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Clear
Specific gravity, 1.176
Flash point, 188°C

Toxicity Data. No data were available.

Exposure. The manufacturer states that during manufacture, processing and disposal 20 workers may experience dermal and inhalation exposure 3 hrs/day, 80 days/yr during cleaning, loading and sampling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with more than 10,000 kg/yr released to land. Disposal is to an approved landfill.

PMN 82-61

Close of Review Period. April 29, 1982.

Manufacturer's Identity. Monsanto Company, 800 North Lindbergh Boulevard, St. Louis, MO 63167.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyoxypropylene ester acyl caprolactam.

Use. The manufacturer states that the PMN substance will be used to produce nylon based plastic parts via reaction injection molding.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, Light tan viscous liquid
Specific gravity @ 20°C, 1.05
Flash point, Closed cup, 450°F
Viscosity @ 20°C, 10^4 cp
Solubility:
  Water, Insoluble
  Alcohol, Soluble
Vapor pressure, Negligible
Molecular weight, Approximately 10,700
Auto ignition temperature, 680°F

Toxicity Data

Oral Toxicity LD_{50} (rat), Non-toxic
Dermal toxicity LD_{50} (rat), Non-toxic
Skin irritation (rabbit), No irritation
Eye irritation (rabbit), Slight irritation

Exposure. The manufacturer states that during manufacture and processing

a total of 506 workers may experience dermal, inhalation and ingestion exposure up to 6 hrs/day, up to 200 days/yr during accidental spill.

Environmental Release/Disposal. The manufacturer states that release to land will be minimal. Disposal is by landfill.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3371 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51394; TSH-FRL-2045-7]

Hybrid Urethane; Premanufacture Notice

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 one PMN and provides a summary.

DATES: Written comments by: PMN 82-62 April 2, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51394]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the PMN received by EPA:

PMN 82-62

Close of Review Period. May 2, 1982.

Manufacturer's Identity. Olin Corporation, P.O. Box 30-275, 275 South Winchester Avenue, New Haven, Ct. 06511.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Hybrid urethane.

Use. The manufacturer states that the PMN substance will be used in fiber reinforced plastics.

Production estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Ames salmonella, Not mutagenic

Exposure. The manufacturer states that 10-100 workers may experience dermal and inhalation exposure 4 hrs/day, 50 days/yr.

Environmental Release/disposal. The manufacturer states that minimal release will be to the land.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director Management Support Division.

[FR Doc. 82-3372 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59074B; TSH-FRL-2046-1]

Protein Associated Biopolymer Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-81-49) under section 5 of the Toxic Substances Control Act (TSCA) on December 14, 1981. Notice of receipt of the application was published in the **Federal Register** of December 23, 1981 (46 FR 62311). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Ehrensberger, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-220, 401 M St., SW., Washington, D.C. 20460, (202-382-3745).

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 of 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 December 14, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to test market a new chemical substance. The application was assigned test marketing exemption number TM-81-49. The submitter has claimed its identity, that of the chemical, the marketing volume, the chemical uses, and exposure data as confidential business information. The test marketing period planned for the TME chemical, which was identified generically as protein associated biopolymer, is 55 days. A notice published in the **Federal Register** of December 23, 1981 (46 FR 62311) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-81-49 will not present any unreasonable risk of injury to health provided that dust masks are used during manufacture of the TME chemical. Since the TME substance contains protein fragments, allergic responses may occur in exposed humans if inhalation exposure is not reduced. The submitter has indicated that dust masks will be employed in those manufacturing operations which give rise to inhalation exposure. No other exposure routes were identified as presenting a potential for significant adverse health effects.

EPA has low concern for the environmental effects of the TME chemical. Environmental release is expected to be relatively low. The TME substance is expected to rapidly biodegrade, and absorption by aquatic organisms is not expected to occur.

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 applicant must maintain records of the date(s) of shipment(s) to their customers, and the quantities shipped in each shipment and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

5. The test marketing acitvity approved in this notice is limited to a period of 55 days commencing on the date of signature of this notice by the Administrator.

6. 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: February 1, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3374 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-59080; TSH-FRL-2045-8]

Substituted Aryl Alkyl Siloxane; 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 one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: February 24, 1982.

ADDRESS: Written comments, identified by the document control number ["OPTS-59080]" 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, Washigton, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the TME received by the EPA:

TME 82-3

Close of Review Period. March 18, 1982.

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

Annual sales—Greater than $500 million.

Manufacturing site—Midwest region.

Standard Industrial Classification Code—2869.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted aryl alkyl siloxane.

Use. The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance, White granular, odorless solid

Solubility:

Water, Insoluble in cold water—slowly hydrolyzes to a partially water-soluble product.

Toxicity Data. No data were submitted.

Exposure: Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: February 1, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-3373 Filed 2-8-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW, Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 1, 1982, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, 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 in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4024.

Filing Party: Mr. H. H. Wittren, Assistant Director of Real Estate, Port of

Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4024, between the Port of Seattle (Port) and West Coast Container Services, Inc. (WCCSI), provides for the lease by the Port to WCCSI of 4.5155 acres of land including 19,000 square feet of storage buildings located at Terminal 25, Seattle, Washington. The premises shall be used for storage and repair of containers, trailers and ancillary equipment. The lease shall have a term of five years and six months. WCCSI shall pay to the Port a rental of $15,392.08 per month, subject to certain rental abatement and renegotiation provisions as provided for in the agreement.

Agreement No.: T–4025.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4025, between the Port of Palm Beach (Port) and Mid-Florida Service Corporation (MFSC), provides for the lease by the Port to MFSC of Lots 8 and 9, in Block 26, Rivera Beach, Florida. The agreement's term is month-to-month, beginning January 1, 1982, and terminating upon no less than on a 90 days' written notice. MFSC shall pay to the Port a monthly rental of $75. The premises will be used for the storage and sales of bottled gas, including the sales of appliances and equipment.

Agreement No.: T–4026.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No, T–4026, between the Port of Palm Beach (Port) and Johnson's Shipping Agency, Inc. (JSA), is a restatement and consolidation of Agreement No. T–3894, as amended, and provides for the lease by Port to JSA of 14,466 square feet of warehouse space and 240 square feet of office space. As compensation, JSA will pay Port the sum of $33,748.50 per annum, as well as all applicable tariff charges. JSA also agrees that it shall ship through and over the docks of the Port a minimum of twelve thousand (12,000) short tons on an annual basis. The term of the agreement is for five years, with option to renew for additional one-year terms.

Agreement No.: T–4027.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4027, between the Port of Palm Beach (Port) and Lund & Pullara, Inc. (L&P), provides for the lease by the Port to L&P of office space in the Port's soon to be completed Maritime Office Building. The premises are to be used in connection with L&P's freight forwarding business at the Port. The term of the lease shall be ten years with an option to extend it for an additional five years. As rental for the premises L&P will pay an annual amount of $9,450 to the Port. L&P shall also pay to the Port $28,800, in monthly installments of $380.61, for non-standard improvements performed by the Port at the leased premises.

Agreement No.: T–4028.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4028, between the Port of Palm Beach (Port) and Greenbaum Management Company (GMC), provides for the lease by the Port to GMC of office space in the Port's soon to be completed Maritime Office Building. GMC is involved as a consultant for importers/exporters and will use the premises in that business. The term of the lease will be for three years with an option to renew for up to two consecutive terms of three years each. As rental GMC shall pay to the Port $4,785 annually.

Agreement No.: 5660 DR–3

Filing Party: Ms. Sandra L. Richardson, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 5660 DR–3 would amend the Merchant's Contract of the Marseilles/North Atlantic U.S.A. Freight Conference for the purpose of adding a rebuttable presumption providing that whoever pays the freight charges, either the shipper or consignee, shall have the legal right at the time of shipment to select the carrier.

Agreement No.: 10435

Filing Party: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10435 establishes a Joint Loading Agreement by and between Transconex, Inc. and Tuya International Corp., both Non-Vessel Operating Common Carriers by Water, and covers the joint loading of cargo to be transported from ports in the State of Florida to ports in El Salvador, Guatemala, Honduras, Venezuela, and provides that the participating NVO carriers, when authorized by the other, may accept and receipt shipments in the name of and on behalf of each other for consolidation and forwarding with the shipments of the receiving NVO carrier to be shipped via Vessel Operating Common Carriers by Water.

Dated: February 3, 1982.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82–3329 Filed 2–8–82; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2344]

Contract Crating, 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 Contract Crating, Inc., 400 Greg Street, Houston, TX 77020 was cancelled effective January 27, 1982.

By letter dated December 30, 1981, Contract Crating, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2344 would be automatically revoked unless a valid surety bond was filed with the Commission.

Contract Crating, 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. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 2344 be and is hereby revoked effective January 27, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2344 issued to Contract Crating, 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 Contract Crating, Inc.

Albert J. Klingel, Jr.,

Director Bureau of Certification and Licensing.

[FR Doc. 82–3330 Filed 2–8–82; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 82–10]

Containerfreight Terminals Company, et al. v. Pacific Maritime Association; Filing of Complaint and Assignment

Notice is given that a complaint filed by Containerfreight Terminals

Company, et al. against Pacific Maritime Association was served February 3, 1982. Complainants allege that the Container Freight Station Program Fund provisions of Respondent's July 1, 1961 agreement with the International Longshoremen's and Warehousemen's Union are violative of Sections 15, 16, and 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Initial decision in this mater will be issued on or before October 1, 1982 (Rule 75). Any hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-3411 Filed 2-8-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

A.B.T. Corp.; Formation of Bank Holding Company

A.B.T. Corporation, Savannah, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Atlantic Bank and Trust Company, Savannah, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.

Assistant Secretary of the Board.

[FR Doc. 82-3332 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Andrew Johnson Bancshares, Inc.; Formation of Bank Holding Company

Andrew Johnson Bancshares, Inc., Greeneville, Tennessee, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.9 per cent or more of the voting shares of Andrew Johnson Bank, Greeneville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3333 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

BWC Financial Corp.; Formation of Bank Holding Company

BWC Financial Corp., Walnut Creek, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Walnut Creek, Walnut Creek, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3334 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Country Bank Co.; Formation of Bank Holding Company

Country Bank Company, Forsyth, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Monroe County Bank, Forsyth, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3335 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

First Charter Bancshares, Inc.; Formation of Bank Holding Company

First Charter Bancshares, Inc., Springdale, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank of Springdale, Springdale, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a

statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3336 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

ILB Financial Corp.; Formation of Bank Holding Company

ILB Financial Corp., North Manchester, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Indiana Lawrence Bank and Trust Company, North Manchester, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3337 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Indian Springs Bancshares, Inc.; Formation of Bank Holding Company

Indian Springs Bancshares, Inc., Kansas City, Kansas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Indian Springs State Bank, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3338 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Jefferson Bancorporation, Inc.; Formation of Bank Holding Company

Jefferson Bancorporation, Inc., Haverford, Pennsylvania, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Jefferson Bank, Haverford, Pennsylvania. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3339 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Kansas Bancorp II, Inc.; Formation of Bank Holding Company

Kansas Bancorp II, Inc., Concordia, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Bank & Trust, Concordia, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3340 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Texas Corp.; Acquisition of Bank

Mercantile Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Gessner Southwest Bank & Trust, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3341 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Morgan County Bancorp; Formation of Bank Holding Company

Morgan County Bancorp, Mooresville, Indiana, has applied for the Board's

approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Morgan County Bank and Trust Company, Eminence, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3342 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Roxton Corp.; Formation of Bank Holding Company

The Roxton Corporation, Roxton, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Roxton Bancshares, Roxton, Texas and thereby indirectly acquire 100 percent of the voting shares of The First Bank, Roxton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3344 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

San Saba National Corp.; Formation of Bank Holding Company

San Saba National Corporation, San Saba, Texas, has applied for the Board's approval under section 3(a)(1) of the Bnak Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The San Saba National Bank, San Saba, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.

Assistant Secretary of the Board.

[FR Doc. 82-3343 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than March 3, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing activities; Texas): To expand the activities of an existing office of its subsidary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for loans. Such activity would be conducted from an office in Houston, Texas serving the entire state of Texas.

B. Federal Reserve Bank of Minneapolis (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

First Bank System, Inc., Minneapolis, Minnesota (mortgage banking activities; Colorado): To engage through its subsidiary, FBS Mortgage Corporation, in making, acquiring, brokering and servicing loans secured by real estate mortgages. These activities will be conducted from offices in Denver, Colorado, serving the Denver metropolitan area.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Heritage Bancorp*, Anaheim, California, (mortgage banking activities; southern California): To engage through its direct subsidiary, Heritage Mortgage Corporation, in the activities of making real estate mortgage loans and servicing real estate construction and mortgage

loans. These activities will be conducted from a *de novo* office in Irvine, California serving the southern California area.

2. *Imperial Bancorp,* Inglewood, California (data processing; New York, Pennsylvania, Massachusetts, Texas, Colorado, Washington): Through a wholly-owned subsidiary, Imperial Automation, Inc. (the "Company"), proposes to engage in the same activities which the Company has previously been authorized to provide, such as, marketing management consulting advice to nonaffiliated banks, bookkeeping or data processing services, and storing and processing other banking, financial or related economic data in the states listed in the caption and will service the United States and its territories. Comments on this application must be received not later than February 24, 1982.

3. *Seafirst Corporation,* Seattle, Washington (industrial banking and insurance activities; Colorado): To engage through *de novo* subsidiaries Seafirst Larimer Square Industrial Bank, and Seafirst Belcaro Industrial Bank, in industrial banking activities as authorized by Colorado law. Such activities will include accepting deposits as authorized for industrial banks by Colorado law, making loans and other extensions of credit, including personal credit lines, both secured and unsecured, second mortgages, and small business loans; and acting as an agent or broker for the sale of credit life, accident and health insurance directly related to its extensions of credit. The subsidiaries will conduct business in the state of Colorado from offices in Denver.

D. **Other Federal Reserve Banks.** None.

Board of Governors of the Federal Reserve System, February 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3345 Filed 2-8-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81D-0214]

Availability of Draft Guidelines; Target Animal Safety for New Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces the availability of draft guidelines developed by its Bureau of Veterinary Medicine concerning evaluation of the safety of new animal drugs to the target animal species. Interested persons are invited to review and submit written comments on the draft guidelines.

ADDRESSES: Written comments and requests for single copies to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

DATE: Comments on or before June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe for use as labeled.

Under the provisions of the act, the agency has a continuing obligation to assure that drugs are safe for the animals to which they are administered (target species). The Bureau of Veterinary Medicine has prepared draft guidelines describing the types of data needed to establish the safety of the drug for the target species. The guidelines have been formulated to aid sponsors of new animal drugs in developing protocols for experiments to satisfy this need for safety data. The draft is a compilation in a single document of several safety data guidelines for the following target animal species: dogs and cats, horses, ruminants, swine, and poultry. These guidelines reflect current scientific principles and most of these guidelines have been developed over the years as a result of FDA commenting on sponsor protocols. Those safety data guidelines that are new (Chapter VII C.3.a., "Anti-Mastitis Products Toxicity Studies," and Chapters V, VI, VII, and VIII, "Addendum No. 3 Clinical Pathology, Fecal Examination") will not be placed into effect until comments are received and evaluated.

The agency believes that these guidelines will aid in providing uniformity in the establishment of target species safety. The Bureau of Veterinary Medicine is inviting comments from the regulated industry, academia, and other interested persons on the guidelines. Such comments will be considered in determining whether revision of the guidelines is warranted. The agency is also prepared to meet with interested parties during the comment period to discuss the guidelines.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency.

A person who follows a guideline is assured that his or her conduct will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. The agency is prepared to meet with persons who choose to depart from the guidelines to discuss the matter further to prevent unnecessary expenditure of resources for work that the agency may later determine to be unacceptable.

Requests for single copies of the guideline should be addressed to the Docket Management Branch (address above). A copy of the guideline is on file in the Dockets Management Branch.

Interested persons may submit written comments on the guideline to the Dockets Management Branch (HFA-305) on or before June 4, 1982. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. The guidelines and received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: February 3, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-3449 Filed 2-8-82; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82–1837, appearing on page 3608, in the issue of Tuesday, January 26, 1982, and corrected at page 4744, in the issue of Tuesday, February 2, 1982, make the following change:

In the third column, the Table should appear as set forth below:

State	City	Type of office	Address	ZIP code
New York	Brooklyn	Field/District Office	850 Third Ave	11232
		Import District Office		
		New York Laboratory Div		
	Buffalo	District Office	599 Delaware Ave	14202

BILLING CODE 1505-01-M

Privacy Act System of Records; Amendment of a Routine Use and Change in Locations

Correction

In FR Doc. 82–1208 appearing at page 2510 in the issue of Monday, January 18, 1982, make the following changes:

(1) On page 2511, first column, first full paragraph, sixth line, "not" should be corrected to read "now".

(2) On page 2511, first column, under "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM", "Pubic" should be corrected to read "Public".

BILLING CODE 1505-01-M

Block Grant Funds; Delegation of Authority; Health Services Administration

Notice is hereby given that in furtherance of the delegation (46 FR 62184–62185) by the Secretary of Health and Human Services to the Assistant Secretary for Health on November 24, 1981, of authority under Title XVII, Subtitle C, Chapter 2 of the Omnibus Budget Reconciliation Act of 1981, Block Grant Funds (31 U.S.C. 1243 note), the Assistant Secretary for Health has delegated to the Administrator, Health Services Administration, with authority to redelegate to officials who report directly to the Administrator and through customary channels to the Regional Health Administrators, the authority delegated to the Assistant Secretary for Health under Chapter 2, Block Grant Funds, of Subtitle C of Title XVII of the Omnibus Budget Reconciliation Act of 1981 (31 U.S.C. 1243 note), as amended, insofar as it pertains to the Hypertension Program, Home Health Program, and Emergency Medical Services Program.

The delegation to the Administrator, Health Services Administration, became effective on January 28, 1982 and may continue in effect until October 1, 1982.

Dated: January 28, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82–3393 Filed 2–8–82; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF EDUCATION

Assessment Policy Committee, National Assessment of Educational Progress (NAEP)

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary announces a meeting of the Assessment Policy Committee for the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide policy guidance and direction to the NAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: February 12, 1982, 9:00 a.m. to 5:00 p.m.; February 13, 9:00 a.m. to conclusion of the agenda.

LOCATION: Holiday Inn-Downtown, Gold Link Room, 15th and Glenarm Place, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Mr. Dunlap Scott, Jr., National Assessment of Educational Progress, 1860 Lincoln Street, Room 700, Denver, Colorado 80295 (303/830–3721).

SUPPLEMENTARY INFORMATION: NAEP has as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee is established under section 405(k)(2)(A) of the General Education Provisions Act, as amended by section 1242 of the Education Amendments of 1978. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of results, and studies to evaluate and improve the form and utilization of NAEP.

The proposed agenda for the meeting includes:

- Action on previous minutes.
- Director's report.
- Review and discussion of the Wirtz and Lapointe report, "Measuring The Quality of Education", an independent report to NAEP.
- Discussion and decision regarding the use of unreleased assessment items by SEAs and LEAs.
- Discussion of the Annual Report.
- Miscellaneous housekeeping items.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Mr. Dunlap Scott, Jr. In order to receive an advance copy of the Wirtz and Lapointe report, persons may contact Wirtz and Lapointe, Suite 414, 1211 Connecticut Avenue, N.W., Washington, D.C. 20036 (202/887–6810).

(Catalog of Federal Domestic Assistance 84.117, Education Research and Development)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3592 Filed 2–8–82; 10:47 am]

BILLING CODE 4000-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Nisqually Indian Reservation, Washington; Ordinance Regulating the Use, Possession, Sale and Distribution of Intoxicating Beverages

January 26, 1982.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 2–1981 relating to the application of the Federal Indian Liquor laws on the Nisqually Indian Reservation, Washington, were adopted on August 5, 1981, by the Nisqually Community Council which has

jurisdiction over the area of Indian country included in this Ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Liquor Ordinance of the Nisqually Indian Tribe Ordinance No. 2–1981

Section 1. Title

This ordinance shall be known as the "Nisqually Liquor Ordinance."

Section 2. Findings and Purpose

(a) The introduction, possession and sale of liquor within Indian country have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States government. The control, of liquor within Indian country remains exclusively subject to United States and tribal government authority.

(b) Beginning with the Treaty of Medicine Creek, 10 Stat. 1132, Art. 9, to which the ancestors of the Nisqually Indian tribe were parties, the Federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Nisqually Indian Reservation. At treaty time, this Tribe's ancestors desired to exclude "ardent spirits" from their Reservation. Federal law currently prohibits the introduction of liquor into Indian country (18 U.S.C. 1154), leaving to tribes a decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

(c) Present day circumstances make a complete ban of liquor within the Nisqually Indian Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over liquor distribution.

(d) The enactment of a tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation and strengthening of tribal government in the delivery of tribal governmental services.

(e) In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Nisqually Community Council adopts this liquor ordinance pursuant to the powers vested in it by Article V, Sec. 1(e), 1(f), and 1(h), of the Constitution and Bylaws of the Nisqually Indian Community of the Nisqually Reservation, Washington, and the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. Sec. 1161.

(f) Provisions of this ordinance shall be liberally construed to achieve the purposes set forth save when otherwise plainly stated or clearly apparent from the context of the language used herein.

Section 3. Relation to Other Tribal Laws

All prior ordinances and resolutions of the Nisqually Indian Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and are of no further force and effect.

Section 4. Definitions

As used in this ordinance, the following definations shall apply unless the context clearly indicates otherwise:

(a) "Liquor" includes the four varieties of liquor hereinafter defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be liquor within the meaning of this ordinance.

(b) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(c) "Spirits" means any beverage which contains alcohol by distillation, including wines exceeding seventeen percent of alcohol by weight.

(d) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural products containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

(e) "Beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight and not less than one-half of one percent of alcohol by volume. For the purposes of this ordinance, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as "strong beer."

(f) "Sale " and "sell" include the exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying or distributing, by any means whatsoever of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or wine, by any person to any person; and also includes a sale or selling within an area of tribal jurisdiction to a foreign consignee or his agent.

(g) "Tribal Court" means, for purposes of this ordinance, the Nisqually Tribal Court, which is herewith granted jurisdiction to hear and determine all matters and disputes which may arise under this ordinance subject to the limitations set forth in Section 12.

(h) "Restaurant" means any establishment provided with special space an accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public.

(i) "Board" means the Nisqually Tribal Liquor Board.

(j) "Licensee" means the holder of a liquor license issued by the Board, and includes any employee or agent of the licensee.

(k) "Package" means any container or receptacle used for holding liquor.

(l) "Council" means the Nisqually Community Council.

(m) "Reservation" means the Nisqually Indian Reservation.

(n) "Tribe" means the Nisqually Indian Tribe.

(o) "Business Committee" means the Nisqually Tribal Business Committee.

(p) "Nisqually Tribal Enterprise" means any business or activity managed or operated directly by the Tribe, acting through its Council, Business Committee or Board.

Section 5. Regulation and Control of Liquor

The purchase, sale, or dealing in liquor for commercial purposes, other than when done by the Nisqually Indian Tribe acting through its Liquor Board, or by an individual or entity pursuant to a license issued under this ordinance, is prohibited. The Federal Indian Liquor Laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance and

violators of this ordinance shall be subject to federal prosecution as well as to legal action in the court as with tribal law.

Section 6. Conformity with State Law

Tribally authorized liquor transactions shall comply with Washington State Liquor law standards to the extent required by 18 U.S.C. sec. 1161.

Section 7. Nisqually Tribal Liquor Board

The Business Committee of the Nisqually Indian Tribe is hereby constituted as the "Nisqually Tribal Liquor Board" and empowered to administer this ordinance, including general control, management, and supervision of all liquor sales, places of sale, and sales outlets, and to exercise all of the powers and accomplish all of the purposes thereof as herein set forth and may do the following acts and things for and on behalf of and in the name of the Nisqually Indian Tribe:

(a) To adopt and enforce rules and regulations for the purpose of carrying into effect the provisions of this ordinance and the performance of its functions;

(b) Collecting, auditing, and issuing fees, licenses, taxes, and permits;

(c) Purchasing, warehousing, and selling of liquor in an original package;

(d) Executing all contracts, papers, and documents in the name of the Nisqually Indian Tribe or the Nisqually Tribal Liquor Board;

(e) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(f) Hiring and firing of employees, fixing their duties, and delegating to such specific powers and authorities;

(g) Paying all customs, duties, excises, charges, and obligations whatsoever related to the business of the Board;

(h) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

Section 8. Liquor Licenses

The Board may license one or more liquor retail outlets within the jurisdiction of the Nisqually Indian Tribe. Licenses shall be issued only to an enrolled member of the Nisqually Indian Tribe or to a Nisqually Tribal Enterprise and each outlet shall be located on Indian trust or restricted or tribally owned land within the exterior boundaries of the Nisqually Indian Reservation.

Section 9. Liquor License—Application Fee

Each application for a liquor license shall be accompanied by a processing fee in the amount of $250, except that the processing fee is hereby waived for an application by a tribal enterprise. The Board shall receive and process applications and shall be the official representative of the Tribe in matters relating to liquor licenses, taxes, fees or other matters arising under this ordinance. Each license must be approved by the Liquor Board prior to issuance.

Section 10. Liquor Licenses—Annual Fees

Every liquor license issued under this ordinance shall be subject to the payment of an annual fee in the amount of $——— and shall be subject to all conditions and restrictions imposed by this ordinance or duly promulgated regulations in force from time to time.

Section 11. Liquor Licenses—Issuance, Refusal Suspension, Cancellation, Conditions and Restrictions

(a) *Issuance.* (1) Applications for liquor licenses shall be submitted in a form to be prescribed by the Board. The Board may, within its sole discretion, subject to the provisions of this Ordinance and the provisions of the Indian Civil Rights Act, (25 U.S.C. 1301 et seq.), issue, condition the issuance of, or refuse to issue a liquor license applied for by a member of the Nisqually Tribe or by a Nisqually Tribal Enterprise.

