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Wednesday
April 7, 1982

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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Proclamation 4922 of April 5, 1982

Mother's Day, 1982

By the President of the United States of America

A Proclamation

Each year this Nation designates the second Sunday in May as Mother's Day—a day on which to recognize and honor mothers for the roles they play in our families and society.

In recent years, the shape of family life has been changing. Increasing numbers of mothers have added outside paid employment to their traditional roles, and, similarly, fathers in increasing numbers are sharing home responsibilities with them.

Mothers nourish and support bodies, minds and souls; encourage good health; nurse illness; overcome discouragement and cheer success. They create and sustain an atmosphere that helps children and families thrive.

Mother's Day gives all of us an opportunity to thank our own mothers for their devotion and to acknowledge that every mother is essential to her family—the social unit on which our society is built.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby request that Sunday, May 9, 1982, be observed as Mother's Day. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April, 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. 82-9511
Filed 4-5-82; 4:33 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4923 of April 5, 1982

Small Business Week, 1982

By the President of the United States of America

A Proclamation

Small business is the cornerstone of our free enterprise system and since the birth of this country has represented opportunity, independence, and the fulfillment of dreams for generations of Americans.

Combining the dynamic forces of individual initiative with an alertness to consumer needs, small business increases the flexibility of our economic system and is a leading source of innovation and technological advancement for much of our industry.

We are indebted to small business for its contributions to our success as a nation and dependent on its progress and vitality for our economic well-being. Small firms employ over half of the labor force and are leaders in employment creation and innovation; they also play an important role in expanding economic opportunities for women and minorities.

While small business is at the heart of our competitive system, it has been increasingly hobbled in recent years by excessive government regulation and taxation. We are currently addressing these problems through our programs for economic recovery. Our goal is to encourage the entrepreneurial spirit and to help usher in a new era of growth for small business. Toward that end, "The State of Small Business: A Report of the President," was sent to the Congress on March 1, 1982. It outlines key recommendations of this Administration.

Historically, small firms have enjoyed a special relationship with their communities. Now they not only will be leaders in the renaissance of their communities but also will be in the forefront of revitalizing the economy and bringing a new sense of direction to the American people.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 9, 1982, as Small Business Week. I call upon every American to join me in this tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April 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. 82-9512
Filed 4-5-82; 4:34 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4924 of April 5, 1982

World Trade Week, 1982

By the President of the United States of America

A Proclamation

The United States recognizes two of its most important responsibilities—to help restore growth and vitality to the world economy and to assure that all countries participate fully in international development. That is why America is committed to policies of free trade, unrestricted investment and open capital markets.

We also recognize that the international economic system can expand and improve only on a foundation of sound domestic policies in all countries. That is why this Administration is working so diligently to promote the economic well-being of the United States.

A vital interlocking part of our economy is our export activity. Every billion dollars in manufactured exports provides some 32,000 jobs for American workers. Exports account for almost six million U.S. jobs and generate billions of dollars in business for U.S. companies. Small wonder that this year's World Trade Week theme is "exports mean jobs."

For these reasons, the United States remains firmly committed to a liberal world trading system and an active role in future world trade negotiations. In such negotiations, the United States adheres to the principle of reciprocal trade concessions and commitments—a principle embodied in the General Agreement on Tariffs and Trade that has served the mutual interests of all trading partners.

Government can set the framework for expanded trade, but government cannot make trade flourish. This enormous power lies with private enterprise. When American private citizens act to increase trade, all America will benefit.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 16, 1982, as World Trade Week, and I invite the people of the United States to join in ceremonies affirming that trade is essential to our well-being at home and abroad.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April, 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. 82-9513
Filed 4-5-82; 4:35 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

[Docket No. 82-304]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of removal of emergency regulations and withdrawal of proposal.

SUMMARY: This document affirms (1) the removal of emergency regulations which had been promulgated for the purpose of restricting the interstate movement of certain articles from an area in Hillsborough County, Florida because of the Mediterranean fruit fly, and (2) the withdrawal of a proposal to quarantine the State of Florida and to establish final regulations to restrict the interstate movement of such articles from the area in Hillsborough County. The emergency regulations and the proposal had been issued for the purpose of preventing the artificial spread of the Mediterranean fruit fly into nonifested areas of the United States. However, based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly has been eradicated from Hillsborough County, and that the regulations and the proposal are no longer necessary.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department it has been determined that this action will have an effect on the economy of less than $5,500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A document published in the **Federal Register** on November 13, 1981 (46 FR 55918-55919) (1) removed emergency regulations which were promulgated for the purpose of restricting the interstate movement of certain articles from an area in Hillsborough County, Florida, because of the Mediterranean fruit fly and (2) withdrew a proposal to quarantine the State of Florida and to establish nonemergency regulations to restrict the interstate movement of such articles from the area in Hillsborough County. The emergency regulations had been imposed and the proposal had been issued for the purpose of preventing the artificial spread of the Mediterranean fruit fly from areas in Hillsborough County, Florida into other areas of the United States. However, based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly has been eradicated from Hillsborough County. Accordingly, the emergency regulations and the proposed quarantine and regulations are no longer necessary. Further, since it has been determined that the Mediterranean fruit fly had been eradicated in Hillsborough County, it appears that there is no other feasible alternative to consider with regard to the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Certification under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affirms the removal of restrictions on the interstate movement of specified articles from a certain area in Hillsborough County, Florida. There are thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services, it has been determined that fewer than 15 small entities move such articles interstate from the previously regulated area in Hillsborough County. Further, the overall economic impact from this action is estimated to be less than $5,500.

Background

Effective August 12, 1981 (46 FR 41021-41029), emergency regulations were established to restrict the interstate movement of certain articles from an area designated as a regulated area in Hillsborough County, Florida, because of the Mediterranean fruit fly. The emergency regulations were amended effective August 21, 1981 (46 FR 42438-42439) to expand the regulated area to include an additional portion of Hillsborough County. The documents establishing the emergency provisions also proposed to establish such restrictions on a nonemergency basis.

A document published in the **Federal Register** on November 13, 1981 (46 FR 55918-55919), removed the emergency regulations which had been set forth in 7 CFR 331.1 through 331.1-10. The document of November 13, 1981 also withdrew the proposal to establish the same restrictions on a nonemergency basis. The removal of the emergency regulations and the withdrawal of the proposal became effective on the date of publication of the document. Written comments concerning these actions were solicited for 60 days after publication. No comments were received.

The emergency regulations had been imposed and the proposal had been issued for the purpose of preventing the artificial spread of the Mediterranean fruit fly from areas in Hillsborough County, Florida into other areas of the United States. However, as explained in the document of November 13, 1981, it has been determined, based on trapping

and sampling surveys, that the Mediterranean fruit fly has been erradicated from Hillsborough County. Therefore, the emergency regulations and the proposal are no longer necessary.

List of Subjects in 7 CFR Part 331

Agricultural Commodities
Plant Pests
Plants (Agriculture)
Quarantine
Transportation
Mediterranean Fruit Fly

Accordingly, this document affirms the removal of the emergency regulations and the withdrawal of the proposal.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32 and 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 2d day of April 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-9463 Filed 4-6-82; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[PS-107; Amdt. No. 83]

Tariffs for Post-1982 Domestic Travel

AGENCY: Civil Aeronautics Board.

ACTION: Interpretative rule.

SUMMARY: The CAB interprets the Airline Deregulation Act as barring, and will not accept, the filing of tariffs for domestic transportation to be performed on or after January 1, 1983, when the tariff requirement ceases to be in effect.

DATES:

Effective: April 7, 1982.
Adopted: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Chief, Domestic Fares & Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5298.

SUPPLEMENTARY INFORMATION: Section 1601 of the Airline Deregulation Act, 49 U.S.C. 1551, provides that the basic tariff provision of the Federal Aviation Act (section 403, 49 U.S.C. 1373) shall cease to be in effect on January 1, 1983, for interstate and overseas (domestic) passenger air transportation. Some recent air carrier tariff filings have raised the question whether carriers must, or may, file tariffs covering tickets that are sold before that date but are for transportation after that date.

On its face, the statute could be interpreted either way. Section 403 states that air carriers shall file tariffs showing fares and rules for all air transportation provided by them, and shall charge no greater fares than those shown. (The Board has by rule, ER-1246, 46 FR 46787, September 22, 1981, allowed carriers and ticket agents to sell at any price lower than the tariff in domestic air transportation.) It could be argued that section 1601, declaring that the section ceases to be in effect as of January 1, 1983, does not prohibit carriers from posting tariffs for sales before the date of transportation to be performed afterward, or even that it requires such posting, on the theory that any sales before January 1, 1983, are to be according to tariffs.

The Board concludes, however, that the policy considerations underlying the Congressionally imposed sunset provision in section 1601 lead to the opposite interpretation: that the intent of the statute would be best fulfilled by reading it to prohibit tariff filings for transportation provided after the sunset date. The rights and duties set up by buying an airline ticket, with only minor exceptions such as those concerning refunds, relate to what takes place at the time the transportation is furnished—in this case after January 1, 1983. That seems to be the proper date on which to focus for the relevant tariff law. Furthermore, it seems clear that the tariffs themselves will cease on January 1, 1983, to have any legal effect or existence, other than as records relating to pre-sunset transportation, so that passengers who would have bought tickets before the end of the year for travel later would be in an anomalous legal position at the time of their travel. Their conditions of carriage would be contained in tariffs that no longer existed as such. It might be argued that the tariffs could be "converted" on January 1 to non-tariff contracts of carriage. The difficulty with that argument is that the tickets would not have been sold under any of the protective conditions that might be associated with non-tariff contracts of carriage—such as actual notice to the passengers. Thus, the passengers would be undergoing the risks of non-tariff contracts of carriage, without the corresponding protections. The confusion might be further compounded by the fact that passengers who after January 1 bought tickets for the same flight would probably be operating under a different set of contractual rules.

The Board faced a somewhat similar question when it ended, by rule, the filing of tariffs for cargo in domestic air transportation (ER-1080, 43 FR 53628, November 16, 1978). At that time it prohibited the filing of tariffs for transportation to be performed after the tariff termination date.

For these reasons, the Board interprets section 1601 as prohibiting the filing of tariffs for interstate and overseas air transportation to be performed on or after January 1, 1983, and will not accept any tariffs to that effect.

The Board also points out that carriers must inform passengers who purchase tickets for transportation commencing after December 31, 1982 about the conditions of carriage for that transportation. The use of the carriers' present ticket stock which refers to "applicable tariffs" probably does not do this. The Board expects the carriers to devise an effective means to fulfill their responsibilities of informing passengers of the conditions of carriage. Failure to do so may subject a carrier to civil liability and may be an unfair or deceptive practice within the meaning of section 411 of the Act.

Since this issuance is interpretative in nature, and a statement of agency policy, it is found for good cause that notice and public procedure thereon are unnecessary, and that an effective date less than 30 days from the date of publication is in the public interest.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight Forwarders, Grant programs-transportation, Hawaii, Motor carriers, Puerto Rico, Reporting requirements, Travel agents, Virgin Islands.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 399, *Statements of General Policy*, as follows:

PART 399—STATEMENTS OF GENERAL POLICY

The authority for Part 399 is:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 414, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797, (92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, ,1380, 1381, 1382, 1386, 1461, 1481, 1482, 1502, 1504.

2. A new § 399.40 is added to read:

§ 399.40 Tariffs for domestic air transportation on or after January 1, 1983.

The Board will not approve or accept any tariff filings for interstate of overseas air transportation to be performed on or after January 1, 1983. Any tariffs for such transportation that do not specify an earlier expiration date shall expire at midnight on December 31, 1982.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9460 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is revising its final rule (14 CFR Part 1204, Subpart 12) "Debriefing of Unsuccessful Companies in Competitive Negotiated Procurements," to provide flexibility in those instances when a company has been an unsuccessful competitor in a negotiated NASA procurement and submits, prior to the award of the contract, a written request for a debriefing. This debriefing will be at the earliest feasible time after announcement of the selection decision and normally prior to award of the contract.

This revision also updates changes in offices and titles which occurred as a result of reorganizations within NASA.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: John E. Horvath, (202) 755-2280.

Since this revision is administrative and editorial in nature, notice and public procedures are not required.

List of Subjects in 14 CFR Part 1204

Government contracts, Government procurement.

14 CFR Part 1204 is amended by revising Subpart 12 to read as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

* * * * *

Subpart 12—Debriefing of Unsuccessful Companies in Competitive Negotiated Procurements

Sec.

* * * * *

Subpart 12—Debriefing of Unsuccessful Companies in Competitive Negotiated Procurements

Authority: 42 U.S.C. 2473(c)(1).

§ 1204.1200 Scope of subpart.

This subpart sets forth NASA policy and procedures for debriefing unsuccessful offers in competitive negotiated procurements.

§ 1204.1201 Policy.

(a) If requested in writing, it is NASA policy to provide a debriefing to a company that has unsuccessfully competed for a NASA procurement. Such a debriefing informs the unsuccessful offeror of those areas of its proposal judged to be deficient, the reasons why it was not selected, and the basis for selection of the successful contractor. If the successful offeror was selected on the basis of the quality of its proposal to satisfy the mission requirement, the unsuccessful firm should be so advised, including a general comparison of significant areas, but excluding a point-by-point comparison of all elements considered in the evaluation criteria. If the successful offeror was selected on the basis of cost or other factors, the unsuccessful offeror should also be so advised.

(b) If an unsuccessful offeror feels that its exclusion from the award was not justified, it will rely, at least in part, on the information given to the company in the debriefing to determine whether recourse should be sought against that exclusion. Accordingly, it is essential that debriefings be conducted in a scrupulously fair, objective, and impartial manner, and that the information given the company be absolutely factual and consistent with:

(1) The findings of the Source Evaluation Board and the basis on which the Selection Official made the decision; or

(2) The findings of the Contracting Officer and the basis on which the Contracting Officer made the decision if the Source Evaluation Board procedures were not employed.

(c) The debriefing should not reveal:

(1) Confidential business information, trade secrets, techniques or processes of the other companies which competed for the contract;

(2) The relative merits or technical standing of the other successful offerors, or the scoring of the Source Evaluation Board when such a Board was employed.

(d) Unless authorized by the Assistant Administrator for Procurement, the Source Selection Statement for alternative system design concepts under the Major System Acquisitions process is not to be released to competing offerors or the general public until the release of the Source Selection Statements for full-scale development.

(e) The principles expressed in this subpart, except when relevant only to Source Evaluation Board procedures, apply to all NASA competitively negotiated procurements.

§ 1204.1202 Procedures.

(a) Any NASA employee who receives a request for a debriefing from an unsuccessful offeror, either written or oral, shall immediately refer that request to the appropriate official at the cognizant field installation or Headquarters office, as designated in Attachment A, to coordinate debriefing matters.

(b) When the designated official has received a request for a debriefing, such official shall inform other concerned officials at the installation and, in the case of procurement actions where the Administrator was the Selection Official, cognizant NASA Headquarters personnel.

(c) Debriefings are to be conducted by senior NASA officials. When the selection has been made by the Administrator, the Administrator will designate an official familiar with the rationale for the selection to conduct the debriefings, with participation by cognizant field installation personnel. Similarly, when the selection has been made by the Field Installation Director or a Headquarters Staff or Program Office head, the Center Director or Official-in-Charge of the Headquarters office shall designate an official and necessary supporting staff to perform the debriefing. When formal Source Evaluation Board procedures were not applied, the installation Procurement Officer or the Procurement Officer's designee shall perform the debriefing.

(d) When a company has been an unsuccessful offeror in a negotiated NASA procurement and submits, prior to the award of the contract, a written request for a debriefing, such a debriefing will be provided at the earliest feasible time. This normally shall be after announcement of the selection decision and prior to award of the contract. "Selection decision" means the final selection of the one successful contractor, or the contractors where more than one contract is to be awarded. Where the selection decision involves more than one contractor pursuant to the Major System Acquisition process, the debriefing will be limited in such a manner that it does

not prematurely disclose innovative concepts, designs and approaches of the successful contractor(s) that would result in a transfusion of ideas which also could inhibit contractors during the early phase from offering their best and most promising ideas for meeting the mission need. However, when the exigency of the situation will not permit delaying the award in order to debrief unsuccessful offerors, such debriefings may be conducted after award.

(e) Following any debriefing, a summary of the results thereof will be prepared for the signature of the NASA representative who conducted the debriefing and will be filed in the Source Evaluation Board file or the contract file, as appropriate.

Dated: March 24, 1982.

James M. Beggs,

Administrator.

[FR Doc. 82-9353 Filed 4-6-82; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Benefits for Remarried Widowers and Surviving Divorced Husbands

Correction

In FR Doc. 82-7650, at page 12161, in the issue of Monday, March 22, 1982, on page 12162, in the middle column below the part heading to Part 404, correct the words of issuance by changing "Chapter II" to read "Chapter III".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5316/R101; PH-FRL 2091-3]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Aldicarb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation to permit the combined residues of the insecticide/nematocide aldicarb and its metabolites in or on the commodity sorghum bran. This regulation to establish the maximum permissible level for residues of aldicarb on sorghum bran was requested by the Union Carbide Corp.

EFFECTIVE DATE: Effective on: April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 2, 1981 (46 FR 48756) which announced that the Union Carbide Corp., Agricultural Products Co., Inc., PO Box 12014, Research Triangle Park, NC 27709, had submitted a food additive petition (FAP 1H5316) proposing that 21 CFR 193.15 be amended by establishing a regulation permitting the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites aldicarb sulfoxide and aldicarb sulfone in or on the commodity sorghum bran at 1.0 part per million (ppm).

There were no comments received in response to this notice of filing. Subsequently the petition was amended decreasing the level for sorghum bran from 1.0 to 0.5 ppm.

The data submitted and other relevant material have been evaluated and discussed in a related document (PP 8F2107/R418) establishing tolerances in or on the raw agricultural commodities sorghum grain and fodder published elsewhere in today's issue of the **Federal Register.**

The metabolism of aldicarb is adequately understood for this use and an adequate analytical method is available for enforcement purposes. No actions are currently pending against continued registration of aldicarb, nor are there any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** on May 4, 1981 (46 FR 24945).

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.15 is revised as follows:

§ 193.15 Aldicarb.

(a) A regulation is established permitting the combined residues of the insecticide/nematocide aldicarb 2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde *O*-(methylcarbamoyl)oxime in or on the commodity sorghum bran at 0.5 part per million.

(b) A regulation is established permitting the combined residues of aldicarb and the above metabolites in or on the commodity dried hops at 50 parts per million resulting from the application of the insecticide in

accordance with the provisions of an experimental use permit that expires June 5, 1982. This temporary food additive regulation also expires June 5, 1982.

(1) Residues in or on dried hops not in excess of 50 parts per million resulting from the use described in paragraph (b) of this section remaining after expiration of the experimental use program will not be considered actionable if the insecticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and food additive tolerance.

(2) Washington State University will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The university will also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

(3) To assure safe use of the additive, its label and labeling shall conform to that approved by the EPA in conjunction with the issuance of the experimental use permit.

[FR Doc. 82-9188 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 193

[FAP 8H5197/T85; PH-FRL 2092-6]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; 2,2-Dimethyl-1,3-Benzodioxol-4-ol Methylcarbamate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule renews a food additive regulation to permit the combined residues of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate and its metabolities in corn oil in connection with an experimental use permit involving the application of the insecticide in the growing of corn. This regulation to permit the marketing of corn oil while further data are being collected on the subject insecticide was requested by BFC Chemicals.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2368).

SUPPLEMENTARY INFORMATION: EPA issued a regulation in the **Federal Register** of May 15, 1981 (46 FR 26762) establishing a food additive regulation permitting the combined residues of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate and its metabolities 2,2-dimethyl-1,3-benzodioxol-4-ol and *N*-hydroxymethyl bendiocarb in or on corn oil at 0.1 part per million (PPM) in connection with an experimental use permit involving the application of the insecticide in the growing of corn.

This food additive regulation is being renewed to permit the continued testing, obtain additional data, and to permit the marketing of the food commodity.

The scientific data reported and other relevant material have been evaluated and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit (10065-EUP-14) that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) *et seq.*). Therefore, regulation is renewed as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.152(c) is revised to read as follows:

§ 193.152 2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate.

* * * * *

(c) A tolerances of 0.1 part per million is established for the combined residues of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate and its metabolites 2,2-dimethyl-1,3-benzodioxol-4-ol and *N*-hydroxymethyl bendiocarb in corn oil intended for food use resulting from the application of the insecticide in the growing of corn. Such residues may be present therein only as a result of the application of the insecticide to growing corn under an experimental use permit. This regulation expires January 27, 1983.

[FR Doc. 82-9185 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 193

[FAP 9H5208/R99; PH-FRL-2093-1]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation for the combined residues of the herbicide norflurazon and its metabolite in or on dried hops. This regulation to establish the maximum permissible level for residues of norflurazon in or on dried hops was requested by Sandoz, Inc.

EFFECTIVE DATE: April 7, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm.

3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of February 17, 1982 (47 FR 6886) which announced that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, had filed a food additive petition (FAP 9H5208) with the EPA. This petition proposed that a regulation be established permitting the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in or on dried hops with a tolerance limitation of 3.0 parts per million (ppm).

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

The data submitted in the petition and other relevant material have been evaluated and discussed in a related notice of proposed rulemaking (47 FR 6894, February 17, 1982). A related document (PP 9F2177/R414) establishing tolerances on a variety of raw agricultural commodities appears elsewhere in this issue of the **Federal Register.**

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973; 7 U.S.C. 135(a) *et seq.*). Therefore, 21 CFR Part 193 is amended as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, pesticides and pests.

Dated: March 25, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 193 is amended by adding a new § 193.324 to read as follows:

§ 193.324 Norflurazon.

A regulation is established for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in dried hops at 3.0 parts per million when present therein as a result of its application to the growing crop.

[FR Doc. 82–9351 Filed 4–6–82; 8:45 am]

BILLING CODE 6560–50–M

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21 CFR Part 561

[FAP OH5266/R98; PH–FRL–2043–5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on dried apple pomace and tomato pomace. This regulation to establish the maximum permissible level for the insecticide in or on the commodities was requested by Shell Oil Company.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of August 26, 1980 (45 FR 56912) which announced that Shell Oil Co., 1025 Connecticut Ave., NW, Suite 200, Washington, DC 20036, had filed a feed additive petition (FAP 0H5266) with the EPA. The petition proposed that 21 CFR 561.97, permitting residues of the insecticide cyano (3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate, be amended by increasing the tolerance level in or on dried apple pomace from 0.2 part per million (ppm) to 20 ppm and adding dried tomato pomace at 10 ppm.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicity and other relevant data pertaining to this insecticide are included in a related document (PP 0F2367/R410) which appears elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) *et seq.*). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a

substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.97 is amended by reformatting the section into alphabetical tabular format and adding and alphabetically inserting dried apple pomace and tomato pomace to read as follows:

§ 561.97 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate.

A regulation is established permitting residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the following commodities:

Commodities	Parts per million
Dried apple pomace	20
Dried tomato pomace	10
Peanut hulls	1.0

[FR Doc. 82-9355 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 561

[FAP 2H5332/R100; PH-FRL-2093-4]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation for the combined residues of the herbicide norflurazon and its metabolite in or on the animal feed items citrus molasses and dried citrus pulp. This regulation to establish the maximum permissible level for the combined residues of norflurazon in or on these commodities was requested by Sandoz, Inc.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of February 17, 1982 (46 FR 6887) which announced that Sandoz Inc., 480 Camino del Rio South, San Diego, CA 92108, had submitted a feed additive petition (FAP 2H5332) to the EPA proposing that a regulation be established permitting the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in or on citrus molasses at 1.0 part per million (ppm) and dried citrus pulp at 0.4 ppm.

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 6894, February 17, 1982).

A related document (PP 9F2253/1F2538/R421) establishing tolerances on a variety of raw agricultural commodities appears elsewhere in this issue of the **Federal Register.**

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973; 7 U.S.C. 135(a) *et seq.*). Therefore, 21 CFR Part 561 is amended as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing and the grounds for the objections.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: March 25, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 561 is amended by adding a new § 561.283 to read as follows:

§ 561.283 Norflurazon.

A regulation is established for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) an its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in citrus molasses at 1.0 part per million (ppm) and dried citrus pulp at 0.4 ppm when present therein as a result of the application of the pesticide to the growing crop.

[FR Doc. 82-9348 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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21 CFR Part 561

[FAP 1H5316/R104; PH-FRL 2091-5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Aldicarb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the combined residues of the insecticide/nematocide aldicarb and its metabolites in or on the commodity sorghum bran. This regulation to establish the maximum permissible level for residues of aldicarb on sorghum bran was requested by the Union Carbide Corp.

EFFECTIVE DATE: Effective on: April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 2, 1981 (46 FR 48756) which announced that the Union Carbide Corp., Agricultural Products Co., Inc., PO Box 12014, Research Triangle Park, NC 27709, had submitted a feed additive petition (FAP 1H5316) proposing that 21 CFR 561.30 be amended by establishing a regulation permitting the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites aldicarb sulfoxide and aldicarb sulfone in or on the commodity sorghum bran at 1.0 part per million (ppm).

There were no comments received in response to this notice of filing. Subsequently this petition was amended by decreasing the tolerance proposal for sorghum bran from 1.0 ppm to 0.5 ppm.

The data submitted and other relevant material have been evaluated and discussed in a related document (PP 8F2107/R418) establishing tolerances in or on the raw agricultural commodities sorghum grain and fodder published elsewhere in today's issue of the **Federal Register.**

The metabolism of aldicarb is adequately understood for this use and an adequate analytical method is available for enforcement purposes. No actions are currently pending against continued registration of aldicarb, nor are there any other relevant considerations involved in establishing the regulation.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 135(a) *et seq.*). Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** on May 4, 1981 (46 FR 24945).

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.30 is amended by adding and alphabetically inserting the commodity sorghum bran to read as follows:

§ 561.30 Aldicarb.

* * * * *

Feed	Parts per million
* * * * *	
Sorghum, bran	0.5

[FR Doc. 82–9188 Filed 4–6–82; 8:45 am]

BILLING CODE 6560–50–M

21 CFR Part 561

[FAP 6H5143/T86; PH–FRL 2092–5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Butachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a feed additive regulation to permit the residues of the herbicide butachlor in or on rice hulls and rice bran in connection with an experimental use permit involving the application of the herbicide in the growing of rice. This regulation to permit the marketing of rice bran and rice hulls, while further data are being collected on the herbicide was requested by Monsanto Agricultural Products Co.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a regulation published in the **Federal Register** of March 3, 1981 (46 FR 14889) establishing a feed additive regulation permitting residues of the herbicide butachlor (*N*-(butoxymethyl)-2-chloro-2',6'-diethylacetanilide) in or on rice bran at 0.5 part per million (ppm) and rice hulls at 1.0 ppm in connection with an experimental use permit involving the application of the herbicide in the growing of rice.

This feed additive regulation is being extended to permit the continued testing, obtain additional data, and to permit the marketing of the feed commodities.

The scientific data reported and other relevant material have been evaluated and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit (524–EUP–30) that was extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The herbicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the herbicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C 135(a) *et seq.*). Therefore, the regulation is extended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal**

Register, file written objections with the Hearing Clerk, at the address given above. Such objections should be submited in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945).

Effective on: April 7, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346 (c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, pesticides and pests.

Dated: March 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.55 is revised to read as follows:

§ 561.55 Butachlor.

Residues of the herbicide butachlor (*N*-(butoxymethyl-2-chloro-2',6'-diethylacetanilide) may be present in the following feed only as a result of the application of the herbicide to the growing agricultural commodity in an experimental use program which expires April 23, 1983. Residues not in excess of these tolerances remaining after expiration of this experimental use permit will not be considered actionable if the herbicide has been legally applied during the term of, and in accordance with, the provisions of the experimental use permit.

Commodities	Parts per million
Rice bran	0.5
Rice hulls	1.0

[FR Doc. 82-9184 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2645

Extension of Special Withdrawal Liability Rules; Procedures for PBGC Approval of Plan Amendments

Correction

In FR Doc. 82-7915 appearing on page 12622 in the issue for Wednesday, March 24, 1982; on page 12625, first column, § 2654.3(d)(4), beginning with the sixth line, remove the following words: "or the cessation of the obligation to contribute".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR 213

[DOD Directive 5525.5][1]

DOD Cooperation With Civilian Law Enforcement Officials

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: These rules establish DOD policy and procedures for the provision of assistance, in the form of equipment, base facilities, research facilities, and personnel, to civilian law enforcement officials. These rules are consistent with the needs of national security and military preparedness and are issued in accordance with the requirements of 10 U.S.C. 371-378 and the Department of Defense Authorization Act, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John Heaphy, Office of the Deputy Assistant Secretary of Defense (Program Integration), Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Room 3D826, Washington, D.C. 20301, telephone 202-697-0617.

EFFECTIVE DATE: This Part was approved and signed by the Deputy Secretary of Defense March 22, 1982, and is effective as of that date.

List of Subjects in 32 CFR 213

Intergovernmental relations, law enforcement.

Accordingly, Chapter I, 32 CFR, is amended by adding a new Part 213, reading as follows:

PART 213—DOD COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS

Sec.

Authority: 10 U.S.C. 371-378.

§ 213.1 Purpose.

This Part establishes uniform DOD policies and procedures to be followed with respect to support provided to federal, state, and local civilian law enforcement efforts.

§ 213.2 Applicability and scope.

This Part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DOD Components"). The term, "Military Service," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 213.3 Definitions.

(a) *Civilian agency.* A government agency (other than the Department of Defense) in the following jurisdictions:

(1) The United States.

(2) A State (or political subdivision thereof).

(3) A territory or possession of the United States.

(b) *Civilian law enforcement official.* An officer or employee of a civilian agency with responsibility for enforcement of the laws within the jurisdiction of the agency.

(c) *DOD intelligence component.* An organization listed in subsection C.4. of DOD Directive 5240.1,[2] November 30, 1979.

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

[2] See footnote on page 1.

§ 213.4 Policy.

It is the policy of the Department of Defense to cooperate with civilian law enforcement officials to the maximum extent practicable. Under §213.8 through § 213.11, the implementation of this policy is consistent with the needs of national security and military preparedness, the historic tradition of limiting direct military involvement in civilian law enforcement activities, and the requirements of applicable law.

§ 213.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))* shall:

(1) Coordinate with civilian agencies on long-range policies to further DOD cooperation with civilian law enforcement officials.

(2) Provide information to civilian agencies to facilitate their access to DOD resources, including surplus equipment.

(3) Coordinate with the Department of Justice, the U.S. Coast Guard, and the U.S. Customs Service on matters related to the interdiction of the flow of illegal drugs into the United States.

(4) Develop guidance and approve actions as specified in § 213.8 through § 213.11 taking into account the requirements of DOD intelligence components and the interests of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)).

(5) Disseminate promptly interim guidance to permit the approving authorities designated in § 213.8 through § 213.11 to grant requests for assistance before the issuance of implementing documents.

(6) Ensure that the responsibilities addressed in paragraphs (a) (1) through (5) of this section are conducted in a manner that is consistent with the needs of national security and military preparedness.

(b) *Heads of DOD Components* shall:

(1) Disseminate promptly the text of 10 U.S.C. 371–378, along with the interim guidance issued by the ASD(MRA&L) under paragraph (a)(5) of this section, to ensure that field elements implement promptly congressional and departmental policy.

(2) Review training and operational programs to determine how assistance can be provided to civilian law enforcement officials, consistent with the policy in § 213.4, with a view toward identification of programs in which reimbursement can be waived under § 213.11.

(3) Issue implementing documents incorporating the guidelines and procedures set forth in this Part to include the following:

(i) Implementation of procedures for prompt transfer of law enforcement information.

(ii) Establishment of local contact points in subordinate commands for purposes of coordination with civilian law enforcement officials.

(iii) Issuance of guidelines for evaluating requests for assistance in terms of impact on national security and military preparedness.

(c) The *Director, National Security Agency (NSA)/Chief, Central Security Service (CSS)* shall establish appropriate guidance for NSA/CSS.

(d) The *Joint Chiefs of Staff* shall:

(1) Assist the ASD(MRA&L) in development of guidance for use by DOD Components in evaluating the impact of requests for assistance on national security and military preparedness.

(2) Advise the Secretary of Defense and the ASD(MRA&L) on the impact on national security and military preparedness of specific requests for assistance when such officials act as approving authorities.

(3) Advise approving authorities of the impact on national security and military preparedness of specific requests involving personnel assigned to a Unified or Specified Command.

§ 213.6 Information requirements.

A quarterly report of all requests for assistance (approved, denied, or pending) shall be submitted by the heads of DOD Components to the ASD(MRA&L), the ASD(HA), and the General Counsel, DOD, showing action taken (approval, denial, or pending), and other appropriate information. The format of such report shall be prescribed by the ASD(MRA&L) and will be prepared in accordance with DOD Directive 5000.11,[1] December 7, 1964. This information requirement has been assigned Report Control Symbol DD–M(Q) 1595. Actions involving the use of classified means or techniques may be exempted from such report with the concurrence of the ASD(MRA&L).

§ 213.7 Release of information.

(a) Release of information to the public concerning law enforcement operations is the primary responsibility of the civilian agency that is performing the law enforcement function. DOD Components may release such information, however, when approved under the procedures established by the head of the DOD Component concerned.

(b) When a DOD Component provides assistance under this Part it may condition the provision of such assistance upon control by the DOD Component of the release of information to the public concerning such assistance.

§ 213.8 Use of information collected during military operations.

(a) *Acquisition and dissemination*— DOD Components are encouraged to provide to federal, state, or local civilian law enforcement officials any information collected during the normal course of military operations that may be relevant to a violation of any federal or state law within the jurisdiction of such officials. The heads of DOD Components shall prescribe procedures for the release of information upon reasonable belief that there has been such a violation.

(1) The provision of assistance under this § 213.8 shall be in accordance with 10 U.S.C. 371 and other applicable laws.

(2) The acquisition and dissemination of information under this § 213.8 shall be in accordance with DOD Directive 5200.27,[1] January 7, 1980, DOD Directive 5240.1,[1] and DOD 5240.1–r.

(3) DOD Components shall establish procedures for "routine use" disclosures of such information in accordance with 32 CFR 286a.

(4) Under procedures established by the head of the DOD Component concerned, information concerning illegal drugs that is provided to civilian law enforcement officials under this provision may be provided to the El Paso Intelligence Center.

(5) Under guidance established by the head of the DOD Component concerned, the planning and execution of compatible military training and operations may take into account the needs of civilian law enforcement officials for information when the collection of information is an incidental aspect of training performed for a military purpose. In this regard, the needs of civilian law enforcement officials may be considered in scheduling routine training missions. This does not permit the planning or creation of missions or training for the primary purpose of aiding civilian law enforcement officials, nor does it permit conducting training or mission for the purpose of routinely collecting information about U.S. citizens.

(6) Nothing in this section modifies DOD policies or procedures concerning collection or dissemination of information for foreign intelligence or counterintelligence.

(7) The provision of assistance under this § 213.8 may not include or permit direct participation by a member of a Military Service in an interdiction of a vessel, aircraft, or a land vehicle, a search or seizure, arrest, or other similar

activity unless participation in such activity by such member is otherwise authorized by law. *See* § 213.10.

(b) *Military preparedness*—Assistance may not be provided under this § 213.8 if provision of such assistance could affect adversely national security or military preparedness.

(c) *Funding*—To the extent that assistance under this § 213.8 requires DOD Components to incur costs beyond those that are incurred in the normal course of military operations, the funding provisions of § 213.11 are applicable.

§ 213.9 Use of military equipment and facilities.

(a) *Equipment and facilities*—DOD Components may make available equipment, base facilities, or research facilities to federal, state, or local civilian law enforcement officials for law enforcement purposes in accordance with this enclosure.

(1) The ASD(MRA&L) shall issue guidance to ensure that the provision of assistance under this § 213.9 is in accordance with applicable provisions of 10 U.S.C. 372, 2576, and 2667 the Economy Act (31 U.S.C. 686); the Intergovernmental Cooperation Act of 1968; the Federal Property and Administrative Services Act of 1949; and other applicable laws.

(2) Such guidance also shall ensure application of the following Directives in applicable cases: 32 CFR Part 215; 32 CFR Part 201; DOD Directive 4160.24,[1] July 24, 1981; DOD Directive 4165.6,[1] December 22, 1976; DOD Directive 4165.20,[1] August 29, 1958; DOD Directive 5410.12,[1] April 21, 1973; 32 CFR 288; DOD Directive 7310.1,[1] July 10, 1970; DOD Directive 7730.53,[1] July 15, 1970 and such other guidance as may be issued by the ASD(MRA&L) and the Assistant Secretary of Defense (Comptroller) (ASD(C)).

(3) The provision of such assistance by DOD Intelligence Components is subject to DOD Directive 5240.1,[1] and DOD 5240.1–R.

(b) *Limitations on use of personnel*—(1) A request for DOD personnel to operate or maintain or to assist in operating or maintaining equipment made available under paragraph (a) of this section, shall be considered under the guidance in § 213.10(a)(6).

(2) Personnel in DOD intelligence components also are subject to the limitations in DOD Directive 5240.1 [1] and DOD 5240.1–R.

(c) *Military preparedness*—Assistance may not be provided under this § 213.9 if provision of such assistance could affect adversely national security or military preparedness. The implementing documents issued by the heads of DOD Components shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security and military preparedness.

(d) *Approval authority*—Requests by civilian law enforcement officials for DOD assistance in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this § 213.9.

(1) Approval authority for military assistance in the event of civil disturbance or related matters requiring immediate action is governed by 32 CFR Part 215.

(2) Approval authority for assistance to the government of the District of Columbia is governed by DOD Directive 5030.46,[1] March 26, 1971.

(3) The following governs approval for assistance to civilian law enforcement officials in other circumstances:

(i) Requests for training, expert advice, or use of personnel to operate or maintain equipment shall be forwarded for consideration under §213.10(e).

(ii) Requests for DOD intelligence components to provide assistance shall be forwarded for consideration under DOD Directive 5240.1 and DOD 5240.1–R.

(iii) Requests for arms, ammunition, tank-automotive equipment, vessels, and aircraft will be forwarded for consideration by the ASD(MRA&L).

(iv) Requests for loan or other use of equipment or facilities for more than 60 days (including a permanent disposition) are subject to approval by the head of the DOD Component, unless approval by a higher official is required by statutes or DOD Directives applicable to the particular disposition.

(v) Requests for use of other equipment or facilities may be approved by the Commanders-in-Chief (CINCs) of Unified and Specified Commands outside the Continental United States (CONUS); commanders of military installations or organizations who have been delegated such authority by the Secretary of the Military Department concerned, or the CINC; or heads of subordinate organizations within DOD Components who have been delegated such authority by the head of the DOD Component concerned.

(vi) All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(MRA&L). Requests will be forwarded and processed in keeping with the degree of urgency dictated by the situation.

(e) *Funding*—Funding requirements for assistance under this enclosure shall be established under the guidance in § 213.11.

§ 213.10 Restrictions on participation of DOD personnel in civilian law enforcement activities.

(a) *Statutory requirements*—(1) The primary restriction on military participation in civilian law enforcement activities is the Posse Comitatus Act (18 U.S.C. 1385), which provides:

> Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years or both.

(2) *Permissible direct assistance.* The following activities are not restricted by the Posse Comitatus Act paragraph (a)(1) of this section, notwithstanding direct assistance to civilian law enforcement officials.

(i) Actions that are taken for the primary purpose of furthering a military or foreign affairs function of the United States, regardless of incidental benefits to civilian authorities. This provision must be used with caution, and does not include actions taken for the primary purpose of aiding civilian law enforcement officials or otherwise serving as a subterfuge to avoid the restrictions of the Posse Comitatus Act. Actions under this provision may include the following, depending on the nature of the DOD interest and the specific action in question:

(A) Actions related to enforcement of the Uniform Code of Military Justice (10 U.S.C. Chapter 47).

(B) Actions that are likely to result in administrative proceedings by the Department of Defense regardless of whether there is a related civil or criminal proceeding.

(C) Actions related to the commander's inherent authority to maintain law and order on a military installation or facility.

(D) Protection of classified military information or equipment.

(E) Protection of DOD personnel, DOD equipment, and official guests of the Department of Defense.

(F) Such other actions that are undertaken primarily for a military or foreign affairs purpose.

(ii) Actions that are taken under the inherent right of the U.S. Government, a sovereign national entitiy under the U.S. Constitution, to ensure the preservation of public order and the carrying out of

governmental operations within its territorial limits, by force if necessary. This authority is reserved for unusual circumstances, and will be exercised only under 32 CFR Part 215, which permits use of this power in two circumstances:

(A) The emergency authority authorizes prompt and vigorous federal action, including use of military forces, to prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disaster, or calamities seriously endanger life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation.

(B) Protection of federal property and functions authorizes federal action, including the use of military forces, to protect federal property and federal governmental functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection.

(iii) Actions taken pursuant to DOD responsibilities under 10 U.S.C. 331–334, relating to use of the military forces with respect to insurgency or domestic violence or conspiracy that hinders the execution of state or federal law in specified circumstances. Actions under this authority are governed by 32 CFR Part 215.

(iv) Actions taken under express statutory authority to assist officials in the execution of the laws, subject to applicable limitations therein. The laws that permit direct military participation in civilian law enforcement include the following:

(A) Protection of national parks and certain other federal lands. 16 U.S.C. 23, 78, 596.

(B) Enforcement of the Fishery Conservation and Management Act of 1976. 16 U.S.C. 1861(a).

(C) Assistance in the case of crimes against foreign officials, official guests of the United States, and other internationally protected persons. 18 U.S.C. 112, 1116.

(D) Assistance in the case of crimes against members of Congress. 18 U.S.C. 351.

(E) Protection of the President, Vice President and other designated dignitaries. 18 U.S.C. 1751; The Presidential Protection Assistance Act of 1976 18 U.S.C. 3056.

(F) Actions taken in support of the neutrality laws. 22 U.S.C. 408, 461–62.

(G) Removal of persons unlawfully present on Indian lands. 25 U.S.C. 180.

(H) Execution of quarantine and certain health laws. 42 U.S.C. § 97

(I) Execution of certain warrants relating to enforcement of specified civil rights laws. 42 U.S.C. 1989.

(J) Loan of services, equipment, personnel, equipment, and facilities to the Law Enforcement Assistance Administration. 42 U.S.C. 3756.

(K) Removal of unlawful enclosures from public lands. 43 U.S.C. 1065.

(L) Protection of the rights of a discoverer of a guano island. 48 U.S.C. 1418.

(M) Support of territorial governors in the event of civil disorders. 48 U.S.C. 1422, 1591.

(N) Actions in support of certain customs laws. 50 U.S.C. 220.

(3) *Restrictions on direct assistance.* Except as otherwise provided in this enclosure, the prohibition on use of military personnel "as a posse comitatus or otherwise to execute the laws" prohibits the following forms of direct assistance:

(i) Interdiction of a vehicle, vessel, aircraft or other similar activity.

(ii) A search or seizure.

(iii) An arrest, stop and frisk, or similar activity.

(iv) Use of military personnel for surveillance or pursuit of individuals, or as informants, undercover agents, investigators, or interrogators.

(4) *Training.* DOD Components may provide training to federal, state, and local civilian law enforcement officials in the operation and maintenance of equipment made available under § 213.9(a). This does not permit large scale or elaborate training, nor does it permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations except as otherwise authorized in this enclosure.

(5) *Expert Advice.* DOD Components may provide expert advice to federal, state, or local law enforcement officials in accordance with 10 U.S.C. 371–378. This does not permit regular or direct involvement of military personnel in activities that are fundamentally civilian law enforcement operations except as otherwise authorized in this enclosure.

(6) *Use of DOD personnel to operate or maintain equipment.* A request for DOD personnel to operate or maintain or to assist in operating or maintaining equipment made available under § 213.9(a) shall be considered under the following guidance:

(i) A request for assistance under § 213.9 may be made by the head of a civilian agency empowered to enforce the following laws:

(A) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–28);

(C) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States or any other territory or possession of the United States.

(D) Any other law which establishes authority for DOD personnel to provide direct assistance to civilian law enforcement officials.

(ii) Assistance under this section shall be limited to situations where the training of non-DOD personnel would be unfeasible or impractical from a cost or time perspective and would not otherwise compromise national security or military preparedness concerns.

(iii) The following types of assistance may be provided under this section:

(A) DOD personnel may be assigned to maintain or assist in maintaining equipment with respect to any criminal violation of the laws specified in paragraph (a)(6)(i) of this section.

(B) DOD personnel may be assigned to operate or assist in operating equipment to the extent the equipment is used for monitoring and communicating the movement of air and sea traffic with respect to any criminal violation of the laws specified in paragraph (a)(6)(i) of this section.

(C) In an emergency circumstance, equipment operated by or with the assistance of DOD personnel may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by federal law enforcement officials to facilitate the enforcement of a law listed in paragraph (a)(6)(i) of this section, and to transport such law enforcement officials in connection with such operations, subject to the following limitations:

(*1*) Equipment operated by or with the assistance of DOD personnel may not be used to interdict or interrupt the passage of vessels or aircraft except when DOD personnel are otherwise authorized to take such action with respect to a civilian law enforcement operation.