(2) For the purpose of considering any application for a license, the Board may cause an inspection of the premises to be made or by approval of detailed engineering or architectural plans for construction and may inquire into all matters in connection with the construction and operation of the premises and may require that a bond be posted in an amount sufficient to assure that plans be followed.

(3) No liquor license shall be issued to:

(a) A person who is not a member of the Nisqually Indian Tribe;

(b) A partnership or limited partnership, unless all of the partners thereof are qualified to obtain a license, as provided in this section;

(c) A corporation organized under the laws of any state;

(d) A person who has been convicted of a violation of any federal, tribal, or state law concerning the manufacture, possession, or sale of alcoholic liquor within the last preceding five years, or has forfeited his or her bond to appear in court within the last preceding five years to answer charges for any such violation when such conviction or bail forfeiture is for a felony;

(e) A person who is not twenty-one (21) years of age.

(4) The preceding prohibitions against the issuance of a liquor license to certain persons to entities shall in no way be construed to prevent the issuance of a liquor license to a Nisqually Tribal Enterprise.

(5) Every license shall be issued in the name of the applicant and no license shall be transferable, nor shall the holder thereof allow any other person to use the license.

(6) Before the Board shall issue a liquor license, notice of the application for the license shall be posted in public places on the Reservation and comments shall be received on the application for a period of twenty (20) days at the Board's office.

(7) Before the Board shall issue any license it shall give due consideration to the location of the business to be conducted under such license with respect to existing or planned land uses in adjacent or proximately adjacent areas.

(8) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the licensed premises.

(b) *Inspection.* (1) All licensed premises used in the storage or sale of liquor, or any premises or parts of premises used or in any way connected phycially or otherwise, with the licensed business, shall at all times be opened to inspection by any tribal inspector, tribal police officer or Board member.

(2) Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal inspector, tribal police officer or Board member demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer of the peace, or who refuses or neglects to make any return required by this ordinance or the regulations passed pursuant thereto shall thereby be deemed to have violated this ordinance.

(c) *Suspension and Cancellation.* (1) The Board may, for violation of this ordinance, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated as the case may be. Prior to cancellation or suspension the Board shall send notice of its intent to cancel or suspend the license to the licensee. The Board shall provide notice to the licensee at least ten (10) days prior to the cancellation or

suspension. The licensee shall have the right, prior to the cancellation or suspension date, to apply to the Tribal Court for a hearing to determine whether the license was rightfully suspended or cancelled. The sovereign immunity of the Nisqually Tribe is waived for this hearing; provided, however, that such waiver shall not be construed to allow an award of money damages against the Tribe nor any other relief other than a declaration of rights, nor shall it be construed to waive the sovereign immunity of the Tribe in any court but Tribal Court.

(2) Upon suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the Board. Where the license has been suspended only, the Board shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink.

(d) *Expiration.* Unless sooner cancelled, every liquor license issued by the Board shall expire at midnight on the thirtieth day of January of the year following its issuance.

Section 12. Sovereign Immunity Preserved

Except for the limited waiver of sovereign immunity provided for in Section 11, nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Nisqually Indian Tribe. The Board and its members and employees shall not be authorized, nor shall they attempt, to waive the immunity of the Tribe.

Section 13. Liquor Purchase by Licensees

All licensees under this ordinance shall purchase their liquor for ultimate resale from the Nisqually Tribal Liquor Board.

Section 14. Illegal Activities

(a) *Liquor Stamp—Contraband.* No liquor, other than that sold pursuant to a retail tribal license, shall be sold on the Nisqually Indian Reservation unless there shall be affixed a stamp of the Nisqually Tribal Liquor Board. Any sales made in violation of this provision shall be a violation of this ordinance which shall be remedied as set out in Section 15. All liquor, other than beer or wine sold pursuant to a tribal license, not so stamped which is sold or held for sale on the Nisqually Indian Reservation is hereby declared contraband, and in addition to any penalties imposed by the Tribal Court for violation of this section, it may be confiscated and forfeited in accordance with the procedures set out in Section 11 herein.

(b) *Prood of Unlawful Sale—Intent.* In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish *prima facie* the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

(c) *Use of Seal.* No person other than an employee of the Nisqually Tribal Liquor Board shall keep or have in his or her possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor outlet, nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person violating this provision shall be in violation of this ordinance.

(d) *Illegal Sale of Liquor by Drink or Bottle.* Any person who sells any liquor by the drink or by the bottle without a license to do so shall be in violation of this ordinance.

(e) *Illegal Transportation, Still, or Sale Without Permit.* Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or have in his or her possession without a permit, any mash capable of being distilled into liquor, shall be in violation of this ordinance.

(f) *Illegal Purchase of Liquor.* Any person within the boundaries of the Nisqually Indian Reservation who buys liquor from any person other than at a properly authorized tribal liquor outlet or tribal licensee shall be in violation of this ordinance.

(g) *Illegal Possession of Liquor—Intent to Sell.* Any person who keeps or possesses liquor on his or her person or in any place or on premises conducted or maintained by him or her as a principal agent with the intent to sell it contrary to the provisions of this ordinance, shall be in violation of this ordinance.

(h) *Sales to Persons Apparently Intoxicated.* Any person who sells liquor to a person apparently under the influence of liquor shall be in violation of this ordinance.

(i) *Intoxication in a Public Place.* Any person who is intoxicated who remains in any public place shall be in violation of this ordinance.

(j) *Drinking in a Public Conveyance.* Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be in violation of this ordinance. Any person who shall drink any liquor in a public conveyance shall be in violation of this ordinance.

(k) *Furnishing Liquor to Minors.* No person under the age of twenty-one (21) years shall consume, acquire, or have in his or her possession any alcoholic beverages except when such beverage is being used in connection with religious services or for medicinal purposes by a licensed physician's written direction. No person shall give or otherwise supply liquor to any person under the age of twenty-one (21) to consume liquor on his or her premises or on any premises under his or her control except as allowed in this section. Any person violating this section shall be in violation of this ordinance.

(l) *Sales of Liquor to Minors.* Any person who shall sell any liquor to any person under the age of twenty-one (21) years shall be in violation of this ordinance.

(m) *Unlawful Transfer of Identification.* Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be in violation of this ordinance; provided, that corroborative testimony of a witness other than the minor shall be a requirement for a judgment against the defendant.

(n) *Possession of False or Altered Identification.* Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years shall be in violation of this ordinance.

(o) *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(1) Liquor Control Authority Card of Identification of any State.

(2) Driver's license of any state or "Indenti-Card", issued by any State Department of Motor Vehicles.

(3) United States Active Duty Military Identification.

(4) Passport

(5) Nisqually Tribal Identification or Enrollment Card.

(p) *Defense To Action for Sale to Minors.* It shall be a defense to a suit for serving liquor to a person under twenty-

one (21) years of age if such person has presented a card of identification; and;

(1) In addition to the presentation by the holder, and verification by the licensee of such card of identification, the licensee shall require the person whose age may be in question to sign a card and place a date and number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any tribal police officer, employee of the Board, or Board member at all times.

(2) Such card in the possession of a licensee may be offered as a defense in any hearing held by the Tribal Court for serving liquor to the person who signed the card.

(q) *Pharmaceutical Exceptions.* Nothing in this ordinance shall apply to or prevent the sale, purchase or consumption (1) of any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopeia of the United States, or the dispensatory of the United States; or (2) of any proprietary or patent medicine; or (3) of wood alcohol or denatured alcohol, except in the case of the sale, purchase, or consumption of wood alcohol or denatured alcohol for beverage purposes either alone or combined with any other liquid or substance.

Section 15. Contraband—Seizure—Forfeiture

(a) All liquor within the Nisqually Reservation held, owned, or possessed by any person or licensee operating in violation of this ordinance is hereby declared to be contraband and subject to forfeiture to the Tribe. Upon presentation of a sworn affidavit, the Tribal Judge shall issue an order directing a Tribal Law Enforcement Officer to seize contraband liquor within this Reservation and deliver it to the Board. A copy of the court order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized.

(b) Within three weeks following the seizure of the contraband a hearing shall be held in Tribal Court, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

(c) Notice of the hearing of at least ten (10) days shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at other public places on the Reservation. The notice shall describe the property seized, and the time, place, and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

(d) *Judgment of Forfeiture—Disposition of Proceeds of Property.* If upon the hearing, the evidence warrants, or, if no person appears as claimant, the Tribal Court shall thereupon enter a judgment of forfeiture, and order such articles sold or destroyed forthwith.

Section 16. Abatement

(a) *Declaration of Nuisance.* Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or any lawful regulations made pursuant thereto, or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such a place, are hereby declared to be a public nuisance.

(b) *Institution of Action.* The Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this ordinance. The plaintiff shall not be required to give bond in this action. Restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of up to one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than One Thousand Dollars ($1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this ordinance or any other applicable tribal law, and that he or she will pay all fines, costs, and damages assessed against him or her for any violations of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in this ordinance.

(c) *Abatement.* In all cases where any person has been found by the Tribal Court to have violated this ordinance, applicable tribal regulations or tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court by the Board to abate as a nuisance any activity involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and *prima facie* evidence that the room, house, vessel, boat, building, vehicle, struture, or place against which such action is brought is a public nuisance.

Section 17. Revenues

All revenues received, funds collected, and property acquired by the Nisqually Tribal Council acting through the Nisqually Business Committee or by the Nisqually Liquor Board pursuant to this ordinance shall be the property of the Nisqually Indian Tribe. The net proceeds shall be paid through the tribal treasurer into the general tribal fund of the Nisqually Indian Tribe for the general governmental services of the Tribe.

Section 18. Liquor Sales Excise Tax

(a)(1) There is hereby levied and shall be collected a tax upon each sale of liquor, except beer and wine, in whatever packages or container, in the amount of three (3) cents per fluid ounce or fraction thereof contained in such package or container.

(2) There is hereby levied and shall be collected a tax upon each sale of beer and wine in the amount of five percent (5%) of the selling price.

(b) These excise taxes shall be added to the sale price of the liquor sold by the licensee and shall be paid to the Nisqually Tribal Liquor Board which shall collect the same and hold these taxes in trust until remitted to he Treasurer of the Nisqually Indian Tribe on the twenty-fifth (25th) day of each month to be deposited in the Tribal Treasury. The taxes provided for herein shall be the only taxes applicable to activities of the Nisqually Liquor Board or licensees.

(c) All tax revenues transferred to the Tribal Treasurer for deposit in the Tribal funds shall be used for the benefit of the Reservation and the Tribal community. In appropriating from these revenues, the Council acting through the Nisqually Business Committee, shall give priority to:

(1) Strengthening tribal government, which shall include but not be limited to

strengthening Tribal Court and Law Enforcement systems and the system for administering and enforcing this ordinance.

(2) Fire protection, roads, and water and sewage services.

(3) Health, education, and other social services, and land acquistion and development needs.

The Council acting through the Nisqually Business Committee, shall have the discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

(d) The Nisqually Liquor Board and all licensees shall keep such recordsrequired by the Tribal Treasurer to determine that amount of taxes owing and shall complete the tax returns in accordance with instructions from the Tribal reasurer.

(e) Amendments to the amounts and types of taxes levied on the sale of liquor in this section may be made from time to time by the Nisqually Tribal Liquor Board.

Section 19. Violations—Remedies

(a) If any person is found to have violated this ordinance or any lawful regulation or rule made pursuant thereto for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than Five Hundred Dollars ($500.00) plus court costs per violation.

(b) The Nisqually Tribal Court shall have jurisdiction over any case brought by the Nisqually Tribe for violations of this ordinance. The Tribal Court may, in addition to the above penalty, grant to the Tribe such other relief as is necessary and proper for the enforcement of this ordinance, including but not limited to injunctive relief against acts in violation of this ordinance.

Section 20. Severability

(a) If any clause, part, or section of this ordiance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the ordinance, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered.

(b) If any application of this ordinance or any clause, part or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

Section 21. Effective Date

This ordinance shall be and become effective upon the date that the Secretary of the Interior or his designee certifies this ordinance and publishes it in the **Federal Register.**

Certification

I certify that the above Ordinance No. 2–1981 was adopted at a special Business Committee meeting, under the authority of the October 1970 Resolution, after being scheduled for action at a Community Council meeting, of the Nisqually Indian Community of the Nisqually Indian Reservation held on the 5th day of August, 1981 at Olympia, Washington, at which a quorum was present by a vote of 4 for and 0 against.

Stephanie Scott,

Secretary; Nisqually Indian Community.

Attest:

George M. Kalama,

Chairman; Nisqually Indian Community.

[FR Doc. 82–3382 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6673–A thru AA–6673–K]

Alaska Native Claims Selection

The purpose of this decision is to modify the Decision to Issue Conveyance (DIC), dated December 14, 1979, and published in the **Federal Register** on page 72665. The DIC, dated December 14, 1979, included those water bodies determined to be navigable as recommended in the Alaska State Director (SD), BLM, memorandum dated October 5, 1979, concerning final easements for the village of Kokhanok.

On May 6, 1980, the Alaska Native Claims Appeal Board directed the Bureau of Land Management to modify its navigability determinations (VLS 80–2).

On July 14, 1980, an amendment to the SD Memorandum of October 5, 1979, was issued which contained an administrative redetermination of navigability of the water bodies within the Kokhanok conveyance area. Therefore, the navigability information is (44 FR 72688) modified as follows:

The paragraph beginning "Within the above described lands" now reads:

Within the above described lands, only the following inland water body is considered navigable: Iliamna Lake.

This paragraph is hereby modified to add the following water bodies to the list:

Kokhanok Lake;
Gibraltar Lake;
Gibraltar Creek;
Lower (Little) Pike Lake, located in Secs. 2 and 3, T. 8 S., R. 31 W., Seward Meridian;
Unnamed slough connecting Lower (Little) Pike Lake with Copper River;
The Copper River, up to the falls located in Sec. 30, T. 7 S., R. 29 W., Seward Meridian.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

The DIC of December 14, 1979, approved conveyance of the surface estate of the beds of the above-described water bodies to Kokhanok Native Corporation and conveyance of the subsurface estate of the same land to Bristol Bay Native Corporation. As the water bodies are now considered navigable, the submerged lands beneath them are not public lands and are therefore not available for conveyance to the Native corporations under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)). Therefore, the DIC of December 14, 1979, is hereby modified to exclude the submerged lands of the above-described water bodies from the approval for conveyance to Kokhanok and Bristol Bay Native Corporations. The acreage of the lands will not be charged against the village corporation's entitlement.

Except as modified by this decision, the decision of December 14, 1979, stands as written.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–3383 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–84–M

[CA–790]

California; Termination of Proposed Withdrawal and Reservation of Land

February 1, 1982.

Notice of U.S. Department of the Navy application CA–790 for withdrawal and reservation of the following described land from all forms of appropriation under the public land laws including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, was published as FR Doc. 74–1378 on page 2114 of the issue of January 17, 1974, and republished as FR Doc. 78–14735 on page 22454 of the issue of May 25, 1978. The application has been denied in its entirety by Secretary of the Interior letter dated October 18, 1978 and denial reaffirmed by Secretary of Interior letter dated November 17, 1981.

Mount Diablo Meridian

Public land:

T. 30 S., R. 22 E., Sec. 2, All.
T. 30 S., R. 23 E., Sec. 4, Lots 1 and 2 of NW¼ and S½.

Patented lands with all minerals reserved to the United States:

T. 30 S., R. 23 E., Sec. 6. All.
Patented lands with oil and gas reserved to the United States:
T. 30 S., R., 23 E., Sec. 4, Lots 1 and 2 of NE¼.

The areas described aggregate 1,917.95 acres in Kern County, California.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), these lands shall at 10 a.m. on March 12, 1982 be relieved of the segregative effect of the above mentioned application.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 82–3386 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–84–M

Shoshone District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Shoshone District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–529, and 43 CFR part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Wednesday, March 3, 1982, at 9 a.m., at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

The purpose of the meeting will be to disburse Advisory Board funds for range improvements, review the district's cooperative weed control program with the counties, coordinated resource management planning and the Forest Service/BLM land interchange sensing program.

SUPPLEMENTARY INFORMATION: The public is invited to attend and make written or oral statements which should not exceed 15 minutes in length. Requests for these statements should be made to the official listed below at least five days prior to the meeting.

Further information concerning this meeting may be obtained from the Shoshone District Manager, Bureau of Land Management, P.O. Box 2B, Shoshone, Idaho 83352, telephone 208–886–2206. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Shoshone District Office, Shoshone, Idaho.

Dated: January 28, 1982.

Charles J. Haszier,

District Manager.

[FR Doc. 82–3384 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–84–M

[W–72495]

Natrona County, Wyoming; Conveyance of Public Land

January 28, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat, 2743; 43 U.S.C. 1713), the Town of Midwest, Wyoming, has purchased by noncompetitive sale public land in Natrona County, Wyoming, described as:

Sixth Principal Meridian

T. 40 N., R. 78 W.,
Sec. 30, lot 9.
T. 49 N., 79 W.,
Sec. 24, lots 1, 2, 6, 7, 8, 9, 10, 11, SW¼NE¼SE¼, SW¼SW¼SE¼, W½NE¼SE¼SE¼, NW¼SE¼SE¼, N½NE¼SW¼SE¼SE¼, SE¼NE¼SW¼SE¼SE¼, NW¼SW¼SE¼SE¼.
Containing 95.045 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to the Town of Midwest, Wyoming.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–3385 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: John M. Adaska, San Diego, CA, PRT 2–8769.

The applicant requests a permit to purchase in interstate commerce two captive-bred Indian pythons (*Python molurus molurus*) from Mr. Joe Terry, Miami, Florida for enhancement of propagation.

Applicant: Mr. L. C. Ruby, Ruby Fur Farm, Inc., New Sharon, IA, PRT 2–8634.

The applicant requests a permit to export two captive-bred gray wolves (*Canis lupus*) to a zoological park in Japan for enhancement of propagation and survival.

Applicant: Mr. Donald W. Sada, Leader, Eastern Mohave Desert Fishes Recovery Team, U.S. Fish and Wildlife Service, Reno, NV, PRT 2–8760.

The applicant requests a permit to take, capture, and sacrifice up to 300 Warm Spring Pupfish (*Cyprinodon nevadensis pectoralis*) from Nevada to be used in genetic research at Virginia Polytechnic Institute and State University to satisfy certain aspects of the Warm Spring Pupfish Recovery Plan.

Applicant: Charles C. Nugent, Kimbolton, OH, PRT 2–8775.

The applicant requests a permit to purchase in interstate commerce two captive-bred Nene geese (*Branta sandvicensis*) from the San Antonio Zoo, San Antonio, Texas for enhancement of propagation.

Applicant: Roger Anderson, Starbuck, MN, PRT 2–8787.

The applicant requests a permit to purchase in interstate commerce one gray wolf (*Canis lupus*) from the Dakota Zoo, Bismark, North Dakota, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S.Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 3, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82–3414 Filed 2–8–82; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

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 February 1, 1982. Pursuant to §60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 24, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALABAMA

Calhoun County

Anniston, *Caldwell Building*, 1001 Noble St.

Dallas County

Summerfield, *Summerfield District*, Selma-Summerfield and Marion Rds., Centenary and College Sts.

Elmore County

Robinson Springs, *Robinson Springs United Methodist Church*, AL 14 and AL 143

Montgomery County

Montgomery, *Court Square Historic District*, Court Sq., 21–35 Court St. Plaza, 1–2 Dexter Ave., and 18–24 N. Court St.
Montgomery, *Lower Commerce Street Historic District*, Roughly bounded by RR tracks, N. Court, Commerce, and Bibb Sts.
Montgomery, *Pastorium, Dexter Avenue Baptist Church*, 309 S. Jackson St.
Montgomery, *Pepperman House*, 17 Mildred St.

CALIFORNIA

Butte County

Oroville, *Lee, Fong, Company*

Los Angeles County

Pasadena, *Haskett Court*, 824–834 E. California Blvd.
Pasadena, *Reinway Court*, 380 Parke St.

Santa Clara County

Gilroy, *Live Oak Creamery*, 88 Martin St.

Sonoma County

Cloverdale, *Pinschower, Simon, House*, 302 N. Main St.

Tuolumne County

Sonora, *Cady House*, 72, N. Norlin St.

Yolo County

Woodland, *I. O. O. F. Building*, 723 Main St.

CONNECTICUT

Hartford County

East Granby, *Phelps, Ezekiel, House*, 38 Holcomb St.
Suffield, *Gothic Cottage*, 1425 Mapleton Ave.
Suffield vicinity, *King's Field House*, 827 North St.

New Haven County

Madison, *Allis-Bushnell House*, 853 Boston Post Rd.
Middlebury, *Bronson, Josiah, House*, Breakneck Hill Rd.

INDIANA

Allen County

Fort Wayne, *Saint Paul's Evangelical Lutheran Church*, 1126 S. Barr St.

Kosciusko County

Warsaw, *Warsaw Courthouse and Jail Historic District*, Bounded by Center, N. Lake, Main, and Indiana Sts.

Switzerland County

Vevay, *Old Hoosier Theatre*, Cheapside and Ferry Sts.

KENTUCKY

Fleming County

Flemingsburg Junction vicinity, *Johnson, Ben, House*, KY 161

Jefferson County

Louisville, *Almstedt Brothers Building*, 425 W. Market St.
Louisville, *St. Anthony's Roman Catholic Church, Rectory, Convent and School*, 2222–2238 W. Market St.
Louisville, *James Roman Catholic Church, Rectory and School*, 1430 Bardstown Rd., 1826 and 1818 Edenside Ave.
Louisville, *St. Patrick's Roman Catholic Church, Rectory and School*, 1301–1305 W. Market St.
Louisville, *St. Paul's German Evangelical Church and Parish House*, 213 E. Broadway

Kenton County

Covington, *Trinity Episcopal Church*, 328 Madison Ave.

Mason County

Maysville, *Maysville Downtown Historic District*, Roughly bounded by McDonald Pkwy., Front, Wall, Limestone, and 3rd Sts.

Oldham County

Crestwood vicinity, *Carpenter-Smith House (Forest Home Farm)* Covered Bridge Rd.

LOUISIANA

Acadia Parish

Crowley, *Crowley Historic District*, LA 13 and U.S. 90

Avoyelles Parish

Marksville, *Marksville Commercial Historic District*, Roughly bounded by Monroe, Washington, N. Ogden and Bontempt Sts.

Caddo Parish

Shreveport, *Old Commercial National Bank Building*, 509 Market St.
Shreveport, *Shreveport Commercial Historic District*, Roughly bounded by Commerce, Crockett, Common and Travis Sts.

East Baton Rouge Parish

Baton Rouge, *Roseland Terrace Historic District*, Bounded by Government, 18th, Myrtle and 22nd Sts.

St. Mary Parish

Franklin, *Franklin Historic District*, U.S. 90

St. Tammany Parish

Abita Springs, *Abita Springs Historic District*, LA 435, LA 36 and LA 59
Covington, *Division of St. John Historic District*, U.S. 190 and LA 21

MASSACHUSETTS

Essex County

Lynn, *Fabens Building*, 312–344 Union St.
Lynn, *Mowers' Block*, 7 Willow St. and 67–83 Blake St.

NEW HAMPSHIRE

Cheshire County

Keene, *United Church of Christ in Keene*, 23 Central Sq.
Surry, *Mason-Watkins House*, Off NH 12

Grafton County

Littleton, *Thayer's Hotel*, 136 Main St.

Hillsborough County

Manchester, *Gay, Alpheus, House*, 184 Myrtle St.
Wilton vicinity, *Whiting, Oliver, Homestead*, Old FR

Merrimack County

Concord, *Farrington House*, 30 S. Main St.

Rockingham County

Portsmouth, *Rockingham Hotel*, 401 State St.

Strafford County

Barrington, *Canaan Chapel*, aka Canaan Rd.
Dover, *First Parish Church*, 281 Central Ave.
Dover, *First Parish Church Site—Dover Point*, Dover Point Rd.

Sullivan County

Plainfield, *Mothers' and Daughters' Club House*, Main St.

NEW YORK

Bronx County

Bronx, *Bronx Borough Courthouse*, E. 161st St., 3rd and Brook Aves.

Kings County

Brooklyn, *Boys' High School*, 832 Marcy Ave.

New York County

New York, *Former Emigrant Industrial Savings Bank*, 51 Chambers St.

OKLAHOMA

Oklahoma County

Oklahoma City, *Putnam Heights Historic Preservation District*, Georgia and McKinley Blvds., 35th, 36th, 37th and 38th Sts.

PENNSYLVANIA

Allegheny County

Homestead, *Leona Theater*, 240 E. 8th Ave.,
Pittsburgh, *Market Street Buildings*, 101–113 Market St.
Thornburg, *Thornburg Historic District*, Off PA 69

Berk's County

Oley vicinity, *Reiff Farm*, SW of Oley on SR T454
Reading, *Wilhelm Mansion and Carriage House*, 730 Centre Ave.
Womelsdorf, *Womelsdorf Historic District*, Roughly bounded by Water, 4th, Franklin, and Jefferson Sts.

Centre County

Boalsburg vicinity, *Jack, Michael, Estate*, U.S. 322
Wingate vicinity, *Fisher Farm Site (36Ce35)*

Crawford County

Meadville, *Roueche House*, 762 Park Ave.

Dauphin County

Elizabethville vicinity, *Shoop Site (36Da20)*

Erie County

Waterford, *Site of Fort Leboeuf*, 1st and High Sts.