(*2*) There must be a joint determination by the Secretary of Defense and the Attorney General that an emergency circumstance exists under 10 U.S.C. 374(c)(2). An emergency circumstance may be determined to exist for purposes of this subparagraph only when:

(*i*) The size and scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and

(*ii*) Enforcement of a law listed in paragraph (a)(6)(i) of this section would be seriously impaired if the assistance described in this paragraph (a)(6)(ii)(C)(*2*)(*iii*) of this section were not provided.

(*3*) The emergency authority in this paragraph (a)(6)(iii)(C)(*3*) of this section may be used only with respect to large scale criminal activity at a particular point in time or over a fixed period. It does not permit use of this authority on a routine or extended basis.

(*4*) Nothing in this paragraph (a)(6)(iii)(C)(*4*) restricts the authority of military personnel to take immediate action to save life or property or to protect a federal function as provided in paragraph (a)(1)(ii) of this section.

(D) When DOD personnel are otherwise assigned to provide assistance with respect to the laws specified in paragraph (a)(6)(i) of this section, the participation of such personnel shall be consistent with the limitations in such laws, if any, and such restrictions as may be established by the Secretary of Defense, the ASD(MRA&L), or the head of the DOD Component concerned.

(7) *Other permissible assistance.* The following forms of indirect assistance activities are not restricted by the Posse Comitatus Act (paragraph (a)(1) of this section):

(i) Transfer of information acquired in the normal course of military operations. *See* § 213.8.

(ii) Such other actions, approved in accordance with procedures established by the head of the DOD Component concerned, that do not subject civilians to the exercise of military power that is regulatory, proscriptive, or compulsory in nature.

(b) *Exceptions based on status*—The restrictions in paragraph (a) of this section are not applicable to the following persons:

(1) A member of a reserve component when not on active duty or inactive duty for training.

(2) A member of the National Guard when not in the federal service.

(3) A civilian employee of the Department of Defense. If the civilian employee is under the direct command and control of a military officer, assistance will not be provided unless it would be permitted under paragraphs (a) or (c) of this section.

(4) A member of a Military Service when off-duty, and in a private capacity. A member is not acting in a private capacity when assistance to law enforcement officials is rendered under the direction, control, or suggestion of DOD authorities.

(c) *Exceptions based on military service*—DOD guidance on the Posse Comitatus Act, as set forth in paragraphs (a) and (b) of this section, is applicable to the Navy and the Marine Corps as a matter of DOD policy, with such exceptions as may be provided by the Secretary of the Navy on a case-by-case basis.

(1) Such exceptions shall include requests from the Attorney General for assistance under 21 U.S.C. 873(b).

(2) Prior approval from the Secretary of Defense shall be obtained for exceptions that are likely to involve participation by members of the Navy or Marine Corps in an interdiction of a vessel or aircraft, a search or seizure, an arrest, or other activity that is likely to subject civilians to the exercise of military power that is regulatory, proscriptive, or compulsory in nature. Such approval may be granted only when the head of the civilian agency concerned verifies that:

(i) The size or scope of the suspected criminal activity poses a serious threat to the interests of the United States, and enforcement of a law within the jurisdiction of the civilian agency would be seriously impaired if the assistance were not provided because civilian assets are not available to perform the mission; or

(ii) Civilian law enforcement assets are not available to perform the mission and temporary assistance is required on an emergency basis to prevent loss of life or wanton destruction of property.

(d) *Military preparedness*—Assistance may not be provided under this enclosure if provision of such assistance could affect adversely national security or military preparedness. The implementing documents issued by the heads of DOD Components shall ensure that approval for the disposition of equipment is vested in officials who can assess the impact of such disposition on national security military preparedness.

(e) *Approval authority*—Requests by civilian law enforcement officials for use of DOD personnel in civilian law enforcement functions shall be forwarded to the appropriate approval authority under the guidance in this § 213.10.

(1) Use of DOD personnel in civil disturbances and related matters is governed by 32 CFR 215, with the approval authorities specified therein.

(2) Approval authority for assistance to the government of the District of Columbia is governed by DOD Directive 5030.46.[1]

(3) The following governs approval for assistance to civilian law enforcement officials in other circumstances:

(i) The Secretary of Defense is the approval authority for requests that involve assignment of 50 or more DOD personnel or a period of assignment of more than 30 days.

(ii) The ASD(MRA&L) is the approval authority for other requests for assignment of personnel.

(iii) The approval authority in paragraphs (e)(3)(i) and (ii) of this section, may be delegated to the head of a DOD Component with respect to specified types of assistance by personnel for a period of six months or less in the following categories:

(A) Use of DOD personnel to provide training or expert advice in accordance with paragraphs (a) (4) and (5) of this section.

(B) Use of DOD personnel for equipment maintenance in accordance with paragraph (a)(6)(iii)(A) of this section.

(C) Use of DOD personnel for monitoring and communicating the movement of air and sea traffic in accordance with paragraph (a)(6)(iii)(B) of this section.

(D) Use of Navy or Marine Corps personnel under paragraph (c) of this section, except when prior approval of the Secretary of Defense is required under paragraph (c)(2) of this section.

(iv) Requests that involve DOD intelligence components are subject to the limitations in DOD Directive 5240.1 and DOD 5240.1–R, and are subject to approval by the Secretary of Defense.

(v) The views of the Joint Chiefs of Staff shall be obtained on all requests that are considered by the Secretary of Defense or the ASD(MRA&L), or that otherwise involve personnel assigned to a Unified or Specified Command.

(vi) All requests, including those in which subordinate authorities recommend denial, shall be submitted promptly to the approving authority using the format and channels established by the ASD(MRA&L). Requests will be forwarded and processed in keeping with the degree or urgency dictated by the situation.

(f) *Funding*—Funding requirements for assistance under this enclosure shall be established by the ASD(MRA&L) under the guidance in § 213.11.

§ 213.11 Funding.

(a) *Establishment of guidance*—Funding requirements and related reporting procedures shall be established by the ASD(MRA&L), after consultation with the ASD(C) subject to the guidance of this § 213.11.

(b) *Procedural requirements*—(1) As a general matter, reimbursement is required when equipment or services are provided to agencies outside the Department of Defense. The primary source of law for reimbursement requirements is the Economy Act. Other statutes may be applicable to particular types of assistance. *See* § 213.9(a).

(2) Insofar as reimbursement is not required by law for a particular form of assistance, the authority to waive reimbursement is delegated to the ASD(MRA&L). *See* 10 U.S.C 377. A request for waiver may be granted in the following circumstances.

(i) When assistance under this Part is provided as an incidental aspect of an activity that is conducted for a military purpose.

(ii) When assistance under this Part involves use of DOD personnel in an activity that provides DOD with training or operational benefits that are substantially equivalent to the benefit of DOD training or operations.

(iii) When reimbursement is not otherwise required by law and it is determined that waiver of reimbursement will not have an adverse impact on military preparedness.

(3) The views of the Joint Chiefs of Staff as to the impact on military preparedness of a waiver of reimbursement will be considered by the ASD(MRA&L).

(4) In evaluating requests for waiver of reimbursement, the ASD(MRA&L) will take into consideration the budgetary resources available to civilian law enforcement agencies and past practices with respect to similar types of assistance.

(c) *Military preparedness*—Reimbursement shall not be waived if deletion of such funds from a DOD account could adversely affect the national security or military preparedness of the United States.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 1, 1982.

[FR Doc. 82-9352 Filed 4-6-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AEN-FRL-2053-5]

Revised Motor Exhaust Emission Standards for Carbon Monoxide (CO) for 1981 Model Year Light-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes CO emission standards for a General Motors Corporation (GM) 6.0 liter(L)/Modulated Displacement (M-D)(V8-6-4) 1981 model year light-duty vehicle engine family for which the Administrator has granted a waiver from the standard otherwise applicable under section 202(b)(5) of the Clean Air Act, 42 U.S.C. section 7521(b)(5). This action allows GM to make adjustments to the vehicles covered by this action that may result in CO emissions higher than the 3.4 grams per vehicle mile (g/mi) statutory standard.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-2521.

ADDRESS: Information relevant to this rule, including the document embodying my decision on the waiver application in question is contained in Public Docket EN-81-6 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, SW., Washington, D.C. 20460 and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of the decision document may also be obtained by contacting the Manufacturers Operations Division as stated above.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(A) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(1)(A), requires that regulations applicable to CO emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which require a reduction of at least 90 percent from CO emission levels allowable under the 1970 model year standard. Regulations implementing this requirement have established a CO standards, often referred to as the "statutory standard" for CO, of 3.4 g/mi.

Section 202(b)(5) of the Act authorizes the Administrator, on application of any manufacturer, to waive the statutory CO standard for the 1981 and 1982 model years for any light-duty vehicle model regarding which the Administrator can make certain findings. In these cases, the Act requires that I promulgate substitute CO standards for 1981 and 1982 model year light-duty vehicles for which I have granted waivers. General Motors Corporation (GM) submitted an application for a waiver for its 6.0L/M-D (V8-6-4) light-duty vehicle model manufactured in the 1981 model year. The statutory criteria, my determinations regarding the criteria with respect to the vehicle model covered by the waiver application, and my decision to grant the waiver request appear in a decision available in the Public Docket and the Manufacturers Operations Division as stated above. In that decision, I granted a waiver covering the following vehicle model (considered as an engine family for purposes of that decision) for the 1981 model year:

Manufacturer	Engine family
General Motors Corporation	6.0 Liter/ Modulated Displacement (M-D) (V8-6-4).

For the reasons detailed in the decision on GM's application, I have determined that the public interest benefits from granting these waiver requests from this manufacturer, which is facing substantial economic problems, outweigh the potential environmental benefits from denying this waiver. Information submitted in support of this waiver request established that it is important to provide this manufacturer with sufficient flexibility to improve the competitiveness of these models under current market conditions by waiving the 3.4 g/mi statutory CO standard and providing the manufacturer with the ability to improve driveability. A waiver would allow GM to authorize its service personnel to implement field recalibrations for this engine family when other prescribed measures are ineffective to improve driveability.

Once I have decided to grant the wavier applications for these vehicle models, the Act requires that I simultaneously promulgate regulations adopting emission standards not permitting CO emissions from vehicles of these engine families to exceed 7.0 g/mi. The Act further requires that I promulgate regulations establishing these standards no later than 60 days after I receive the waiver application in question. The public has been afforded

an opportunity to comment on this waiver application, and I have considered those comments in making the decision which requires the promulgation of this amended rule.

For these reasons, I find that providing notice and an opportunity to comment before final promulgation of any of the amendments contained in this rulemaking would be unnecessary.

I find that good cause exists to make this rule effective immediately since it is important to permit the affected manufacturer to immediately implement any field recalibrations necessary to improve the driveability of certain of its vehicles already sold and in use due to the concerns discussed above. Moreover, this rule only relieves a restriction.

Note.—Because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

The Office of Management and Budget (OMB) has exempted this action from the requirement of section 3 of Executive Order 12291.

Finally, under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The interim CO emission standard established by this notice directly affects only GM, which is not a "small entity" under the Regulatory Flexibility Act. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure
Labeling
Motor vehicle pollution
Reporting requirements

Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521 and 7601(a))

Dated: March 31, 1982.

Anne M. Gorsuch,
Administrator.

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

For the reasons set forth above, 40 CFR 86.081–8(a)(1)(ii) is revised to read as follows:

§ 86.081–8 Emissions standards for 1981 light-duty vehicles.

(a) * * *

(1) * * *

(ii) Carbon monoxide—3.4 grams per vehicle mile (2.11 grams per vehicle kilometer), except that carbon monoxide emissions from light-duty vehicles of the following 1981 model year engine families shall not exceed 7.0 grams per vehicle mile (4.35 grams per vehicle kilometer):

Manufacturer	Engine family
American Motors Corporation	151 CID.
	258 CID.
BL Cars, Ltd	215 CID.
	326 CID.
Chrysler Corporation	1.7 liter.
	2.2 liter.
	2.6 liter.
	3.7 liter.
	5.2 liter/2–V.
	5.2 liter/4–V.
Excalibur Motors, Ltd	305 CID.
Ford Motor Company	1.3 liter.
	1.6 liter/2V overhead camshaft.
	2.3 liter/ turbocharged.
General Motors Corporation	1.3 liter.
	1.6 liter.
	2.8 liter/173 CID–2V.
	3.8 liter/231 CID–2V.
	3.8 liter/231 CID–4V turbocharged.
	6.0 liter/ modulated displacement (M–D) (V8–6–4).
Lotus Cars, Ltd	2.0 liter.
Subaru of America, Inc	1.6 liter .
	1.8 liter.
Toyo Kogyo Co., Ltd	91 CID.
	120 CID.
Toyota Motor Company, Ltd	88.6 CID

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[FR Doc. 82–9261 Filed 4–6–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 1F2552/R405; PH–FRL 2091–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; (Z)-11-Hexadecenal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the biological insecticide (pheromone) (*Z*)-11-hexadecenal in or on artichoke plants to control the artichoke plume moth (*Platyptellia carduidactyla*). This regulation to eliminate the need to establish a maximum permissible level for residues of the pheromone was requested by Albany International.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of October 27, 1981 (46 FR 52415) which announced that Albany International Co., A St., Needham Heights, MA 02194, had filed a pesticide petition (1F2552) with the EPA which proposed that an exemption from the requirement of a tolerance be established for residues of the biological insecticide (pheromone) (*Z*)-11-hexadecenal when used as a sex attractant to control the artichoke plume moth (*Platyptillia carduidactyla*) when applied to artichokes.

No comments were received in response to this notice of filing.

The active ingredient (*Z*)-11-hexadecenal in this product is a sex-attractant pheromone which disrupts mating of the artichoke plume moth. The application rate is approximately 5 grams of active ingredient (54 grams formulated product per acre) according to the applicant.

The principle behind the control of the artichoke plume moth is that this pheromone acts as a mating disruptant between the sexes of adult moths, thus interfering with the communication of the natural mating process. Fertile egg laying and subsequent larvae infestations can be suppressed, thereby reducing the damage that artichoke plume moths cause. Due to the small quantity of product being used, and its reported rapid dissipation into the environment, it is highly unlikely that detectable residues would result in on any raw agricultural commodity or in meat or milk.

The data submitted or referenced in the petition and all other relevant material has been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance included:

(1) An acute inhalation (LC_{50}) toxicity study equaling 0.49 mg/L (rats);

(2) An Ames *Salmonella*/Microsome Plate Test for Mutagenicity (not mutagenic);

(3) An acute oral lethal dose (LD_{50}) equaling 5g/kg; a single dose acute dermal (LD_{50}) equaling 1.85 g/kg (rabbits);

(4) A primary dermal irritation study equaling 0.89 (a mild skin irritant) (rabbits);

(5) Acute oral toxicity LD_{50}—less than 5 g/kg (rats);

(6) Primary eye irritation study—(rabbit) primary irritation equaling 0.0; and

(7) Acute oral toxicity of *Heliothis virescens* pheromone (B–7 Formulation) in Ten Sprague-Darwley (rats).

The Agency is currently in the process of promulgating proposed guidelines for registration of biorational pesticides (i.e., Biochemical and Microbial Pest Control Agents). These guidelines would establish the standards for testing and the requirements for data submissions to support the registration of biorational pesticides. The Agency expects that the proposed guidelines will be published as final in the **Federal Register** in late spring of 1982.

(*Z*)-11-hexadecenal contains the same major ingredient as KONTROL HV, a sex-attractant pheromone which has previously been exempted from the requirement of a tolerance.

The toxicity data reviewed in support of the exemption from the requirement of a tolerance for KONTROL HV (§ 180.1063) is adequate to support an exemption from the requirement of a tolerance for (*Z*)-11-hexadecenal.

(*Z*)-11-hexadecenal is considered useful for the purpose for which the exemptions from the requirement of a tolerance is sought. Therefore, the regulation is established as set forth below.

(*Z*)-11-hexadecenal is also a major component of sex-attractant pheromones for the tobacco budworm (*Heliothis virescens*), and the corn ear worm (*Heliothis zea*). However, cross-attraction among these species is prevented by presence or absence of auxiliary components which differentiate each from the others.

Any person adversely affected by this regulation may, on or before May 7, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerances levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: May 7, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: March 26, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

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

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.1069 to read as follows:

§ 180.1069 (*Z*)-11-Hexadecenal; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biological insecticide (pheromone) (*Z*)-11-hexadecenal when used as a sex attractant on artichoke plants to control the artichoke plume moth.

[FR Doc. 82-9183 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 8F2107/R418; PH-FRL 2091-4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide/nematocide aldicarb and its metabolites in or on the raw agricultural commodities sorghum grain and fodder. This regulation to establish the maximum permissible level for the combined residues of aldicarb in or on the commodities was requested by Union Carbide Corp.

EFFECTIVE DATE: April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of September 29, 1978 (43 FR 44883) which announced that Union Carbide Corp., PO Box 12014, Research Triangle Park, NC 27709, had submitted a pesticide petition (PP 8F2107) proposing that 40 CFR 180.269 be amended by establishing tolerances for the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime and its chloinesterase-inhibiting metabolites aldicarb sulfoxide and aldicarb sulfone in or on the raw agricultural commodities sorghum grain at 0.05 part per million (ppm) and sorghum fodder at 0.5 ppm. The petition was subsequently amended by increasing the tolerance for sorghum grain from 0.05 to 0.2 ppm.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a 2-year rat feeding/oncogenicity study with a no-observed-effect level (NOEL) (other than the cholinesterase-inhibitor) of 0.3 milligram (mg)/kilogram (kg) of body weight (bw) per day; a 6-month rat feeding study using aldicarb sulfoxide (considered the more potent chloinesterase-inhibitor) with a cholinesterase-inhibitor NOEL of 0.125 mg/kg bw/day; a 2-year dog feeding study with a NOEL of 3.3 parts per million (ppm); an 18-month mouse feeding/oncogenicity study with a NOEL of 0.7 mg/kg bw/day; a 3-generation reproduction study in rats with a 0.7 mg/kg bw/day NOEL; a rat teratology study which was negative at 1.0 mg/kg/day; a hen neurotoxicity study which was negative at up to 4.5 mg/kg/day; and a rat dominant lethal test which was

negative at 0.7 mg/day. Based on the 6-month rat aldicarb sulfoxide feeding study with a NOEL of 0.125 mg/kg bw/day, the acceptable daily intake (ADI) for man is 0.003 mg/kg bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances at levels ranging from 0.002 ppm to 1.0 ppm and these proposed tolerances do not exceed the ADI.

The metabolism of aldicarb is adequately understood for this use, and an adequate analytical method is available for enforcement purposes. No actions are currently pending against continued registration of aldicarb, nor are there any other relevant considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations proposing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: May 7, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

List of Subjects in 40 CFR Part 180

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

Therefore, 40 CFR 180.269 is amended by adding and alphabetically inserting the commodities sorghum fodder and sorghum grain to read as follows:

§ 180.269 Aldicarb; tolerances for residues.

* * * * *

Commodities	Parts per million
Sorghum, fodder	0.5
Sorghum, grain	0.2

* * * * *

[FR Doc. 82-9187 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OF2367/R410; PH-FRL 2093-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for the insecticide in or on the commodities was requested by Shell Oil Company.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of July 30, 1980 (45 FR 50654) which announced that Shell Oil Co., 1025 Connecticut Ave., NW, Suite 200, Washington, DC 20036, had filed a pesticide petition (PP OF2367) with the EPA. The petition proposed that 40 CFR 180.379 be amended by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)-benzeneacetate in or on the raw agricultural commodities apples and head lettuce at 2.0 parts per million (ppm) and tomatoes at 1.0 ppm, and increasing the established tolerances for fat and meat of cattle, goats, hogs, horses, and sheep from 0.02 to 1.0 and milk fat from 0.1 to 1.0 ppm; and meat byproducts of cattle, goats, hogs, horses, and sheep from 0.02 to 0.5 ppm.

No comments were received in response to this notice of filing.

In a letter, Shell Oil Co. requested that head lettuce be withdrawn from this petition, to be resubmitted in a separate petition at a later date. The request was granted. In addition, the tolerance for milk fat was increased from 0.1 ppm to 2.0 ppm and increased from 0.02 ppm to 1.0 ppm for meat byproducts of cattle, goats, hogs, horses, and sheep.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included: an acute oral rat toxicity study with median lethal dose (LD_{50}) of 1-3 grams (g)/kilogram (kg) of body weight (bw) (water vehicle) and 450 milligrams (mg)/kg of bw (dimethylsulfoxide (DMSO) vehicle); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10-50 ppm for males and 50-250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest dose tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested—significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed)—no oncogenic effects were observed; a 3-generation rat reproduction study with a NOEL of 250 ppm (highest level fed); teratology studies (in mice and rabbits, both

negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative); and bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI) is calculated to be 0.1250 mg/kg/day based on the 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 7.5000 mg/day (60 kg). Approval of the tolerances for apples and tomatoes would result in a theoretical maximum residue contribution (TMRC) of 1.2822 mg/day (1.5 kg) and utilize 17.10 percent of the ADI.

The metabolism of the insecticide is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are currently no regulatory actions pending against the continued registration of this insecticide. The tolerance for residues in or on the meat, fat, (including milk fat), and meat byproducts of cattle, goats, hogs, horses, and sheep are adequate to cover secondary residues resulting from the proposed use as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in poultry and eggs as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

A related document establishing a feed additive regulation (FAP 0H266/R98) appears elsewhere in this issue of the **Federal Register.**

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: April 7, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.379 is amended by adding and alphabetically inserting the raw agricultural commodity tomatoes and increasing the established tolerances for apples, the fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep, and milk fat to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
Apples	2.0
* * * * *	
Cattle, fat	1.0
Cattle, mbyp	1.0
Cattle, meat	1.0
* * * * *	
Goats, fat	1.0
Goats, mbyp	1.0
Goats, meat	1.0
Hogs, fat	1.0
Hogs, mbyp	1.0
Hogs, meat	1.0
* * * * *	
Horses, fat	1.0
Horses, mbyp	1.0
Horses, meat	1.0
Milk, fat	2.0
* * * * *	
Sheep, fat	1.0
Sheep, mbyp	1.0
Sheep, meat	1.0
* * * * *	
Tomatoes	1.0
* * * * *	

[FR Doc. 82-9354 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9F2177/R414; PH-FRL-2093-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide norflurazon and its metabolite in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of norflurazon in or on the commodities was requested by Sandoz, Inc.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of February 17, 1982 (47 FR 6894) that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, had submitted pesticide petition number 9F2177 to the EPA. The petition proposed that 40 CFR 180.356 be amended by establishing tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in or on apples, almond meat, milk, and pears at 0.10 part per million (ppm); almond hulls at 1.0 ppm;

meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry at 0.10 ppm; and green hops at 1.0 ppm.

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

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 6894, February 17, 1982).

A related document (FAP 9H5208/R99) establishing a regulation permitting the combined residues of norflurazon and its metabolite in or on dried hops appears elsewhere in this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: April 7, 1982.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 25, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.356 is revised to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

Tolerances are established for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone) and its desmethyl metabolite 4-chloro-5-(amino)-2-alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds, hulls	1.0
Almonds, meat	0.1
Apricots	0.1
Apples	0.1
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, mbyp	0.1
Cherries	0.1
Cottonseed	0.1
Cranberries	0.1
Filberts	0.1
Goats, fat	0.1
Goats, meat	0.1
Goats, mbyp	0.1
Hogs, fat	0.1
Hogs, meat	0.1
Hogs, mbyp	0.1
Hops, green	1.0
Horses, fat	0.1
Horses, meat	0.1
Horses, mbyp	0.1
Milk	0.1
Nectarines	0.1
Peaches	0.1
Pears	0.1
Plums (fresh prunes)	0.1
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, mbyp	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, mbyp	0.1
Walnuts	0.1

[FR Doc. 82-9350 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9F2253/1F2538/R421; PH-FRL-2093-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide norflurazon and its metabolite in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of norflurazon in or on the commodities was requested by Sandoz, Inc.

EFFECTIVE DATE: Effective on April 7, 1982.

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

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of February 24, 1982 (47 FR 8030) which announced that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, had submitted pesticide petition numbers 9F2253 and 1F2538 to the EPA proposing that 40 CFR 180.356 be amended by establishing tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in or on citrus fruit at 0.2 part per million (ppm), soybeans at 0.1 ppm, soybean forage at 1.0 ppm, and soybean hay at 1.0 ppm.

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

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 6894, February 17, 1982).

The tolerances proposed under 40 CFR 180.356 by pesticide petition 9F2177 (47 FR 6894, February 17, 1982) are adequate to cover residues that would result in meat, milk, and poultry, as delineated in 40 CFR 180.6(a)(2).

A related document (FAP 2H5332/R100) establishing a regulation for norflurazon and its desmethyl metabolite in citrus molasses and dried citrus pulp appears elsewhere is this issue of the **Federal Register.**

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before May 7, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: April 7, 1982.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 25, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.356 is amended by adding and alphabetically inserting the raw agricultural commodities citrus fruit, soybeans, soybean forage, and soybean hay to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Citrus fruit	0.2
* * * * *	
Soybeans	0.1
Soybean forage	1.0
Soybean hay	1.0
* * * * *	

[FR Doc. 82-9349 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1F2521/PP 1F2506/PP 1F2495/PP 9F2203/PP 2F2601/R412; PH-FRL-2072-8]

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

Correction

In FR Doc. 82-6757, appearing at page 10536, in the issue of Thursday, March 11, 1982, make the following change: on page 10537, in the third column, change the section heading now reading: "*§ 180.386 Metolachlor; tolerances for residues.*" to read "*§ 180.368 Metolachlor; tolerances for residues.*".

BILLING CODE 1505-01-M

40 CFR Part 256

[SW-6-FRL-2086-3]

Approval of Arkansas Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region VI.

ACTION: Notice of approval.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Arkansas has received Federal financial assistance for development of a State solid waste management plan. The State of Arkansas has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its approval of the Arkansas Solid Waste Management Plan. Approval of the Arkansas plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; and encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Arkansas Solid Waste Management Plan.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Henry E. Thompson, Jr., U.S. EPA, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, 214-767-2645.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published *Guidelines for the Development and Implementation of State Solid Waste Management Plans* (40 CFR Part 256). These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions.

The guidelines also addressed section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. These compliance schedules may not extend beyond September 13, 1984. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inabilitiy to utilize other public or private alternatives to comply with the prohibition.

Response to Public Comments

On November 4, 1981, (46 FR 54772) the Arkansas Solid Waste Management Plan was noticed for review and comment. Comments on the Arkansas plan were received for 30 days. As of December 4, 1981, no substantive comments were received by Region VI regarding the plan.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State solid waste management plans. The authority to approve State plans has been delegated to the Regional Administrator. I have reviewed the solid waste management plan submitted by the State of Arkansas. I find that the Arkansas plan meets the requirements of 40 CFR 256 developed pursuant to RCRA. Under authority of Section 4007 of RCRA, I approve the Arkansas Solid Waste Management Plan.

The plan prohibits the establishment of open dumps, and that State prohibition became effective on January 23, 1981.

Also, the plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of subjects in 40 CFR Part 256

Grant programs—environmental protection waste treatment and disposal.

Authority: Sec. 4007(a) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6947(a).

Dated: February 24, 1982.

Dick Whittington,

Regional Administrator.

SUBJECT: Approval of the Arkansas Solid Waste Management Plan,

Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of the Arkansas Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. Thus approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-9358 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[SW-6-FRL-2085-8]

Approval of Louisiana Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region VI.

ACTION: Notice of approval.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Louisiana has received Federal financial assistance for development of a State solid waste management plan. The State of Louisiana has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its approval of the Louisiana Solid Waste Management Plan. Approval of the Louisiana plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Louisiana Solid Waste Management Plan.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, U.S. EPA, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, 214-767-2645.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published *Guidelines for the Development and Implementation of State Solid Waste Management Plans* (40 CFR Part 256). These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions.

The guidelines also addressed section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. These compliance schedules may not extend beyond September 13, 1984. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Comments

On November 4, 1981, (46 FR 54772) the Louisiana Solid Waste Management Plan was noticed for review and comment. Comments on the Louisiana plan were received for 30 days. As of December 4, 1981, no substantive comments were received by Region VI regarding the plan.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State solid waste management plans. The authority to approve State plans has been delegated to the Regional Administrator. I have reviewed the solid waste management plan submitted by the State of Louisiana. I find that the Louisiana plan meets the requirements of 40 CFR 256 developed pursuant to RCRA. Under authority of section 4007 of RCRA, I approve the Louisiana Solid Waste Management Plan.

The plan prohibits the establishment of open dumps, and that State prohibition became effective on January 15, 1981.

Also, the plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 256.

Grant programs—environmental protection waste treatment and disposal.

Authority: Sec. 4007(a) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C 6947(a).

Dated: February 24, 1982.

Dick Whittington,

Regional Administrator.

SUBJECT: Approval of the Louisiana Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of the Louisiana Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-9356 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[SW-6-FRL-2086-1]

Approval of Oklahoma Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region VI.

ACTION: Notice of approval.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Oklahoma has received Federal financial assistance for development of a State solid waste management plan. The State of Oklahoma has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is

announcing its approval of the Oklahoma Solid Waste Management Plan. Approval of the Oklahoma plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Oklahoma Solid Waste Management Plan.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia D. Hull, U.S. EPA, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, 214–767–2645.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979 (44 FR 45066), EPA published *Guidelines for the Development and Implementation of State Solid Waste Management Plans* (40 CFR Part 256). These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions.

The guidelines also addressed section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. These compliance schedules may not extend beyond September 13, 1984. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Public Comments

On November 4, 1981 (46 FR 54772), the Oklahoma Solid Waste Management Plan was noticed for review and comment. Comments on the Oklahoma plan were received for 30 days. As of December 4, 1981, no substantive comments were received by Region VI regarding the plan.

Finding

Section 4007 of RCRA contains the statutory policy for approval of State solid waste management plans. The authority to approve State plans has been delegated to the Regional Administrator. I have reviewed the solid waste management plan submitted by the State of Oklahoma. I find that the Oklahoma plan meets the requirements of 40 CFR 256 developed pursuant to RCRA. Under authority of section 4007 of RCRA, I approve the Oklahoma Solid Waste Management Plan.

The plan prohibits the establishment of open dumps, and that State prohibition became effective on November 16, 1980.

Also, the plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. The RCRA prohibition of open dumping does not extend to open dumping under such compliance schedules.

A "liquid" is not specifically included in the State of Oklahoma's definition of "solid waste." However, liquids are regulated under other State programs and are specifically regulated in sanitary landfills under the solid waste plan. Based on representations by the State that all liquids are regulated, the EPA has determined that liquids are adequately controlled.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 256

Grant Requirements—environmental protection waste treatment and disposal.

Authority: Sec. 4007(a) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6947(a).

Dated: February 24, 1982.

Dick Whittington,

Regional Administrator.

SUBJECT: Approval of the Oklahoma Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of the Oklahoma Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-9359 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[SW-3-FRL-2086-2]

Approval of Pennsylvania's Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the Commonwealth of Pennsylvania has received Federal financial assistance for development of a State Solid Waste Management Plan. On September 3, 1981, the State of Pennsylvania submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Pennsylvania Solid Waste Management Plan. Approval of the Pennsylvania plan indicates that the plan meets the requirements set forth in RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving Pennsylvania's Solid Waste Management Plan.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Allen, Chief, Waste Management Branch, U.S. EPA, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106, (215) 597–0980.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development and Implementation of State Solid Waste Management Plans." These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003(a) of RCRA and which contain provisions for revision. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps within the State and contain requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills, as defined by section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State;

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long term contracts for supply of solid waste to resource recovery facilities; and

5. The plan must contain specific provisions for revision.

The guidelines also addressed section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Comments

On November 4, 1981 at 46 FR 54772 the Pennsylvania Solid Waste Management Plan was noticed for public review and comment. The notice invited the public to submit comments on the Pennsylvania Plan by December 4, 1981. No comments were received that specifically addressed Pennsylvania's Plan. However, two comments were received that addressed issues that are generic to all State Solid Waste Management Plans. These two comments, together, with EPA's response, are presented below, but only as they relate to Pennsylvania's Plan.

Comment: One commenter was concerned with source reduction programs as they would apply to single usage food service disposables. The commenter urged all State planning officials to consider the health values associated with single service products before restricting their use as a matter of source reduction.

Response: At this time no such source reduction program is contemplated in Pennsylvania. The minimum requirements necessary for State plan approval do not address source reduction programs. Therefore, any State activity regarding source reduction has no bearing on EPA approval of the State Plan.

Comment: One commenter was concerned with the possible enactment of local ordinances which require that all solid waste discarded and collected in a municipality must be disposed of at that municipality's waste disposal facility. The commenter felt that an ordinance of this type may preclude or interfere with the collection of waste products for recycling.

Response: The Pennsylvania Plan is quite clear in its encouragement of resource recovery programs. Pennsylvania had responded to this same commenter's concern during the State's public review process prior to State adoption of the Plan. The Pennsylvania Department of Environmental Resources (DER) recognized that solid waste does not include materials such as waste paper, metals and glass that are presorted for recycling. Furthermore, DER is in the process of revising its solid waste regulations in order to prohibit the enactment or enforcement of ordinances that would obstruct recycling programs. These regulations are expected to be finalized in the spring of 1982.

Finding

I have reviewed the solid waste management plan submitted by the Commonwealth of Pennsylvania. I find that the Pennsylvania plan meets the requirements of RCRA for approval. Under authority of section 4007 of RCRA I approve the Pennsylvania Solid Waste Management Plan.

The Commonwealth of Pennsylvania has provided assurance that the State program prohibits the establishments of open dumps. Also, pursuant to the plan, the State program provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. Parties that receive compliance schedules satisfying section 4005 from EPA approved States and that are in compliance with these schedules are not in violation of the open dumping prohibition in section 4005. Such compliance schedules cannot extend beyond September 13, 1984.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 256

Grant programs—environmental protection waste treatment and disposal.

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

Dated: February 25, 1982.

Peter N. Bibko,

Regional Administrator.

SUBJECT: Approval of Pennsylvania's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of Pennsylvania's Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-9357 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7

[AIDPR Notice 82-3]

Miscellaneous Revisions to the AID Procurement Regulations

In FR Doc. 82-8298 appearing at page 13144 in the issue of Monday, March 29, 1982, make the following change:

On page 13145, third column, the first line for number "16." which reads, "Section 7-7.5502-4 is amended by" should be changed to read, "Section 7-7.5501-13 is amended by."

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 67
Wednesday, April 7, 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

Animal and Plant Health Inspection Service

7 CFR Part 331

[Docket No. 82-304]

Mediterranean Fruit Fly

Cross Reference: In a document published in the Rules section of today's Federal Register the Animal and Plant Health Inspection Service affirms action withdrawing a proposal to quarantine the State of Florida and to establish final regulations to restrict interstate movement of articles from an area in Hillsborough County in Florida, because of the Mediterranean Fruit Fly. See the Table of Contents in the front of the Federal Register for the correct page number.

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 413

[Amdt. No. 1]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Texas Citrus Crop Insurance Regulations, effective with the 1982 crop year, by changing the present crop insurance policy from one based on a percent of loss basis (applied to a dollar amount of insurance) to one based on guaranteed production. The intended effect of this amendment is to respond to growers' concerns that the present method of indemnity payment based on a percent of loss does not represent the actual production loss. The proposed policy will more nearly compensate the grower for the actual loss than the present policy. This proposed rule is promulgated under the authority of the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted by not later than May 7, 1982 to be sure of consideration.

ADDRESS: Written comments should be sent to the Office of the Chairman, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1521-1 (June 11, 1981) and has been classified as "not significant."

Melvin E. Sims, Chairman, FCIC, has determined that an emergency situation exists which warrants less than a 60-day comment period on this action because regulations prescribing procedures for insuring citrus in Texas, and any amendments thereto must be placed on file by May 15 in order to become effective for the 1982 crop year. There would not be sufficient time to permit the regular comment period and still conform with the regulations relative to placing this amendment on file in time to become effective for the 1982 crop year.

Information collection requirements contained in the regulations to which this amemdment applies (7 CFR 413.7) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB Nos. 0563-0001, 0563-0003, and 0563-0007.

Comments are solicited on this proposed rule for a 30-day period following publication, and any comments received pursuant to this notice will be available for public inspection in the Office of the Chairman, FCIC, during regular business hours, Monday through Friday.

It has been determined that this action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512-1. The sunset review date for these regulations (7 CFR Part 413) is established as May 30, 1985.

It has been determined by Melvin E. Sims, Chairman, FCIC, that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, or other persons in accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), and (3) this action conforms with the authority contained in the Federal Crop Insurance Act, as amended, and other applicable law.

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

Background

The present citrus crop insurance program in Texas operates on a percent of loss basis and the percent of loss is determined and applied to a dollar amount of insurance. The adjuster cuts the fruit in the grove and visually scores the damage. This may have to be done at several places in the same grove. This method is subjective due to the cut method of determining the loss. A grove may have the same dollar amount of insurance whether the amount of fruit in the grove is 5 tons or 25 tons per acre.

Citrus growers have expressed concern that indemnity payments on a percent of loss basis do not represent the actual production loss. The percent of loss scoring performed by the adjuster in a loss situation is difficult for the grower to understand.

Under the proposed production guarantee policy, the insured may elect to insure for 50, 65, or 75 percent of a base yield determined on a 6-year

floating average yield. The insured will also have three price elections per ton from which to select, as well as a juice or fresh fruit option. The proposed policy will operate primarily on harvested production without the cutting of large amounts of fruit in the grove to determine and score the loss. The proposed policy will more nearly compensate the grower for the actual loss than the current policy.

In addition, the proposed amendment contains some minor language changes to continue reference to production guarantee, correct the effective crop year reference, and to prescribe interest rates to be charged when premium payments are not made on time.

List of Subjects in 7 CFR Part 413

Citrus fruits, crop insurance.

Proposed Rule

PART 413—TEXAS CITRUS CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith proposes to amend the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), as published in the Federal Register on Thursday, October 9, 1980, at 45 FR 67041–67047, effective with the 1982 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 413 reads as follows:

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

2. The table of contents for 7 CFR Part 413 is amended to read as follows:

* * * * *

Sec.
413.3 [Reserved]
* * * * *

3. The table of contents for 7 CFR Part 413 redesignating Appendix B as Appendix A is:

* * * * *

Appendix A Counties Designated for Texas Citrus Crop Insurance.

§ 413.1 [Amended]

4. 7 CFR 413.1, is amended by deleting the word "Manager" and substituting the word "Chairman".

5. 7 CFR 413.2, is revised in its entirety to read as follows:

§ 413.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Chairman shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for Texas citrus which shall be shown on the actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

6.7 CFR 413.7(c), is amended by deleting the year "1977" and substituting the year "1981".

7.7 CFR 413.7(d) is amended by deleting the "1981" and substituting the year "1982".

8.7 CFR 413.7(d), is amended by deleting the Texas Citrus Crop Insurance Policy in its entirety, and substituting the following:

Texas Citrus Crop Insurance Policy

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "we," "us" or "our") and in accordance with the terms and conditions set forth in this policy and Appendix, we will upon acceptance of a person's (herein called "you" or "your") application insure your Texas citrus crop against unavoidable loss of production due to causes of loss insured against that are specified in this policy. No term or condition of the contract shall be waived or changed by us except in writing by a representative duly authorized by us.

Terms and conditions

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, fire, or direct Mediterranean Fruit Fly damage occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on our actuarial table. Direct Mediterranean Fruit Fly damage shall be actual physical damage to the citrus on the unit which, as determined by us, causes such citrus to be unmarketable and shall not include unmarketability of such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by us, due to (1) the neglect or malfeasance of yourself or any member of you household, your tenants or employees, (2) failure to follow recognized good grove practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by our actuarial table.

2. *Crop and acreage insured.* (a) The crop insured shall be any of the insurable citrus types listed below elected by you, located on insurable acreage, for which the actuarial table shows a guarantee and percentage premium rate, and in which you have share on the date insurance attaches.

Type I, Early and Midseason Oranges (including Temples)
Type II, Late Oranges
Type III, Grapefruit, except the Star Ruby variety
Type IV, Star Ruby variety of Grapefruit

(b) The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as shown on our actuarial table, and your share therein as reported by you or as determined by us, whichever we shall elect: *Provided,* That insurance shall attach only after the acreage has (1) produced an average of 3 tons of oranges or grapefruit per acre the previous year of has the potential of 3 tons of oranges or grapefruit the crop year following a crop year in which substantial damage occurred and (2) is considered acceptable based upon our inspection, except that insurance may attach only by written agreement with us on any acreage if acceptable records are not available.

3. *Responsibility to report acreage, share, number of bearing trees, and yield.* You shall submit to us on our prescribed form, a report showing (a) all acreage of insured citrus in the county (including a designation of any acreage to which insurance does not attach) in which you have a share, (b) your share at the time insurance attaches, (c) the number of bearing trees thereon, including the number of trees topped, if any, and (d) the most recent year's production records for the insurable acreage on each unit. Such report shall be submitted each year not later than June 30.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on our actuarial table.

5. *Annual premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the production guarantee per acre, times the price election per ton, times the percentage premium rate, times your share on the date insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Prev Crop Year	Percentage Adjustment Factor For Current Crop Year															
00 - 20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
21 - 40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
41 - 60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
61 - 80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
81 - 1 09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Numbers of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Prev Crop Year	Percentage Adjustment Factor For Current Crop Year															
1 10 - 1 19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1 20 - 1 39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1 40 - 1 69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1 70 - 1 99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2 00 - 2 49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2 50 - 3 24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3 25 - 3 99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4 00 - 4 99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5 00 - 5 99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6 00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity: *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due us may be set off from any indemnity payable to you by us and/or from any loan or payment to you under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach each crop year on December 1 prior to such crop year, except that for the first crop year if the application is accepted by us after that date, insurance shall attach the later of (a) December 1 or (b) the tenth day after the date the application is signed by the applicant, and as to any portion of the citrus crop, shall cease upon the earliest of (1) harvest, (2) May 31 of th calendar year following the normal year of bloom, or (3) total destruction of the insured citrus crop.

7. Notice of damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by you to us at your service office after insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, notwithstanding any prior notice of damage, you shall notify your service office of the intended date of harvest at least seven days prior to the start of harvest, and if damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately. *Provided,* That if harvest will begin after the calendar date for the end of the insurance period, you shall give written notice not later than the calendar date for the end of the insurance period. We may, at our option, waive the time limits set out in this section.

(c) The citrus on any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by us.

(d) We may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for indemnity. (a) It shall be a condition precedent to the payment of any indemnity that you (1) establish the total production of citrus on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by us.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of citrus on the unit by the applicable guarantee per acre, which product shall be the guarantee for the unit, (2) substracting therefrom the total production of citrus to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by your share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by us and shall include all harvested and appraised production.

(1) Any citrus production which is not marketed as fresh fruit and due to insurable causes does not contain 120 or more gallons of juice per ton, will be adjusted by (i) dividing the gallons of juice per ton obtained from damaged citrus (as determined by us) by 120 and (ii) multiplying the result by the number of tons of such citrus. When individual records are not available, an average juice content, as determined by us, will be used.

(2) Where our actuarial table provides for and you elect the fresh fruit option; citrus production which is not marketable as fresh fruit due to insurable causes, will be adjusted by (i) dividing the value per ton of the damaged citrus (as determined by us) by the price of undamaged citrus and (ii) multiplying the result by the number of tons of such citrus. The applicable price for undamaged citrus shall be; the local market price the week before damage occurred, or if the citrus is contracted, the contract price provided the contract was entered into between the producer and buyer before damage occurred, as determined by us.

(3) Any production shall be considered marketed or marketable as fresh fruit unless due to insurable causes, such production was not marketed as fresh fruit.

(4) In the absence of acceptable records to determine the disposition of harvested citrus, we shall determine such disposition and the amount of such production to be counted for the unit.

(5) Any citrus on the ground which is not picked up and marketed shall be considered totally lost if the damage was due to any insured cause.

(6) Appraised production to be counted shall include: (i) any appraisals by us for potential production on any acreage and for uninsured causes and poor grove practices and (ii) not less than the guarantee for any acreage which is abandoned or put to another

use without prior written consent from us or damaged solely by an uninsured cause.

(7) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and we determine that any such acreage (i) is not put to another use before harvest of the insured citrus type becomes general in the county, (ii) is harvested, or (iii) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and fraud. We may void the contract without affecting your liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of right to indemnity on insured share. If you transfer any part of your share during the crop year, you may transfer the right to an indemnity on an approved form. You shall be liable for the premium if such form is or is not executed. If such form is executed, the transferee shall have the same rights and responsibilities as you for the current crop year.

11. Records and access to farm. You shall keep for two years after the time of loss, records of the harvesting, packout, storage, shipments, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the grove for purposes related to the contract.

12. Life of contract: Cancellation and termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance on any type of citrus for any crop year by giving a written notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due us under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
All counties	November 30	November 30.

(d) In the absence of a written notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix to § 413.7 (Additional Terms and Conditions)

1. Meaning of terms. For the purposes of Texas citrus crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by us which are on file for public inspection in your service office, and which show the production guarantees, coverage levels, percentage premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time and shall be designated by the calendar year in which the bloom is normally set.

(e) 'Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

(f) "Insurable acreage" means the land classified as insurable by us and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by us.