Franklin County

Chambersburg, *Chambersburg Historic District*, U.S. 11 and U.S. 30

Huntingdon County

Huntingdon vicinity, *Corbin Bridge Site (36HU50)*

Juniata County

Mifflin vicinity, *Book Site (36Jul)*

Lancaster County

Conestoga vicinity, *Roberts Farm Site (36La1)*
Ephrata, *Mountain Springs Hotel*, 320 E. Main St.
Holtwood vicinity, *Bare Island Prehistoric District (36La51, 56, 67)*
Pequea vicinity, *Shenks Ferry Site (36La2)*
Washington Boro, *Frey-Haverstick Site (36La6)*
Washington Boro, *Washington Boro Prehistoric Site Complex (36La4, 8, 12, 54, 92)*
Washington Boro vicinity, *Shultz-Funk Site (36La7 and 36La9)*

Lehigh County

Allentown, *Symphony Hall (Lyric Theatre)* 23 N. 6th St.
Vera Cruz vicinity, *Vera Cruz Jasper Quarry Site (36Lh12)*

Northampton County

Bath, *Steckel, Daniel, House*, 207 W. Northampton St.
Easton, *State Theatre*, 454 Northampton St.
Philadelphia County
Philadelphia, *First Baptist Church of Philadelphia*, 17th and Sansom Sts.
Philadelphia, *Franklin, Benjamin, Hotel*, 822–840 Chestnut St.
Philadelphia, *Wesley Building, Board of Home Missions of the United Methodist Church*, 1701–1709 Arch St.
Philadelphia, *Winston, John C., Building*, 1006–1016 Arch St.

Tioga County

Nelson, *Beechers Island United Presbyterian Church*

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Kuehn, Andrew, Warehouse*, 401 N. Phillips Ave.

TENNESSEE

Lincoln County

Fayetteville vicinity, *Childress House*, 9 mi. W of Fayetteville on U.S. 64

UTAH

Beaver County

Milford vicinity, *Frisco Charcoal Kilns*, W of Milford off UT 21

Carbon County

Price, *Parker and Weeter Block (Mahleres-Siampenos Building)*, 85 W. Main St.
Spring Glen, *Manina, Camillo, House*, Off U.S. 6/50

Sanpete County

Mount Pleasant, *Seely, John H., House*, 91 S. 5th West St.

Summit County

Kamas vicinity, *Myrick, William and Martha, House*, 1½ mi. N of Kamas

WASHINGTON

King County

Seattle, *Immanuel Lutheran Church*, 1215 Thomas St.
Seattle, *Kraus, Joseph, House*, 2812 Mt. St. Helens Pl.
Seattle, *Ye College Inn*, 4000 University Way, NE.

Kittitas County

Ellensburg vicinity, *Kinkade, John W., Farmstead*, Off U.S. 7B
Ellensburg vicinity, *Nelson, Albert, Farmstead*, Manastash Rd.

Snohomish County

Marysville, *Marysville Opera House*, 1225 3rd St.

Spokane County

Mica, *American Firebrick Company*, WA 27

WISCONSIN

COLONY OF ST. GREGORY OF NAZIANZEN THEMATIC RESOURCES. Reference—see individual listings under Manitowoc County.
COUNTY COURTHOUSES OF WISCONSIN THEMATIC RESOURCES. Reference—see individual listings under Adams, Ashland, Bayfield, Brown, Calumet, Crawford, Dodge, Douglas, Grant, Green, Green Lake, Iowa, Iron, Juneau, Kenosha, Lafayette, Langlade, Lincoln, Manitowoc, Marquette, Milwaukee, Monroe, Oconto, Oneida, Ozaukee, Pepin, Pierce, Polk, Racine, St. Croix, Sauk, Sheboygan, Taylor, Vernon, Waukesha, Waushara, Washington, and Winnebago Counties.

Adams County

Friendship, *Adams County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 402 Main St.

Ashland County

Ashland, *Ashland County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 201 W. 2nd St.

Bayfield County

Bayfield, *Old Bayfield County Courthouse (County Courthouses of Wisconsin Thematic Resources) Washington St.* (previously listed in the National Register 12–27–74)
Drummond vicinity, *Island Lake Camp*, Island Lake Rd.
Washburn, *Bayfield County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 117 E. 5th St. (previously listed in the National Register 1–17–75)

Brown County

Green Bay, *Brown County Courthouse (County Courthouses of Wisconsin Thematic Resources)*, 100 S. Jefferson St. (previously listed in the National Register 1–1–76)

Calumet County

Chilton, *Calmet County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 206 Court St.

Crawford County

Prairie du Chien, *Crawford County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 220 N. Beaumont Rd.

Dane County

Madison, *Bowen, James B., House*, 302 S. Mills St.

Dodge County

Juneau, *Dodge County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 220 E. State St.

Douglas County

Superior, *Douglas County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 1313 Belknap St.

Eau Claire County

Eau Claire, *Steven House*, 216 Hudson Ave.
Fairchild, *California Wine and Liquor Store*, 201 Farmers St.

Grant County

Lancaster, *Grant County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 126 W. Main St. (previously listed in the National Register 10–19–78).

Green County

Monroe, *Green County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Courthouse Sq. (previously listed in the National Register 3–21–78).

Green Lake County

Green Lake, *Green Lake County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 492 Hill St.

Iowa County

Dodgeville, *Iowa County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Iowa and Chapel Sts. (previously listed in the National Register 2–1–72).

Iron County

Hurley, *Iron County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 303 Iron St. (previously listed in the National Register 7–26–77).

Juneau County

Mauston, *Juneau County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 220 E. State St.

Kenosha County

Kenosha, *Kenosha County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 912 56th St.

La Crosse County

La Crosse, *Freight House*, 107—109 Vine St.

Lafayette County

Darlington, *Lafayette County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 626 Main St.

(previously listed in the National Register 12–22–78).

Langlade County

Antigo, *Langlade County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 800 Clermont St. (previously listed in the National Register 7–25–77).

Lincoln County

Merrill, *Lincoln County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 1110 E. Main St. (previously listed in the National Register 4–19–78).

Manitowoc County

Manitowoc, *Manitowoc County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 8th St. (previously listed in the National Register 4–16–81).

St. Nazianz, *Loretto Shrine Chapel (Colony of St. Gregory of Nazianzen Thematic Resources)* Off WI A.

St. Nazianz, *St. Gregory's Church* (Colony of St. Gregory of Nazianzen Thematic Resources) 212 Church St.

St. Nazianz, *St. Mary's Convent (Colony of St. Gregory of Nazianzen Thematic Resources)* 300 S. 2nd Ave.

Marathon County

Wausau, *Wright, Ely, House*, 901 6th St.

Marquette County

Montello, *Marquette County Courthouse, Sheriff's Office and Jail (County Courthouses of Wisconsin Thematic Resources)* 77 W. Park St.

Milwaukee County

Milwaukee, *Milwaukee County Courthouse (County Courthouses of Wisconsin Thematic Resources) 901 N. 9th St.*

Milwaukee, *Milwaukee News Building and Milwaukee Abstract Association Building*, 222 E. Mason St.

Monroe County

Sparta, *Monroe County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 418 W. Main St.

Oconto County

Oconto, *Oconto County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 300 Washington St.

Oneida County

Rhinelander, *Oneida County Courthouse (County Courthouses of Wisconsin Thematic Resources)* S. Oneida Ave. (previously listed in the National Register 3–20–81)

Ozaukee County

Port Washington, *Old Ozaukee County Courthous (County Courthouses of Wisconsin Thematic Resources)* 109 W. Main St. (previously listed in the national Register 12–12–76)

Pepin County

Durand, *Pepin County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 307 W. Madison

Pierce County

Ellsworth, *Pierce County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 411 W. Main St.

Polk County

Balsam Lake, *Polk County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Main St.

Racine County

Racine, *Racine County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 730 Wisconsin Ave. (previously listed in the National Register 7–28–80)

Racine, *Rickeman Grocery Building*, 415 6th St.

Racine, *Uptown Theater*, 1426–1430 Washington Ave.

Racine, *Young Men's Christian Association Building*, 314–320 6th St.

Waterford vicinity, *Beardsley, Elam, Farmhouse*, 5601 Northwest Hwy.

St. Croix County

Hudson, *St. Croix County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 904 3rd St.

Sauk County

Baraboo, *Sauk County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 515 Oak St.

Sheboygan County

Sheboygan, *Sheboygan County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 615 N. 6th St.

Taylor County

Medford, *Taylor County Courthouse (County Courthouses of Wisconsin Thematic Resources)* Courthouse Sq. (previously listed in the National Register 5–14–80)

Vernon County

Viroqua, *Vernon County Courthouse (County Courthouses of Wisconsin Thematic Resources)* N. Dunlap Ave. (previously listed in the National Register 1–8–80)

Washburn County

Spooner, *Siegner, George V., House*, 513 Dale St.

Washington County

West Bend, *Washington County Courthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 320 S. 5th Ave.

Waukesha County

Waukesha, *Old Waukesha County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 101 W. Main St. (previously listed in the National Register 3–27–75)

Waupaca County

King vicinity, *Halfway House*, Potts Ave.

Waushara County

Wautoma, *Waushara County Caurthouse and Jail (County Courthouses of Wisconsin Thematic Resources)* 209 St. Marie St.

Winnebago County

Oshkosh, *Winnebago County Courthouse (County Courthouses of Wisconsin Thematic Resources)* 415 Jackson St.

[FR Doc. 82-3389 Filed 2-8-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–491, published at page 1044, on Friday, January 8, 1982, on page 1046, in the first column, in the last paragraph "MC 124170 (Sub-193)", in the second line from the bottom "WI, WY, WY" should be corrected to read "WI, WV, WY".

BILLING CODE 1505-01-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 requlations. 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. OP4–34

Decided: February 1, 1982.

By The Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 34027 (Sub-24), filed January 25, 1982. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *empty containers,* and (2) *nonalcoholic beverages, flavoring extracts, syrups, and compounds,* (1) between points in Porter County, IN, on the one hand, and, on the other, points in Muskogee County, OK, and (2) between points in Muskogee County, OK, on the one hand, and, on the other, points in KS, MO, MS, AR, NM, CO, TX, TN, and LA.

MC 63837 (Sub-9), filed January 25, 1982. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting (1) *household goods,* and (2) *furniture and fixtures,* between points in AL, AR, CT, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI.

MC 93147 (Sub-34), filed January 25, 1982. Applicant: DELTA TRANSPORT CORPORATION, 595 Cottage St., Springfield, MA 01104. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 129857 (Sub-14), filed January 20, 1982. Applicant: G.R.M., Inc., d.b.a. PORT TERMINAL TRANSPORT,INC., 700 Henry Ford Ave., Long Beach, CA 90810. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213 627–8471. Transporting *transportation equipment* between points in the U.S. under continuing contract(s) with Toyota Motor Sales, U.S.A., Inc., of Torrance, CA.

MC 119837 (Sub-27), filed January 25, 1982. Applicant: OZARK MOTOR LINES, INC., 27 W. Illinois Ave., Memphis, TN 38106. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137, (901) 767–5600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between West Plains and Springfield MO, Memphis, TN, Evansville and points in Posey County, IN, and Randolph County, AR, on the one hand, and, on the other, points in the U.S.

MC 147727 (Sub-4), filed January 25, 1982. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *food and related products,* between points in Walla Walla and Yakima Counties, WA, and Ada County, ID, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, UT, WA, and WY.

MC 159537, filed January 22, 1982. Applicant: TRANSPORT PACKAGING, INC., P.O. Box 3171, Irving, TX 75061. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Pro-Line Corporation, of Dallas, TX.

MC 160187, filed January 19, 1982. Applicant: E. D. RUFF, R.R. #3, Bethany, MO 64424. Representative: E. D. Ruff (same address as applicant), (816) 425–8139. Transporting *fertilizer,* between points in Jefferson, Leavenworth, Douglas, Shawnee, and Johnson Counties, KS, on the one hand, and, on the other, points in Harrison, Gentry, Worth, Grundy, Daviess, Clinton, Nodaway, Marion, and St. Louis Counties, MO.

Volume No. OP4–36

Decided: February 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 103967 (Sub-28), filed January 5, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: David Earl Tinker, 1000 Connecticut Avenue, N.W., Suite 1112, Washington, D.C. 20036. Transporting *household goods,* between points in OK, TX, NM, AZ, CA, NC, SC, and MD.

Note.—Applicant seeks to tack this authority with that acquired in MC–F–14495, although expressly not authorized by that decision.

MC 149137 (Sub-14), filed January 21, 1982. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Joel J. Nagel, 19 Back Dr., Edison, NJ 08817, (201) 985–7206. Transporting *office and library furniture,* between points in the U.S., under continuing contract(s) with Art Metal-USA Inc./Steel Sales Inc., of Newark, NJ.

MC 145787 (Sub-3), filed January 22, 1982. Applicant: HERBERT TRUCKING, INC., R.R. #1, Macon, IL 62544. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *soft drinks, glass bottles and pallets,* between points in the U.S., under continuing contract(s) with Decatur Bottling Co., of Decatur, IL.

MC 145067 (Sub-11), filed January 21, 1982. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Edward F. V. Pietrowski, 430 Scranton Life Bldg., Scranton, PA 18503, (717) 346–5761. Transporting *liquefied petroleum gas,* between points in NY, NJ, PA, DE, and MD. Condition: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 119917 (Sub-71), filed January 21, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Dr. SE., Atlanta, GA 30316. Representative:

Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *such commodities* as are dealt in by manufacturers and distributors of containers, container closures, charcoal and related products; fire logs; hickory chips; lighter fluid; paper and paper products; plastic and plastic products; and tobacco (except commodities in bulk and used household goods), between points in the U.S.

Volume No. OP5–21

Decided: January 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2428 (Sub-41), filed January 20, 1982. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Ave., Hopelawn (Perth Amboy), NJ 08861. Representative: Morton E. Kiel, Suite 1832, World Trade Center, New York, NY 10048–0640, 212–466–0220. Transporting *such commodities* as are dealt in or used by a manufacturer or distributor of building materials, between points in the U.S. under continuing contracts with IKO Manufacturing, Inc. of Edgemoor (Wilmington), DE.

MC 39249 (Sub-22), filed January 19, 1982. Applicant: MARTY'S EXPRESS, INC., 4201 Tacony St., Philadelphia, PA 19124. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036, 202–537–2900. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in PA, DE, and NJ on the one hand and on the other, points in NY, CT, DE, MD, VA, NC, SC, and DC.

MC 105269 (Sub-111), dated January 20, 1982. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *paper and related products,* between points in Hamilton County, OH and Cook County, IL, on the one hand and on the other, points in IA, IL, IN, KY, MI, MN, MO, OH, PA, WV, and WI.

MC 110948 (Sub-7), filed January 19, 1982. Applicant: MOTORWAYS (1980) LIMITED, 60 Eagle Dr., P.O. Box 738, Winnipeg, Manitoba, Canada R3C 2L8. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), in foreign commerce only, between points on the International boundary line between the United States and Canada in WA, ID, MT, ND, MN, MI, and NY, on the one hand, and, on the other, points in ID, IA, IL, IN, MI, MN, MO, NE, ND, NY, OH, OR, PA, SD, WA, WI and WY.

MC 116509 (Sub-2), filed January 21, 1982. Applicant: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 1 Hackensack Ave., South Kearney, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting (1) *food and related products,* between New York, NY, Elkhart, IN, Chicago, IL, Philadelphia, PA, and Baltimore, MD, on the one hand, and, on the other, points in the U.S., and (2) *chemicals,* between New York, NY, on the one hand, and, on the other, points in the U.S.

MC 125018 (Sub-7), filed January 20, 1982. Applicant: TENNESSEE TRUCK LINES, INC., Route 4, Dandridge, TN 37725. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of their size or weight, require the use of special equipment), between points in the U.S., under continuing contract(s) with H. T. Hackney Company of Knoxville, TN.

MC 125978 (Sub-11), filed January 18, 1982. Applicant: DEPENDABLE CAR TRAVEL SERVICE, INC., 103 W. 42nd St., New York, NY 10036. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, 914–835–4411. Transporting *transportation equipment,* with or without baggage, personal effects of owners, and sporting equipment, between points in the U.S. (except AK and HI).

MC 147378 (Sub-5), filed January 19, 1982. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103, (918) 583–9000. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with The Original Chili Bowl, of Tulsa, OK.

MC 150099 (Sub-3), filed January 18, 1982. Applicant: ALL STATE TRUCKING CO., INC., 3400 Mesa Rd., Houston, TX 77013. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, 713–437–1768. Transporting (1) *Mercer commodities,* between points in AR, CA, LA, MS, NM, OK, and TX; and between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S. (2) *machinery and earth drilling equipment,* between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM; and between AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S. (3) *metal products and instruments,* between Houston, TX, on the one hand, and, on the other, points in the U.S. (4) *iron and steel articles,* between points in TX, MO, NM, OK, and LA.

MC 151819 (Sub-10), filed January 18, 1982. Applicant: CARGO-MASTER, INC., 2815 Gaston Ave., Dallas, TX 75226–1306. Representative: Jackson Salasky (same address as applicant), 214–824–6120. Transporting *malt beverages,* between points in Tarrant County, TX, on the one hand, and, on the other, points in LA.

MC 156329 (Sub-1), filed January 15, 1982. Applicant: CHISM, INC., 2160 E. Thoman, Springfield, MO 65803. Representative: Bob Chism (same address as applicant), 417–865–4127. Transporting *such commodities as are dealt in, distributed by,* or used in wholesale and retail grocery houses (except commodities in bulk), between points in the U.S. under continuing contract(s) with Lever Brothers Company of New York, NY.

MC 147228 (Sub-5), filed January 18, 1982. Applicant: ROBERT D. BOWHAY, d.b.a. BOWHAY TRUCK LINE, P.O. Box 150, Summerfield, KS 66541. Representative: Donald L. Stern, Suite 610, 7170 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *metal and metal products,* between points in Lancaster County, NE, on the one hand, and, on the other, points in IA, SD, ND, KS, WY, CO, MO, AR, OK, IL, and MO.

Volume No. OP5–23

Decided: January 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-73), filed January 25, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Eastman Kodak Company of Rochester, NY.

MC 68908 (Sub-11), filed January 22, 1982. Applicant: MULLEN BROS. OF NORTH ADAMS, MASS., INC., P.O. Box 1285, Pittsfield, MA 01201. Representative: Robert J. Gallagher, 1000

Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036 (202) 785–0024. Transporting *household goods*, as defined by the Commission, between points in MA, NY, VT, ME, NH, RI, CT, NJ, PA, VA, AL, DE, FL, GA, KY, MD, NC, OH, SC, TN, WV, and DC, on the one hand, and, on the other, points in OH, IN, IL, MI, and WI.

MC 102679 (Sub-4), filed January 22, 1982. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan, Kokomo, IN 46901. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, D.C. 20036, 202–785–0024. Transporting (1) *tires, tubes, flaps and rims or wheels*, (2) *electrical products*, between points in the U.S. under continuing contract(s) with Fouts Tire, Inc. of Kokomo, IN and Essex Controls, Inc. of Logansport, IN.

MC 121589 (Sub-11), filed January 20, 1982. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. Transporting *such commodities* as are used or dealt in by retail and discount stores and catalog showrooms (except household goods as defined by the Commission, commodities in bulk, and Classes A and B explosives), between points in IL, IA, MO, SD, NE and KS.

MC 133178 (Sub-7), filed January 18, 1982. Applicant: PAPER CARGO CORPORATION, P.O. Box 13, Grandville, MI 49418. Representative: Gregory G. Prasher, 500 Calder Plaza, Grand Rapids, MI 49503 (616) 459–9487. Transporting *such commodities* as are dealt in or used by a manufacturer of expanded plastic packaging materials between points in the U.S. (except AK and HI), under continuing contract(s) with Free Flow Packaging Corporation, of Red Wood City, CA.

MC 140919 (Sub-1), filed January 19, 1982. Applicant: DESERT STAGE LINES, 73–555 29 Palms Hwy., 29 Palms, CA 92277. Representative: Ardella Irene Cook (same address as applicant) 714–367–3581. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter or special operations, between points in Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ, NM, NV, and UT.

MC 145738 (Sub-26), filed January 25, 1982. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 607, Selmer, TN 38375. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., 315 Union St., Nashville, TN 37201 (615) 244–2926. Transporting *such commodities* as are dealt in or used by retail and discount stores and catalog showrooms between points in Clay County, MS, on the one hand, and, on the other, points in the U.S.

MC 150499 (Sub-7), filed January 18, 1982. Applicant: ENGELS TRUCK SERVICE, INC., RR3, Box 58 Worthington, MN 56187. Representative: A. J. Swanson, 226 N. Phillips Ave., P.O. Box 1103 Sioux Falls, SD 57101 (605) 335–1777. Transporting *food and related products*, (a) between points in WA, OR, and ID, on the one hand, and, on the other, points in CA, (b) between Chicago, IL and points in WI, MN, and IA, on the one hand, and, on the other, points in AZ, ID, NM, OK, TX, UT, and WY, (c) between points in Cache County, UT, Lincoln County, WY, Jerome County, ID, and Spokane County, WA, and (d) between points in Lincoln County, WY, Jerome County, ID, and Spokane County, WA, on the one hand, and, on the other, points in CA, CO, IL, and MI.

MC 151589, filed January 18, 1982. Applicant: PRODUCE TRANSPORT, 27 Thorne Ave., Lewiston, ME 04240. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101 (207) 773–5651. Transporting *paper and paper products* between points in ME, on the one hand, and, on the other, points in CT, DE, MA, MD, NH, NJ, NY, PA, RI, VA, and DC.

MC 152108 (Sub-3), filed January 22, 1982. Applicant: RELCO SYSTEMS, INC., 7310 Chestnut Ridge Rd., Lockport, NY 14094. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave., N.W., Washington, DC 20005, 202–347–9332. Transporting *food and related products*, between points in NY and PA, on the one hand, and, on the other, points in the U.S. in and east of MI, IN, KY, TN, and MS.

MC 156988 (Sub-2), filed January 21, 1982. Applicant: CLIFFORD VAN DE BRAKE, Rt 3 B 3752, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *food and related products*, between points in Hood River and Multnomah Counties, OR on the one hand, and, on the other, Los Angeles, CA.

MC 157819 (Sub-1), filed January 22, 1982. Applicant: TRUK-TRAK TRANSPORTATION, INC., P.O. Box 28655, Dallas, TX 75288. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 70562, 214–255–6279. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. under continuing contract(s) with Sunbelt Consolidators, Inc. of Dallas, TX.

MC 160088 (Sub-1), filed January 18, 1982. Applicant: TRAILER TRANSIT, INC., 719 Wabash Ave., Michigan City, MI 46360. Representative: Brian R. Busch (Same address as applicant) 219–879–8547. Transporting *transportation equipment*, between points in the U.S.

MC 156909 (Sub-1), filed January 22, 1982. Applicant: MIDWEST CONSOLIDATORS, INC., 32934 Schoolcraft, Livonia, MI 48150. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084 (313) 649–6650. Transporting *motor vehicle parts and components* between ports of entry on the international boundary line between the United States and Mexico in TX, on the one hand, and, on the other, Detroit, MI.

MC 160129, filed January 15, 1982. Applicant: ALLEGHENY LABEL TRUCKING, INC., P.O. Box 95, Pittsburgh Street, Cheswick, PA 15024. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219 (412) 281–9494. Transporting *printing equipment* and *printed matter*, between points in the U.S., under continuing contract(s) with Allegheny Label, Inc., of Cheswick, PA.

MC 160149, filed January 18, 1982. Applicant: DON TEUNISSEN, d.b.a. TEUNISSEN TRANSPORTATION, Route 1, Box 176, Cedar Grove, WI 53013. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203 (414) 273–7410. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Charter Manufacturing Co., Inc., of Mequon, WI.

MC 160208, filed January 21, 1982. Applicant: CLIFFORD E. MORRIS, d.b.a. C. E. MORRIS TRUCKING, 105 E. Madison Ave., P.O. Box 273, Pandora, OH 45877. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017 (614) 889–2531. Transporting *fertilizer* between points in IN, OH, and MI.

MC 160218, filed January 22, 1982. Applicant: HENDRUM FERTILIZER COMPANY, INC., P.O. Box 159, Hendrum, MN 56550. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108 (701) 237–4223. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with J. R. Simplot Company of Boise, ID.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3360 Filed 2–8–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 229]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 3, 1982.

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 34485 (Sub-4)X, filed January 27, 1982. Applicant: CLARK & REID COMPANY, INC., P.O. Box 426, Burlington, MA 01803. Representative: Charles Ephraim, 406 World Center Building, 918–16th Street, N.W., Washington, DC 20006. Sub 3 certificate, broaden from household goods to "household goods and furniture and fixtures".

MC 94201 (Sub-202)X, filed January 25, 1982. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203–3668. Sub 194F certificate: remove all exceptions from the general commodities description, except classes A and B explosives and household goods.

MC 121673 (Sub-6)X, filed January 18, 1982. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, P.O. Box 83065, Oklahoma City, OK 73148. Representative: C. L. Phillips, Classen Terrace Bldg., Room 248, 1411 N. Classen, Oklahoma City, OK 73106. Sub 4F certificate, (1) remove household goods exception from general commodities authority; (2) regular routes, authorize service on all intermediate points: (a) except those on alternate route in part II (h), and (b) except Cordell, Clinton and Weatherford, OK in parts II (a) and (c).

MC 124393 (Sub-9)X, filed January 27, 1982. Applicant: FRANK POTTER TRUCKING CO., A CORPORATION, P.O. Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Sub 5F permit: broaden to (a) "food and related products" from beer and coctail mixes, and (b) between points in the U.S. (except AK and HI), under continuing contract(s) with unnamed shippers.

MC 142848 (Sub-15)X, filed January 11, 1982. Applicant: JAMES R. POSHARD AND SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representatives: Norman R. Garvin, Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491. Subs 2, 3, 5, 8F, 9F, 10F, 12F and 13F. Broaden: Subs 2, 3, 5, 8F, 9F, and 10F from coal, fertilizer, in bulk, dry commodities, in bulk, sand, in bulk, and fertilizer to "commodities in bulk"; Subs 5, 8F, 12F and 13F from Mt. Vernon, IN, facilities to Posey County, IN; Sub-No. 5, from Vincennes to Knox County, IN; Sub-No. 10F from Henderson to Henderson County, KY; Subs 3, 5, 9F, and 10F to radial authority; remove restrictions to traffic having prior movement by rail/water in Subs 5, 8F, 10F, 12F, and 13F; "originating at/destined to" in Subs 5, 8, 10, 12, and 13; "in dump vehicles" in Subs 5 and 9F; and dry commodities in bulk, fertilizer, and unusual value commodities from general commodities in Sub 13F.

MC 143502 (Sub-2)X, filed January 26, 1982. Applicant: G & M AUTO COMPANY, INC., 7224 Euclid Avenue, Cleveland, OH 44103. Representative: Andrew J. Burkholder, 275 East State Street, Columbus, OH 43215. Lead and Sub 1: broaden wrecked, disabled and repossessed motor vehicles (except trailers designed to be drawn by passenger automobiles) and replacement vehicles for wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only to "transportation equipment."

MC 147769 (Sub-1)X, filed January 22, 1982. Applicant: SHORE AIR FREIGHT SERVICE, INC., P.O. Box 8692, Baltimore, MD 21240. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006. Lead certificate: (1) Remove the (a) "prior to subsequent movement by air" restriction, and (b) exception of points in Anne Arundel County located in the Baltimore Commercial Zone, and (2) broaden to county-wide authority: Anne Arundel County, MD (airport-Glen Burnie).

MC 147906 (Sub-9)X, filed January 27, 1982. Applicant: KOHN TRANSPORT INC., 4850 Southway S.W., Canton, OH 44706. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. Lead certificate: (1) Broaden to (a) "food and related products" from alcoholic beverages and (b) "clay, concrete, glass or stone products and metal products" from alcoholic beverage containers; (2) remove "except in bulk" restriction; and, (3) broaden to radial authority.

[FR Doc. 82-3362 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP-3-019]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification; Permanent Decision

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 148964 (Sub-1) (republication) filed August 31, 1981, published in the Federal Register issue of September 18, 1981, and republished this issue. Applicant: W. L. WAGGONER TRUCKING CO., No. 4 Caine Drive—

Stephen Maeras, Industrial Park, Madison, IL 62060. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737-1030. A Decision of the Commission, Review Board Number 2, decided December 22, 1981, and served January 18, 1982, finds that the performance by applicant of the service 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 those *commodities* which because of their size or weight require the use of special handling or equipment, between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, VA, WV, and WI; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect service to points in LA which was inadvertently ommitted from previous publication.

MC 156884 (republication), filed July 1, 1981, published in the **Federal Register** of July 22, 1981, and republished this issue. Applicant: EDWIN M. STALEY, d.b.a., RIVER DRIVE WRECKER SERVICE, 4101 North Front St., Harrisburg, PA 17110. Representative: Lloyd R. Persun, P.O. Box 729, Harrisburg, PA 17108. A Decision of the Commission, Review Board Number 2, decided October 16, 1981 and served October 23, 1981, and A Decision of the Commission, Division 2, Acting as an Appellate Division, decided December 24, 1981, and served December 31, 1981, finds on further consideration that the performance by applicant of the service 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 (1) *wrecked and disabled vehicles, and replacement vehicles and parts for wrecked and disabled vehicles*, between points in the U.S. in and east of MN, IA, MO, AR, and LA; and (2) *abandoned or repossessed vehicles*, between points in Dauphin County, PA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3361 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 86)]

Rail Carriers; Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, Exemption for Contract Tariff ICC-BM-C-0008

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). The contract tariff to be filed may become 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: Donald J. Shaw, Jr. or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), filed a petition on January 29, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC-BM-C-0008 to become effective on one day's notice. The tariff was filed to become effective on March 1, 1982. The tariff provides for the track storage of pulp, paper, and paper products (STCC-26 commodity series) at local stations on BM Railroad, in equipment carrying BM Railroad reporting marks.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Petitioner states that because of a production problem, the shipper requires the immediate storage of some of its product. The shipper does not have suitable storage facilities at his plant and this contract will allow the continuation of his production on an uninterrupted basis. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

The BM's 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 this exemption 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.

(49 U.S.C. 10505)

Dated: February 2, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3365 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 104F)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Benson, Pierce, and Rolette Counties, ND; Findings

The Commission has found that the public convenience and necessity requires the abandonment by Burlington Northern Railroad Company of a portion of its rail line known as the York to Dunseith line extending from milepost 14.4 near Wolford to milepost 41.79, at the end of the line near Dunseith, ND in Pierce and Rolette Counties, a total of 27.73 miles, subject to certain conditions. The Commission has also found that the public interest requires retention of that portion of the line extending from milepost 0.00 near York to milepost 14.4 near Wolford. The abandonment will become effective 3 days after this publication unless the Commission also finds that: (1) A financially responsible person has

offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies sent to Mr. Richard Kelly, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this notice.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-3366 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 87)]

Rail Carrier; Union Pacific Railroad Company, Exemption for Contract Tariff ICC-UP-C-0014

AGENCY: Interior 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). The contract tariff to be filed may become 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: Donald J. Shaw, Jr. or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on January 29, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC-UP-C-0014 to become effective on one day's notice. The tariff was filed to become effective on February 28, 1982. The tariff provides for the movement of corn, sorghum and soybeans to the port of Long Beach, California.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The grain to be moved by the UP is the subject of an agreement negotiated between the shipper and the Taiwanese and South Korean governments. The overseas shipments are scheduled to begin in early February. Petitioner urges that the contract be allowed to become effective on short notice to ensure that the grain will be available for loading as soon as possible. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

UP's 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 this exemption 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.

(49 U.S.C. 10505)

Dated: February 3, 1982.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3364 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: February 3, 1982.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.9-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 6.7-percent surcharge for the bus carriers, or the 2.0-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m. February 5, 1982.

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

Agatha L. Mergenovich,

Secretary.

February 1, 1982.

APPENDIX—FUEL SURCHARGE

Base date and price per gallon (including tax)

Jan. 25, 1979 ..... 63.5

Date of current price measurement and price per gallon (including tax)

Feb. 1, 1982 ..... 130.8

	Transportation performed by—			
	Owner-operator[1]	Other[2]	Bus carrier	UPS
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.9	3.1	6.7	[3][4]3.8
Percent surcharge allowed	18.0	3.1	6.7	[4]3.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 25, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fule-related increases already including in UPS rates.

[FR Doc. 82-3359 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. Section 10706(a)(5) Application No. 1[1]]

Shippers Equitable Compensation Action Committee

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of agreements and request for comments.

SUMMARY: Under the provisions of 49 U.S.C. 10706(a)(5)(A), shippers wishing to enter into agreements among themselves to discuss the amount of compensation to be charged rail carriers for the use of privately owned cars must apply to the Commission for approval of such agreements. The Commission will approve such an agreement only upon finding that it furthers the transportation policy set forth in 49 U.S.C. 10101a, and, if necessary, can impose conditions to further that policy. If such an agreement is approved, the antitrust laws do not apply to parties and other persons with respect to the making and carrying out of the agreement. 49 U.S.C. 10706(a)(2).

Applications have been filed by four shipper groups: No. 1 by Shippers Equitable Action Committee (SECAC) on behalf of members who own or lease railroad cars bearing the Association of American Railroads' mechanical designation "RB," "RBL" and "LU;" No. 2 by LO Shippers Action Committee, on behalf of members who own or lease covered hopper cars bearing the AAR designation "LO;" No. 3 by National Electrical Manufacturers, on behalf of three members who own or lease heavy capacity and special type flat cars; and No. 4 by the American Petroleum Institute, on behalf of members who own or lease tank cars.

The applications may be inspected at the Office of the Secretary, Interstate Commerce Commission, in Washington, D.C.

COMMENTS: Comments are invited on the proposed agreements, with special attention to the following subjects:

(1) How will these agreements further the transportation policy set forth in 49 U.S.C. 10101(a)?

(2) Are there any anti-competitive effects that may result because of such agreements?

(3) Must individual shippers be allowed under such agreements the right of independent action to negotiate separately car compensation rates?

(4) What, if any, safeguards are necessary to insure that the proposed agreements will not have an undesirable anti-competitive effect or suppress competition among members of the respective associations?

(5) What other matters should the Commission consider in determining whether such agreements should be approved?

DATES: An original and 10 copies of comments by interested parties should be filed within 20 days of the date of publication of this notice in the **Federal Register.**

ADDRESS: Comments should be addressed to: Interstate Commerce Commission, Office of Proceedings, Room 5340, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275–7656.

While it does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources, comments on these issues are also invited.

(49 U.S.C. 10706(a)(5))

Dated: January 26, 1982.

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

James H. Bayne,

Acting Secretary.

[FR Doc. 82-3363 Filed 2-8-82; 8:45 am]

BILLING CODE 7035-01-M

[1] Embraces Section 10706(a)(5) Application Nos. 2, 3, and 4.

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-12,466]

Stephanie Coat, Inc., Hoboken, New Jersey; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 16, 1981 in response to a worker petition received on March 9, 1981 which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Stephanie Coat, Inc., Hoboken, New Jersey.

An active certification covering the petitioning group of workers remains in effect (TA-W-6811). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 27th day of January 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-3412 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,518 and TA-W-12,519]

Parr, Incorporated Cleveland, Ohio; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 23, 1981 in response to a worker petition received on March 12, 1981 which was filed on behalf of workers at two Cleveland, Ohio plants of Parr, Incorporated.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 27th day of January 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-3413 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letters from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to Federal standard 29 CFR Part 1926. These letters were dated as follows: December 31, 1981 containing the basic standards; December 15, 1981

containing Ground Fault Protection as published in the Federal Register (41 FR 55696) on December 21, 1976 plus State-initiated amendments and corrections to WAC 296–155—Ladder, Scaffolding, and Trenching standards; December 1, 1981 containing emergency temporary standards deleting the scaffolding standards identified by Region X as not at least as effective; June 19, 1981 incorporating Guarding of Low-Pitched Roof Perimeters during the Performance of Build-Up Roofing Work published in the Federal Register (45 FR 75618) on November 14, 1980 plus State-initiated amendments and corrections to WAC—Excavations, Trenching, and Shoring. The original Federal standards were published in the Federal Register (37 FR 27503) on December 16, 1972. Subsequent revisions were published in the Federal Register (39 FR 22801) on June 24, 1974, (41 FR 55696) on December 21, 1976, (44 FR 20940) on April 6, 1979, and (45 FR 75618) on November 14, 1980.

Washington's Construction Safety and Health Standards, which are contained in Chapter 296–155 WAC, were promulgated pursuant to 30.04 RCW and to the Open Public Meetings Act of 1971, Chapter 42.30 July 10, 1970. Subsequent amendments were promulgated to accommodate the State and Federal amendments and corrections following the original publication of 29 CFR Part 1926.

The State of Washington, after a public hearing on February 19, 1976 promulgated Construction Standards WAC 296–155 including provisions for scaffolding which were determined to be not at least as effective. The State requested a hearing by letter dated September 1, 1977 after Federal Register Notice of Intent to Reject the scaffolding portion of the standard appeared in the Federal Register (42 FR 41335) on August 16, 1977. The hearing was held in Seattle, Washington on November 29, 1977. Following the hearing, on January 6, 1978, the State and interested persons, who participated in the hearing, requested a waiver of the tentative decision by the Regional Administrator in accordance with 29 CFR 1902.21, thereby placing the final decision with the Assistant Secretary of Labor for Occupational Safety and Health. By letter dated November 23, 1981, Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, informed Samuel Kinville, State designee, that he intended to reject the State's scaffolding standards. On December 10, 1981 the State, by emergency temporary rule, deleted the standards at issue and adopted the identical Federal standards, which were submitted on December 15, 1981 and approved by the Assistant Secretary on January 26, 1982.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are as effective as the comparable Federal standards and accordingly should be approved.

Significant differences are: (a) the State has adopted additional standards for definitions and clarification of scaffolding, site clearing, excavations and trenching, cranes and derricks, and uniform traffic control; (b) Live Line Bare Hand Work, 29 CFR 1926.955(e), is covered by previously approved WAC 296–45–330.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N–3613, 200 Constitution Ave. N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective February 9, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this 20th day of January, 1982.

James W. Lake,

Regional Administrator.

[FR Doc. 82–3424 Filed 2–8–82; 8:45 am]

BILLING CODE 4510–26–M

Washington State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the Federal Register (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Sections 1952.120–124 of Subpart F set forth the State's schedule for the adoption of Federal standards. By letters dated: November 9, 1981 containing the basic standards; March 24, 1981 incorporating Alcohol, Tobacco, and Firearms standards; December 15, 1981 containing an emergency temporary rule to correct deficiencies identified by Region X; and January 6, 1982 containing permanent rules to correct deficiencies identified by Region X, from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to Federal standard 29 CFR 1910.109, Explosives and Blasting Agents. The original Federal standard was published in the Federal Register (36 FR 10669) on May 29, 1971. Subsequent revisions were published in the Federal Register (43 FR 49751) on October 24, 1978 and (47 FR 51760) on November 7, 1978.

Washington's standard on the Possession, Handling and Use of Explosives, which is contained in Chapter 296–52 WAC, was promulgated pursuant to 34–04 RCW and to the Open Public Meetings Act of 1971, Chapter 42.30 on July 10, 1970. Subsequent amendments were promulgated to accommodate State/Federal amendments and corrections since the original publication of 29 CFR 1910.109.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State Standard is as

effective as the comparable Federal standard and accordingly should be approved. Further, the State must promulgate permanent standards to replace emergency temporary rules.

Significant differences are: (a) The State has retained standards equivalent to those revoked in the **Federal Register**, Vol. 43, No. 206, dated October 24, 1978 and subsequent corrections appearing in the **Federal Register**, Vol. 43, No. 216, dated November 7, 1978 because the State's coverage includes public service employees. Additionally, retention of the standards allows the State's administrative standards to be in concert with the State's statutory explosive code; (b) the State has adopted the provisions of 27 CFR 181.187 through 181.200 from the Bureau of Alcohol, Tobacco, and Firearms in lieu of 29 CFR 1910.109(c), Storage of Explosives as applies to magazines, American Table of Distances for Storage of Explosives, and the storage of slightly increased quantities of certain explosive materials; (c) allowances have been made to accommodate the "state-of-the-art" concerning the use of fiberglass/plastic approved tamping poles and skewers.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501; and the Office of State Programs, Room N-3613, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are as effective as the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

This decision is effective February 9, 1982.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 11th day of January 1982.

John A. Granchi,

Acting Regional Administrator.

[FR Doc. 81-3425 Filed 2-8-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Panel (Wider Availability of Museums); Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Panel (Wider Availability of Museums) to the National Council on the Arts will be held on March 2, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark;

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 2, 1982.

[FR Doc. 82-3387 Filed 2-8-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-325 and 50-324]

Carolina Power and Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 44 and 67 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to permit a specific individual to fill the Manager-Operations position during the interim period until the formal licensing requirements can be scheduled and completed.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated January 8, 1982, (2) Amendment Nos. 44 and 67 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-3401 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment changes the date by which the Commission must confirm the adequacy of the hydrogen control system from January 31, 1982, to prior to startup following the first refueling outage. The amendment is effective as of its date of issuance.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) 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) Amendment No. 13 to Facility Operating License No. NPF-9 and (2), the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commmission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of January 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-3402 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50—272 and 50—311]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-70 and Amendment No. 5 to Facility Operating License No. DPR-75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit Nos. 1 and 2 (the facilities) located in Salem County, New Jersey. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications related to hydraulic and mechanical snubbers. In particular, the principle changes involve the addition of mechanical snubbers to the snubber surveillance program and provide clarification of the inservice test requirements.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d) (4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 10,1981, (2) Amendment Nos. 40 and 5 to License Nos. DPR-70 and DPR-75, 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. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. 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 2nd day of February 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch #1, Division of Licensing.

[FR Doc. 82-3403 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 71 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment clarifies the surveillance requirements in the Technical Specifications for snubbers.

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 the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated Spetember 1, 1981, (2) Amendment No. 71 to License No. DPR-3, 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., and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. 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 3rd day of February 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82-3404 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Byron Station Units 1 and 2; Meeting

The ACRS Subcommittee on Byron Station Units 1 and 2 will hold a meeting on February 26, 1982, at the Ramada Inn, 7550 East State Street, Rockford, IL. The Subcommittee will review the application of the Commonwealth Edison Company for an operating license for Units 1 and 2. Notice of this meeting was published January 20.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981, (46 FR 47903), 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 Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, February 26, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, The Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentation by and hold discussions with representatives of the Commonwealth Edison Company, NRC Staff, there consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST

Dated: February 1, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-3406 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

State Assessment of Need for Power in Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Convening of workshop.

A workshop on forecasting electricity demand by state agencies is being held February 23, 1982 at 1717 H. Street NW, Room 1046, Washington, D.C. from 6:30 a.m. to 4:30 p.m. It is to be co-sponsored by the Nuclear Regulatory Commission and Oak Ridge National Laboratory. Analysts from state agencies who are developing need for power assessments will present forecasting models and methodologies. These analysts will then act as a panel in evaluating the appropriateness of the models for their intended uses. The workshop is part of an overall effort by the Nuclear Regulatory Commission to place substantial reliance on state assessments of need for power to fulfill NRC's NEPA responsibilities.

The public is invited to attend. A period for discussion and comments from the audience will be provided.

FOR FURTHER INFORMATION CONTACT: Darrel A. Nash, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Telephone (301) 492–9882.

Dated at Bethesda, Maryland this 3rd day of February 1982.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-3405 Filed 2-8-82; 8:45 am]

BILLING CODE 7590-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

January 19, 1982.

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 12, 1982, at 9:30 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 621, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Television Service & Repairman Apprenticeship Program, Miller TV & Electric, 12 North Summit Street, Crescent City, Florida 32012, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 19, 1982.

Carlos L. Rainwater,

Director.

[FR Doc. 82-3323 Filed 2-8-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 27
Tuesday, February 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-342, Amdt. 2]

Addition and Closure of Items to the February 4, 1982 Board Meeting

February 3, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

10. Upcoming Negotiations with Scandinavia and Canada to begin February 8 and 9, 1982, respectively (BIA)
11. Negotiations with the United Kingdom (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673–5068.

[S 192–82 Filed 2–5–82; 3:06 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M-342, Amdt. 3]

Addition to the February 4, 1982 Board Meeting

February 3, 1982.

TIME AND DATE: 10 a.m., February 4, 1982.

PLACE: Room 1027 (open), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 9a. Docket 39992, Selection of Carrier to Provide Essential Air Service to Elko and Ely, Nevada (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673–5068.

[S 193–82 Filed 2–5–82; 3:06 pm]

BILLING CODE 6320–01–M

3

CIVIL AERONAUTICS BOARD

[M-342, Admt. 4]

Closure of Item on the February 4, 1982 Board Meeting.

February 4, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 2. Docket 39634, U.S.-London Case (1982) Instructions to the Staff (OGC).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673–5068.

[S–194–82 Filed 2–5–82; 3:06 pm]

BILLING CODE 6320–01–M

4

CIVIL AERONAUTICS BOARD

[M-342, Admt. 5]

Addition and Closure of Items to the February 4, 1982 Board Meeting.

February 4, 1982.

TIME AND DATE: 10 a.m. (after open meeting) February 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

12. Informal Discussions with Italy (BIA).
13. Discussion of CAB Budget.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, *the Secretary* (202) 673–5068.

[S 195–82 Filed 2–5–82; 3:05 pm]

BILLING CODE 6320–01–M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, February 16, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Application of the Kansas City Board of Trade for designation as a contract market in the Value Line Average.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–189–82 Filed 2–5–82; 10:40 am]

BILLING CODE 6351–01–M

6

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, February 11, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 11, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW.

Agenda, Item No., Subject

General—1—*Title:* Amendment of Part 2 of the Commission's rules to add a footnote regarding Government usage in the fixed and mobile services at 14.4–14.5 GHz. *Summary:* The 14.4–14.5 GHz band is currently allocated to the non-Government fixed-satellite service and Government fixed and mobile services on a co-equal primary basis. This imposes certain constraints on the fixed-satellite service users. The Commission will consider a change to Part 2 in order to provide the non-Government fixed-satellite service priorty status.

General—2—*Title:* Rulemaking to establish minimum performance requirements for VHF maritime receivers. *Summary:* The FCC will consider whether to adopt an Order (Docket No. 20074) terminating this proceeding. FCC Industry coordination looking to development of these receiver requirements was initiated in February 1972, resulting in release of a Notice of Proposed Rule Making on June 13, 1974.

Private Radio—1—*Title:* In the matter of Amendment of Sections 90.313(c) and 90.377(b) of the Commission's Rules to eliminate the portable to vehicular mobile ratio in loading criteria for private land mobile radio systems operating above 470 MHz, RM 3965. *Summary:* The FCC has before it for consideration a Notice of Proposed Rule Making that proposes to amend Part 90 of the Commission's Rules that would treat portable transmitters as equals to mobile transmitters for loading purposes. The proceeding seeks to ascertain whether reasons exist to continue to treat them differently.

Private Radio—2—*Title:* Report and Order to provide for the use of automatic aviation weather observation systems at certain

airports. *Summary:* The FCC will consider whether to amend Part 87 to provide for the use of automatic weather observation systems at airports with neither a full-time control tower nor a full-time FAA flight service station. These automatic observation systems are designed to provide pilots with such aeronautical information as the wind, weather, visibility, altimeter setting and other pertinent information.

Private Radio—3—*Title:* Amendment of the Amateur Radio Service Rules (Part 97) regarding expansion of the telephony segments of the Amateur Radio Service high frequency (HF) bands. *Summary:* The Commission will consider whether to adopt a Notice of Inquiry and Proposed Rule Making proposing to amend Part 97 of the Rules to expand the number of frequency segments available for telephony use in the 14 MHz amateur band and inquiring into making additional frequencies available for telephony use in the other HF bands.

Private Radio—4—*Title:* Notice of Proposed Rule Making to update and codify the GMRS Rules, Part 95, Subpart A. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to update and codify the Rules for the General Mobile Radio Service.

Private Radio—*Title:* Report and Order concerning the general exemption from the radiotelegraph requirements for cargo vessels of 1600 gross tons and upward engaged on coastwise voyages. *Summary:* The Commission will consider granting a general exemption from the radiotelegraph requirements of the Communications Act to cargo ships of 1600 gross tons and upward when navigated on domestic voyages along the coasts of the contiguous 48 states. The ships will be required to have specific radiotelephone equipment for both terrestrial and satellite communications and also meet additional operational requirements.

Common Carrier—1—Application for review of Bureau's grant of Public Mobile Radio Service applications of Burlington, Brighton & Wheatland Telephone Company and other affiliate telephone companies in Wisconsin.

Common Carrier—2—Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L). In response to a Petition for Rulemaking from Mobilfone Service, Inc., the Common Carrier Bureau proposes to reduce the reporting burden associated with FCC Form L.

Common Carrier—3—*Title:* Request of Amte-Communications, Inc., for a Declaratory Ruling on the lawfulness of certain practices of American Telephone and Telegraph Company, Western Electric Company, Inc. and various Bell System Operating Companies. *Summary:* The Commission will decide (a) whether it should defer jurisdiction over local rate changes to the states; and (b) whether the local rate changes violate Part 68 of the rules.

Common Carrier—4—American Telephone & Telegraph Company *et al.* For Authority Under Section 214 of the Communications Act to Construct and Operate a Submarine Cable System (Third Florida-St. Thomas Cable) Between the Continental United States and St. Thomas, U.S. Virgin Island. (I-P-C-81-050) We are considering the aforementioned joint application for authority pursuant to Section 214 of the Communications Act of 1934 as amended to participate in the construction and operation of an approximately 3,000 circuit submarine cable (SG type—3,150 4 KHz circuits) between Florida and St. Thomas, U.S. Virgin Island. Of the 3,000 circuits, the joint applicants intend to place 1,901 in service initially to be used solely for international service.

Common Carrier—5—*Title:* Application by AT&T, ITTCIVI, ITT Worldcom, RCA Globcom, TRT, and WUI (joint applicants) for a cable landing license to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands. *Summary:* The joint applicants request a license pursuant to the provisions of 47 U.S.C. §§ 34–39 to land and operate a submarine cable between Florida and St. Thomas, U.S. Virgin Islands.

Common Carrier—6—*Title:* In the matter of National Microwave Interconnect Company's Request for Waiver and Simultaneous Consideration of Pending Applications. *Summary:* The Commission considers the request (File No. CCB-DFD-1) of National Microwave Interconnect Company to clarify the procedures to be used in deciding which Digital Electronic Message Service applications are mutually exclusive and also which applications are entitled to comparative consideration with previously filed applications.

Cable Television—1—Petitions for Issuance of Tax Certificates (CSR-1843, CSR-1945) filed November 26, 1980, and May 15, 1981, by Kansas State Network, Inc., licensee of several television broadcast stations, seeks tax certificates, pursuant to Section 1071 of the 1954 Internal Revenue Code, for divestitures of its cable television interests.

Renewal—1—*Title:* Competing applications of International Television Corporation for renewal of license of Station WEZF-TV, Burlington, Vermont and Lake Champlain Television Corporation for a construction permit. *Summary:* The Commission considers designating the mutually exclusive applications for hearing in a consolidated proceeding.

Aural—1—*Subject:* Memorandum Opinion and Order in re petition for review filed by ICBC Corporation, New York, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in declining to waive § 73.37(a) so as to accept for filing the applicant's request to change frequencies and operate on an unlimited time basis.

Aural—2—*Subject:* Memorandum Opinion and Order in re petition for review filed by Bunkfeldt Broadcasting Corp., Utica, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in returning as unacceptable for filing the applicant's request for changes in the facilities of its station WUTQ. At issue is whether § 73.37(e) should have been waived on the applicant's behalf.

Aural—3—*Title:* In re application of Portorican American Broadcasting Company, Inc. (WOQI) for improvement of its station in Ponce, Puerto Rico. *Summary:* The Commission will consider the aforementioned application and a petition by the licensee for reconsideration of a previous denial of a waiver for a short spaced transmitter site.