(h) "Service office" means the office serving your contract as shown on the application for insurance or such other office as may, in writing, be selected by you after approval by us or designated by us upon written notice to you.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Share" means the interest of you as landlord, owner-operator, or tenant in the insured citrus crop at the time insurance attaches as reported by you or as determined by us, whichever we shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed your share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by us.

(k) "Tenant" means a person who rents land from another person for a share of the citrus crop proceeds therefrom.

(l) "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year (i) in which the insured has a 100 percent share or (ii) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office, or by written agreement between us and you. We shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for your spouse or child or any member of your household to be the bona fide share of you or any other person having the bona fide share.

2. Acreage insured. (a) We reserve the right for any crop year (1) to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year and (2) to limit the insured acreage of citrus to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the time insurance attaches.

(b) If you do not submit an acreage report for any crop year in accordance with the provisions of section 3 of the policy, we may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero." If you do not have a share in any insured acreage in the county for any year, you shall submit a report so indicating. Any acreage report submitted by you may be revised only upon our approval.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, you shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good irrigation practice at the time insurance attaches.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the insurance attaches as determined by us, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of your estate of surviving spouse in case of your death, (2) the contract or the person who succeeds you if such person had previously participated in the citrus operation, or (3) your contract if you stop operating a citrus grove in one county and

start operating a citrus grove in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and payment of indemnity. (a) Any claim for indemnity on a unit shall be submitted to us on a form prescribed by us.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to us of any insured citrus acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by us, an action on such claim may be brought against us under the provisions of 7 U.S.C. 1508(c), as amended: *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by you.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by us. *However*, in no event shall we be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by us.

(f) If you die, disappear, or are judicially declared incompetent, or your entity is other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

(g) We reserve the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and we determine that the amount of loss cannot be satisfactorily determined.

6. Subrogation. You (including any assignee or transferee) assign to us all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by us. You thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If you die or judicially declared incompetent, or your entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage level and price election. (a) If you have not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on our actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on our actuarial table for such purposes.

(b) You may, with our consent, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of indemnity. Upon approval of a form prescribed by us, you may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract changes. We reserve the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in your service office at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B Redesignated as Appendix A

9. Appendix B to the Texas Citrus Crop Insurance Policy, is redesignated as Appendix A in the title thereof to read as follows:

Appendix A—Counties Designated for Texas Citrus Crop Insurance—7 CFR Part 413.

Approved by the Board of Directors on February 3, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: March 30, 1982.

Melvin E. Sims,

Chairman.

[FR Doc. 82-9265 Filed 4-6-82; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1007

[Docket No. A0-366-A18]

Milk in the Georgia Marketing Area; Decision on Proposed Amendments to Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a change in the Georgia Federal milk marketing order. The amendment would provide that a distributing plant located within the marketing area that processes and distributes primarily aseptically processed fluid milk products would be fully regulated under the Georgia order, irrespective of the market or markets in which the products may be distributed. This action, which is based on evidence received at a public hearing held at Hapeville, Georgia, on January 21, 1982, is necessary to ensure a stable regulatory environment for such a plant. The hearing was requested by a dairy farmer cooperative association that is now constructing this type of milk plant at Savannah, Georgia. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

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

This action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued January 5, 1982; published January 8, 1982 (47 FR 962).

Correction: Published January 14, 1982 (47 FR 2122).

Recommended Decision: Issued March 4, 1982; published March 9, 1982 (47 FR 10053).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Georgia marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Hapeville, Georgia, on January 21, 1982. Notice of such hearing was issued on January 5, 1982 (47 FR 962).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, Agricultural Marketing Service, on March 4, 1982, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of hearing relates to whether the pool plant standards should be revised with respect to a milk plant in the marketing area that processes and distributes aseptically processed fluid milk products.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The provisions of the order describing those plants that qualify as pool plants should be modified to include a distributing plant located in the marketing area if the principal activity of the plant is the processing and distribution of aseptically processed fluid milk products. Such pool status should not be dependent upon the amount of route disposition within the Georgia marketing area. Under the current provisions of the order, a distributing plant qualifies as a pool plant if it has route disposition equal to at least 50 percent of its receipts and has route disposition in the Georgia marketing area equal to at least 15 percent of its total Class I disposition.

Dairymen, Inc. (DI), a dairy farmer cooperative, proposed that the order be amended to accommodate the operations of a new milk plant that it is building at Savannah, Georgia, which is in the defined marketing area. The plant is expected to be operational by May 1, 1982. The cooperative's witness stated that the new plant will utilize "aseptic processing and packaging which means the filling of a commercially-sterilized cool product into presterilized containers, followed by the aseptic hermetical sealing with a presterilized closure, in an atmosphere free of microorganisms * * *" The witness indicated that the aseptic process would include the use of ultra high temperature pasteurization, and that the resulting products, commonly referred to as "UHT" milk, could be distributed and stored unrefrigerated for several months.[1] DI proposed that this type of plant be a pool plant if it is in the marketing area and meets the current performance requirements for a distributing plant except the 15 percent in-area route disposition requirement. It is the cooperative's intent that the plant be pooled under the Georgia order irrespective of the level of route sales in this or other markets.

The DI spokesman stated several reasons why the proposal should be adopted. One reason was the UHT product itself and how it is different from other fluid milk products. According to the witness, fluid milk products processed at ultra high temperatures and aseptically packaged in hermetically sealed containers can be shipped and stored unrefrigerated for several months. As a result, DI's planned distribution of UHT products, which is expected to be throughout a number of Federal order markets, will differ from the usual distribution of fluid milk products. The cooperative expects that the distribution channels used will be those more normally associated with dry or canned goods rather than those associated with the distribution of refrigerated fluid milk products, i.e., UHT milk will move in rather large shipments from the plant to central warehouses for subsequent distribution to consumer outlets. The cooperative indicated that these factors will make it more difficult to track the disposition of UHT milk to final destinations for purposes of determining in which market the plant should be pooled.

The cooperative claims that the size of the plant-to-warehouse shipments, coupled with a less frequent and more irregular delivery schedule, will result in greater variations in deliveries from the plant to specific marketing areas. The witness expressed the cooperative's concern that the distribution patterns for UHT milk will be such that, unless order changes are made, the regulatory status of the UHT plant could shift from order to order, perhaps on a monthly basis. Or, the plant might not qualify as a pool plant under any order and thus could be subject to partial regulation under several orders in the same month. In DI's view, such regulatory variations would create operational problems for the UHT plant, administrative problems for the various orders, competitive uncertainty for other handlers in the Georgia market, and payment problems for producers. The cooperative further contended that such a plant could have problems attracting a milk supply under these circumstances.

No opposition to the proposal was expressed at the hearing or in briefs.

As noted earlier, the new milk plant that DI is building is expected to begin processing and distributing aseptically processed fluid milk products by May 1, 1982. The plant will use only Grade A milk, which will be supplied mostly from dairy farms located in Georgia. The plant will use an aseptic processing system that will include ultra high temperature pasteurization. The resulting products, which will be "fluid milk products" as defined in the order, will be capable of being transported and stored without refrigeration for several months. Projected two-shift capacity of the new plant is roughly 22 million pounds of milk monthly.

Since the new plant is not yet in operation, actual marketing experience is not available to draw upon in considering the issues in this proceeding. Nevertheless, DI's planned distribution channels are likely to be substantially different from those currently used for the distribution of refrigerated fluid milk products. The latter products generally are distributed through regular deliveries by the distributing plant to stores, commonly three times a week. Moreover, brokers generally are not involved in the distribution chain. In contrast, it is anticipated that the fluid milk products disposed of from the Savannah UHT plant will be handled largely by brokers and that shipments will be irregular and on a less frequent schedule. Due to the much longer shelf life, inventories may be carried longer, with a much longer span of time between when the product leaves the plant and when it is purchased by consumers. Large central warehouses may be employed to a greater extent than with ordinary fluid milk product distrbution, and transportation methods other than refrigerated trucks probably will be utilized. Also, the cooperative anticipates that the UHT products will be distributed over a very wide geographical area. The level of sales in various markets, including the Georgia market, may or may not be sufficient to qualify the plant for pooling in a particular market.

Accordingly, it is reasonable to conclude that the new plant's regulatory status may not be as predictable or stable as for most milk plants currently regulated under Federal orders. Thus, it is necessary to consider whether a different basis for determining the regulatory status of the plant is needed.

Due to the anticipated distribution pattern, it is not likely that the plant would be pooled under some particular

[1] The proposal in the notice of hearing and the testimony presented by proponent's witness commonly used the term "UHT" milk (for ultra high temperature milk). However, "UHT" refers only to part of the process that may be used in making an aseptically processed milk product. For this reason, it is more appropriate for purposes of the order provisions to refer to the products involved as aseptically processed fluid milk products rather than as UHT milk. To facilitate the discussion, however, and because of the common usage of the term "UHT," reference will be made to UHT milk or milk products and UHT plant, with the understanding that this is in the above context.

order on a regular basis. At times the plant could be fully regulated under the Georgia order, while at other times it possibly could be regulated under an order applicable to a market considerably distant from where the plant is located. It also is possible that the plant may not meet the pooling standards of any order for a given month, in which case it could be partially regulated under a number of orders.

These pooling situations would not be conducive to maintaining market stability, certainly not in the Georgia market and perhaps not in other markets. For example, the UHT plant would face uncertainty about the level of Federal order Class I prices that would be applicable at the Savannah location. An exhibit introduced at the hearing demonstrates that the Class I price differential at Savannah, which is $2.30 under the Georgia order, could vary from $2.66 under the Upper Florida order to $0.995 under the Memphis order, a range of $1.665 per hundreweight. If the plant's regulatory status changed from one order to another frequently, such a varying pattern of prices would not be desired by either the plant or by the plant's competitors. The record indicates that competitors would prefer to have the new plant subject to a stable pricing system.

In addition, producers who will supply such a plant also would experience uncertainty about the level of returns they would receive for their milk if regulatory status of the plant is unstable. Blend prices under an order are influenced by the amount of the Class I differential, the market, utilization of milk, and the applicable location adjustments. Since these factors vary from order to order, blend prices at the Savannah plant could vary considerably if the plant were to shift regulation from one order to another on the basis of sales shifts. Moreover, some of the markets in the Southeast, such as Georgia, use base-excess plans, while others do not. Also, the base-excess plans differ somewhat from each other. Producers often find it disruptive to their operations and long-range planning to shift from one market to another under this situation.

Providing for the continued pooling of the cooperative's UHT plant on the Georgia market should provide reasonable assurance that the plant will be able to attract adequate supplies of Grade A milk. The plant, irrespective of where it might be pooled, most likely will have to compete in the Georgia market for milk supplies because of its location in that market. This should be facilitated by having the order prices applicable at the plant the same as for any other pool plant under the Georgia order at that same location. It should be noted that there is another fluid milk bottling plant located at Savannah.

For the foregoing reasons, it is concluded that overall market stability will tend to be maintained and the regulatory stability of DI's new plant (or any other such plant) will tend to be assured if the order is modified along the lines proposed.

The actual amendment of the order should be somewhat different from that proposed by DI. As proposed, a plant that *processed only* aseptically processed fluid milk products would be subject to the new pooling provision. Such terminology could be interpreted too narrowly and should be modified to accommodate other milk handling activities at the plant. The record discloses, for example, that some excess cream from DI's UHT plant will need to be disposed of for non-Class I uses. Additionally, DI's witness indicated that the finished products would be held in the plant for a few days while various tests are made to establish product quality. These facts indicate that it may be necessary, on occasion, to dump or otherwise dispose of finished product that does not meet the plant's quality standards. Also, there is no reason to believe that DI's new plant (or any other such plant) would always receive milk that was suitable for processing into aseptically processed fluid milk products. If a load of unsuitable milk were received, the plant should have the operating flexibility to dispose of such milk by transferring it to a manufacturing plant or some other outlet where the milk could be utilized. In addition, although DI indicated that its new plant would process and distribute only products that would be fluid milk products, the record does not provide a basis for concluding that any such plant should be limited to the processing of Class I products. It is conceivable that there might be a desire to extend the UHT process to Class II products as well.

Accordingly, the order should specify that the principal activity at such a plant must be the processing and distribution of aseptically processed fluid milk products. This is intended to assure that a plant would not be able to be pooled under the particular pooling provision at issue unless at least one-half of the plant's receipts are processed and distributed in the form of aseptically processed fluid milk products. Thus, the plant would have some operating flexibility that may have been precluded under the proposal.

In connection with the pooling changes for a UHT plant, it is necessary to indicate in the pool supply plant definition that shipments from a supply plant to a pool distributing plant processing primarily aseptically processed fluid milk products will count as qualifying shipments from the supply plant for purposes of establishing the supply plant's pool status.

A second proposal by DI, which is not adopted, was intended to provide a basis for resolving administrative conflicts that might arise when its UHT plant qualifies for pool status under the Georgia order and under one or more other Federal orders. The association's intent was that the proposal would serve to assure continued regulation by the Georgia order in such a case.

It is not possible to eliminate pooling conflicts between the provisions of the Georgia order and other orders by amending only the Georgia order. Whenever a plant meets the pooling requirements of the Georgia order and another order, administrative decision as to the order under which the plant shall be pooled may be necessary, depending upon the particular provisions of each order. Although apparently not the cooperative's intent, DI's proposed change would have allowed its UHT plant to be pooled under another order if the other order required such pooling even though route dispositions in the Georgia marketing area were larger. Adoption of this proposal would not be consistent with the other provisions adopted herein to lock a UHT milk plant into regulation by the Georgia order.

It is concluded that the interests of all parties involved in this issue will be served best by the issuance of a recommended decision and an opportunity to file exceptions thereto. At the hearing, DI asked that the recommended decision be omitted. DI's basis for this was that it is desirable to have an amended order effective by May 1 when the new UHT plant is expected to become operational. However, DI indicated in its brief that issuance of a recommended decision would be acceptable if the entire proceeding would be completed by May 1.

An amended order should be possible by May 1 even with the issuance of a recommended decision. Since this decision involves an issue that is unique, it is especially appropriate that parties have an opportunity to file exceptions to the Department's proposed changes. It is a necessary,

though, to limit the amount of time of filing exceptions in view of the relatively short time remaining until May 1.

Ruling on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of the proponent cooperative association. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the cooperative are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions is denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Ruling on Exceptions

No exceptions were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Georgia marketing area which have been decided upon as the detailed and approriate means of effectuating the foregoing conclustions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

January 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1007

Agricultural Marketing Service, Milk Marketing Orders, Milk, Dairy Products.

Signed at Washington, D.C., on March 30, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order[2] *amending the order, regulating the handling of milk in the Georgia marketing area.*

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Georgia marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Georgia marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

PART 1007—MILK IN GEORGIA MARKETING AREA

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator, Agricultural Marketing Service, on March 4, 1982, and published in the **Federal Register** on March 9, 1982 (47 FR 10053), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

(1) Section 1007.7 is revised to read as follows:

§ 1007.1 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant, other than a plant specified in paragraph (d) of this

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

section, that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total Class I disposition, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) or (d) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately proceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise quality as a pool plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.9(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.9(c); in the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

(d) A distributing plant that meets the following conditions: (1) The plant is located in the marketing area;

(2) The plant has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13; and

(3) The principal activity of such plant is the processing and distribution of aseptically processed fluid milk products.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt distributing plant; and

(3) A plant (except a plant that is a pool plant pursuant to paragraph (d) of this section) that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants pursuant to paragraph (a) or (d) of this section than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

[FR Doc. 82-9321 Filed 4-6-82; 8:45 am]
BILLING CODE 3410-02-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring; 202-755-3140.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," and NASA Management Instruction 1410.10D, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require that a regulatory agenda of proposed regulations under development and review be published in the **Federal Register** on the first Monday in April and the first Monday in October.

Dated: March 24, 1982.

James M. Beggs,

Administrator.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Regulatory Agenda]

Title	Description	Legal citation	Status	Contact	Reg. analysis required	Affects small entities; RFA
Patent; licensing regulations	Regulations for licensing NASA inventions to conform with Pub. L. 96-517.	35 U.S.C. 207, 208; 94 Stat. 3024.	Final rule published in 46 FR 54328-54331, Nov. 2, 1981.	John G. Mannix, Code GP-4, NASA Headquarters, Washington, D.C. 20546; 202/755-3954.	No	No.
Standards of Conduct; post employment regulations.	This rule contains the procedures to be followed by a former NASA employee who wishes to communicate scientific or technical information to NASA.	18 U.S.C. 207(f)	Final rule published in 46 FR 51380-51381, Oct. 21, 1981.	Elizabeth N. Siege, Code GG-1, NASA Headquarters, Washington, D.C. 20546; 202/755-3923.	No	No.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—Continued

[Regulatory Agenda]

Title	Description	Legal citation	Status	Contact	Reg. analysis required	Affects small entities; RFA
Space Transportation System (STS) insurance indemnification requirements.	Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users.	Pub. L. 96-48	Final rule to be published within the next 6 months.	Robert J. Wojtal, Code GK-3, NASA Headquarters, Washington, D.C. 20546; 202/755-3169.	No	No.
Space Transportation System, public affairs services for users of NASA launch vehicles.	Defines Public Affairs services available to users of the Space Transportation System and users of expendable launch vehicles (14 CFR Part 1214, Subpart 14).	Section 203(a)(3), (c) (5), and (6) of the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.) as amended.	Anticipate proposed rule will be approved and ready for printing in "Federal Register" within the next 6 months.	Dick McCormack, Code O, NASA Headquarters, Washington, D.C. 20546; 202/755-8104.	No	No.
Space Transportation System; reimbursement for spacelab services.	Describes the policy for Spacelab services provided by NASA to users.	42 U.S.C. 2473	Final rule to be published in 2 months.	Robert Haltermann, Office of Space TRransportation Operations, NASA Headquarters, Washington, D.C. 20546, 202/755-2344.	No	No.
Space Transportation System; the authority of the Space Transportation System (STS) Commander.	Final rule published on March 7, 1980 (45 FR 14845-14846) setting forth authority of STS Commander. This proposed amendment will state that the Director of JSC will relieve the Commander if the Commander is unable to carry out responsibilities.	Pub. L. 85-588; 72 Stat. 426; 42 U.S.C. 2473, 2455; 18 U.S.C. 799; Art. VII, TIAS 6347 (18 U.S.C. 2410).	Final rule published in 47 FR 3095, Jan. 22, 1982.	Robert T. O'Neil, Code MIP-4, NASA Headquarters, Washington, D.C. 20546; 202/755-2424.	No	No.
Small Business Policy	NASA is revising its Small Business Policy to add the establishment of the "Office of Small and Disadvantaged Business Utilization".	Section 221, Pub. L. 95-507, as amended, 28 U.S.C. 2671-2680, 42 U.S.C. 2473.	Final rule to be published within the next 3 months.	Eugene Rosen, Office of Small and Disadvantaged Business Utilization, NASA Headquarters, Washington, D.C. 20546; 202/755-2288.	No	No.
Equal Access to Justice Act	Implements the Act in Agency proceedings which are adversary adjudications, in accordance with model regulations of the Administrative Conference of the United States.	Pub. L. 96-481, 94 Stat. 2325, Oct. 21, 1980 (5 U.S.C. 504).	Interim rule published in 47 FR 3758-3762, Jan. 27, 1982.	Sara Najjar, Code GS-1, NASA Headquarters, Washington, D.C. 20546; 202/755-3920.	No	No.
Debriefing of unsuccessful companies in competitive negotiated procuements.	Sets forth NASA policy and procedures for debriefing unsuccessful offerors in competitive negotiated procurements.	42 U.S.C. 2473(c)(1)	Revision of final rule for publication in concurrence and approval cycle within NASA. Expect a final rule to be published within the next 3 months.	John E. Horvath, Office of Procurement, NASA Headquarters, Washington, D.C. 20546; 202/755-2280.	No	No.
Nondiscrimination on the basis of age in programs and activities receiving Federal financial assistance.	Sets forth the NASA's policies to implement the procedures under the Age Discrimination Act of 1975.	Age Discrimination Act' of 1975, as amended, 42 U.S.C. 6101 et seq.; (45 CFR 90).	Final rule to be submitted for publication within 6 months.	Richard N. Wolf, Code GK-3, NASA Headquarters, Washington, D.C. 20546; 202/755-3160.	No	No.
Coordination of NASA facilities planning projects.	Establishes policy and procedures for coordinating NASA facilities planning or projects with states, areawide, and local planning authorities and clearinghouses. 14 CFR 1204.15 is amended by revising the Authority paragraph; it updates citations, and includes the coordination requirements of 14 CFR 1216.3, 14 CFR 1204.11, and 14 CFR 1216.2.	National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.). Procedures for implementing the provisions of the NEPA; OMB Circular A-95; Coastal Zone Management Act of 1972; Floodplain and Wetlands Management; Title IV of Intergovernment Coop Act of 1968; and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.	Final rule to be published in approximately 60 days.	Margaret Herring, Code NSM-12, NASA Headquarters, Washington, D.C. 20546; 202/755-3140.	No	No.

[FR Doc. 82-9263 Filed 4-6-82; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.

ACTION: Notice of proposed rule making; Privacy Act.

SUMMARY: The Army proposes to delete the exemption rules for Army systems of records A1012.01bDAPE, entitled "USMAPS Admission Files" and A1012.04a DAPE, entitled "USMAPS Training Files". Records in these two systems have been consolidated and reidentified as system of records A1012.01DAPE, entitled "Applicants/ Students, US Military Academy Prep School" which was published at 47 FR 8615 on March 1, 1982.

DATE: Comments must be received on or before May 7, 1982.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, The Adjutant General's Office (DAAG-AMR-R), Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, telephone: 703/ 325-6163.

SUPPLEMENTARY INFORMATION: System of records A1012.04aDAPE was deleted as a system of records and the system notice for A1012.01bDAPE was amended and reidentified as A1012.01DAPE in FR Doc 82-5277 (47 FR 8617), March 1, 1982. Parts of the reidentified system which fall within 5 U.S.C. 552a(k)(5) and (7) are proposed to be exempted from subsection (d) of 5 U.S.C. 552a.

List of Subjects in 32 CFR 505 Privacy

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Accordingly, § 505.9 of 32 CFR will be amended by removing the exemptions for and references to A1012bDAPE and A1012.04aDAPE and inserting the following:

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORD SYSTEMS:

(Specific Exemptions)

ID—A1012.01DAPE.

SYSTEM NAME—Applicants/ Students, US Military Academy Prep School.

EXEMPTION—Parts of this system which fall within 5 U.S.C. 552a(k)(5) and (7) are exempted from subsection (d) of Title 5 U.S.C. section 552a.

AUTHORITY—5 U.S.C. 552a(k)(5) and (7).

REASONS—It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations involving admission to or retention at the US Military Academy Preparatory School and subsequent admission to the United States Military Academy, and suitability for commissioned military service.

* * * * *

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

April 2, 1982.