Television—1—*Title:* Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. *Summary:* Channel 50, Inc., licensee of WCQR (TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV-TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Television, Inc., licensee of WBFF (TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Broadcast—1—*Title:* Amendment of Part 74, Subparts D, E, F and H of the Commission's Rules to provide for short-term operation without prior FCC approval. *Summary:* The Commission will consider a *Report and Order* in BC Docket 81-497 concerning RM-3762 (Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed to operate radio relay stations for direct rebroadcast of program material) and a Commission-originated alternative which would eliminate the "120 day equipment installation requirement" in Subparts D and H of Part 74 and provide for short-term operation (up to 30 days annually per frequency) by Part 73 licensees on certain Part 74 frequencies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-197-82 Filed 2-5-82; 3:40 pm]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 11th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the February 11,

1982, Open Meeting and previously listed in the Commission's Notice of February 4, 1982.

Agenda, Item No., Subject

Television—1—*Title:* Applications for review of the Broadcast Bureau's action denying the Joint Request for Production of Documents filed by Channel 50, Inc., STVGW and New Vision, Inc. *Chesapeake Television, Inc.*, Mimeo No. 003696, released October 1, 1981. *Summary:* Channel 50, Inc., licensee of WCQR(TV), Washington, D.C., STVGW (Channel 50's STV franchisee), and New-Vision, Inc., permittee of WNUV–TV, Baltimore, Maryland, seek review of the Bureau's denial of their Joint Request for Production of Documents whereby they requested that Chesapeake Television, Inc., licensee of WBFF(TV), Baltimore, Maryland, be ordered to produce certain documents referred to by Chesapeake in its opposition to a petition to deny Chesapeake's STV proposal filed by applicants herein. The issue is whether applicants have made a showing justifying grant of their application for review.

Issued: February 5, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–198–82 Filed 2–5–82; 3:46 pm]

BILLING CODE 6712–01–M

8

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, February 11, 1982

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, February 11, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m. Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., Subject

Hearing—1—Joint request for approval of settlement agreement in the Van Buren, Arkansas, comparative FM proceeding (BC Docket Nos. 80–362 and 80–363).

Hearing—2—Application for Review of the Designation Order in the Breckenridge, Texas, FM broadcast proceeding (BC Docket Nos. 81–485 and 81–486).

Hearing—3—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III–B Maritime Mobile Radio proceeding. (PR Docket No. 78–259–60).

Hearing—4—Two applications for Review of the Review Board Decision in the Birmingham, Alabama educational FM proceeding (BC-Docket Nos. 78–61 and 78–62).

Hearing—5—Exceptions to the Initial Decision in the Simon Geller, WVCA–FM comparative renewal proceeding, Gloucester, Massachusetts (Docket Nos. 21104 and 21105).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202)254–7674.

Issued: February 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S 199–82 Filed 2–5–82; 3:46 pm]

BILLING CODE 6712–01–M

9

FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Forward to the Federal Register on Wednesday, February 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, February 10, 1982.

CHANGES IN THE MEETING: Change in the time of the above open meeting to 10:30 a.m., Wednesday, February 10, 1982.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: February 5, 1982.

James McAfee,

Assistant Secretary of the Board.

[S. 190–82 Filed 2–5–82; 10:52 am]

BILLING CODE 6210–01–M

10

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Thursday, February 4, 1982.

PLACE: NTSB Board Room, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Closed pursuant to Exemption 2 of the Government in the Sunshine Act. (5 U.S.C. 552B(c)(2)).

MATTER TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Safety Board Personnel/Program Reductions.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–382–6525.

February 4, 1982.

[S 187–82 Filed 2–5–82; 10:20 am]

BILLING CODE 4910–58–M

11

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 8, 1982 and Week of February 15, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Tuesday, February 9:

2:00 p.m.:
Discussion of Phase II of Diablo Canyon Report (open/closed status to be determined) (as announced)

Thursday, February 11:

10:00 a.m.:
Briefing by Regulatory Reform Task Force (public meeting)

3:00 p.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Revised General Statement of Policy and Procedure for Enforcement Actions
b. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations
c. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 4)
d. Amendments to Parts 1 and 2 to Implement the Commission's Delegation of OL Antitrust Determination to Directors of NRR and NMSS (postponed from February 4)
e. Commission Order re Hearing Requests of City of West Chicago (Tentative)

Friday, February 12:

2:30 p.m.:
Discussion of Clinch River Breeder Reactor (open-closed status to be determined)

Tuesday, February 16:

10:00 a.m.:
Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting)

2.00 p.m.
Continuation of Oral Presentations on Exemption Request for Clinch River Breeder Reactor (public meeting)

Friday, February 19:

10:00 a.m.
Presentation by GE on BWR Mark III Containment Design Basis (public meeting)

2:00 p.m.
Affirmation-Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Proposed Rule Change on Technical Specifications

b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System
c. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualifications for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance

ADDITIONAL INFORMATION: Affirmation of Diablo Canyon Physical Security—Governor Brown's Request for Public Disclosure of Non-Protected Information, scheduled for February 4, was cancelled. By a vote of 5–0 on February 4, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules, that Commission business required that affirmation and/or discussion of Proposed Policy Statement on Safety Goals for Nuclear Power Plants and Revised General Statement of Policy and Procedure for Enforcement Actions, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S-196-82 Filed 2-5-82; 3:13 am]
BILLING CODE 7590-01-M

12

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Wednesday, February 17, 1982 at 9:00 a.m. (Closed Portion); 10:15 a.m. (Open Portion).

PLACE: Offices of the Corporation. Seventh floor Board Room; 1129 20th Street N.W., Washington, D.C.

STATUS: The first part of the meeting from 9:00 a.m. to 10:15 a.m. will be closed to the public. The open portion of the meeting will start at 10:15 a.m.

MATTERS TO BE CONSIDERED: (Closed to the Public: 9:00 a.m. to 10:15 a.m.):

1. OPIC Internal Criteria and Procedures to Comply with Statutory Performance Requirement Provisions.
2. Coverage of Contractors' Risks.
3. Insurance for Projects in East Asian Country.
4. Insurance Project in Middle Eastern Country.
5. Insurance Project in Middle Eastern Country.
6. Insurance Project in East Asian Country: Amendment.
7. Claims Report.
8. Information Reports: General.
9. Information Reports: Project Status.

FURTHER MATTERS TO BE CONSIDERED: (Open to the Public: 10:15 a.m.):

1. Approval of the Minutes of the Previous Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Investment Encouragement Program.
4. Presentation of Marketing Department Plans.
5. OPIC Budget: Proposed for FY 1983 and Amended to FY 1982: Status report.
6. Financial Statements for the Three Months Ended December 31, 1981.
7. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2925.

Elizabeth A. Burton,
Corporate Secretary.

February 5, 1982.

[S 194-82 Filed 2-5-82; 11:32 a.m.]
BILLING CODE 3210-01-M

13

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 4388, January 29, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 26, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, February 4, 1982, following the 3:30 p.m. open meeting:

Consideration of amicus participation.
Regulatory matter regarding financial institution.
Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

February 4, 1982.

[S 188-82 Filed 2-5-82; 10:27 am]
BILLING CODE 8010-01-M

federal register

Tuesday
February 9, 1982

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Deep Seabed Mining Regulations for Exploration Licenses; Procedures for Pre-enactment Explorer Applications and New Entrant Applications

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses; Correction

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Final rules; correction.

SUMMARY: This document corrects typographical errors in the final rules on deep seabed mining that appeared in the Federal Register of Tuesday, September 15, 1981, (46 FR 45890). This document also amends Subparts X and Z of 15 CFR Part 970 originally published at 45 FR 76661, November 20, 1980 to conform to the final rules published on September 15, 1981 because the definitions and confidentiality of information provisions in the September 15, 1981 rules supersede similar provisions in the November 20, 1980 rules.

DATE: These corrections become effective upon February 9, 1982.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, Telephone: (202) 653–7695.

Dated: February 4, 1982.

John V. Byrne,

Administrator.

(30 U.S.C. 1401 *et seq.*)

Accordingly, the following corrections are made in 15 CFR Part 970, appearing at 46 FR 45890, September 15, 1981:

1. On page 45896, in § 970.100(c)(1), "incorparate" in the first sentence is corrected to read: "incorporate".

2. On page 45901, in § 970.208(b), "payable to the National Oceanic and Administration" is corrected to read: "payable to the National Oceanic and Atmospheric Administration".

3. On page 45901, at the end of § 970.210, "this subpart" is corrected to read "§§ 970.201 through 970.208".

4. On page 45905, in § 970.512(a)(1), "recongized" is corrected to read: "recognized".

5. On page 45905, in § 970.512(b), "recipient of notice of proposed modification" is corrected to read: "receipt of notice of proposed modification."

6. On page 45915, in § 970.1002(f), "Ex parte communications subject in . . ." in § 970.1002(f), is corrected to read: "Ex parte communications subject to . . .".

The following conforming amendments are made in 15 CFR Part 970, Subparts X and Z:

§ 970.2401 [Amended]

1. Section 970.2401 is amended by:

(a) removing §§ 970.2401(a), (b), (c), (e), (f), and (g); and

(b) renumbering § 970.2401(d) as § 970.2401(a).

§ 970.2602 [Removed]

2. Section 970.2602 is removed.

[FR Doc. 82-3426 Filed 2-8-82; 8:45 am]

BILLING CODE 3510-12-M

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses—Procedures for Pre-enactment Explorer Applications and New Entrant Applications

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Final rules.

SUMMARY: On September 15, 1981, at 46 FR 45890, the National Oceanic and Atmospheric Administration (NOAA) issued regulations, effective October 15, 1981, to implement certain provisions of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283, "the Act"). At that time, however, NOAA reserved Subpart C of the regulations, which sets forth the dates on which applications will be accepted, certain procedures unique to applications filed by U.S. citizens who were engaged in deep seabed mining exploration prior to enactment of the Act and procedures for resolving conflicts resulting from multiple applications for the same area of the deep seabed. NOAA had previously included Subpart C in its proposed rules and had received public comment on these rules, but the agency wanted to ensure that the final regulations would be compatible with the equivalent concepts and procedures being considered by other seabed mining nations likely to become reciprocating states under section 118 of the Act. NOAA has concluded that such compatibility exists, and therefore issues the following final rules, subject to the possibility that amendments to these rules may be necessary if international agreements undertaken for the purpose of reciprocating state designation are amended.

DATE: These rules become effective February 9, 1982.

ADDRESS: Inquiries should be directed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235, Telephone: (202) 653–7695.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, Telephone: (202) 653–7695.

SUPPLEMENTARY INFORMATION: This Subpart C sets forth procedures pursuant to which: (1) pre-enactment explorers (i.e., U.S. citizens engaged in exploration for deep seabed hard minerals prior to the date of enactment of the Act, or June 28, 1980) will apply for licenses to continue exploration under the terms of the Act; (2) new entrants will apply for exploration licenses; and (3) conflicts which may be created by multiple applications referring to the same area of the deep seabed will be resolved. NOAA issued these rules in proposed form on March 24, 1981, and invited public comment (46 FR 18448). A number of comments were submitted on the proposed Subpart C.

With respect to resolving conflicts among pre-enactment explorers' applications, the primary thrust of the comments was that NOAA should assure that the domestic procedures in these rules and comparable procedures agreed to among reciprocating states should be conformed in essential respects. NOAA agrees, and Subpart C of the proposed regulations has been amended to reflect concepts and procedures that have evolved from U.S. negotiations with prospective reciprocating states. Thus, there is now a voluntary amendment period of approximately 3 months in which the pre-enactment explorer applicants may resolve a conflict among original applications and obtain a pre-enactment explorer priority of right for amendments resolving conflicts.

A commentor suggested that the regulations either limit the total number of applications or total area for which an applicant may apply, or alternatively, grant one logical mining unit for each pre-enactment explorer before recognizing a second for any of them. However, NOAA believes that the Act does not provide legal authority for either approach.

With respect to processing those portions of applications not in conflict, NOAA has incorporated the suggestion that the applicant need not state that loss of the area in conflict will not materially affect his ability to carry out his exploration plan; the applicant need only indicate that he will continue to seek a license for such proposed exploration activities in the part of the application area that is not in conflict.

In response to several comments, NOAA has deleted the specific reference to the possibility of resolution of conflicts by subunits.

With respect to the application of principles of equity to resolve conflicts among U.S. pre-enactment explorer applications, NOAA has accepted the suggestion to drop the distinction between primary and secondary equities. As for the date at which equities cease to accrue, the regulations specify a cut-off as of January 1, 1982, provided that the applicant must prove at-sea activities in the conflict area prior to June 28, 1980. Also, in response to comments, the reference to applying discount rates to account for funds expended in different years has been changed to terms of constant dollars.

Finally, in response to a comment, the regulations now specify that the applicants may settle a dispute voluntarily at any time while the conflict persists, i.e., prior to the Administrator's decision in the case of a domestic conflict or, in the case of an international conflict, prior to the decision of the arbitral tribunal. This settlement could take a variety of relevant forms, including formation of a joint venture.

These regulations also establish June 30, 1982, as the initial date for the filing of applications by new entrants. Procedures for resolution of conflicts arising from new entrant applications are set forth in § 970.303.

These regulations supersede the Subpart C rules published at 47 FR 3762 (January 27, 1982).

NOAA hereby advises prospective applicants and other interested persons of the possibility that NOAA may find it necessary to amend these regulations, including the deadline for filing pre-enactment explorer applications, if certain provisions of agreements that have been negotiated with prospective reciprocating states are amended.

Classification Under Executive Order 12291

NOAA determined that the overall regulations for deep seabed mining exploration should be considered as major under Executive Order 12291 of February 17, 1981, because they will foster and govern development of the United States deep seabed mining industry. Thus, NOAA prepared a final regulatory impact analysis for the regulations, pursuant to section 3 of the Executive Order, which was transmitted to the Office of Management and Budget. The Administrator of NOAA determined that these final rules are clearly within the authority delegated by law and are consistent with Congressional intent. The rules are authorized by section 308 of the Act, and respond to specific provisions of requirements found in sections 101 through 118 of Title I of the Act.

Since the final regulatory impact analysis has already considered the criteria and procedures relating to pre-enactment explorers found in Subpart C and since Subpart C is only a small part of the deep seabed mining regulations, NOAA further has determined that, under the criteria in section 1(b) of the Executive Order, this Subpart C, alone, is not a major regulation.

The final regulatory impact analysis was done in such a way as to include a final regulatory flexibility analysis as required by the Regulatory Flexibility Act, Pub. L. 96-354. Copies of the analysis may be obtained by writing to the Director, Office of Ocean Minerals and Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

Paperwork Reduction Act, Pub. L. 96-511

Because of the limited number of persons initially subject to the regulations (historically there have been four consortia with U.S. companies participating which are involved in deep seabed mining development, and these four are expected to apply to NOAA for exploration licenses), NOAA believes the regulations do not contain "collection of information" requests within the meaning of 44 U.S.C. 3502(4) and 3502(11). Accordingly, § 970.906 of the final regulations, issued on September 15, 1981, contains a statement that the information requested is not subject to the requirements of 44 U.S.C. 3507. NOAA plans to review these regulations periodically, and to revise them if necessary based on that review. During the review, or earlier if necessary, NOAA will review its projections of the expected number of license applications and take any actions necessary under the Paperwork Reduction Act on that basis.

Environmental Impact Statement

Pursuant to section 109(c) of the Act and the National Environmental Policy Act of 1969, NOAA has prepared a final programmatic environmental impact statement (PEIS) assessing the environmental impacts of exploration and commercial recovery in the area of the oceans in which such activities by any United States citizen will likely first occur under the authority of the Act. The PEIS has been filed with the Environmental Protection Agency. Copies may be obtained by writing the Director, Office of Ocean Minerals and Energy, NOAA, at the address specified in the ADDRESS section of this preamble.

Effective Date

In order that U.S. pre-enactment explorers be allowed to file applications in a timely manner compared to pre-enactment explorers filing applications with foreign governments likely to become reciprocating states under section 118 of the Act, and in order to allow compatibility with the schedule for processing pre-enactment explorer applications as agreed to by the United States Government and the governments of prospective reciprocating states, and for other foreign policy reasons, procedures in this Subpart C must become effective immediately. Accordingly, NOAA finds that good cause exists under 5 U.S.C. 553(d) to make these regulations effective February 9, 1982.

Accordingly, several sections of Title 15, Part 970 of the Code of Federal Regulations are amended to incorporate clarifications that will apply to applications submitted pursuant to Subpart C. Also, Subpart C of Part 970, as published at 47 FR 3762 (January 27, 1982), is revoked, and a new text for Subpart C is issued. The text of the changes to Part 970 follows:

Dated: February 4, 1982.

John V. Byrne,

Administrator.

(30 U.S.C. 1401 et seq.)

PART 970—DEEP SEA MINING REGULATIONS FOR EXPLORATION LICENSES

1. Section 970.101(m) is revised to read as follows:

§ 970.101 Definitions.

* * * * *

(m) "New entrant" means any applicant, with respect to:

(1) Any application which has not been accorded a pre-enactment explorer priority of right under § 970.301; or

(2) Any amendment which has not been accorded a pre-enactment explorer priority of right under § 970.302.

§ 970.200 [Amended]

* * * * *

2. Section 970.200(b) is amended by adding the following sentence to the end of paragraph (b): "The Administrator may waive, in whole or in part, at his discretion, the requirement that 30 copies of an application be filed with NOAA."

§ 970.208 [Amended]

* * * * *

3. Section 970.208(b) is amended by adding at the end of the sentence the following: "If an applicant elects to pursue the 'banking' option under § 970.601(d), and exercises that option by submitting two applications, only one application fee needs to be submitted with respect to each use of the 'banking' option."

4. Section 970.601(d) is revised and a new paragraph (c) is added to read as follows:

§ 970.601 Logical Mining Unit.

* * * * *

(d) At the applicant's option, for the purpose of satisfying a possible obligation under a future Law of the Sea Treaty, the applicant may propose an exploration area which includes two exploration logical mining units. The applicant should specify in the application if this "banking" option is chosen, and any applicant choosing this option and filing an application based on pre-enactment exploration under § 970.301 shall so notify the Administrator in accordance with § 970.301(g).

(e) Applicants are advised that NOAA will not accept an application or issue a license for an exploration area larger than 150,000 square kilometers unless the applicant can demonstrate the necessity of a larger area based on factors such as topography, nodule abundance, distribution and ore grade. If the applicant elects to pursue the "banking" option described in paragraph (d) above, and wishes to apply for an exploration area larger than 150,000 square kilometers, the applicant must file a second application with respect to at least the area in excess of 150,000 square kilometers, unless the applicant justifies such excess area as part of a single application under the preceding sentence.

6. The table of contents to Part 970 is amended by removing the heading for Subpart C and the term "[Reserved]", and inserting instead the following:

* * * * *

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

Sec.

970.300 Purposes and definitions.
970.301 Requirements for applications based on pre-enactment exploration.
970.302 Procedures and criteria for resolving conflicts.
970.303 Procedures for new entrants.
970.304 Action on portions of applications or amendments not in conflict.

7. Subpart C of Part 970 is added to read as follows:

Subpart C—Procedures for Applications Based on Exploration Commenced Before June 28, 1980; Resolution of Conflicts Among Overlapping Applications; Applications by New Entrants

§ 970.300 Purposes and definitions.

(a) This subpart sets forth the procedures which the Administrator will apply to applications filed with NOAA covering areas of the deep seabed where the applicants have engaged in exploration prior to June 28, 1980, and to the resolution of conflicts arising out of such applications. This subpart also establishes the date on which NOAA will begin to accept applications or amendments filed by new entrants, and certain other procedures for new entrants.

(b) For the purposes of this subpart, the term:

(1) "Amendment" means an amendment to an application which changes the area applied for;

(2) "Application" means an application for an exploration license which is filed pursuant to the Act and this subpart;

(3) "Conflict" means the existence of more than one application or amendment with the same priority of right:

(i) Which are filed with the Administrator or with the Administrator and a reciprocating state; and

(ii) In which the deep seabed areas applied for overlap in whole or part, to the extent of the overlap;

(4) "Original conflict" means a conflict solely between or among applications;

(5) "New conflict" means a conflict between or among amendments filed after March 25, 1982, and on or before June 18, 1982;

(6) "Domestic conflict" means a conflict solely between or among applications or amendments which have been filed with the Administrator;

(7) "International conflict" means a conflict arising between or among applications or amendments filed with the Administrator and a reciprocating state.

§ 970.301 Requirements for applications based on pre-enactment exploration.

(a) Pursuant to section 101(b) of the Act, any United States citizen who was engaged in exploration before the effective date of the Act (June 28, 1980) qualifies as a pre-enactment explorer and may continue to engage in such exploration without a license:

(1) If such citizen applies under this part for a license with respect to such exploration within the time period specified in paragraph (b) of this section; and

(2) Until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(b) Any application for a license based upon pre-enactment exploration must be filed, at the address specified in § 970.200(b), no later than 5:00 p.m. EST on February 19, 1982 (or such later date and time as the Administrator may announce by regulation). All such applications filed at or before that time will be deemed to be filed on such closing date.

(c) Applications not filed in accordance with this section will not be considered to be based on pre-enactment exploration, and may be filed only as new entrant applications under § 970.303.

(d) To receive a pre-enactment explore priority of right for issuance of a license, an application must be, when filed, in substantial compliance with requirements described in § 970.209(b). An application which is in substantial but not full compliance will not lose its priority of right if it is brought into full compliance according to § 970.210.

(e) Any application based on pre-enactment exploration must be for a reasonably compact area with respect to which the applicant is a pre-enactment explorer, and, notwithstanding any part of § 970.601 which indicates otherwise, such area must be bounded by a single continuous boundary.

(f) The coordinates and any chart of the logical mining unit applied for in an application based on a pre-enactment exploration must be submitted in a separate, sealed envelope.

(g) On or before February 18, 1982, the applicants must indicate to the Administrator, other than in the sealed portion of the application: (1) The size of

the area applied for; (2) Whether the applicant or any person on the applicant's behalf has applied, or intends to apply, for the same area or substantially the same area to one or more nations, and the number of such other applications; and (3) Whether the applicant is pursuing the "banking" option under § 970.601(d), and the number of applications filed, or to be filed, in pursuit of the "banking" option.

§ 970.302 Procedures and criteria for resolving conflicts.

(a) *General.* This section governs the resolution of all conflicts between or among applications or amendments having pre-enactment explorer priority of right.

(b) *Identification of applicants.* On February 22, 1982, the Administrator will meet with representatives of reciprocating states to identify their respective pre-enactment explorer applicants, and the coordinates of the application areas applied for by such applicants.

(c) *Initial processing.* On or before March 16, 1982, the Administrator will determine whether each domestic application is entitled to a priority of right based on pre-enactment exploration in accordance with § 970.301.

(d) *Identification of conflicts.* On March 17, 1982, the Administrator will meet with representatives of reciprocating states to exchange lists of applications accorded pre-enactment explorer priorities of right, and to identify any conflicts existing among such applications.

(e) *Notification to applicants of conflicts.* If the Administrator identifies a conflict, he will send, no later than March 25, 1982, written notice of the conflict to each domestic applicant involved in the conflict. The notice will:

(1) Identify each applicant involved in the conflict in question;

(2) Identify the coordinates of the portions of the application areas which are in conflict;

(3) Indicate that the applicant may request from the Administrator the coordinates of the application areas from any other applications filed with the Administrator or with a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(4) State whether:

(i) Each domestic application involved in the conflict is in substantial or, if known, full compliance with the requirements described in § 970.209(b); and

(ii) Each foreign application involved in the conflict meets, if known, the legal requirements of the reciprocating state in which it is filed;

(5) Notify each domestic applicant involved in a conflict that he may, after March 25, 1982, and on or before July 20, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after July 21, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(6) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(f) *Voluntary resolution of conflicts.* Each U.S. applicant involved in a conflict may resolve the conflict after March 25, 1982, and on or before July 20, 1982, by:

(1) Unilaterally, or by agreement with each other applicant involved in the conflict, filing an amendment to the application eliminating the conflict; or

(2) Agreeing in writing with the other applicant(s) involved in the conflict to submit it to an agreed binding conflict resolution procedure.

(g) *Amendments.*—(1) Amendments must be filed in accordance with the requirements for applications described in § 970.200.

(2) The Administrator will:

(i) Accept no amendment prior to March 26, 1982;

(ii) Accord pre-enactment explorer priority of right only to amendments which:

(A) Pertain to areas with respect to which the applicant has engaged in pre-enactment exploration;

(B) Resolve an existing conflict with respect to that application;

(C) Do not apply for an area included in an application filed pursuant to § 970.301 which is accorded pre-enactment explorer priority of right or an application identified pursuant to § 970.302(b) which has been filed with a reciprocating state; and

(D) Are filed on or before June 18, 1982; and

(iii) Accord amendments which meet the requirements of this paragraph (g) the same priority of right as the applications to which they pertain.

(3) The area applied for in an amendment need not be adjacent to the area applied for in the original application.

(4) Amendments not accorded pre-enactment explorer priority of right may be filed as new entrant amendments under § 970.303.

(h) *Notification of amendments and new conflicts.* The Administrator will:

(1) No later than June 28, 1982, notify each reciprocating state of any amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section and, in cooperation with such states, identify any new conflicts;

(2) No later than June 30, 1982, notify each domestic applicant who is involved in a new conflict. The notice will:

(i) Identify each applicant with whom each new conflict has arisen;

(ii) Identify the coordinates of each area in which the applicant is involved in a new conflict;

(iii) Indicate that the applicant may request from the Administrator the coordinates of each area included in an amendment accorded pre-enactment explorer priority of right pursuant to paragraph (g) of this section, or for which notice has been received from a reciprocating state (such coordinates will be provided subject to appropriate confidentiality arrangements);

(iv) Notify the applicant that he may, on or before July 20, 1982, resolve the conflict voluntarily according to paragraph (f) of this section, and that on or after July 21, 1982, any unresolved conflict shall be resolved in accordance with paragraph (j) or (k) of this section, as applicable; and

(v) In the case of an international conflict, include a copy of any applicable conflict resolution procedures in force between the United States and its reciprocating states pursuant to section 118 of the Act.

(i) *Government assistance in resolving international conflicts.* If, by June 29, 1982, the applicants have not resolved, or agreed in writing to a specified binding procedure to resolve, an original international conflict, or new international conflict, the Administrator, the Secretary of State of the United States, and appropriate officials of the government of the reciprocating state to which the other applicant involved in the conflict applied will use their good offices to assist the applicants to resolve the conflict. After July 20, 1982, any unresolved international conflicts will be resolved in accordance with paragraph (k) of this section.

(j) *Unresolved domestic conflicts.*—(1) *Procedure.*

(i) In the case of an original domestic conflict or a new domestic conflict, the applicants will be allowed until December 31, 1982 to resolve the conflict or agree in writing to submit the conflict to a specified binding conflict resolution procedure. If, by December 31, 1982, all applicants involved in an original or new domestic conflict have not resolved that conflict, or agreed in writing to

submit the conflict to a specified binding conflict resolution procedure, the conflict will be resolved in a formal hearing held in accordance with Subpart J of this part, except that:

(A) The General Counsel of NOAA will not, as a matter of right, be a party to the hearing; however, the General Counsel may be admitted to the hearing by the administrative law judge as a party or as an interested person pursuant to § 970.1001 (f)(2) or (f)(3); and

(B) The administrative law judge will take such actions as he deems necessary and appropriate to conclude the hearing and transmit a recommended decision to the Administrator in an expeditious manner.

(ii) Notwithstanding the above, at any time on or after July 21, 1982, and on or before December 30, 1982, the applicants involved in the conflict may, by agreement, request the Administrator to resolve the conflict in a formal hearing as described above.

(2) *Decision principles for NOAA formal conflict resolution.*

(i) The Administrator shall determine which applicant involved in a conflict between or among pre-enactment explorer applications or amendments shall be awarded all or part of each area in conflict.

(ii) The determination of the Administrator shall be based on the application of principles of equity which take into consideration, with respect to each applicant involved in the conflict, the following factors:

(A) The continuity and extent of activities relevant to each area in conflict and the application area of which it is a part;

(B) The date on which each applicant involved in the conflict, or predecessor in interest or component organization thereof, commenced activities at sea in the application area;

(C) The financial cost of activities relevant to each area in conflict and to the application area of which it is a part, measured in constant dollars;

(D) The time when the activities were carried out, and the quality of the activities; and

(E) Such additional factors as the Administrator determines to be relevant, but excluding consideration of the future work plans of the applicants involved in any conflict.

(iii) For the purposes of this paragraph (j), the word "activities" means the undertakings, commitments of resources investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of hard mineral resources and to the determination of the technical and economic feasibility of commercial recovery.

(iv) When considering the factors specified in paragraph (j)(2)(ii), the Administrator shall hear, and shall (except for purposes of apportionment pursuant to paragraph (j)(2)(v) of this section) limit his consideration to, all evidence based on the activities specified in paragraph (j)(2)(ii) which were conducted on or before January 1, 1982, provided however that an applicant must prove at-sea activities in the area in conflict prior to June 28, 1980, as a pre-condition to presentation of further evidence to the Administrator regarding activities in the area in conflict.

(v) In making his determination, the Administrator may award the entire area in conflict to one applicant involved in the conflict, or he may apportion the area among any or all of the applicants involved in the conflict. If, after applying the principles of equity, the Administrator determines that the area in conflict should be apportioned, the Administrator shall (to the maximum extent practicable consistent with the Administrator's application of the principles of equity) apportion the area in a manner designed to satisfy the plan of work set forth in the application of each applicant which is awarded part of the area.

(vi) Each applicant involved in the conflict must file an amendment to its application if necessary to implement the determination made by the Administrator.

(k) *Unresolved international conflicts.*—(1) If, by July 21, 1982, all applicants involved in an original or new international conflict have not resolved that conflict, or agreed in writing to submit the conflict to a specified binding conflict resolution procedure, the applicants shall proceed in accordance with the conflict resolution procedures agreed to between the United States and its reciprocating states pursuant to section 118 of the Act.

(2) Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

(l) *Continued opportunity for voluntary resolutions.* Each applicant may resolve any conflict by voluntary procedures at any time while that conflict persists.

(m) *Effect on priorities of new entrants.*—(1) A pre-enactment explorer is entitled to a priority of right over a new entrant for any area in which the pre-enactment explorer has engaged in exploration prior to June 28, 1980 if, with respect to that area, the pre-enactment explorer files an application in accordance with this part on or after January 25, 1982 and on or before the closing date for pre-enactment explorer applications established under § 970.301(b).

(2) Any amendment which is filed by a pre-enactment explorer on or before June 18, 1982, relates back to the date of filing of the original application and shall give the pre-enactment explorer priority of right over all new entrants if the amendment is accorded a pre-enactment explorer priority of right under paragraph (g) of this section.

§ 970.303 Procedures for new entrants.

(a) *Filing of new entrant applications or amendments; priority of right.* New entrant applications or amendments must be filed in accordance with § 970.200. A new entrant may file an application or amendment only at or after 1500 hours G.m.t. (11:00 a.m. EDT) June 30, 1982. All applications or amendments filed at that time shall be deemed to be filed simultaneously, and, if in accordance with § 970.209, shall have priority of right over any application or amendment filed subsequently. Priority of right for any application or amendment filed after that time will be established as described in § 970.209.

(b) *Conflicts.*—(1) If a domestic conflict exists between or among new entrant applications or amendments, the applicants involved in the conflict shall resolve it.

(2) If an international conflict exists between or among new entrant applications or amendments, the conflict shall be resolved in accordance with applicable conflict resolution procedures agreed to between the United States and its reciprocating States pursuant to section 118 of the Act. The Administrator will provide each domestic applicant involved in an international conflict a copy of any such procedures in force when the Administrator issues notice to the applicant that an international conflict exists. Each applicant whose application is involved in an international conflict shall be responsible for actions required in the conduct of the conflict resolution procedures, including bearing a proportional cost of implementing the procedures, representing himself in any proceedings, and assisting in the selection of arbitrators if necessary.

§ 970.304 Action on portion of applications or amendments not in conflict.

If an applicant so requests, the Administrator will proceed in accordance with this part to review that portion of an area included in an application or amendment that is not involved in a conflict. However, the Administrator will proceed with such review only if the applicant advises the Administrator in writing that the applicant will continue to seek a license for the proposed exploration activities in the portion of the application area that is not in conflict. To the extent practicable, the deadlines for certification of an application or amendment and issuance of a license provided in § 970.400 and § 970.500, respectively, will run from the date of filing of the original application."

[FR Doc. 82-3428 Filed 3-8-82; 8:45 am]

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Tuesday
February 9, 1982

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention: Meeting and Hearings on 1982 Program Priorities; Formula Grants for Juvenile Justice: Hearings and Request for Comments on Proposed Implementation of Valid Court Order Amendment

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet on Monday, March 15, 1982, in the Hubert H. Humphrey Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. The meeting will be open to the public and will begin at 9:00 a.m.

This meeting will feature a presentation and discussion of research concerning Native American Youth. Immediately following this meeting, the public hearing to obtain comments concerning the Coordinating Council program recommendations and priorities for 1982 is scheduled.

For further information, contact Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, N.W., Room 442, Washington, D.C. 20531, Telephone: (202) 724-7751.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-3178 Filed 2-8-82; 8:45 am]

BILLING CODE 4410-18-M

Coordinating Council on Juvenile Justice and Delinquency Prevention; Program Priorities 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice.

ACTION: Comments and public hearings on proposed Coordinating Council program priorities for 1982.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention, an interagency Cabinet level organization of the Federal government (See Supplementary Information, Section I), is requesting comments from State and local officials, private and public youth-serving organizations, other interest groups and private citizens on the substantive priorities and recommendations under Council consideration for action during 1982. The four priority areas under consideration are: Schools and Delinquency, Substance Abuse, Treatment Alternatives, and Youth Development. Precis of the issue papers summarizing the literature and Federal involvement, along with draft recommendations for Council action in each of the areas, are presented under Supplementary Information (Section II A-D). Complete issue papers are available from OJJDP upon request.

Results of the hearings and written comments will be presented in a report to the Council at its April 1982 meeting, at which time priorities and recommendations for Council actions beginning in 1982 will be established. The findings and recommendations will become part of the Council's workplan. Findings from the hearing and written comments will be included in the Sixth Analysis and Evaluation of Federal Delinquency Programs that is presented annually to the President and Congress.

Interested parties are urged to provide either written comments and/or oral testimony at either of the two hearings in Washington, D.C. or Denver, Colorado.

DATES: Requests to testify must be communicated to OJJDP in writing by February 22, 1982. Written comments or copies of testimony may be submitted at the hearing or mailed to OJJDP and received on or before March 4, 1982, in order ensure consideration. Public hearings will be held in Washington, D.C. on March 15 and 16, 1982; beginning at 10:00 a.m. on March 15 and at 9:00 a.m. on March 16th. Hearings will also be held in Denver, Colorado on March 22 and 23, 1982. These hearings will begin at 9:00 a.m. OJJDP will be responsible for scheduling the time and length of individual testimony.

Locations

Public hearings held on March 15th and 16th will be held in the Department of Health and Human Services' Hubert Humphrey Building, 200 Independence Avenue, S.W., in the Hubert H. Humphrey Auditorium, Washington, D.C.

The March 22nd and 23rd public hearings will held in Denver, Colorado at the Federal Office Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

Procedure

The Coordinating Council on Juvenile Justice and Delinquency Prevention invites all interested parties to comment on the priorities and recommendations under consideration for action by the Coordinating Council beginning in 1982.

Persons can comment on the priorities and recommendations by presenting written and/or oral testimony. All persons intending to provide oral testimony must make their intention known to OJJDP by February 22, 1982. Intent to present oral testimony may be communicated in writing or by phone to the contact person noted below. Your intent letter should include the location you would like to present your testimony. Persons desiring to submit written comment only will have until March 24, 1982 to do so. Persons presenting written comments or testimony should supply five (5) copies. Notice of intent to testify, as well as written comments, should be communicated to William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 442, Washington, D.C., 20531, 202/724-7751.

OJJDP will notify all persons requesting to provide oral testimony of the date, time, location, and length of time allocated for their testimony by March 1, 1982. Because the Office is conducting two sets of hearings (Valid Court Order and Coordinating Council), we will, where possible, schedule those organizations desiring to make presentations on both issues on the second day of the Coordinating Council hearings.

Conduct of Hearings

Mr. Charles A. Lauer, Acting Administrator of OJJDP, or his designee, will preside at the hearings. Appropriate Coordinating Council members or staff may join Mr. Lauer to form a panel. This will not be a judicial or evidentiary-type hearing and there will be no cross-examination. However, if time permits, clarifying questions or discussion may follow a presentation.

Any person who wishes to have a question answered at the hearing may submit the question in writing at the registration desk. The presiding official will determine whether the question is relevant and whether time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding official.

A transcript of the hearings will be made. The entire record of the hearings, including the transcript, will be retained by OJJDP and made available to the public. Any person may purchase a copy of the transcript from the reporter.

FOR FURTHER INFORMATION CONTACT:

Mr. William Modzeleski, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 633 Indiana Avenue, N.W., Room 442, Washington, D.C. 20531, 202/724-7751.

SUPPLEMENTARY INFORMATION:

I. Background on Federal Coordinating Council

II. Program Priority Areas and Recommendations for Consideration

A. Schools and Delinquency

B. Substance Abuse
C. Treatment Alteratives
D. Youth Development

I. Background on Federal Coordinating Council

The Coordinating Council on Juvenile Justice and Delinquency Prevention was established by Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415) as amended by the Juvenile Justice Amendments of 1980 (Pub. L. 96–509). The Council is charged with the responsibility "to coordinate all Federal juvenile delinquency programs." The Council is an independent organization in the Executive branch of the Federal government. It provides a central focus to the delinquency prevention and control efforts of the myriad of Federal justice, human services, education, and other programs.

The Council is composed of the Attorney General; the Secretary of Health and Human Services; Secretary of Labor; Secretary of Education; Secretary of Housing and Urban Development; the Director of the Office of Drug Policy; ACTION; Bureau of Prisons (Justice); Commissioner of the Bureau of Indian Affairs (Interior); Director for the Office of Special Education and Rehabilitation Services (Education); Commissioner for the Administration of Children, Youth, and Families (HHS); Director of the Youth Development Bureau (HHS); Director of the Office of Justice Assistance, Research and Statistics; Administrator of the Law Enforcement Assistance Administration; Administrator of OJJDP; Deputy Administrator of the Institute for Juvenile Justice and Delinquency Prevention; and Director of the National Institute of Justice; and representatives of other such agencies as the President shall designate. Membership of the Coordinating Council was significantly increased with passage of the 1980 amendments. The Attorney General serves as Chair of the Council; the Administrator of OJJDP serves as Vice-chair and acts as Chair in the absence of the Attorney General.

The Council's statutory obligations under the JJDP Act are:

1. The Council must meet at least quarterly. (Section 206(d))

2. The Council must "make recommendations to the President and to the Congress at least annually with respect to the coordination of overall policy and development of objections and priorities for all Federal juvenile delinquency programs and activities." As a part of this requirement, the Council is specifically authorized to review the degree to which Federal agencies expend funds in a manner that is consistent with the provisions of the JJDP Act concerning status offenders and the separation of juveniles from adults in corrections institutions. "The Council shall review, and make recommendations with respect to any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented by the Council." (Section 206(c))

3. The Council is to assist and advise the Administrator of OJJDP in his or her responsibilities for implementing overall policy and developing objectives and priorities for all Federal deliquency efforts. Specifically, the Council is to assist the Administrator in developing an "annual analysis and evaluation" of and a "comprehensive plan" for all Federal juvenile deliquency programs. Recommendations in the plan are to address "modifications in organization, management, personnel, standards, budget requests, and implementation plans." The President is required to respond to these recommendations within 90 days by submitting a detailed report to the Congress and to the Council.

4. The Council shall receive annually from each Federal agency which administers a juvenile deliquency program, a "juvenile justice development statement which shall include an analysis of the extent to which the juvenile justice programs of the agencies submitting such a statement conforms and further Federal juvenile deliquency prevention treatment goals and policies" (Section 204(1)1–3.)

The Juvenile Justice Amendments of 1980, made several statutory changes in the Council's mandate. These amendments added nine new subcabinet members to the Council; required the Council to report to the Congress, as well as to the President; required review by the Council of joint funding proposals involving the Office of Juvenile Justice and Delinquency Prevention; required meetings at least quarterly rather than four times a year; and required, rather than permitted, personnel and staff support for Council activities, up to a maximum authorization of $500,000 annually.

The Coordinating Council held four meetings in 1981. It began to develop an agenda for 1982 and assumed an active role in issues such as serious and violent juvenile crime; service needs of Native American youth; and research and development, technical assistance and training priorities of Council member agencies for fiscal 1982. With continued strong leadership, the commitment of the statutory Council members, and continued staff support, the Council is in a position to achieve many of the goals that Congress and the Council members have set. These goals include:

- Develop a consistent Federal posture toward juvenile justice and delinquency prevention that can quide future development of Federal youth programs;
- Focus Federal efforts on effective approaches and eliminate ineffective programs;
- Enhance the sharing of knowledge about effective approaches among existing Federal programs;
- Assess the need to modify, consolidate, or eliminate existing programs or create new ones;
- Reduce duplication and conflict among Federal programs;
- Orchestrate an efficient allocation of staff and financial resources in researching, planning, implementing, evaluating, and disseminating juvenile justice and delinquency prevention approaches;
- Reduce inconsistency and complexity of Federal statutes, regulations, and guidelines; and
- Facilitate State and local government utilization of Federal resources to meet local youth needs.

The Council's 1982 Program Plan

At the July 29 meeting, the Coordinating Council agreed to undertake a structured process to develop a program plan for calendar 1982. This plan would include certain issues that would receive high priority attention by the Council. The Council instructed its staff to undertake two sets of acivities before the September meeting:

- Research prior Council meeting minutes, prior annual Analysis and Evaluation reports, and other documents to identify priority issues requiring Council attention; and
- Conduct interviews with key representatives of Council member agencies and significant others to obtain their views on priority issues and appropriate roles for the Council.

The results of that process were discussed by the Council at its September meeting. Based on the interviews and other research, the Council agreed that four topic areas merited further research and discussion:

1. Substance abuse;
2. Schools and delinquency;
3. Youth development;
4. Treatment alternatives;

The staff developed issue papers, summarizing the literature and Federal involvement, and recommendations for

Council action in each of the areas. These issue papers and recommendations form the basis for selection of final issues and areas upon which to concentrate Council attention.

At the December 16th meeting, the Council asked for a review of the issue papers and the recommendations by representatives of State and local governments and interest groups. Subsequently, Council members suggested agencies and organizations whose input should be sought in the development of the program plan. Hearings have been scheduled for interest groups and State and local officals to present their views on the Council's program plan. Opportunity for these organizations and officials to respond in writing is also being provided.

The staff will present a report to the Council at its April 1982 meeting on the results of the hearings and written comments. These will assist the Council in establishing its final list of 1982 priorities. Council staff will prepare a workplan to be submitted to the Council for its final approval.

This process provides Council members with the broadest possible scope of input for their deliberations. It is clearly in line with the Council's mandate to assist Federal agencies establish priorities for juvenile justice and delinquency prevention efforts. At the same time it permits State and local governments and agencies representing State and local governments to become familiar with the Council and to begin to use the Council as a mechanism to have access to Federal agency program activities.

II. Program Priority Areas and Recommendations for Consideration

A. Schools and Delinquency

During adolescence, school is the single most influential institution with respect to delinquent behavior. Data indicates that school-related variables are among the strongest predictors of both drop-out and delinquency for males and females, and that delinquency increases for students who remain in school under conditions of failure and alienation. Educational practices and policies can provide increased opportunities for all youth to attain academic success, become involved in conventional activities, and interact with a greater number of conventional others. By enhancing skills acquisition and the consistancy of rewards, schools can provide the necessary conditions for all students to become involved in conventional activities and thus develop the commitment and attachment to the social order necessary to prevent alienation and delinquency.

Background

School violence, vandalism, truancy, class disruption, and assaults upon students and teachers are problems in themselves and symptoms of other problems that plague the school system. Many students fail to respond to the educational process when they discover that their needs cannot be met, they become alienated, they fail academically, and end their school experience—or remain in school to become "problem students." Many are suspended, placed in detention, or often expelled—rejected as unsuitable for the school environment.

The acting-out behavior of many students is an indication of other problems—low self-esteem, low academic performance, problems at home or with peers—that lessen the attachment and commitment to school and ultimately to the community as a whole. Schools can provide all youth the opportunities to experience success by broadening the definition and number of tasks and rewards that are sanctioned as valuable. Opportunities for students of low socioeconomic status to achieve according to their abilities and interests should be addressed and expanded. By involving students in the governance process of the school and instructing them in the skills to do so successfully, they can learn how to contribute to their communities as adults. Disciplinary procedures should be made consistent and fair in order for students to develop belief in the system. Learning problems appear to increase the likelihood that a young person will become a delinquent. At the same time, the diagnosis of a learning problem should not be used to label a child nor to force a child into lower school achievement groups. A recent study indicates that juveniles with learning disabilities are more likely to be involved in delinquent behavior and to be arrested and adjudicated than are non-learning disabled youth. Therefore, early special education services are necessary to prevent future delinquency.

Another approach to improving opportunities for young people at risk is developing school-community linkages. Many communities have taken steps to open the school system both to student participation in the community for academic experience and credit and to bring social and health service agencies and private industry into the school to provide reinforcement. Partnerships like these can provide increased opportunities for young people to experiment with positive adult roles.

Summary of Key Strategies

Key strategies through which schools can encourage positive youth behavior and thereby reduce delinquency are:

- Reduce school violence, vandalism, class disruptions and assaults on students and teachers; reduce use of suspensions and expulsions to control such behavior.
- Develop processes that allow students experiencing academic failure to have positive academic experiences.
- Initiate efforts to increase student involvement in governance processes within schools by providing skill training for successful participation.
- Expand efforts to develop vocational opportunities for students not planning on a college education.
- Recognize the relationship between learning and other disabilities; and develop appropriate strategies to reduce those disabilities and the risk of delinquent behavior.
- Increase the linkages between schools and community organizations to expand the opportunities for students to learn through work by broadening the definition of tasks, mentors and role models in the community, and give academic credit for vocational experiences.
- Increase collaboration and strong partnerships with family, local, and state agencies in managing the educational process.
- Promote community educational strategies to develop wider access to services for youth and to improve the relationships between schools and the community.

Recommendations for Council Action

1. *Interagency effort to reduce and control violence and vandalism in schools.* The Council should examine existing and planned Federal programs designed to prevent, reduce, and control the violence and vandalism occurring in schools. The Council should ascertain what programs and practices appear most promising and coordinate the planning and implementation of Federal information transfer, program funding, and research activites.

Possible Council Activities

The Council should survey the Federal agencies most directly involved in the prevention, reduction, and control of school violence and vandalism, i.e., ED, HUD, HHS, DOL, and OJJDP. The survey should also include the coordination of future programs, including joint funding, replication of exemplary programs, and information dissemination. In addition, the Council's efforts could include coordinating the development of training

and technical assistance programs for faculty, administrators, and other school staff in the most promising academic practices and encourage the development of programs for youth participation in school decisionmaking. The Council should review the progress and results of the National School Enhancement Resaearch and Development project funded by OJJDP/NIJJDP, and facilitate the replication and continuation of this comphrensive model for academic improvement and school delinquency prevention. The Council should review the results of the OJJDP–DOE school crime program and its evaluation and consider the value of the school team approach for improving the school climate and the reduction of delinquency and school disruption.

Expected Outcomes

Coordination of Federal agency activities in the area of violence and vandalism in the schools and the development of a compendium of data on existing and planned projects and models to facilitate the replication of successful approaches. Data should be used to suggest operational goals for various Federal agencies.

2. *Facilitation of the Development of School-Based Approaches to Preventing Juvenile Delinquency.* The Council should examine existing school-based programs designed to prevent delinquency and coordinate efforts to promote further refinement, demonstration and dissemination of the most promising programs and practices.

Possible Council Activities

The Council should review the results of DOE and NIJJDP's Law-Related Education programs and consider the applicability of LRE to youth development, and more specifically as an integral component of the educational process. The Council should also review the results of the OJJDP Alternative Education Program and its evaluation, and assess the value of such approaches for delinquency control and upgrading the quality of educational opportunities. The progress and results of the OJJDP/NIJJDP Delinquency Prevention Research and Development Program should be monitored to assess the efficacy of this comprehensive model for youth development and school crime prevention and reduction.

Expected Outcomes

The development of interagency, multi-institutional approaches to youth development and prevention of juvenile delinquency. Dissemination of the most promising models and strategies.

3. *Interagency coordination of school-based youth-community programs.* The Council should collaborate with all appropriate Federal agencies to facilitate the development of youth-community programs within the school environment. Strategies selected should emphasize youth development and an increased utilization of the school as a community center for the residents of the community and its neighborhoods.

Possible Council Activities

The Council should facilitate collaborative efforts among DOL, ACTION, OJJDP, the Youth Development Bureau, and other Federal agencies with related programmatic concerns to develop and facilitate youth-community programs located in schools and/or in conjunction with school activities. The youth-community programs suitable and desirable for this type of project include health services, social services, community businesses, and community center projects. Non-traditional ways in which students could be utilized in a greater capacity in their community through employment and educational opportunities that exists in the community should be investigated, encouraged and supported.

Expected Outcomes

The use of existing models and the development of new approaches to increased participation of youth in their communities through the coordinated efforts of Federal agencies. Outcomes can include jointly funded experimental programs for new approaches and supportive use of resources among agencies to sustain financial support for community-school programs.

4. *Facilitation of research and development on learning disabilities.* The relationship between learning disabilities and delinquency should be examined by the Council in 1982. In addition, the Council should encourage appropriate Federal efforts in this area.

Possible Council Activities

The Council should direct and facilitate the efforts of NIE, NIJJDP and NIMH to conduct further research in the area of learning disabilities and to further develop and implement programs for learning disabled youth. Specifically, OJJDP should disseminate the results of the Learning Disabilities and Juvenile Delinquency Research and Development Program, research the relationship between learning disabilities and serious/violent delinquency, further develop training materials and sponsor training programs for juvenile justice system personnel. HHS and DOE should the development of programs, based on the ACLD remediation model (tested under the NIJJDP Learning Disabilities and Juvenile Delinquency R&D Program), at the local level through expansion, demonstration, and evaluation of the model's applicability to youth not involved in the juvenile justice system. This work should include improvement of diagnostic techniques, training programs, and a broad range of public awareness activities.

Expected Outcomes

Interagency coordination of research and development activities in the area of learning disabilities. Dissemination of increased knowledge and awareness of the relationship between delinquency and learning. Development of more effective remediation programs to improve the capabilities of LD youth generally, and reduce the likelihood of their involvement in delinquency.

B. Substance Abuse

Substance abuse by juveniles is a widespread and continuing problem despite many large scale efforts designed to curb it and to provide treatment for abusers. Presented here are overviews of the issues and the relationship between juvenile substance abuse and serious and violent crime.

Background

Emphasis in this area focuses on the complex relationship between substance abuse and serious juvenile crime. Alcohol, the substance most frequently abused by juveniles, is often implicated in violent criminal behavior. Marijuana, the second most widely used substance, tends not to be assoiciated with violence. Drug use does not appear to induce crime. Rather, most research indicates that drug use and criminal behavior patterns form a mutually reinforcing relationship.

Youth are the primary target of prevention and education. The types of approaches and the results of demonstration projects have not been widely disseminated. In some cases, promising projects are not replicated widely because potentially interested States or communities have no reliable source of information on what approaches have succeeded or failed elsewhere. An additional preventive measure is the enactment and enforcement of legislation at the appropriate levels to curb the purchase, use, and abuse of substances by juveniles.

Prevention and treatment programs for the youthful offender who is also a substance abuser have often been complicated. Service eligibility and

regulatory guidelines have obstructed efforts to deal effectively with this proglem.