[FR Doc. 82-9379 Filed 4-6-82; 8:45 am]

BILLING CODE 3710-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[WH-FRL-2094-8]

State Oil and Gas Board of Mississippi; Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that (1) the Environmental Protection Agency (EPA) has received a complete application from the State Oil and Gas Board of Mississippi requesting approval of its Underground Injection Control program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application from the State Oil and Gas Board to regulate oil and natural gas related injection wells (Class II) in Mississippi.

DATES: Requests to present oral testimony should be filed by April 29, 1982; Public Hearing will be held on May 11, 1982, 10:30 a.m. Comments must be received by May 19, 1982. Should EPA not receive sufficient comments or requests to present oral testimony by April 29, 1982, the Agency reserves the right to cancel the public hearing.

ADDRESSES: Comments and requests to testify may be mailed to Curtis F. Fehn, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the application and pertinent material are available from 9:00 a.m. to 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region IV, Library, First Floor, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-4216;

State Oil and Gas Board of Mississippi, Room 1405, Woolfolk State Office Building, 500 Northwest Street, Jackson, Mississippi 39201, (601) 354-7104.

The Hearing will be held in the Woolfolk State Office Building, Second Floor Assembly Room, 500 Northwest Street, Jackson, Mississippi 39201.

FOR FURTHER INFORMATION CONTACT: Curtis F. Fehn, Groundwater Section, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365 (404) 881-3866. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The application from the State Oil and Gas Board of Mississippi is for the regulation of all Class II oil and natural gas related injection wells in the State. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority and a memorandum of agreement between the State Oil and Gas Board of Mississippi and the Region IV, Office of the Environmental Protection Agency.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: April 1, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-9346 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[WH-FRL-2095-1]

Utah Division of Oil, Gas and Mining and Utah Division of Environmental Health; Underground Injection Control Primacy Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) the Environmental Protection Agency has received complete applications from the Utah Division of Oil, Gas and Mining and the Utah Division of Environmental Health requesting primary enforcement responsibility for the Underground Injection Control program; (2) the applications are available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application from the Utah Division of Oil, Gas and Mining to regulate all Class II injection wells and the application of the Utah Division of Environmental Health to regulate Classes I, III, IV and V injection wells.

DATES: Requests to present oral testimony should be filed by April 29, 1982; the public hearing will be held on May 6, 1982, in two sessions: 10:00 a.m. and 7:00 p.m. Written comments must be received by May 11, 1982.

ADDRESSES: Comments and requests to testify should be mailed to Laurie Padilla, Drinking Water Branch (8WM-DW), Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the applications and pertinent materials are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region VIII, Drinking Water Branch, 6th Floor, 1860 Lincoln Street, Denver, Colorado 80295; (303) 837-2731 (*Entire Application*)

Division of Oil, Gas and Mining, 4241 State Office Building, Salt Lake City, Utah 84114; (801) 533-5771 (*Class II Portion Only*)

Division of Environmental Health, Department of Health, 150 West North Temple, P.O. Box 2500, Salt Lake City, Utah 84110; (801) 533-6146 (*Classes I, III, IV, and V*)

The hearing will be held in the Governor's Board Room 210, at the Utah State Capitol Building, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Michael J. Salazar, Chief, Montana/South Dakota/Utah Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2731.

SUPPLEMENTARY INFORMATION: This application from the Utah Division of Oil, Gas and Mining is for the regulation of all Class II injection wells in the State. The application from the Utah Division of Environmental Health is for the regulation of all Classes I, III, IV and V injection wells in the State. The applications include program descriptions, copies of all applicable rules and forms, a statement of legal authority, and appropriate memoranda of agreement.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: April 1, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-9345 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 47, No. 67
Wednesday, April 7, 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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Wool and Mohair Payment Programs; Determination of the Support Prices for Wool and Mohair for the 1982 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This notice of determination sets forth the prices at which wool and mohair will be supported under Commodity Credit Corporation's Wool and Mohair Payment Programs for the 1982 marketing year. The payment programs are intended to encourage the continued domestic production of wool and mohair at prices fair to both producers and consumers.

EFFECTIVE DATE: April 7, 1982.

ADDRESS: Emergency Operations and Livestock Programs Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer at (202) 447-7674. A Final Impact Statement has been prepared and is available from the Emergency Operations and Livestock Programs Division, ASCS, USDA, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major." This notice has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this notice.

The title and number of the Federal assistance program that this notice of determination applies to is: Title—National Wool Act Payments: NUMBER—10.059 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact 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.

The National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, purchases, payment or other operations.

In providing for price support, the Wood Act establishes the level of support for shorn wool for each of the marketing years 1982 through 1985 at 77.5 percent of an amount determined by multiplying 62 cents (the support price in 1965) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the year in which such support price is being detemined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent.

The Wool Act also provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary of Agriculture determines will maintain normal marketing practices for pulled wool and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Further, the support price for mohair must be within a range of 15 percent above or below the comparable percent of parity at which shorn wool is supported.

The Wool Act provides that the Secretary shall establish and announce, to the extent practicable, support price levels for wool and mohair sufficiently in advance of each marketing year, as will permit producers to plan their production for such marketing year. Since these determinations as to the support prices for wool and mohair are mathematical calculations as specified by Section 703 of the Wool Act, it is hereby found and detemined that compliance with any further public rulemaking requirements is impracticable and contrary to the public interest. Thus, this notice of determination shall become effective upon date of publication in the **Federal Register.**

Determinations

Accordingly, the following determinations have been made for wool and mohair for the 1982 marketing year:

1. *Method of Support.* It has been determined that the prices of wool and mohair will be supported by means of payments to producers for the 1982 marketing year.

2. *Support Prices.* It has been determined that the support prices for shorn wool and mohair for the 1982 marketing year are $1.37 and $3.98 per pound, respectively. The support price for shorn wool, which is equal to 69.9 percent of the October 1981 parity for wool, has been calculated in accordance with the formula set forth in Section 703 of the Wool Act. The support price for mohair, which is 69.9 percent of the October 1981 parity for mohair, has been established at a level, in relationship to the support price of shorn wool, as determined to be necessary to maintain approximately the same percent of parity for mohair as for shorn wool. The rate of payment for pulled wool will be determined after the National average market price for shorn wool for the 1982 marketing year is announced.

(Sections 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Sections 702-708, 68 Stat. 910-912, as amended (7 U.S.C. 1781-1784)

Signed in Washington, D.C. on April 2, 1982.

Seeley G. Lodwick,

Acting Secretary of Agriculture.

[FR Doc. 82-9374 Filed 4-6-82; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Docket 40508]

Air Atlanta Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 22, 1982 at 10:00 a.m. (local time) in Room 1012, 1825 Connecticut Ave., N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 1, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-9328 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40508]

Air Atlanta Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to Judge Vittone.

Dated at Washington, D.C., April 1, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-9329 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 38934, 39555; Order 82-3-132]

Application for Modification of the Exemption to Persons Who Contract for the Purchase of Blocks of Seats on Scheduled Service Pursuant to Applicable Tariffs for Resale to the Public; American Airlines, Inc.

March 30, 1982.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of March, 1982.

By Order 81-7-109, we exempted persons who contract with direct air carriers or foreign air carrier from the requirements of the Act to allow the sale of contract bulk fares on scheduled service, subject to certain conditions. (46 FR 38657, July 28, 1981.)

By application filed on December 10, 1981, American Airlines, Inc. requests that we modify the exemption granted by Order 81-7-109, to eliminate the requirement that carrier tariffs include the price charged by the carrier to the contract bulk fare operator.[1] American's proposed exemption would not eliminate the continued filing of contract bulk fare rules in tariffs.

In support of its application, American presents four basis arguments. First, that while direct air carriers implementing contract bulk fare marketing programs are required to file tariffs which state price or prices to be charged to the contractors, contractors are not required to file tariffs reflecting their prices to the public.

Second, American states that disclosure of bulk fare prices in publicly filed tariffs has impeded competition by depriving proponents of bulk fares of the benefits of innovative agreements. Bulk fare operators who contract for substantial seat volumes are put at risk by the possibility that competitors will offer comparable discount fares and dilute their traffic. Carriers are less likely to offer innovative bulk fare programs if they know that the competitive reaction in the marketplace may extend far beyond the scope of the program for which they are willing to offer reduced rates; and public disclosure of prices applicable to individual transactions is not a competitive activity in any regulated industry.

Third, American argues that the contract bulk fare filing requirement has exactly the stifling effect on price innovation that we intended to avoid when we adopted ER-1246, effective October 1, 1981.[2] It points out that by ER-1246, we adopted tariff flexibility rules in domestic air transportation, under which carriers are required to file only their normal coach fares, are permitted to charge less and have no duty to file any discount fares. However, the requirement to file contract bulk fares, even though below normal coach fares, continues to be applicable, because without such filing indirect air carriers that purchase contract bulk seats lose their exemption from sections 401 and 403 of the Federal Aviation Act.

Fourth, American states that the public will not be harmed by its proposed modifications because the price which the passenger must pay to the contractor is not required to be in the tariff, while the price that is in the tariff is of no concern to the passenger.

We received a request from Transamerica Airlines, Inc. on January 5, 1982 for leave to file a late answer.[3]

In answer to the exemption application of American, Transamerica states that the requirement that seat price information for contract bulk fares be in tariffs is imposed by section 403 of the Act as well as by Order 81-7-109. Transamerica takes no position on the issue of granting such exemption authority for contract bulk services sold in interstate and overseas markets. However, it states that insofar as American's proposal encompasses contract bulk services sold in foreign air transportation, foreign policy considerations are raised which require a more cautious regulatory approach. The carrier states further that most foreign governments require U.S. Carriers to file for prior approval their rates for services to and from their territories; and under the relief requested by American all U.S. and foreign-flag carriers would be exempted from the requirement to include in their tariffs the price information required by section 403 and by various bilateral pricing agreements.

Transamerica also states that the tariff relief required by American is similar to that requested by several U.S. carriers and investigated by the Board in Notice of Proposed Rulemaking to Allow Use of Tariffs for Statement of Maximum Prices, EDR-408, Docket 38746.[4] Transamerica adopts by reference its comments dated December 1, 1980, in that docket and it points out that we denied the request for maximum tariffs in international markets, that increased tariff flexibility in international markets must be pursued by negotiations with countries receptive to such program. Transamerica argues that failure to proceed on a bilateral basis with tariff relief for contract bulk fares would give foreign carriers an unfair advantage in competing for price-competitive U.S.-origin traffic.

We will grant American's request for modification of Order 81-7-109, to eliminate the requirement that carrier tarifs include the price charged by the carrier to the contract bulk fare operator, with respect to domestic air transportation.

We find that elimination of the requirement that the price of contract bulk fare seats to the contractor be in the tariff is consistent with the Airline

[1] American sent us a letter on April 8, 1981, requesting a waiver of Part 221 of our regulations to enable it to conduct a limited contract bulk fare program to Hawaii without filing a tariff. By letter dated April 20, 1981, American requested that its letters of April 8 and April 20 be treated as an exemption application from section 403 of the Federal Aviation Act and a waiver of Part 221 of our regulations. The two letters were filed in Docket 39555. However, American did not follow the proper procedure for filing an exemption request and therefore we will dismiss these requests.

[2] 46 FR 46787, September 22, 1981.

[3] We will accept Transamerica's late-filed answer.

[4] 45 FR 64864, September 30, 1980.

Deregulation Act of 1978. Our approval of American's request with respect to domestic contract marketing programs should encourage greater competition in the pricing of such programs. We are concerned that publication of contract rates in the domestic tariff may encourage anticompetitive behavior and discourage pricing options our exemption was intended to promote. Further, such a requirement appears to be at odds with the policies reflected in the tariff flexibility rules set out in ER-1246. However, ER-1246 does not by its terms apply to foreign air transportation and we do not find that it would be in the public interest to eliminate the price tariff filing requirements for group contractors fares for such transportation.

The legal responsibility of the carrier to the contract bulk fare passenger for provision of transportation in its scheduled service under terms and conditions similar to those applicable to other scheduled service will remain unchanged. This exemption in no way eliminates direct carriers' responsibility to the passenger to provide transportation or give refunds, to include contractor fare consumer protection provisions in rules tariffs and to provide actual notice of differences in amenities between regular scheduled service and group contractor service. To the extent that group contractor tariffs currently make reference to unit seat prices set forth in tariffs, they will have to be modified.

Accordingly,

1. We modify ordering paragraph 1(a) of Order 81-7-109 to read as follows:

1(a) The direct air carrier or foreign air carrier implementing marketing programs in foreign air transportation under this exemption shall file tariffs which state the prices to be charged to contractors for such transportation;

2. We grant Transamerica's request for acceptance of its late-filed answer;

3. Except to the extent granted here, we deny all applications, petitions and requests in Dockets 38934 and 39555; and

4. This order shall be served on all certificated air carriers and foreign air carriers holding permits authorizing scheduled service, all persons who filed comments in this docket and all parties in the Investigation into the Competitive Marketing of Air Transportation, Docket 36595.

This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9327 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40379]

Northeastern International Airways, Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 20, 1982 at 10:00 a.m. (local time) in Room 1012, 1825 Connecticut Ave., N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 1, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-9330 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

Order Amending Subsidy Rates

Order Adjusting the Subsidy Rates Established Under Section 406 of the Federal Aviation Act of 1958, As Amended, In Conformance With the Restrictions Placed on the Expenditure of Funds by Pub. L. 97-102, Department of Transportation and Related Agencies Appropriations, 1982

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 82-4-7, amending subsidy rate under section 406.

SUMMARY: The Board is making certain subsidy rate adjustments to those carriers receiving subsidy for services provided under section 406, reducing subsidy payments in conformance with the subsidy ceiling restrictions placed on the expenditure of funds by Pub. L. 97-102, Department of Transportation and Related Agencies Appropriations, 1982.

The order lists those points eligible for section 406 subsidy; establishes a base subsidy rate for each eligible point served by the Class Rate Carriers, including a pro-rata assignment of service incentive payments; proposes the Seventh Review results of Class Rate IX as the final rate adjustment under Class Rate IX; denotes the method for adjusting rates for non-class rate carriers; and provides for a bi-monthly report as to carrier position with regard to the subsidy ceiling.

DATES: Persons entitled to petition for reconsideration of this order pursuant to the Board's Regulations, 14 CFR 302.37, may file their petitions.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5368

The complete text of Order 82-4-7 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to The Distribution Section, B-22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 1, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9326 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-4-4]

Fitness Determination of OK-Air, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82-4-4, Order to Show Cause.

SUMMARY: The Board is proposing to find that OK-Air, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than April 21, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 82-4-4.

FOR FURTHER INFORMATION CONTACT: Patti Szrom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428 (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-4-4 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW, Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-4-4 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 1, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9382 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40249; Order 82-4-18]

Investigation of Courier Baggage Weight and Free Baggage Allowance

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Investigation in Docket 40586 and Dismissal of Petition in Docket 40249, Order 82-4-18.

SUMMARY: The Board has dismissed a petition filed by DHL Corporation requesting that the Board file a Statement of Clarification with the Ninth Circuit Court of Appeals. The Board has also instituted an investigation to determine whether Pan American World Airways, Inc. (Pan American) excess baggage rules are unreasonable or unlawful, and to receive evidence on the average weight of courier baggage carried by Pan American.

COMMENTS: All persons interested in the investigation on Pan American's excess baggage rules shall file comments within 30 days from the service date of the Board's order, May 6, 1982. Answers will be due within 15 days and reply comments will be due 15 days thereafter. Pan American shall file evidence on the average weight of courier baggage within 30 days from the service date of that order. Answers will be due within 15 days and comments will be due 15 days thereafter. All interested persons shall file such pleadings with the Civil Aeronautics Board (20 copies, addressed to Docket 40586, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Pan American, DHL Corporation and Gelco Courier Services, Inc. All pleadings must cite the docket number and include a summary of testimony, statistical data, or other such supporting evidence.

To get a copy of the order, request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Glenn M. Datnoff, (202) 673-5203, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 1, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-9381 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40522; Order 82-3-145]

U.S.-France/Greece/Israel Fares Proposed by Compagnie Nationale Air France; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of March 1982.

In a series of recent tariff revisions, Compagnie Nationale Air France (Air France) has proposed: (1) An eleven percent reduction in its New York-Paris "vacances" fares for travel on certain flights over a limited period; [1] (2) introduction of a New York-Athens 40-passenger group fare, effective April 12, 1982, at roundtrip levels of $734, $799 and $899 for winter, shoulder and peak seasons, respectively; and (3) introduction of New York-Tel Aviv "Superstar" advance purchase and nonaffinity advance purchase group fares effective April 13, 1982.

We have decided to suspend Air France's proposals. The French aviation authorities have repeatedly denied U.S. carrier attempts to introduce new fares in the U.S.-France market, have disapproved the fare proposals of U.S. carriers seeking entry into the market whenever the proposals had undercut the prevailing fares of Air France, and have even refused U.S. carriers the right to match Air France's fares at the latter's U.S. gateways if the former did not provide single plane service. Most recently, the French authorities have disapproved two attempts by Pan American World Airways, Inc. (Pan American) to match Air France's Houston-Paris winter group excursion fare. Thus, the Government of France continues its policy of denying U.S. carrier fare initiatives in order to protect Air France to the detriment of the traveling public. Such circumstances compel us to continue to review Air France's proposals with greater scrutiny than we would otherwise prefer.

The proposed reduction of the New York-Paris "vacances" fares and introduction of the new New York-Athens/Tel Aviv fares are clearly intended to enhance Air France's position in these markets. In particular, we note that Air France's proposed promotional fares to/from Athens/Tel Aviv are designed to match those now offered by the national carriers of Greece and Israel. These two national carriers, Olympic Airways, S.A. and El Al Israel Airlines, Ltd., both provide single-plane service in the markets at issue, whereas Air France's service entails an intraline connection at Paris—precisely the situation at Houston, where the French authorities have blocked Pan American's efforts to compete for low-fare traffic because that carrier's service involves an intraline connection. Indeed, we find the French authorities' action to be harsher because it restricts Pan American's ability to compete for traffic to/from its own country, rather than between two foreign countries. Therefore, we have decided to investigate Air France's proposed tariffs, and we find that it is in the public interest to suspend the tariffs pending investigation.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendices A, B and C,[2] and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix A from March 27, 1982, to and including March 26, 1983, Appendix B from April 12, 1982, to and including April 11, 1983, and Appendix C from April 13, 1982, to and including April 12, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [3] and, unless disapproved by the President within ten days, it shall become effective March 26, 1982; and

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[1] This reduction applies only to flights 024 and 019 for travel from New York to Paris during the period May 15–June 12, 1982, and for travel from Paris to New York during the period May 15–June 18, 1982. The pertinent tariff revisions are scheduled for effectiveness March 27, 1982.

[2] Appendices A, B, and C filed as part of the original document.

[3] We submitted this order to the President on March 15, 1982.

4. We shall file copies of this order in the aforesaid tariff and serve them on Campagnie Nationale Air France and the Ambassador of France in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[1]

Secretary.

[FR Doc. 82-9380 Filed 4-6-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Articles of Quota Cheese; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: International Trade Administration; Commerce.

ACTION: Quarterly Udpate of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to our annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Patricia W. Stroup, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-3691.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note) ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which programs were identified in the January 1, 1982, annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: April 2, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country and program(s)	Cents per pound	
	Gross [1] subsidy	Net [2] subsidy
Belgium: Europoean Community (EC) Restitution Payments	21.2	21.2
Canada: Export Assistance on Certain Types of Cheese	16.9	16.9
Denmark: EC Restitution Payments	10.4	10.4
Finland:		
Export Subsidy	115.8	115.8
Indirect Subsidies	19.5	19.5
Total	135.3	135.3
France: EC Restitution Payments	11.4	11.4
Ireland: EC Restitution Payments	8.6	8.6
Italy: EC Restitution Payments	39.1	39.1
Luxembourg: EC Restitution Payments	21.2	21.2
Netherlands: EC Restitution Payments	3.3	3.3
Norway:		
Indirect (Milk) Subsidy	21.7	21.7
Consumer Subsidy	48.3	48.3
Total	70.0	70.0
Portugal: Direct Subsidy on All Sales of Gouda Cheese	19.8	19.8
Switzerland: Deficiency Payments	71.8	71.8
United Kingdom: EC Restitution Payments	15.2	15.2
West Germany: EC Restitution Payments	9.1	9.1

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 82-9360 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-25-M

Foreign-Trade Zones Board

[Order No. 185]

Resolution and Order Approving the Application of the City of Phoenix, Arizona, for a Foreign-Trade Zone in Phoenix

Proceedings of the Foregin-Trade Zones Board, Washington, D.C.

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the applications of the City of Phoenix, Arizona, filed with the Foreign-Trade Zones Board (the Board) on August 17 and October 14, 1981, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone, and a temporary site, in Phoenix, within the Phoenix Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the applications.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection os such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant to Establish, Operate, and Maintain a Foreign-Trade Zone in Phoenix, Arizona

Whereas, by an Act of congress approved June 18, 1934, an Act "To provide for the establishment, operation, ad mainitenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Phoenix, Arizona (the Grantee) has made application (filed August 17, 1981 and October 14, 1981) in due and proper form to the Board, requesting the establishment, operation, and maintenance of

[1] All members concurred.

a foreign-trade zone in Phoenix, within the Phoenix Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 75 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regualtions issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of sutiable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 25th day of March 1982, pursuant to Order of the Board.

Foreign-Trade Zones Board

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-9267 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 186]

Resolution and Order Approving the Application of the City of Bridgeport, Connecticut, for a Foreign-Trade Zone in Bridgeport

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Bridgeport, Connecticut, filed with the Foreign-Trade Zones Board (the Board) on August 26, 1981, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Bridgeport, within the Bridgeport Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant to Establish, Operate, and Maintain a Foreign-Trade Zone in Bridgeport, Connecticut

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of Bridgeport, Connecticut (the Grantee) has made application (filed August 26, 1981) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone in Bridgeport, within the Bridgeport Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 76 at the location mentioned above and more particularly described on the maps and drawings accompaning the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior to thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board of approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 26th day of March 1982, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

ATTEST:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-9268 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Announcement of Availability of Issue Paper and Scheduling of Public Workshops on the Proposed Hawai'i Humpback Whale National Marine Sanctuary

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmostpheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), plans to conduct, in cooperation with the State of Hawai'i, Public Workshops on the Issue Paper prepared on the proposed Hawai'i Humpback Whale National Marine Sanctuary. The workshops are scheduled for 7:00 p.m. on the following islands on the dates indicated: Lana'i—April 23, 1982, Moloka'i—April 27, 1982; Maui—April 28, 1982; and O'ahu-April 29, 1982. The Issue Paper and related workshops are designed to solicit views which will aid NOAA in determining the scope of the final sanctuary proposal (e.g., preferred boundary, management regime, and research and education priorities) and whether to move the nomination forward in the designation process (e.g., prepare a Draft Enviromental Impact Statement).