Summaries of Key Strategies

Key strategies in preventing and treating substance abuse by juveniles are:

- Coordinate existing and planned efforts in the area of substance abuse prevention and education.
- Develop regulatory and legislative strategies to curb and control juvenile substance abuse.
- Develop and use treatment models targeted for the youthful offender who is also identified as a substance abuser.
- Enhance the role of Federal agencies in the development, improvement and replication of prevention and treatment strategies.

Recommendations for Council Action

1. *Coordination of drug abuse prevention and education.* The Council should undertake an effort to examine existing strategies regarding drug abuse prevention and education utilized by Federal, State, and local governments, the business community, and volunteer organizations. This effort should include coordination of research and development strategies to determine which existing or proposed strategies demonstrate the most promise.

Possible Council Activities

After an examination of the variety of planned and on-going projects in the areas of demonstration, research and development, and technical assistance and training, the Council should develop recommendations—for all organizations involved—for improving and coordinating planning, funding, and evaluating projects related to juvenile substance abuse and prevention. Special attention should be given to those activities culminating in the design of replicable models, strategies, and recommendations for future efforts, and those that facilitate the possiblities of partnerships between the public and private sector entities.

Expected Outcome

Increased consistency in the national effort with regard to drug abuse prevention and education.

2. *Model State legislation to curb juvenile alcohol abuse.* The Council should examine potential strategies States could employ, through their statutory and regulatory powers, to reduce access to alcoholic beverages by juveniles. Among the efforts the Council should examine are existing model legislation regulating the sale and consumption of alcohol to juveniles, State experiences with the control and sale of alcohol to juveniles, and other potential intervention strategies to restrict the sale of alcohol.

Possible Council Activities

The Council could convene a forum of key Federal and State agency officials with responsibility in this area. Federal agencies with enforcement responsibility could provide assistance and information on existing strategies. Proceedings of the forum could provide the basis implementation at the State level.

Expected Outcome

Model State legislation and regulations controlling the sale of alcohol to juveniles.

3. *Treatment alternative for alcohol abusing serious juvenile offenders.* The Council could undertake an interagency effort to design, develop, and implement a limited, experimental program to provide treatment services to serious juvenile offenders who are also alcohol abusers. An initial effort should be undertaken to determine what approaches have been employed in the treatment of this population and to evaluate the effectiveness of those approaches.

Possible Council Activities

The Council could encourage collaboration among agencies in the development of research and development activities, based on existing information and the need for future research. Efforts should be made to disseminate information on existing approaches that have proven effective and ascertain potential approaches to treatment that offer promise for success. The final stage should be the development of a limited program for field testing of promising strategies.

Expected Outcomes

The development of a limited, experimental program to treat serious juvenile offenders who are alcohol abusers.

4. *Examination of Federal statutory and regulatory barriers to treatment of substance abusers.* The Council should examine all Federal programs that have the potential to serve substance abusers to determine which, if any, have statutory, regulatory, or guideline barriers that result in the denial of service by those programs to drug or alcohol abusers.

Possible Council Activities

A survey could be conducted of all Federal programs designed to provide services to the youthful alcohol and drug abuser in order to examine the statutory, regulatory, and legislative barriers to effective service delivery. In addition, a hearing could be held to convene Federal, State and local program administrators to identify and develop strategies for the redesign, reform, or repeal of the impediments to the delivery of services to this target group.

Expected Outcomes

Increased availability and improved delivery of services designed for juvenile substance abusers.

C. Treatment Alternatives

Two issues that confront the Federal financial and technical assistance system for youth at risk are:

1. The extent of problems and service needs posed by certain youth—status offenders, dependent, neglected and abused youth, runaways, and delinquents, among others; and

2. Organizational and institutional issues that confront the State and local service-delivery system attempting to serve youth at risk. The reliance on categorical Federal funding by agencies serving those youth by State and local public and private sector agencies has resulted in a patchwork quilt system that often must mislabel in order to serve or refuse to provide service, because the youth does not meet the specified target population or eligibility criteria.

Background

The Department of Health and Human Services has estimated that 5.6 million children need social services. These include youth who are learning disabled, mentally retarded, emotionally disturbed, physically, sexually, and psychologically abused, or runaways and other youth at risk. There are 400,000 youth in residential placement and another 400,000 in foster care.

The juvenile justice system has responsibility for many of these youth. Over 2 million arrests of juveniles are recorded every year. Slightly more than 10 percent of the juvenile population is arrested each year. Young people, ages 10 to 17, who constitute 14 percent of the total population, account for 39 percent of all arrests. More specifically, they account for 20 percent of all arrests for violent crime and 44 percent of arrests for serious property crime. Over 250,000 status offenders are processed through the nation's juvenile courts each year.

The organization of the Federal financial and technical assistance system for these youth confuses its operators, mesmerizes those who run programs, and often leads to

counterproductive results for those it is supposed to serve—the nation's youth. The *Fifth Analysis and Evaluation* counted 45 Federal programs in six departments and one independent agency that target services for delinquency prevention, reduction, or control. Often Federal programs hold similar objectives without formal reference to any of these goals. The *Analysis* catalogued 64 target groups with 111 eligibility criteria in those 45 programs alone.

The State and local service-delivery system itself is confused, often duplicative and overlapping. The reult, combined with the fractured Federal effort, is a service non-system that often becomes more involved in its own internecine struggles. The result for youth is less service, and less commitment to efficient use of scarce resources. Juvenile courts run treatment services in many jurisdictions. This results in the court having exercising protection and control functions. The capacity of juvenile court judges to order treatment varies among States. The end result of this division is often lack of communication, even hostility, between executive and legislative branches that further hinders efforts at effective service delivery.

Summary of Key Strategies

Key strategies in developing and providing treatment alternatives are:

- Identify programs, approaches, and techniques for effective service delivery and service coordination and integration.
- Concentrate resources to address the needs of particular youth.
- Reduce eligibility criteria, target populations, and the administrative burdens imposed by the Federal financial and technical assistance system at the State and local level.
- Maintain adequate resources for youth under the jurisdiction of the juvenile justice system whether in institutions or community programs.
- Initiate a need for a dialogue among Federal, State, and local elected and appointed officials to gain agreement on strategies, provide feedback on the operational impact of Federal programs, and assure the provision of relevant technical assistance, training, research, and information.
- Include public, private, and voluntary sector agencies in the process of developing Federal policy and programs and recognize the role of private, foundation, charitable, corporate, and other sources of funding in the design of Federal policies and programs.
- Reduce the mislabeling of youth that often occurs to provide services or to facilitate the service-delivery system's operations; recognize each youth's needs and the development of mechanisms to meet those needs.
- Create a climate where the goal is the strengthening, wherever possible, of a family unit and the reunification of the youth with his or her family.
- Develop a Federal policy to assist in the reduction and the control of serious and violent juvenile crime; and
- Assist State and local governments to develop effective reintegration strategies for youth returning from secure detention, correctional, mental health, or developmental disabilities facilities.

Recommendations for Council Action

1. *Removal of barriers to integrated service delivery.* The Council should examine the barriers posed by Federal programs serving youth at risk, and barriers to coordinated or integrated service delivery at the State and local level. This effort should involve a review of Federal statutory, regulatory, and guideline requirements that unreasonably diminish the capacity of State and local public and private agencies to provide services to status offenders, neglected, dependent and abused children, runaways, and delinquents who may need services from other programs. Such an effort should include attempts to reduce the number of eligibility criteria and to develop standard definitions for target populations.

Possible Council Activities

The Council should examine Federal Law, regulations, and guidelines of programs serving the target populations listed above; hold hearings and forums in conjunction with the Advisory Commission on Intergovernmental Relations and representatives of State and local governments on the impact of Federal laws and regulations upon their delivery systems; develop information packages on successful State and Local coordination efforts and successful attempts by Federal agencies to reduce regulatory barriers to integrated service delivery; and prepare a report to the Office of Management and Budget on legislative and regulatory changes that could be undertaken to reduce such barriers.

Expected Outcome

Changes and reductions in Federal law and regulations that adversely impact State and local service delivery in order to increase available services for youth at risk.

2. *Development of community reintegration strategies.* The Council should solicit, compile, and disseminate information on successful programs that attempt to reintegrate juveniles returning from secure facilities into the community. An examination of Federal agencies policies and the impact of those programs at the State and local level regarding reintegration should be conducted.

Possible Council Activities:

The Council could document successful programs targeted at youth returning to their communities from secure detention, correctional, mental health, and developmental disabilities facilities. Federal agency policies, data and other information concerning reintergration needs and approaches could be collected and analyzed. A forum could be conducted involving State and local governmental elected and appointed officials to discuss the implications of reintegration strategies on their programs and services.

Expected Outcomes

An increase of programs and services available to persons returning from secure detention and a consistent Federal approach to promoting successful reintegration to the community.

3. *Examination of the role of non-governmental agencies and individuals in Federally funded programs.* The Council should examine successful programs that involve private and voluntary sector organizations in services to youth. This examination should consist of the integration of Federal and other public sector funds with corporate, foundation, and other philanthropic sources. The Council should explore roles volunteers can undertake in federally funded youth programs as well as programs and policies that promote the use of volunteers. A complilation of successful efforts to use volunteers in roles as advocates and guardians should be undertaken.

Possible Council Activities

The Council should gather Federal policies relating to non-public sector funding in programs affecting youth and examine barriers to the use of such funding. The Council should gather information and models of successful programs that have used youth in the devising, implementation and operation of programs. Similary, the Council should examine the role of volunteers in federal youth-serving programs and examine the potential role the Federal

government could take in facilitating the use of volunteers generally and particularly in such non-traditional roles as guardians-ad-litem, advocates, and ombudsman. The results of this examination of Federal agency programs, policies, and practices should be disseminated in a manual; and a report outlining successful approaches and making recommendations for changes in Federal statutes, regulations, guidelines and other policies should be prepared.

Expected Outcomes

Increased opportunities for multiple funding of youth programs to lessen the effects of Federal funding cutbacks; the establishment of mechanisms to increase the use of volunteers by Federal programs; and increased opportunities for youth to fulfill those volunteer roles.

4. *Development of interagency efforts to reduce and control serious violent juvenile crime.* the Council should undertake an effort to develop information, research and potential programs that could be field-tested to reduce the amount of violent crime and other serious crime caused by juveniles. This examination of serious and violent juvenile crimes should examine the value of adult versus juvenile prosecutions and the efficacy of secure institutional versus community-based programs for these offenders.

Possible Council Activities:

The Council should gather information and statistics on the prevalance, extent of and location of serious and violent juvenile crimes. The information should include a record of Federal efforts in this area, successful programs at the State and local level the policies, practices and programs of Federal agencies regarding work with chronic, serious and violent juvenile offenders. This information should be presented to an interagency panel to consider future program, research, technical assistance and training efforts the Federal government could undertake to assist State and local governments and private non-profit agencies in cooperative ventures to reduce and control such behavior.

Expected Outcomes

An interagency research and program effort to develop potential model strategies to assist State and local public and private agencies reduce serious and violent juvenile crime.

D. Youth Development

A strategy of youth development is based on the belief that negative experiences of alienation, helplessness, and frustration lead to withdrawal from the community and to the increased possibility of undesirable and destructive acts. Conversely, youth who perceive that they have access and involvement in socially gratifying and desirable roles are more likely to become useful adults.

Background

Whereas traditional program focus has been on the individual juvenile, a youth development approach looks to the possibility that failures of the social system and its institutions are the causes of youth problems. The goals of these institutions, therefore, must be directed at increasing access to desirable and conventional roles. These roles must be identified and supported at all levels—from the Federal government to the neighborhood and the family.

The process impacts on all the institutions that affect youth. Information on the experiences of the wide variety of institutions and their practitioners must be collected and examined. A collaborative effort is necessary for the implementation of a policy that necessarily influences and is influenced by the institutions concerned.

The family has undergone numerous changes over the past fifty years. The growth of leisure time, the development of two income families, and the increase of divorced and single parent families have reshaped the family into new, different, and often problematical structures. The family is the primary socializing agent for children and can, therefore, be a basis for a youth development policy that could reduce many of the social problems caused by the interaction of youth and society.

Similarly, work is the main arena in which people establish a sense of postive self image and in which personal legitimacy may be gained or lost. Current unemployment and underemployment rates for young people deprive society of valuable resources and youth of opportunities to develop the positive self-image and sense of identify so crucial to adult success.

Summary of Key Strategies

The strategies pertinent to youth development are:

- Determine and integrate the roles of the wide variety of governmental and private institutions in the coordination of activities designed to structure a youth development policy and programs for effective youth involvement in their communities.
- Exchange, examine and disseminate information from practitioners from the institutions influencing the lives of young people.
- Increase the emphasis upon and involvement of the family as the primary socializing institution, including reunification of youth in alternative residential placements with their families where feasible.
- Explore the role of employment and career experimentation for youth in a time of economic change.

Recommendations for Council Action

1. *Federal role in the improvement of youth-community involvement.* The Council should examine potential activities for the Federal government to influence in the identification of new and meaningful roles for youth in their communities.

Possible Council Activities

The Council could examine existing Federal programs in agencies such as OJJDP, OHDS, ACTION, DOL and USDA to develop mechanisms for coordinating program resources and information. The examination should focus on the organizational and interorganizational changes required, institutional barriers to constructive youth participation, and the social and economic changes affecting family life.

Expected Outcomes

The development of a Federal youth policy for all Federal efforts in this area. In addition, the identification of existing and planned activities that provide for more substantive and meaningful roles for the nation's youth.

2. *National forum on youth development issues.* The Council could encourage and facilitate the exchange of information among the various agencies and organizations interested in youth involvement in the community and the wider society.

Possible Council Activities

The Council should convene representatives of agencies from Fedeal, State, and local governments, the private sector, and from the community-based organizations concerned with the improvement and promotion of effective youth advocacy and participation.

Expected Outcomes

A comprehensive report of the forum's discussion and development of recommendations on the role of youth in society and the Federal responsibilities for programs and activities designed to reach the goals of a youth development strategy.

3. *Examination of Federal policy regarding families.* The Council should undertake, possibly in conjunction with the White House Conference on Families, an examination of the impact of Federal law, regulations, and various agencies' policies regarding families. The Council should examine those policies and make recommendations to various Federal agencies on efforts that could be taken to strengthen the ability of families to assist their children.

Potential Council Activities

The Council should collect data and information, laws, and other policy statements on Federal programs that impact on families. It could perform an analysis of that data and suggest operational goals for various Federal agencies.

Expected Outcomes

A more consistent Federal policy with respect to families and youth.

4. *Documentation of programs that assist youth in employment and career development.* The Council should gather information on existing programs and strategies that assist young people find employment opportunities and explore interests, either through the school or other community efforts. The Council should examine two research questions: (1) Do young people have access to existing jobs? and (2) Are the work settings supportive of positive social development through the provision of appropriate social rewards?

Possible Council Activities

The Council should gather information on Federal programs and policies regarding employment and career exploration and convene a panel of Federal agencies concerned with those programs to develop an interagency effort to coordinate the Federal role.

Expected Outcomes

The development of new strategies and the coordination of Federal effort regarding youth employment.

Charles A. Lauer,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of public hearings and request for comments on proposed regulations to implement valid court order amendment.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) requests comments on the versions of the proposed regulation on Valid Court Order published in the **Federal Register** on June 1, 1981, and September 3, 1981, and on suggestions offered by commentators and published in the **Federal Register** on December 31, 1981, regarding the proposed regulation.

DATES: The hearings are scheduled as follows:

March 16 and 17, 1982, 9:00 a.m., Washington, DC

March 23 and 24, 1982, 9:00 a.m., Denver, Colorado

Requests to testify must be communicated to OJJDP by February 22, 1982.

Written comments may be submitted at the hearing or mailed to OJJDP and received on or before March 24, 1982.

ADDRESSES: The hearings will be held at the following locations:

March 16 and 17, 1982—Department of Health and Human Services' Hubert Humphrey Building, 200 Independence Avenue, S.W., in the Hubert H. Humphrey Auditorium, Washington, DC.

March 23 and 24, 1982—Federal Office Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

Send comments and requests to testify to: Mr. Frank M. Porpotage II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, DC 20531, (202) 724–5917.

FOR FURTHER INFORMATION CONTACT: Mr. Frank M. Porpotage II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, DC 20531, (202) 724–5917.

SUPPLEMENTARY INFORMATION: On December 31, 1981, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published in the **Federal Register** final regulations for implementation of the Formula Grant Program for Juvenile Justice established by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The regulations, 28 CFR Part 31, were final with the exception of § 31.303(i)(3), Valid Court Order, which was reserved.

The origin of the valid court order amendment to Section 223(a)(12)(A) (42 U.S.C. 5633) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, is explained in an issue paper published by OJJDP in February of 1981 (Supplementary Information—Appendix A). On June 1, 1981, OJJDP initially published in the **Federal Register** proposed regulations to implement the Formula Grant Program in Fiscal Year 1982. The proposed valid court order regulation is set forth at Appendix B.

Following public comment, substantive changes were made in the proposed valid court order regulation and an additional period of public comment on the regulation announced in the **Federal Register** of September 3, 1981. The published explanation for the changes and the second draft valid court order regulation are set forth at Appendix C.

A substantial number of comments, many raising new issues, were received in response to this draft regulation. Consequently, OJJDP reserved the valid court order proposal for further consideration. The discussion of valid court order comments, excerpted from the December 31, 1981 **Federal Register**, is set forth at Appendix D. Finally, a brief explanation of the stated basis for the alternative suggestions and proposals submitted by commentators (listed in Appendix D) is included at Appendix E.

OJJDP is interested in receiving public input on the substantive (programmatic and constitutional/legal) merit and impact of the various valid court order options. This additional public testimony and comment will form the basis for a proposed final regulation which will be subject to a final 30 day written comment period. Interested parties are urged to provide written comment and/or oral testimony at either of the two hearings in Washington, D.C. or Denver, Colorado.

Procedure

OJJDP requests comment on valid court order implementation from State and local officials, private and public youth-serving organizations, other interest groups, and private citizens. Comments may be written, oral, or both. All persons intending to provide oral testimony must notify OJJDP by February 22, 1982. Intent to present oral testimony may be communicated in writing or by phone to the contact person noted below. Intent letters should include the location and preferred date of testimony. All writtern comment must be received by March 24, 1982. Five (5) copies of any written comment are requested. Notice of intent to testify, as well as written comment, should be communicated to Mr. Frank M. Portpotage, II, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Room 742, Washington, D.C. 20531, 202/724–5917.

OJJDP will notify all persons requesting to provide oral testimony of the date, time, location, and length of time allocated for their testimony by March 1, 1982. Because the office is conducting both valid court order and Federal Coordinating Council hearings, organizations desiring to testify on both matters will be scheduled on the first day of valid court order hearings (the second day of Coordinating Council hearings).

Conduct of Hearing

Mr. Charles A. Lauer, Acting Administrator of OJJDP, or his designee, will preside at the hearing. Appropriate agency staff may join Mr. Lauer to form a panel. This is not a judicial or evidentiary-type hearing, and there will be no cross examination. However, if time permits, clarifying questions or discussion may follow a presentation.

Any person who wishes to have a question answered at the hearing may submit the question, in writing, at the registration desk. The presiding official will determine whether the question is relevant, and whether time limitations permit a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

A transcript of each hearing will be made. The entire record of the hearings, including the transcript and all written comments, will be retained by OJJDP and available for public inspection and review at OJJDP. Any person may purchase a copy of the transcript from the reporter.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A—OJJDP Issue Paper, March 6, 1981

This Appendix sets forth a paper, produced by OJJDP for use at a reauthorization meeting, and is intended to provide background information on the legislative history of the amendment and the preliminary policy conclusions which led to the first proposed Valid

Court Order regulation published in the Federal Register of June 1, 1981.

VALID COURT ORDER EXCEPTION TO DEINSTITUTIONALIZATION REQUIREMENT

I. Evaluation of the Amendment

The Section 223(a)(12)(A) deinstitutionalization mandate of the Juvenile Justice and Delinquency Prevention Act was modified to permit the confinement, in secure juvenile detention and correctional facilities, of a juvenile who has violated a valid court order. Section 223(a)(12)(A), as amended by the Juvenile Justice Amendments of 1980, reads as follows:

> 12(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult *or offenses which do not constitute violations of valid court orders,* or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities * * * (Relevant new language underlined.)

This amendment was first offered in the Subcommittee on Human Resources of the House Education and Labor Committee by Representative Coleman. The amendment was accepted by the Subcommittee but later rejected by the full Committee on a vote of 23 to 9. Supplemental Views on this issue are set forth in the House Committee Report on the Amendments, H.R. No. 96–946, May 13, 1980, at pages 76–77. This amendment was subsequently offered during House floor consideration of H.R. 6704 by Representative Ashbrook. The amendment was accepted by the full House on a vote of 239 to 123.

In debate on the floor of the House, Representative Ashbrook explained that the intent of his amendment was to return to the juvenile court "its traditional discretionary power to enforce valid court orders" and "to enable juvenile courts to place status and nonoffenders in secure detention and correctional facilities if they are found to be in violation of a valid court order." (126 Cong. Rec. H 10932–10938, November 19, 1980). Representative Ashbrook said the amendment would return to the courts their flexibility "to respond to youth who chronically refuse voluntary treatment" but would at the same time "assure the continued protection of the basic rights of these youths". He explained the procedure as follows:

> First, the respective court must issue a "valid order." This means that any such order must, first, be given [by] a court of competent jurisdiction; second, involve a judiciable controversy where the legal rights of the parties need to be resolved by the court; third, that the court must enter a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures; and fourth, where the court has the statutory power to act.
>
> These rights are further protected [at the hearing on the violation of a valid court order] by the requirement that these youth receive their due process rights, which were specifically enumerated by the Supreme Court in re Gault as follows:
>
> (i) the right to have the charges against the juvenile in writing, served upon him a reasonable time before the hearing;
>
> (ii) the right to a hearing before a court;
>
> (iii) the right to an explanation of the nature and consequences of the proceedings;
>
> (iv) the right to legal counsel, and the right to have such counsel appointed by the court if indigent;
>
> (v) the right to confront witnesses;
>
> (vi) the right to present witnesses;
>
> (vii) the right to have a transcript or record of the proceedings; and
>
> (viii) the right of appeal to an appropriate court. (Cong. Rec., *supra,* at H 10932)

In an exchange with Representative Miller, who spoke in opposition to the amendment, Representative Ashbrook indicated that his amendment would allow violations of a valid court order to be treated by the juvenile court with a contempt citation, thus permitting the court to respond to such a violation in the context of a civil proceeding. (Cong. Rec., *supra,* at H 10936). To fail to act affirmatively on his amendment, Representative Ashbrook stated, "would be to augment the growing trend to make violations of court orders a criminal offense and thus subject the youth immediately to incarceration." (Cong. Rec., *supra,* at H 10932)

II. Current Practice

As a condition precedent to receipt of Federal assistance under the juvenile justice formula grant program, States must submit a plan which, pursuant to Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, will eliminate the practice of confining status offenders and nonoffenders such as dependent and neglected youth in juvenile detention or correctional facilities. Prior to passage of the Juvenile Justice Amendments of 1980, there was no exception to the prohibition on the secure confinement of status and nonoffenders who violate valid court orders, whether such violation was civil or criminal in nature.

III. Issues

Note.—The following responses to issues raised represent tentative policy and legal determinations.

1. If State legislation currently prohibits the secure confinement of status and nonoffenders who violate a valid court order, would legislative change be required if a State wanted to have the authority to confine status offenders who violate such orders?

Yes, States which have legislation prohibiting the secure placement of status offenders who violate valid court orders are not authorized by the JJDP Act to place such youth in secure confinement. The more restrictive State legislation would take precedence over the latitude allowed by the amendment to Section 223(a)(12)(A) of the JJDP Act.

2. May a status offender who is confined as a consequence of a violation of a valid court order be confined with juveniles alleged to be or adjudicated delinquent? Accused or convicted adult criminal offenders?

There is no prohibition in the JJDP Act against the commingling of status offender and juvenile criminal-type offenders, although State legislation may restrict such confinement. However, a status offender who is confined as a consequence of a violation of a valid court order may not be held in regular contact with incarcerated adult persons. Thus, the "separation" requirement of Section 223(a)(13) continues to be applicable to all status offenders, even if they are found to have violated a valid court order.

3. What effect does the valid court order amendment have on the preparation, submission, and OJJDP action on the December 31, 1980 minitoring report?

None. The first monitoring report which should reflect the extent to which status offenders are placed in secure confinement will be the 1981 report. However, if a State is found ineligible for continued participation because of a failure to achieve full compliance with de minimis exceptions, such State will be allowed to incorporate the "valid court order" issue as an exceptional circumstance in their request for a finding of full compliance with de minimis exceptions.

4. Does a status offender who is adjudicated by the juvenile court for the violation of a valid court order remain a status offender? Does he/she become a delinquent?

A status offender who violates a valid court order remains a status offender and for the purposes of monitoring is not reclassified as a delinquent or criminal-type offender.

5. What constitutes a valid court order, i.e., what conditions must be present to consider an order as being "valid"?

In order to be in violation of a valid court order, a juvenile must first have

been brought into a court of competent jurisdiction and made subject to a "valid order." Thus, no first time status offender could be incarcerated under this provision. The court order must involve a judiciable controversy where the legal rights of the parties need to be resolved by the court *and* the court must enter a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedure. The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued. Such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

6. What are the full "due process" rights which must be accorded a status offender accused of violating a valid court order? When must these due process rights be accorded the juvenile offender—at the time of issuance of the order or in the proceeding relative to the alleged violation of that order?

The full "due process" rights are those enumerated in *In Re Gault* and include:

(i) The right to have the charges against the juvenile in writing, served upon him a reasonable time before the hearing;

(ii) The right to a hearing before a court;

(iii) The right to an explanation of the nature and consequences of the proceedings;

(iv) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(v) The right to confront witnesses;

(vi) The right to present witnesses;

(vii) The right to have a transcript or record of the proceedings; and

(viii) The right of appeal to an appropriate court.

The due process rights should be accorded the juvenile at the adjudicatory hearing but must be provided at the violation hearing. The violation hearing must be a judicial proceeding before a court of competent jurisdiction. In entering the order that directs or authorizes disposition of placement in a secure facility, the judge must certify that all the elements of a valid court order and the applicable due process rights were afforded the juvenile and that there is no rational alternative to incarceration of the juvenile.

7. How do the "due process" requirements apply to the predetention hearing detentions of youth who are accused of violating valid court orders (i.e., a youth who runs away from a nonsecure placement)? In our State, detention hearings must be held within 72 hours.

There can be no detention of a juvenile accused of violating a court order except for the 24 hour grace period permitted under OJJDP monitoring policy.

8. If a status offender is adjudicated and placed on probation and, under State law may be placed in secure detention for a limited period of time for violating his probation order twice, would this constitute a violation of a valid court order?

Yes, if the other conditions for valid court orders are met.

9. If a juvenile is placed in a "nonsecure shelter facility" as a result of a finding that the juvenile violated a valid court order, must that juvenile go through the process again, if he runs away from the nonsecure facility, prior to his placement in a secure facility?

No, at the time that a judicial determination is made that a juvenile violated a valid court order: (1) A new order could be entered or the old order revised to direct a new or continuing nonsecure placement with the express condition that any new violation of the new or revised order will result in placement in a secure facility; or (2) the juvenile could be committed to the cognizant social service or correctional agency for appropriate placement.

10. Can a referee commit under a valid court order?

It depends. If a referee in a particular jurisdiction has the authority to assert the court's jurisdiction over a status offender, hold a hearing on the facts, determine the legal rights of the parties in a judiciable controversy, and enter a judgment and/or remedy in accordance with established legal principles, then a referee could, like a judge, be empowered to commit a juvenile under the valid court order amendment.

11. One of the *Gault* rights is to have a transcript or record of the proceedings. If a State provides a hearing on the violation of a valid court order, without a transcript, but with the right to appeal and receive a trial de novo, must a transcript still be required in order to satisfy the juvenile's due process rights?

No.

12. Would the lawful order of a juvenile court, entered after a preliminary hearing for a juvenile alleged to be a status offender, constitute a "valid court order," subjecting the juvenile to secure placement for a violation of that order during the period of time it is in force?

Yes.

13. Will OJJDP require that the valid court order exception be used sparingly?

No, limitations are set by the constraints established in the implementing regulations. If monitoring reports indicate a pattern or practice of abuse, the guidelines could be modified or the situation reported to the Congress for possible legislative action.

14. If a court order places an adjudicated status offender into the custody of the Department of Social Services or Corrections for appropriate placement, the juvenile is placed in shelter care and subsequently runs away, can the agency or the court find that the juvenile has violated a valid court order?

No.

Appendix B

This Appendix sets forth a reprint from the June 1, 1981 **Federal Register**, which was the first proposed Valid Court Order regulation published by OJJDP for public comment. OJJDP seeks further public comment on this proposed regulation.

§ 31.703 Substantive requirements.

* * * * *

(h) * * *

(3) *Valid Court Order (Section 223(a)(12)(A).* For the purposes of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority.

(ii) The court must enter a judgement and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

(iv) Once a juvenile is alleged to have violated a valid court order, a violation hearing, in the form of a judicial proceeding before a court of competent jurisdiction must be held.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right to appeal to an appropriate court.

(vi) In entering the order that directs or authorizes disposition of placement in a

secure facility, the judge presiding over the violation hearing must certify on the record that all the elements of a valid court order, (i, ii, iii above), and the applicable due process rights, were afforded the juvenile and that there is no rational alternative to incarceration of the juvenile.

* * * * *

Appendix C

This Appendix sets forth a reprint from the September 3, 1981, **Federal Register** which (1) reviewed comments received in response to the June 1, 1981, proposed Valid Court Order regulation, and (2) sets forth the text of a second Valid Court Order regulation published for further comment, OJJDP seeks further comment on this proposed regulation.

Draft regulations were originally published in the **Federal Register** on June 1, 1981 for public comment. Upon review of written responses from 23 separate organizations and individuals, the Office has rewritten the proposed regulations. Three major changes have occurred through this process. * * * Thirdly, substantive changes were made in the proposed "valid court order" exception to the deinstitutionalization mandate of the Act. These changes are proposed after careful consideration of comments received. They would permit judges to hold status offenders alleged to have violated a valid court order in secure detention, pending a violation hearing, based on a judicial determination, at a hearing, that there is probable cause to believe the juvenile violated the court order. Such a juvenile could then be held for such period of time as is permitted by State law, with a recommended maximum of ten days. Following the violation hearing, the judge would be required to "determine" that all the elements of a valid court order were provided at the violation hearing (rather than providing a "certification on the record") and there would be no requirement for a finding of "no rational alternative" to incarceration of the juvenile.

The change to permit secure detention prior to a due process violation hearing is based on the fact that a plain reading of the statute excepts juveniles *alleged* to have violated a valid court order, as well as those adjudicated, from the scope of the deinstitutionalization requirement. The requirement that the judge "determine" that the elements have been met leaves the State free to establish appropriate procedures to meet this requirement. The deletion of the "no rational alternative" language does no harm to the substantive protections afforded juveniles by the regulation.

§ 31.303 Substantive requirements

* * * * *

(i) * * *

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present, where applicable, prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile in writing or be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, only if there has been a judicial determination, based on a hearing, that there is probable cause to believe the juvenile violated the court order. In such case the juvenile may be held, pending a violation hearing, for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed ten days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order, (paragraphs (i)(3), (i), (ii), (iii)) of this section and, in the case of a violation hearing, the applicable due process rights, (paragraph (i)(3), (v) of this section), were afforded the juvenile.

* * * * *

Appendix D

This Appendix sets forth a reprint from the December 31, 1981, **Federal Register**, which reviewed the comments and suggestions received in response to the September 3, 1981, proposed Valid Court Order regulation. OJJDP seeks further comment on the suggestions offered by the commentators.

Valid Court Order

There was substantial comment on and criticism of the revised valid court order guideline (§ 31.303(i)(3)). Fifteen of the commentators voiced the opinion that the revised provision failed to correctly reflect the Congressional intent underlying the valid court order amendment to Section 223(a)(12)(A) of the Juvenile Justice Act. These commentators generally favored retention of the initial implementing guideline published for comment in the **Federal Register** on June 1, 1981 (46 FR 29438, § 31.703(h)(3), at 29443). Specifically, they called for reinstatement of the following features of that guideline:

(1) *No secure detention under any circumstance* of a juvenile status offender or nonoffender *alleged* to have violated a valid court order;

(2) Reinstate the requirement that the judge presiding over the violation hearing, in entering a dispositional order directing or authorizing placement in a secure facility, *certify on the record* (rather than determine) *that all the elements of a valid court order have been met;* and

(3) Reinstate the requirement that the judge in (2) above also certify on the record (rather than make no certification or determination) that *there is no rational alternative to incarceration of the juvenile.*

In addition, a variety of suggestions were offered by commentators seeking to increase or clarify the protections afforded to juvenile status offenders and nonoffenders who may be subject to incarceration as a result of a court order violation. These suggestions are as follows:

(1) For a court order to be deemed valid the juvenile status offender or nonoffender should have had the *right to counsel* at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

(2) For a court order to be deemed valid, the juvenile status offender or nonoffender should have received the *full range of due process rights* listed in § 31.303(i)(3)(v)(A)–(H) at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

(3) The warning to the juvenile of the consequences of violating the court order (§ 31.303(i)(3)(iii)) should be provided to the juvenile *and to his attorney and/or to his parents or guardian;*

(4) The warning referenced in (3) above should be in writing *and* (rather than "or") be reflected in the court record and proceedings;

(5) The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the *same judge* in the *same court* in which the order was entered;

(6) The "24-hour grace period" referenced in § 31.303(i)(3)(iv) should clearly specify that this means 24 hours *exclusive of nonjudicial days* (i.e., holidays and weekends) consistent with OJJDP monitoring policy;

(7) The guideline should require that any judicial *determination of probable cause,* used as a basis for detaining a juvenile pending a violation hearing, must be held *within the 24-hour grace period;*

(8) There should be no *provision for a probable cause hearing.* Rather, the guideline

should require that the violation hearing be held within the 24-hour grace period or the juvenile released to an appropriate nonsecure placement pending the violation hearing;

(9) A juvenile held in a secure detention facility, after a probable cause hearing pending a violation hearing, should be held for the minimum time necessary to schedule and hold a violation hearing, but in no event longer than:

(a) *3 calendar days;* or

(b) *72 hours;* or

(c) *72 hours exclusive of nonjudicial days;* or

(d) *5 calendar days;* or

(e) *10 calendar days or the number of days that an alleged delinquent offender* may be held under State law in secure detention prior to an adjudicatory hearing, whichever is less;

(10) Where a judicial determination is made that there is probable cause to believe that a status offender or nonoffender violated a valid court order, placement in a secure detention facility pending a violation hearing should require, at a minimum, a judicial finding that:

(a) There is a *probability that the juvenile will not appear for further proceedings;* or

(b) The *juvenile* poses a danger to self or to community safety;

(11) The authority to hold a juvenile status offender or nonoffender in a "secure detention facility" or a "secure correctional facility" should specify that such facilities include only those which are *exclusively for juvenile offenders;*

(12) The full due process rights enumerated in § 31.303(i)(3)(v) should include a *standard of proof beyond a reasonable doubt;* and

(13) OJJDP should establish *maximum numbers of juvenile status offenders and nonoffenders* who can be held for valid court order violations and establish a *maximum length of secure incarceration* for juveniles who violate valid court orders.

A lesser number of respondents believed that the guideline, rather than failing to provide adequate due process protection to juveniles, failed to provide sufficient judicial flexibility, offering the following suggestions to increase judicial discretion:

(1) The determination of probable cause to believe a juvenile status offender or nonoffender violated a valid court order should be made by a judge *or any duly authorized officer of the court acting on behalf of the judge;* and

(2) OJJDP should *defer to State law* in determining the maximum length of time a status offender or nonoffender alleged to have violated a valid court order may be held in secure detention pending a violation hearing.

As can be seen, there is a wide divergence of views on valid court order amendment implementation. This stems in part from a legislative history that is inconclusive on certain points, differences in various State laws, policies and practices, and the complex legal issues that underlie the treatment of juvenile status offenders and nonoffenders who violate valid court orders. It is OJJDP's conclusion that publication of a final regulation governing implementation of the valid court order amendment at this time, given the expressed concerns and information available, would not further the proper implementation of the amendment.

Consequently, OJJDP believes that further exploration and consideration of the issues raised above (and other relevant valid court order considerations) are desirable before a final rule is promulgated. Therefore, OJJDP plans to schedule at least two hearings to receive oral testimony and to give interested parties the opportunity to submit further written input on valid court order implementation. A notice will be placed in the **Federal Register** regarding the date and time for such hearings and providing for the receipt of written submissions. OJJDP anticipates that this notice will be published within 30 days. The notice will explain the rationale of the various positions and options presented in response to the **Federal Register** drafts. OJJDP's primary objective is to fully implement the congressional intent, considering the input and experience of practitioners, and to provide for a workable regulation that does not create unrealistic policies, and does not, by implication, undermine State procedural law.

OJJDP will reserve § 31.303(i)(3) of the final regulations. Pending the publication of a final regulation, States should continue to follow applicable State law and Constitutional principles of due process in their implementation and monitoring of the valid court order amendment. OJJDP urges States not to consider modifications of existing State law or policy regarding the secure incarceration of juvenile status and nonoffenders who violate the lawful orders of the court until a final regulation is published.

Appendix E—Explanation of Proposals Received in Response to Draft Valid Court Order Regulations

This Appendix sets forth a brief explanation of the stated bases for the suggestions offered by the commentators responding to the September 3, 1981, **Federal Register.** It is intended to assist individuals to comment further on the two proposed regulations already published by OJJDP and reprinted in Appendices B and C.

Proposal

The regulation should not permit, under any circumstances, the secure detention, of a juvenile status offender or nonoffender alleged to have violated a valid court order.

Comment

This is a central valid court order issue. Proponents contend that a court order should not be considered "valid," and hence secure detention authorized, until there has been a full judicial hearing with all attendant due process protections provided to the juvenile. They believe Congress intended to provide the flexibility to use secure placements for court order violators *only* after full due process rights have been provided. They cite legislative history limiting the exception to juveniles *found* to be in violation of a valid court order, and state that only in this way can the potential for judicial abuse be minimized.

Other commentators suggest that pre-violation hearing detention is essential for the protection of certain juveniles, particularly runaways, and that it makes no sense to place a juvenile who has run away from a nonsecure placement back into another nonsecure setting pending a hearing, particularly when the judge reasonably believes that the juvenile will run again.

Finally, other commentators recognize that circumstances may require limited use of pre-violation hearing detention but suggest appropriate safeguards such as:

(1) Require that a probable cause hearing be held within 24 hours of the juvenile being taken into secure custody.

(2) Further restrict the maximum length of permissible pre-violation hearing detention following a probable cause determination, e.g. limit to 72 hours.

(3) Require that the probable cause determination be made by the same judge entering the order (or the same court).

(4) Require the separation of status and nonoffender juveniles from juvenile criminal-type offenders in secure detention facilities.

(5) Require a judicial determination of "no rational alternative" to secure detention pending a full due process violation hearing.

(6) Limit pre-violation hearings detention to situations where the judge determines, in addition to findings probable cause, that there is either a probability the juvenile will not appear for further proceedings or that the release of the juvenile would constitute a danger to self or to community safety.

(7) Require that the juvenile have a right to counsel at the probable cause hearing.

(8) Permit no detention based on a probable cause determination unless the juvenile received full due process rights at the initial status offense adjudication which resulted in the valid court order.

Proposal

Reinstate the requirement that the judge presiding over the violation hearing, in entering a dispositional order directing or authorizing placement in a secure facility, *certify on the record* (rather than determine) *that all the elements of a vaild court order have been met.*

Comment

This suggestion is based on the belief that only by requiring a "certification on the record" can there be assurance that the judge has appropriately determined that all valid court order elements are present and met. Others suggest that the judiciary should be free to make the determination in accordance with State or local practice and procedure.

Proposal

Reinstate the requirement that the judge in (above) also certify on the record (rather than make no certification or determination) that *there is no rational alternative to incarceration of the juvenile.*

Comment

Proponents argue that Congress intended incarceration of valid court order violators to be a last resort, to be used sparingly, and only where absolutely necessary. Thus, certification or determination of no rational alternative is important to meeting that intent. The opposing view is that judges simply do not incarcrerate juveniles where alternatives are available and that an explicit requirement would only serve to open the exercise of a judge's sound discretion to legal challenge.

Proposal

For a court order to be deemed valid the juvenile status offender or nonoffender should have had the *right to counsel* at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered.

Comment

The rationale for this position is that without having the right to counsel at the initial proceeding on which the order was based, subsequent incarceration based on that order violates the Constitutional right to counsel. This right applies in any situation where an individual is subjected to a loss of liberty as a result of a judicial proceeding.

Many States require the appointment of counsel to represent juveniles alleged to be status offenders and some extend this right to nonoffenders. However, other States, particularly those which prohibit the secure incarceration of status and nonoffenders by State law, do not extend the right to counsel to proceedings which involve these juveniles. It is argued that had Congress intended to restrict the valid court order authority to States providing the right to counsel at all proceedings resulting in a court order, they would have done so explicitly.

Proposal

For a court order to be deemed valid, the juvenile status offender or nonoffender should have received the *full range of due process rights* listed in § 31.303(i)(3)(v)(A)–(H) at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered.

Comment

See above.

Proposal

The warning to the juvenile of the consequences of violating the court order (§ 31.303(i)(3)(iii)) should be provided to the juvenile *and to his attorney and/or to his parents or guardian.* The warning should be *in writing* and (rather than "or") be reflected in the court record and proceedings.

Comment

These proposals are designed to insure that all parties are fully aware to the possible consequences of a vaild court order violation and to enable a subsequent determination to be easily made that, in fact, a full and adequate warning was provided.

Proposal

The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the *same judge* in the *same court* in which the order was entered.

Comment

This proposal is intended to insure consistency and to deter a too broad application, such as a court in one State using a violation of an order entered in another State as the basis for secure incarceration of a status offender.

Proposal

The "24-hour grace period" referenced in § 31.303(i)(3)(iv) should clearly specify that this means 24 hours *exclusive of nonjudicial days* (i.e., holidays and weekends) consistent with OJJDP monitoring policy.

Comment

OJJDP intends to include such clarification in any future regulation.

Proposal

The guideline should require that any judicial *determination of probable cause,* used as a basis for detaining a juvenile pending a violation hearing, must be held *within the 24-hour grace period.*

Comment

If such a determination were not made within the 24-hour grace period, and the juvenile was held beyond 24 hours exclusive of nonjudicial days, this would be a violation of Section 223(a)(12)(A) even if a permissible probable cause determination was subsequently made.

Proposal

There should be no *provision for a probable cause hearing.* Rather, the guideline should require that the violation hearing be held within the 24-hour grace period or the juvenile released to an appropriate nonsecure placement pending the violation hearing.

Comment

OJJDP questions whether it is possible to hold a violation hearing, with the full panoply of *Gault* rights, within 24 hours of a juvenile's being taken into custody. However, a probable cause hearing, involving narrow factual issues that are more readily determinable, could generally be held within the 24 hour time-frame.

Proposal

A juvenile held in a secure detention facility, after a probable cause hearing and pending a violation hearing, should be held for the minimum time necessary to schedule and hold a violation hearing, but in no event longer than:

(a) 3 calendar days; or

(b) 72 hours; or

(c) 72 hours exclusive of nonjudicial days; or

(d) 5 calendar days; or

(e) 10 calendar days or the number of days that an alleged delinquent offender may be held under State law in secure detention prior to an adjudicatory hearing, whichever is less.

Comment

State laws vary on the maximum length of secure detention permitted before an adjudicatory hearing must be held in a delinquency matter. Clearly, the focus in a valid court order violation hearing would be on providing adequate time to obtain counsel and prepare witnesses and other evidence for the hearing. The factual issues would generally not be complex. Therefore, OJJDP's preliminary view is that if detention based on a probable cause determination is permitted, the detention period should never be longer than the minimum period of time determined by State law to be reasonably necessary to prepare for and hold such a hearing.

Proposal

Where a judicial determination is made that there is probable cause to believe that a status offender or nonoffender violated a valid court order, placement in a secure detention facility pending a violation hearing should require, at a minimum, a judicial finding that:

(a) There is a *probability that the juvenile will not appear for further proceedings;* or

(b) The *juvenile poses a danger to self or to community safety.*

Comment

The basis for this suggestion is that a juvenile should never be held in secure detention for allegedly violating a court order as a means of punishment. Therefore, necessity must be the perceived motivation.

Proposal

The authority to hold a juvenile status offender or nonoffender in a "secure detention facility" or a "secure correctional facility" should specify that such facilities include only those which are *exclusively for juvenile offenders.*

Comment

Sections 223(a)(13) and (14) would mitigate against the placement of any status or nonoffender juvenile in a facility where adult criminal offenders are incarcerated.

Proposal

The full due process rights enumerated in § 31.303(i)(3)(v) should include a *standard of proof beyond a reasonable doubt.*

Comment

This suggestion is based on the Supreme Court's holding in *In re Winship,* 397 U.S. 358 (1970).

Proposal

OJJDP should establish *maximum numbers of juvenile status offenders and nonoffenders* who can be held for valid court order violations and establish a *maximum length of secure incarceration* for juveniles who violate court orders.

Comment

Congress did not indicate any intent to place an absolute limit either on the number of juveniles held or on the length of incarceration (see Issue Paper Question 13).

Proposal

The determination of probable cause to believe a juvenile status offender or nonoffender violated a valid court order should be made by a judge *or any duly authorized officer of the court acting on behalf of the judge.*

Comment

It is OJJDP's tentative position that this proposal is inconsistent with good juvenile court practice, the due process rights of noncriminal juveniles, and the Congressional intent that this exception be used only in carefully prescribed circumstances.

Proposal

OJJDP should *defer to State law* in determining the maximum length of time a status offender or nonoffender alleged to have violated a valid court order may be held in secure detention pending a violation hearing.

Comment

OJJDP intends to deter to State law in formulating a final regulation in all respects where such deferral is consistent with the Congressional intent which underlies the valid court order amendment.

[FR Doc. 82-3180 Filed 2-8-82; 8:45 am]
BILLING CODE 4410-18-M

federal register

Tuesday
February 9, 1982

Part IV

Department of Justice
Department of State

Immigration and Naturalization Service
Bureau of Consular Affairs

Afghanistan; Restriction for Citizens and Nonimmigrant Visas Documentary Waivers

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Afghanistan

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule restricts citizens of Afghanistan from transiting the United States without visas. This waiver of visas for transits from Afghanistan has become a means of circumventing immigration laws once they arrive in the United States. Citizens of Afghanistan must have visas and passports to transit the United States regardless of their ultimate destination.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633–3048. For Specific Information: Edward K. Burns, Immigration Inspector, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633–3996.

SUPPLEMENTARY INFORMATION: The Department of State and the Department of Justice have established that citizens of Afghanistan, believing they have a claim to refugee status, are trying to circumvent refugee procedures abroad by using the transit without visa waiver privilege to enter the United States as supposed transits and, upon arriving in the United States, applying for asylum as refugees. Other Afghan nationals destroy their travel documents and onward airline tickets while in flight to prevent continuation of their travel beyond the United States.

Because of the continuing nature of these schemes, and imminent arrival of additional groups, the Department of State and Immigration and Naturalization Service are jointly withdrawing the transit without visa privilege as it applies to Afghan citizens.

In view of the emergency situation which exists, compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date would be impractical and contrary to the public interest.

This rule is exempt from the requirements of E.O. 12291 under section 1.(a)(2) thereof since it is issued with respect to a foreign affairs function of the United States.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. In § 212.1, paragraph (e) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(e) *Direct transits*—(1) *Transit without visa.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Service under the provisions of section 238(d) of the Act on Form 1–426 to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document or documents establishing his/her identity and nationality and ability to enter some country other than the United States.

(2) *Waiver of passport and visa.* On the basis of reciprocity, the waiver of passport and visa is available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he/she is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(3) *Unavailability to transit.* This waiver of passport and visa requirement is not available to an alien who is a citizen of Afghanistan, Cuba, Iraq, Iran, North Korea ("Democratic People's Republic of Korea") or Democratic Republic of Vietnam and is a resident of one of the said countries.

(4) *Foreign government officials in transit.* If an alien is of the class described in section 212(d)(8) of the Act only a valid unexpired visa and a travel document valid for entry into a foreign country for at least 30 days from the date of admission to the United States are required.

* * * * *

(Secs. 103, 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1182))

Dated: February 4, 1982.

Alan C. Nelson,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82–3576 Filed 2–8–82; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Departmental Reg. 108.816]

Nonimmigrant Visas Documentary Waivers; Afghanistan

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department is amending the regulations relating to transit without visa to withdraw the waiver of visa privilege to citizens of Afghanistan. This privilege is a means of facilitating the passage through the United States of aliens in transit to third countries.

In the case of citizens of Afghanistan, this waiver has recently become a means of circumventing normal immigration procedures and laws. Withdrawal of the visa waiver privilege will eliminate this practice.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald M. Brown, Legislation and Regulations Division, Visa Services, (202) 632–2907.

SUPPLEMENTARY INFORMATION: Aliens accepted for transit without a visa are not required to be in possession of a valid visa in order to effect passage through the United States en route to an ultimate destination. In recent months, however, citizens of Afghanistan believing they have a claim to refugee status have tried to circumvent refugee procedures abroad by using the transit without a visa waiver privilege to enter the United States and immediately applying for asylum as refugees. The Department has verified cases in which Afghan citizens whose applications for United States refugee and/or visa status had been denied at U.S. missions

abroad, have entered the United States without visas. Other cases concern Afghan citizens who destroyed their travel documents and onward tickets on aircraft in flight to prevent continuation of their travel beyond the United States. These Afghan citizens remain in the United States pending adjudication of applications for political asylum. Several groups have already reached the United States under these circumstances and it is believed probable that another large group is about to follow.

In view of the continuing nature of this scheme and the imminent arrival of additional groups the Department of State and the Department of Justice have agreed to withdraw the transit without visa privilege to Afghan citizens.

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Due to the emergency nature of this action, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, relative to notice of proposed rulemaking are impracticable and contrary to the public interest in this instance. In addition, because it is issued with respect to a foreign affairs function, this rule is also exempt from the requirements of Executive Order 12291 on the same basis. In light of the foregoing the third sentence in subparagraph (1) of paragraph (e) of section 41.6 is removed and the second sentence is revised to read:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(e) *Aliens in immediate transit*—(1) *Aliens in bonded transit.* * * * This waiver of visa and passport requirements is not available to an alien who is a citizen of Afghanistan, Cuba, Iran, or Iraq.* * *

* * * * *

(Sec. 101, Stat. 116, 8 U.S.C. 1101; 109(b), 91 Stat. 847)

Dated: February 9, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

Dated: February 1, 1982.

D. M. Meissner,

Acting Deputy Commissioner, Immigration and Naturalization Service.

[FR Doc. 82-2993 Filed 2-8-82; 8:45 am]

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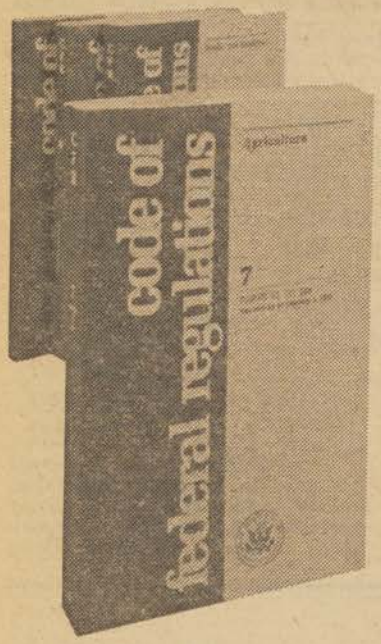
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