FOR FURTHER INFORMATION CONTACT: Mr. Dallas Miner, Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven St., NW., Washington, D.C. 20235, (202) 634–4236.

SUPPLEMENTARY INFORMATION: In December 1977, NOAA received a proposal from a private researcher for a humpback whale marine sanctuary in Hawai'i. In December 1979, following its placement on the List of Recommended Areas (LRA), NOAA sponsored a workshop of whale experts in Hawai'i to provide a forum for further discussion and evaluation of the sanctuary nomination. The workshop panelists concluded, among its other findings, that the designation of a marine sanctuary was "the most certain route to continuing protection of the humpback whale in Hawaiian waters."

In October 1980, NOAA circulated the results of the workshop and conducted a series of public information meetings in Hawai'i to receve comments on the workshop's recommendations and to discuss the feasibility and desirability of proceeding with the sanctuary nomination. NOAA also met with Hawai'i State officials to discuss respective State-Federal roles and responsibilities in sanctuary management. Based on these meetings, an initial assessment of the area proposed for designation in accordance with 15 CFR 922.23(a), preliminary consultation in accordance with 15 CFR 922.23(b) with relevant Federal agencies, State and local authorities, and other interested parties, and with thie full participation of the State in the evaluation of the proposal, the Acting Assistant Administrator for Coastal Zone Management has decided to proceed with the review of the proposed National Marine Sanctuary in Hawaiian waters that are frequented by humpback whales.

An Issue Paper has been prepared by NOAA and public workshops scheduled for the following locations: (1) Lana'i, April 23, 1982, 7:00 p.m. at the Lana'i School Library; (2) Moloka'i, April 27, 1982, 7:00 p.m. at the Kaunakakai School Cafeteria; (3) Maui, April 28, 1982, 7:00 p.m. at thie Lahaina Civic Center; and (4) O'ahu, April 29, 1982, 7:00 p.m. at the State Capitol Auditorium.

Individuals desiring to receive a copy of the Issue Paper may call or write the Sanctuary Programs Office in Washington, D.C. or the Hawai'i State Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawai'i 96804.

Interested parties who wish to submit suggestions, comments, or substantive information on the Issue Paper are invited to attend the public workshops. NOAA will continue to accept comments on the Issue Paper until May 29, 1982.

Comments may be submittee in writing to: Mr. Dallas Miner, Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven St., NW., Washington, D.C. 20235, (202) 634–4236.

Dated: April 2, 1982.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Peter L. Tweedt,

Deputy Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-9385 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Meeting With a Partially Closed Session and Public Meetings of its Scientific and Statistical Committee

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Public Meetings with a Partially Closed Session.

SUMMARY: As required by the Federal Advisory Committee Act, this notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council, and its Scientific and Statistical Committee. The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), and the Council has established a Scientific and Statistical Committee to assist in carrying out its responsibilities.

DATES: May 11–13, 1982.

ADDRESS: The meetings will take place at the Cosmopolitan Hotel, 1030 NE. Union Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council 526 SW. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Agendas

Council (open meetings) May 12–13, 1982 (1 p.m. to 5 p.m. on May 12; 8 a.m. to 5 p.m. on May 13)—review the status of the 1982 amendment to the ocean salmon fishery management plan (FMP); discuss an environmental impact statement prepared by the Department of the Interior on proposed commercial salmon fishing in the Klamath River; review groundfish management matters, including status reports on Pacific ocean pearch and widow rockfish, and a review of groundfish Experimental Fishing Permit applications received by the NMFS Regional Director; discuss anchovy management and potential use of electrophoresis to determine fish stock origin; other fishery matters; conduct a public comment period beginning at 3 p.m. on May 12.

Council (closed session) May 12, 1982 (11 a.m. to 12:00 noon)—discussion of the status of maritime boundary and resource negotiations between the U.S. and Canada. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open meetings) May 11–12, 1982, (8 a.m. to 5 p.m. on May 11, and 12)—consideration of anchovy management issue; evaluate and develop recommendations on issues referred to the Committee by the Council; conduct a public comment period beginning at 3:30 p.m. on May 12.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on February 10, 1982, pursuant to

Section 10(d) of the Federal Advisory Committee Act, that the agency item covered in the closed session is exempt from the provisions of the Act relating to open meetings and public participation therein, because the meeting will be concerned with matters that are within the purview of 5 U.S.C. 552(b)(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests on national defense or foreign policy and (B) in fact properly classified pursuant to such executive order. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Comerce). All other portions of the Council's meeting will be open to the public.

Dated: April 1, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82 9384 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-22-M

Point Defiance Zoo and Aquarium; Modification of Permit

On November 12, 1981, Notice was published in the **Federal Register** (46 FR 55739) that, as authorized by the provisions of the Marine Mammal Protection act of 1972 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued Permit No. 358 to Point Defiance Zoo and Aquarium for the taking of four (4) Pacific bottlenose dolphin (*Tursiops truncatus gilli*) for the purpose of public display.

Notice is hereby given that pursuant to the provisions of Section 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, that permit is modified as follows:

1. Section A–1 is modified to read:

Four Atlantic bottlenose dolphins (*Tursiops truncatus*) of either sex and not less than six feet, six inches may be taken for public display.

2. Section B–1 is modified to read:

The marine mammals authorized above shall be taken from the waters of the Gulf of Mexico by the means and for the purposes set forth in the application and modification request. The date, specific location, and the desirability of National Marine fisheries Service observers for the take shall be determined by the Regional Director, Southeast Region, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702.

This modification is effective April 7, 1982.

The permit, as modified, and documentation pertaining to the modification are available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE. BIN C15700, Seattle, Washington, 98115.

Dated: April 2, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-9383 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Levels of Restraint for Certain Cotton and Man-Made Fiber Textile Products from Haiti Under a New Bilateral Agreement

April 2, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products, produced or manufactured in Haiti and exported during the twelve-month period which began on March 1, 1982, under a new bilaterial agreement.

SUMMARY: On April 2, 1982, the Governments of the United States and Haiti signed a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement which established specific ceilings for Categories 337, 340, 347/348, 349/649, 635 and 648, among others, during the agreement year which began on March 1, 1982. It also provides consultation levels for certain other categories which are not subject to specific ceilings and which may be adjusted during the agreement year. In the letter following this notice the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the new bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 337, 340, 347/348, 349/649, 635 and 648, produced or manufactured in Haiti and exported during the twelve-month period which began on March 1, 1982 and extends through February 28, 1983, in excess of the designated levels of restraint.

(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), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926))

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT:

Carl Ruths, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 1, 1981, there was published in the **Federal Register** (46 FR 24617) a letter dated April 28, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for cotton and man-made fiber textile products in certain designated categories, produced or manufactured in Haiti and exported during the twelve-month period which began on May 1, 1981 and extends through April 30, 1982, the final agreement period of the bilateral agreement of August 17, 1979, as amended. During the course of negotiating the new agreement, it was agreed between the two governments to amend the expiring agreement to include a final agreement period of ten-months, i.e., May 1, 1981 through February 28, 1982. In accordance with this amendment the following levels of restraint have been established for the final agreement year, as amended:

Category	10-mo. level of restraint (dozen)
337	81,342
340	93,375
347/348	234,000
340/649	1,250,636
635	124,249
652	415,000

To the extent that there are any unfilled balances in the foregoing levels, merchandise exported during the ten-month period which began on May 1, 1981 and extended through February 28, 1982 will be changed to those levels. Amounts in excess of those levels will

be charged to the levels established for the categories during the twelve-month period which began on March 1, 1982.

The following letter from the Chairman of the Committee for the Implementation of Textile Agreements cancels and supersedes the letter to the Commissioner of Customs of April 28, 1981.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

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

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on April 28, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in Haiti and exported during the twelve-month period which began on May 1, 1981.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of April 2, 1982, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 7, 1982 and for the twelve-month period which began on March 1, 1982 and extends through February 28, 1983, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 337, 340, 347/348, 349/649, 635 and 648 in excess of the following levels of restraint:

Category	12-mo. level of restraint [1] (dozen)
337	104,863
340	165,000
347/348	350,000
349/649	1,400,000
635	175,000
648	600,000

[1] The levels of restraint have not been adjusted to reflect any imports after April 30, 1981.

In carrying out this directive, entries of textile products in the foregoing categories, except Category 648, produced or manufactured in Haiti, which have been exported to the United States on and after May 1, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the ten-month period which began on May 1, 1981 and extended through February 28, 1982. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Man-made fiber textile products in Category 648, which have been exported prior to March 1, 1982, shall not be subject to this directive.

Man-made fiber textile products in Category 648, which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of April 2, 1982 between the Governments of the United States and Haiti which provide, in part, that: (1) specific limits shall be increased by seven percent annually; (2) a specific ceiling may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compenstated for by an equivalent decrease in one or more specific limits; (3) specific limits may also be increased for carryover and carry forward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

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), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926).

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-9408 Filed 4-6-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Stock Market, Transport, and Gas and Electric Index Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Chicago Board of Trade ("CBOT") has applied for designation as a contract market based upon the CBOT Stock Market, Transport, and Gas and Electric Indices. In addition, CBOT has previously applied for contract market designation in eleven futures contracts, each of which is based on the spot values of certain equity portfolios. (46 FR 7042 (January 22, 1981); 46 FR 20258 (April 3, 1981), to extend comment period until May 4, 1981.) The Commodity Futures Trading Commission (the "Commission") has determined that the terms and conditions of the proposed futures contracts are of major economic significance and that, accordingly, making the proposed contracts available for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before May 7, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBOT Stock Market, Transport, and Gas and Electric Portfolio Indices.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. (202) 254-7303.

SUPPLEMENTARY INFORMATION: A copy of the terms and conditions of the CBOT proposed Stock Market, Transport, and Gas and Electric Index futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K

Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

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

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the CBOT in support of its applications, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by May 7, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on April 2, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-9378 Filed 4-6-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; New Systems of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATE: This system shall be effective as proposed without further notice on May 7, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments including written data, views or agruments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A1088I, The Pentagon, Washington, DC 20330, telephone 202/694–3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 USC 552a) Pub. L. 93–579 have been published to date in the **Federal Register** at:

FR Doc. 81–897 (46 FR 6443) January 21, 1981
FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–2886 (47 FR 5285) February 4, 1982
FR Doc. 82–4481 (47 FR 7478) February 19, 1982

The Department of the Air Force has submitted a new system report February 23, 1982 under the provision of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A–108, Transmittal Memoranda, No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

April 2, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

F03503 AFRES A

SYSTEM NAME:

Recruiters Automated Program (RAP)

SYSTEM LOCATION:

HQ Air Force Reserve, Robins AFB, GA 31098

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force officers entering the Air Force Reserve. Enlisted personnel from all military services entering the Air Force Reserve. Individuals tested and processed for Air Force Reserve enlistment. Potential Air Force Reserve enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Applicants for Officer Training School to fill vacancies in the Air Force Reserve program. Air Force personnel on Reserve recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for high school seniors who are ASVAB tested and meet the basic Air Force Reserve enlistment criteria showing name, mailing address, test scores, and location of high school. Enlistment processing records for prior service Air Force and other military services showing name, SSN, mailing address, ZIP Code, educational level, processing date, recruiter ID code, and other personal data such as date of birth, sex, phone number, number of years of prior service, MOS or AFSC held, duty AFSC, and date or enlistment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: recruiting campaigns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To furnish leads to the field recruiters derived from the high school ASVAB testing program, and from various advertising campaigns, and other sources of leads. To track leads to ensure follow-up by recruiter. To provide recruiters with management tools to follow-up on leads. To determine which sources of leads produce the greatest number of accessions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer magnetic tapes, computer disks, and computer paper printouts.

RETRIEVABILITY:

Filed by name, SSN, or nonpersonal identifier.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings, and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager. Requests must contain full name and current mailing address.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-9386 Filed 4-6-82; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Draft Environmental Impact Statement Supplement (DEISS) for the Proposed Navigation Development at Bonneville Lock and Dam, Oregon and Washington.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement supplement.

SUMMARY: The proposed action is the construction and operation of a new navigation lock at Bonneville, Dam, on the Oregon shore of the Columbia River, south of the existing lock. A Final EIS addressing the proposed action was filed with EPA, 20 March 1981. That EIS stated the need for more detailed evaluation of alternative sites for disposal of an estimated 3.7 million cubic yards of excavated material. The process of selecting a disposal site has been initiated as part of the detailed planning and engineering of the proposed navigation lock. A supplement to the EIS is also being initiated to address the environmental effects of the alternative disposal sites and to identify an environmentally preferable alternative.

Alternatives to be considered include:

(1) placement of excavated material on Pierce and/or Ives Island downstream of the project site;

(2) disposal of material in-water at sites upstream of the project, creating new islands in the Columbia River;

(3) movement of the material downstream approximately 50 miles to Portland for disposal at Ross Island, or 150 miles to a designated off-shore disposal site off the mouth of the Columbia River for ocean disposal;

(4) placement of the material at an abandoned quarry site at Government Cove, Cascade Locks, Oregon;

(5) placement of the material along the Washington shore, near Franz-Arthur Lakes, approximately seven miles downstream of the project on the Washington shore; and

(6) placement of the material at the Bonneville Second Powerhouse excavated material disposal site on Hamilton Island.

The scoping process will be initiated with a scoping notice describing the project and the alternative disposal sites and identifying the anticipated environmental impacts and significant issues to be analyzed in the EISS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be invited to comment on the issues to be addressed in the EISS. No scoping meetings are planned. The DEISS will be available to the public approximately January 1984.

Questions about the proposed action can be answered by Michael Kidby, (503) 221-6478) (FTS 423-6478). Questions about the DEISS can be answered by David Kurkoski, (503) 221-6437 (FTS 423-6437). Mailing address: Portland District, Corps of Engineers, P.O. Box 2946, Portland, Oregon 97208.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-9372 Filed 4-6-82; 8:45 am]

BILLING CODE 3710-AR-M

Department of the Army

Intent To Prepare Environmental Documentation for Post-Process Development Phases for the Demilitarization of Incapacitating Agent BZ and BZ Pyromix Munitions at Pine Bluff Arsenal, Arkansas.

AGENCY: U.S. Army. DOD.

ACTION: Notice of intent to prepare Environmental documentation and initiate public scoping process.

SUMMARY: 1. Notice is hereby given that the Department of the Army is gathering information in order to analyze, in an appropriate environmental document, the potential impacts from the design, construction, operation, and decontamination of a proposed BZ demilitarization (disposal) facility at Pine Bluff Arsenal (PBA), Jefferson County, Arkansas.

2. The Department of the Army recognizes its responsibility to demilitarize (destroy) the present inventory of BZ and BZ munitions in a safe and environmentally acceptable manner. The Army further recognizes the need under the National Environmental Policy Act (NEPA), to discuss and analyze in an appropriate environmental document the potential impacts from operation and subsequent decontamination of the proposed BZ disposal facility at PBA as well as the more immediate impacts associated with construction of the facility.

3. Notice is further given of the Army's intention to initiate the scoping process for this environmental documentation. The purposes of this scoping process are those as stated in 32 CFR Part 651.33 and are designed to aid the Army in determining the significant issues related to the proposed action. The process incorporates appropriate public participation, including federal, state, and local agencies as well as residents within the affected environment.

4. The U.S. Army has an excess of 90,000 pounds of incapacitating agent BZ (3-Quinuclidinyl Benzilate). The BZ agent and BZ filled munitions have been declared obsolete, and the Department of the Army has mandated the demilitarization of the entire inventory.

5. Selection of PBA as the most appropriate site for the BZ disposal facility was based on the following considerations: (1) BZ and BZ-filled munitions are currently stockpiled at PBA; (2) transportation of BZ munitions is not considered feasible with the current munition configuration; and (3) PBA is an established installation with missions to produce/manufacture chemical, smoke, riot control, incapacitating, incendiary, and other pyrotechnic mixes and munitions; to operate limited production facilities for chemical defensive equipment; and to receive, store, perform surveillance of, renovate, demilitarize, and ship chemical, conventional, riot control, smoke and incendiary agents/munitions, industrial components, and strategic materials.

6. Questions and comments regarding the scope and the issues to be analyzed in this environmental documentation may be addressed to Mr. Richard G. Roux, U.S. Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-SE, Aberdeen Proving Ground, MD 21010.

As specific issues are identified through the receipt of comments, public meetings and seminars will be scheduled as required so that interested individuals and agencies may assist the Department of the Army in scoping the environmental document. Written comments are due by April 30, 1982 so that the scoping meeting may be planned if interest warrants. Interested individuals and agencies may also obtain a copy of the Environmental Assessment prepared for the process development phase of the BZ

demilitarization program by writing to the above address.

Dated: March 30, 1982.

Lewis D. Walker,

Deputy for Environmental, Safety and Occupational Health OASA (IL&FM)

[FR Doc. 82-9300 Filed 4-6-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (1976)), notice is hereby given that the Naval Research Advisory Committee will meet on April 27, 1982, at the U.S. Air Force Nuclear Technology Laboratory, Kirtland Air Force Base, New Mexico, and on April 28, 1982, at White Sands SEA LITE Test Facility, White Sands, New Mexico. The April 27 session will commence at 9:00 a.m. and terminate at 5:00 p.m., and the April 28 session will commence at 8:00 a.m. and terminate at 5:00 p.m. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to the Navy's readiness posture for theater nuclear conflicts. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Captain J. B. Morris, U.S. Navy, Office of Naval Research (Code 700), 800 North Quincy Street, Arlington, Virginia 22217, telephone no. (202) 696-5086.

Dated: April 1, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-9271 Filed 4-6-82; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Amendments and Deletions of Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Amendments and deletions of systems of records.

SUMMARY: The U.S. Marine Corps proposes to amend 9 and to delete 7 systems of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed changes to these systems notices are set forth below followed by the notices as amended.

DATE: The proposed action will be effective without further notice on May 7, 1982, unless comments are received which would result in a contrary determination.

ADDRESSES: Send any comments to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: (202) 694-1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register** as follows:

FR Doc. 81-897 (46 FR 6639) January 21, 1981
FR Doc. 82-674 (47 FR 2629) January 18, 1982
FR Doc. 82-2408 (47 FR 4328) January 29, 1982

These changes do not require an altered system report as prescribed in 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Office, Department of Defense.

April 2, 1982.

DELETIONS

MJA00006

System name:

2nd Marine Aircraft Wing General Correspondence Files for Legal Administration (46 FR 6663) January 21, 1981.

Reason:

This system has been combined with system MJA00002, General Correspondence Files for Legal Administration appearing in this edition.

MJA00007

System name:

Delivery Agreement (46 FR 6664) January 21, 1981.

Reason:

This system has been combined with system MJA00004, in Hands of Civil Authorities Case Files appearing in this edition.

MJA00008

System name:

Letters of Indebtedness/Credit Inquiry (46 FR 6664) January 21, 1981.

Reason:

This system has been combined with MJA00005, Financial Assistance/ Indebtedness Files appearing in this edition.

MRS00003

System name:

Employment Referral Questionnaire for Members of Reserve Units (46 FR 6695) January 21, 1981.

Reason:

This system has been discontinued.

MRS00004

System name:

Individual Drill Attendance and Retirement Transaction Card (IDART) Filed (46 FR 6696).

Reason:

This system has been discontinued.

MFD00006

System name:

Centralized Automated Reserve Pay System (CAREPAY) (46 FR 6649) January 21, 1981.

Reason:

This system is now covered by system notice MRS00001, Reserve Manpower Management and Pay System (REMMPS) appearing in this edition.

MJA00015

System name:

Indebtedness Correspondence Record (46 FR 6667) January 21, 1981.

Reason:

This system has been combined with MJA00005, Financial Assistance/ Indebtedness Files appearing in this edition.

AMENDMENTS

MIL00002

System name:

Bachelor Housing Registration Records System (46 FR 6651) January 21, 1981.

Changes:

System name:

Delete the entry and substitute the following: "Unaccompanied Personnel Housing Registration System".

System location:

Delete the entry and substitute the following: "Each unaccompanied Officer Personnel Housing/Staff Unaccompanied Enlistment Personnel Housing (UOPH/Staff UEPH) assigned registration responsibilities."

Categories of individuals covered by the system:

Change the words "BOQ's and BSQ's" to UOPH and Staff UEPH."

Categories of records in the system:

Change the words "BOQ/BSQ" to "UOPH/Staff UEPH."

System manager(s) and address:

Change the words "BOQ's and BSO's to "UOPH/Staff UEPH."

Record source categories:

Change the words "BOQ/BSQ" to "UOPH/Staff UEPH."

MIL00004

System name:

Personal Property Program (46 FR 6651) January 21, 1981.

Changes:

Retention and Disposal:

Delete the entry and substitute the following: "Records on international shipments of household goods moved via freight forwarders are retained for 6 yers after the period covered by the account and then destroyed. All other household goods records are destroyed when 3 years old."

MIL00005

System name:

Passenger Transportation Program (46 FR 6652) January 21, 1981.

Changes:

Retention and disposal:

Delete the second sentence and substitute the following: "Other records retained in active files until the end of the calendar year in which transportation was effected and held additionally in inactive file for two years, then they are destroyed."

MJA00001

System name:

Business Complaint File (46 FR 6661) January 21, 1981.

Changes:

System location:

Delete the entry and substitute the following: "Legal office or Office of the Staff Judge Advocate at all Marine Corps activities."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the words "North Carolina Attorney General's Office" and substitute "appropriate attorney general's office."

System manager(s) and address:

Delete the entry and substitute the following: "Staff Judge Advocate/legal officer of the local Marine Corps activity concerned."

MJA00002

System name:

Staff Judge Advocate Working Papers (46 FR 6662) January 21, 1981.

Changes:

System name:

Delete the entry and substitute the following: "General Correspondence Files for Legal Administration."

System location:

Delete the entry and substitute the following: "All Marine Corps activities."

Categories of individuals covered by the system:

Delete the entry and substitute the following: "File contains information on individuals who have appealed Article 15 punishment and traffic court rulings; have been referred to a court-martial (awaiting special or general court-martial); have been confined at a Correctional Facility in excess of 30 days; lawyers assigned to be on call for a given period; officers punished under Article 15, UCMJ; individuals selected to sit as members of a court-martial. File covers individuals who have been recommended for administrative discharge whose cases have been reviewed by Staff Judge Advocate, individuals served with civil process, and other individuals (military and civilian) requesting assistance in legal related problems."

Categories of records in the system:

Add to the end the paragraph: "name, rank and social security number".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the first paragraph, line one, delete the words "Staff Judge Advocates Office, Marine Corps Development and Education Command" and substitute "Marine Corps Staff Judge Advocate offices". In line five, delete the word "MCDEC" and substitute "the command."

System manager(s) and address:

Delete the entry and substitute: "Commanding officer of the activity concerned. See Directory of Department of the Navy Mailing Addresses."

Notification procedure:

Delete the entry and substitute the following: "Requests should be addressed to the SYSMANAGER. Requester should supply full name and social security number."

Record access procedures:

Delete the first paragraph and substitute the following: "Requests for access should be addressed to the commanding officer of the activity concerned."

MJA00004

System name:

In Hands of Civil Authorities Case Files (46 FR 6662) January 21, 1981.

Changes:

Categories of records in the system:

In line 2, after the word "certificates," insert the following phrase: "written agreement releasing the Marine to civilian authorities"

Routine uses of records maintained in the system, including categories of users, and the purposes of such uses:

Delete the entry and substitute the following: "Headquarters, U.S. Marine Corps, commands, activities and organizations—Files are used in the administrative processing of individuals in the hands of civil authorities or those who will be released to civil authorities. Such processing include reports of misconduct, discharge proceedings, notification to the individual's activity that he/she has been arrested by civilian authorities, the nature of the charges and notification to peace officers of the obligation to transport individuals to or from the military instalation."

Safeguards:

Delete the entry and substitute the following: "Files are stored in filing cabinets accessible only to authorized personnel. Doors are locked and full-time security guards are employed after normal working hours."

System manager(s) and address:

Delete the first sentence and substitute the following: "Staff Judge Advocate or legal officer of the activity concerned."

Record source categories:

Add to the beginning of the sentence the following words: "Warrant for arrest."

MJA00005

System name:

Financial Assistance/Indebtedness Files (46 FR 6663) January 21, 1981.

Changes:

System name:

Change the system name to read "Financial Assistance/Indebetedness/ Credit Inquiry Files."

Categories of records in the system:

Beginning at line three, delete the words "and/or financial assistance required" and substitute the following: "financial assistance and credit inquiries"

Authority for maintenance of the system:

Delete the entry and substitute the following: "Title 10, U.S. Code 5031"

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entry and substitute the following: "Headquarters Marine Corps, commands and activities—Used by Marine Corps personnel in the execution of their official duties in processing correspondence relating to financial assistance, credit inquiry or indebtness.

Retrievability:

Delete the entry and substitute the following: "Records are retrieved by name and social security number of the individual concerned."

Record source categories:

Delete the words "and agencies" and substitute the words "and commercial creditors."

MJA00009

System name:

Marine Corps Command Legal Files (46 FR 6664) January 21, 1981.

Changes:

System location:

After the word "commander" add the words "or officer in change."

MRS00001

System name:

Reserve Personnel Management Information System (REPMIS) (46 FR 6695) January 21, 1981.

Changes:

System name:

Delete the entry and substitute the following: "Reserve Manpower Management and Pay System (REMMPS)."

System location:

In paragraph one, delete the words "Marine Corps Automated Services Center " and substitute the words "Marine Corps Central Design and Programming Activity."

In paragraph two, line six, delete the words "6th Marine Corps District Headquarters" and substitute the following: "Marine Corps Finance Cetner, Marine Corps Reserve Support Center."

Categories of records in the system:

In line three, after the word "agreements" add the word "pay."

Authority for maintenance of the system:

Add the following words to the paragraph: "Title 10, U.S. Code 5031."

Retention and disposal:

In the last sentence, delete the words "Marine Corps Reserve Forces Administrative Activity" and substitute the words "Marine Corps Reserve Support Center."

The amended portions of the systems of records are set forth below:

MIL00002

SYSTEM NAME:

Unaccompanied Personnel Housing Registration System.

SYSTEM LOCATION:

Each Unaccompaied Officer Personnel Housing/Staff Unaccompanied Enlisted Personnel Housing (UOPH/Staff UEPH) assigned registeration responsbilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel who are current and former residents of UOPH and Staff UEPH.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains personnel identifying information, arrival/departure dates; type of orders; monetary allowance information; UOPH/Staff UEPH and room identification.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Decentrailzed. The local commander is responsible for management of UOPH/Staff UEPH.

* * * * *

RECORD SOURCE CATEGORIES:

UOPH/Staff UEPH office personnel and information from individual who fills out registration card.

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MIL00004

SYSTEM NAME:

Personal Property Program.

* * * * *

RETENTION AND DISPOSAL:

Records on international shipments of household goods moved via freight forwarders are retained for 6 years after the period covered by the account and then destroyed. All other household goods records are destroyed when 3 years old.

* * * * *

MIL00005

SYSTEM NAME:

Passenger Transportation Program.

* * * * *

RETENTION AND DISPOSAL:

Copies of transportation procurement documents held by issuing office for period of 4 years, after which they are destroyed. Other records retained in active files until the end of the calendar year in which transportation was affected and held additionally in inactive file for two years, then they are destroyed.

* * * * *

MJA00001

SYSTEM NAME:

Business Complaint File.

SYSTEM LOCATION:

Legal office or Office of the Staff Judge Advocate at all Marine Corps activities.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by legal assistance officers to resolve problems locally or forwarded to the appropriate attorney general's office and/or Armed Forces Disciplinary Control Board as appropriate for settlement of complaint.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Staff Judge Advocate/legal officer of the local Marine Corps activity concerned.

MJA00002

SYSTEM NAME:

General Correspondence Files for Legal Administration.

SYSTEM LOCATION:

All Marine Corps activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

File contains information on individuals who have appealed Article 15 punishment and traffic court rulings; have been referred to a court-martial (awaiting special or general court-martial); have been confined at a Correctional Facility in excess of 30 days; lawyers assigned to be on call for a given period; officers punished under Article 15, UCMJ; individuals selected to sit as members of a court-martial. File covers individuals who have been recommended for administrative discharge whose cases have been reviewed by Staff Judge Advocate, individuals served with civil process, and other individuals (military and civilian) requesting assistance in legal related problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information relating to nonjudicial punishment appeals, the reason for the appeal and the response of the officer appealed; traffic court appeals; counsel assigned to individuals referred to a court-martial; weekly case listings including type of offense, counsel assigned to dates pertaining to each case; excess 30 day pretrial confinement letters including the approval/disapproval by the CG for extending the period of confinement; duty lawyer roster; officers' punishments including offense, punishment and statement of desire to appeal or not; weekly docket list; court-martial members questionnaire including age, duty assignment, summary of past duties, marital status, children, and matters pertaining to past schooling, assignments, name, rank and social security number.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Marine Corps Staff Judge Advocate (SJA) Offices.—To prepare SJA's advice to appeals of nonjudicial punishments; to monitor the fairness of traffic court proceedings; to determine which counsel is assigned to each court-martial case; to inform members of the command with a need to know the status of individual court-martial cases; to expedite cases where individuals have been confined in excess of 30 days; to provide a list of duty counsels for base security organizations; to keep track of the status of pending cases; and to determine which persons selected to sit as members of a court-martial counsel may wish to challenge.

Marine Corps Commands.—By officials and employees of the Marine Corps in the execution of their official duties.

Department of Defense and its components.—By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts.—By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcomittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files of the system.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and card files.

RETRIEVABILITY:

Alphabetically.

SAFEGUARDS:

Kept behind locked doors with security guard in building at night.

RETENTION AND DISPOSAL:

Most records are retained for two years. Duty lawyer rosters and weekly docket lists are retained for one year. All records are destroyed at the end of the retention period.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity concerned. See Directory of Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Requests should be addressed to the SYSMANAGER. Requester should supply full name and social security number.

RECORD ACCESS PROCEDURE:

Requests for access should be addressed to the commanding officer of the activity concerned. Written requests for information should contain the full name and grade of the individual.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MJA00004

SYSTEM NAME:

In Hands of Civil Authorities Case Files.

SYSTEM LOCATION:

All Marine Corps activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel who are in hands of civil authorities or have charges pending against them by civil authorities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil court documents, advice to respondent, health statements/certificates, written agreement releasing the Marine to civilian authorities and supporting documents pertaining to the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tile 10, U.S. Code 814; Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Headquarters, U.S. Marine Corps, comands, activities and organizations—Filed are used in the administrative processing of individuals in the hands of civil authorities. Such processing include reports of misconduct, discharge proceedings, notification to the individual's activity that he/she has been arrested by civilian authorities, the nature of the charges and notification to peace officers of the obligation to transport individuals to or from the military installation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of individual by calendar year in which processing is completed.

SAFEGUARDS:

Files are stored in filing cabinets accessible only to authorized personnel. Full-time security guards are employed after normal working hours.

RETENTION AND DISPOSAL:

On discharged personnel, record incorporated into administrative discharge file. Others retained for two years after completion of calendar year in which processed, then destroyed in accordance with Navy and Marine Corps Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Judge Advocate or legal office of the activity concerned. See the Directory of the Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Requests should be addressed to the SYSMANAGER. Requester must be able to provide satisfactory indentifying information.

RECORD ACCESS PROCEDURE:

Rules for access may be obtained form the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Warrant for arrest, service records/health records, civil court documents, law enforcement personnel and various DoD agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MJA00005

SYSTEM NAME:

Financial Assistance/Indebtedness/Credit Inquiry Files.

SYSTEM LOCATION:

All Marine Corps activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marines indentified as owing debts and/or having dependents requiring financial aid.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name, rank, social security number, military occupational specialty, component, marital and dependency status and supporting documents pertaining to indebtedness, financial assistance and credit inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Headquarters Marine Corps, commands and activities—Used by personnel in the execution of their official duties in processing correspondence relating to financial assistance, credit inquiry or indebtedness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Records are retrieved by name and social security number of the individual concerned.

SAFEGUARDS:

Files accessible only to authorized personnel in the execution of their official duties. Maintained in locked building with full-time duty personnel present during nonworking hours.

RETENTION AND DISPOSAL:

Retained for two years and disposed of in accordance with Navy and Marine Corps Records Disposal Instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity concerned. See Directory of Department of Navy Mailing Addresses.

NOTIFICATION PROCEDURES:

Requests should be addressed to the SYSMANAGER. Requester must be able to provide satisfactory identifying information.

RECORD ACCESS PROCEDURES:

Rules for access may be obtained from the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Previous and current commanders, private individuals and commercial creditors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MJA00009

SYSTEM NAME:

Marine Corps Command Legal Files.

SYSTEM LOCATION:

All Marine Corps commands whose commander or officer in charge has the authority to convene a special court-martial (see Title 10, U.S. Code 826 and List of Activities in the Directory of Department of the Navy Activities).

* * * * *

MRS00001

SYSTEM NAME:

Reserve Manpower Management and Pay System (REMMPS).

SYSTEM LOCATION:

Primary System.—Marine Corps Central Design and Programming Activity, 1500 East Bannister Road, Kansas City, Missouri 64131.

Decentralized Segments.—Input to the system is limited to the unit diary submission of the Marine Corps Reserve unit to which the individual is assigned for administration. Out-put from the system is available at the following locations: Department of Defense, Headquarters, U.S. Marine Corps, 4th Marine Division, 4th Marine Aircraft Wing, Marine Corps Finance Center, Marine Corps Reserve Support Center and the Marine Corps Reserve unit to which the individual is assigned. Addresses of each distribution listed in OPNAV–P09B3–107.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marine Corps Reservists in the Selected, Individual Ready, Standby, and Fleet Marine Corps Reserve Categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains the master personnel records to include personal indentification, education, training, military occupational specialties, contractual agreements, pay and other data required for effective personnel management and administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

Title 5, U.S. Code 301; Title 10, U.S. Code 5031.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—By officials and employees of the Marine Corps in the execution of their official duties.

Department of Defense and its components.—By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts.—By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office related to the Marine Corps.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is contained on magnetic tapes and disks.

RETRIEVABILITY:

Information is retrieved by social security number.

SAFEGUARDS:

Records are maintained in facilities accessible only to authorized personnel that are properly screened and trained.

RETENTION AND DISPOSAL:

Records are retained for six months after separation of the individual Marine Reservist. After six months, records are destroyed except for an historical listing of separations which is recorded on microfiche for permanent retention at the Marine Corps Reserve Support Center, Kansas City, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

The Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Information may be obtained from: The Commandant of the Marine Corps (Code RES), Headquarters, U.S. Marine Corps, Federal Office Building #2, Washington, D.C. 20380, Telephone: Area Code 202/694–1842.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Commandant of the Marine Corps (Code RES), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

Written requests for information should contain the individual's full name, social security number and signature.

For personal visits, the individual should be able to provide some acceptable identification such as military identification card, driver's license or other type of identification bearing picture and signature to insure the individual is the subject of the inquiry.

CONTESTING RECORD PROCEDURES:

The Marine Corps rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

The individual having administrative responsibility for the Marine, the Marine Corps Reserve Support Center, and authorized personnel of Headquarters, U.S. Marine Corps.

Systems interface with the active force Joint Uniform Military Pay System/Manpower Management System and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-9406 Filed 4-6-82; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Amendments to a System of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DoD.

ACTION: Amendments to a System of Records.

SUMMARY: The U.S. Marine Corps proposes to amend a system of records in its inventory of systems of records subject to the Privacy Act of 1974. The proposed changs to the system notices are set forth below followed by the notices as amended.

DATE: The proposed action will be effective without further notice on May 7, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notices.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: (202) 694–1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 81–897 (46 FR 6639) January 21, 1981
FR Doc. 82–674 (47 FR 2629) January 18, 1982
FR Doc. 82–2408 (47 FR 4328) January 29, 1982

These changes do not require an altered system report as prescribed in 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Office, Department of Defense.

April 2, 1982.

AMENDMENT

MMN00006

System name:

Marine Corps Military Personnel Records (OQR/SRB) (47 FR 2630) January 18, 1982.

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add the following paragraphs:

"The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies. State, local, and foreign (within Status of Force agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

"To the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee of Congress or any subcommittee of joint committee on matters within their jurisdiction requiring disclosure of files."

MMN00006

SYSTEM NAME:

Marine Corps Military Personnel Record (OQR/SRB)

* * * * *

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Official and employees of the Marine Corps and Marine Corps Reserve in the performance of their official duties relating to management of personnel resources; screening and selection for promotion, training and educational programs; administration of appeals, grievances, discipline, litigations and investigations; adjudication of claims, benefits and entitlements; administration and management of retirement and veterans affairs programs; and, the providing of requested information from the records to the Veterans Administration, Social Security Administration, Selective Service System, National Guard, Public Health Service, U.S. Coast Guard, Immigration and Naturalization Service, Treasury Department, Department of Labor, Department of State, General Accounting Office and State Bonus Bureaus in connection with such functions as processing and adjudication of claims, updating of records, administration of work programs, processing naturalization proceedings and verification of eligibility and entitlement to various benefits and programs.

By investigative, security and law enforcement agents of federal agencies who have submitted written requests for access to Marine Corps military personnel records with justification therefor as pertaining to the conduct of government business under their respective jurisdictions and providing the names of specified agents by need for such access.

By the state and county law enforcement bodies processing applications for employment, when applicants have given written authorization for access to respective military personnel records.

By officials and employees of the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132 acting as agent for Headquarters, U.S. Marine Corps in storage and processing of Marine Corps records maintained by that center.

By a Marine or former Marine or such individual(s) designated by him/her in writing for whatever purpose access to or release of their respective records is desired.

By the White House, Secretary of Defense, Secretary of the Navy, and members of Congress in response to inquiries regarding individual Marines.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency or instrumentality initiate criminal or civil action against an individual on behalf of the U.S. Marine Corps, the Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U.S. Marine Corps, by the U.S. Marine Corps, the Department of the Navy, or the Department of Defense.

By officials and employees of the American Red Cross and Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

By officials and employees of the Office of the Sergeant at Arms of the U.S. House of Representatives in the performance of official duties related to the verification of Marine Corps service of Members of Congress. Access will be limited to those portions of the member's record required to verify service time, active and reserve.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or as carried as the legal representative of the Executive Branch agencies. State, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

To the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee of Congress or any subcommittee of joint committee on matters within their jurisdiction requiring disclosure of files.

* * * * *

[FR Doc. 82-9405 Filed 4-6-82; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Deletion of Systems of Records

AGENCY: Department of the Navy (DON); DOD.

ACTION: Deletion of three systems of records notices.

SUMMARY: The Department of the Navy proposes to delete the notices for three systems of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed actions will be effective without further notice on May 7, 1982, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the actions proposed should be addressed to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT:

Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1p), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR. Doc. 81-674 (47 FR 2574) January 18, 1982

April 2, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS:

NO7401-2

System name:

Bingo Winnings (47 FR 2725) January 18, 1982

Reason:

This system has been incorporated into system notice #NO7401-1, "Slot Machine/Bingo Winners."

NO4060-2

System name:

Commissary/Exchange Control System (47 FR 2669) January 18, 1982

Reason:

This system has been incorporated into system notice #NO4060-1, "Navy and Marine Corps Exchange and Commissary Sales Control and Security Files."

NO10140-5

System name:

Large purchase in Navy Exchange (47 FR 2729) January 18, 1982

Reason:

This system has been incorporated into system notice NO4060–1, "Navy and Marine Corps Exchange and Commissary Sales Control and Security Files."

[FR Doc. 82-9204 Filed 4-6-82; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales: Contract Number S–JA–314, to the Power Reactor and Nuclear Fuel Development Corporation, Japan, 4.75 grams of plutonium for use as standard reference material. Contract Number S–CA–323, to Atomic Energy of Canada, Ltd., Ontario, Canada, approximately 65 grams of depleted uranium as foil, for use in fast fission ratio measurements in the ZED–2 reactor lattice physics, experiments.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than April 22, 1982.

For the Department of Energy.

Dated: April 2, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-9325 Filed 4-6-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract S–JA–315, to the Power Reactor and Nuclear Fuel Development Corp., Japan, 8 grams of plutonium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than April 22, 1982.

For the Department of Energy.

Dated: April 2, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-9324 Filed 4-6-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

These subsequent arrangements would give approval, which must be obtained under the above mentioned agreements, for the following transfers of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: (1) From Japan to the United Kingdom (the Thorp facility) for the purpose of reprocessing, 70 irradiated fuel assemblies, containing 12,823 kilograms of uranium, enriched to 1.13% in U–235, and 84 kilograms of plutonium from the Hamaoka Nuclear Power Stations 1 and 2, owned by the Chubu Electric Power Co., Inc. This subsequent arrangement is designated as RTD/EU(JA)–44. (2) From Japan to the Compagnie Generale des Matieres Nucleaires (COGEMA), La Hague, France, for the purpose of reprocessing, 68 irradiated fuel assemblies, containing 12,508 kilograms of uranium, enriched to 1.48% in U–235, and 78 kilograms of plutonium form the Hamaoka Nuclear Power Stations 1 and 2, owned by the Chuba Electric Power Co., Inc. This subsequent arrangement is designated as RTD/EU(JA)–45.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored within the United Kingdom or France and will not be transferred from the United Kingdom or France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: April 2, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-9322 Filed 4-6-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement; Spain

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Spain Concerning Civil Uses of Atomic Energy.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements,

for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: from Spain to the United Kingdom (the Thorp facility) for the purpose of reprocessing, 40 irradiated fuel assemblies, containing 10,208 kilograms of uranium, enriched to 1.25% in U-235, and 70 kilograms of plutonium from the Jose Cabrera nuclear power plant. This subsequent arrangement is designated as RTD/EU(SP)-14.

The Department of Energy has received letters of assurance from the Government of Spain that the recovered uranium and plutonium will be stored within the United Kingdom and will not be transferred from the United Kingdom, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: April 2, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-9323 Filed 4-6-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5730-000]

American Hydro Power Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 5, 1982.

Take notice that on December 8, 1981, the American Hydro Power Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§ 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 5730) would be located on the Susquehanna River in Susquehanna County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Peter A. McGrath, Two Aldwyn Center, Villanova, Pennsylvania 19085.

Project Description—The run-of-river project would consist of: 1) an existing timber crib dam, 568 feet long and 10.5 feet high when topped with one-foot flashboards; 2) an impoundment with 825 acre-feet of net storage covering 75 acres at an elevation of 888.5 feet m.s.l.; 3) an existing concrete powerhouse, approximately 22 by 50 feet, to contain five new turbine/generator units with a total rated capacity of 1,616 KW all operating under an average head of 12 feet; 4) an improved 50 by 180-foot tailrace channel; 5) a new 33-kV transmission line 150 feet long and 6) appurtenant facilities.

The average annual generation of 9 million kWh would be sold to the Pennsylvania Electric Company.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Pennsylvania Fish and Game Commissions are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before May 24, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9304 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6067-000]

The California Department of Water Resources; Application for Exemption of Small Conduit Hydroelectric Facility

April 5, 1982.

Take notice that on March 8, 1982, The California Department of Water Resources (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Del Valle No. 2 Power Plant Project (FERC Project No. 6067) would be located on an existing outlet pipe serving the existing Del Valle Dam in Alameda County, California. Correspondence with the Applicant should be directed to: Mr. Ronald B. Robie, Director, Department of Water Resources, P.O. Box 388, Sacramento, California.

Purpose of Project—The power generated by the project would be used for State's water projects.

Project Description—The project would consist of: (1) an 18-inch diameter penstock serving; (2) a powerhouse with a rated capacity of 130 kW. The average annual generation is estimated to be about 825,000 kWh annually.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly idenitified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of any agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protests, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each respresentative of the Applicant specified in the First paragraph of this notice.

Kenneth F. Plumb

Secretary.

[FR Doc. 82-9305 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE82-2-000]

The Electric Department, City of Danville, Virginia; Application for Exemption

April 5, 1982.

Take notice that the Electric Department, City of Danville, Virginia (Danville) filed an application on February 4, 1982 for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1982, information on the costs of providing electric service as specified in § 290.403—load data for certain customer groups.

In its application for exemption Danville states that it should not be required to file the specified data in view of its relatively small size and the disproportionate expense it would incur. The use of available "borrowed" load data would not be applicable, and Danville has no present facilities for load research. Danville purchases all electric energy requirements in excess of its own capacity at rates that do not vary by time of day or season. Danville has retained the services of an outside consultant to enable it to comply with as much of the reporting requirements as possible.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapters of general circulation in the affected jurisidiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 24, 1982. Within that 45 day perior such person must also serve a copy of such comments on: Mr. E. C. Yerks, Director, Electric Department, City of Danville, P.O. Drawer 3308, Danville, Virginia 24543

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9306 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3892-001]

Georgia-Pacific Corp.; Application for License (Over 5 MW)

April 5, 1982.

Take notice that Georgia-Pacific Corporation (Applicant) filed on October 9, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(4)) for proposed Project No. 3892 to be known as Thompson Plant Project located on the Hudson River near the Champlain Canal Lock No. 5, in Washington and Saratoga Counties, New York. The

application is on file with the commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert A. Schumacher, Senior Vice President, Georgia-Pacific Corporation, 320 Post Road, Darien, Connecticut 06820. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing Lock 5 Dam, a 12-foot high masonry structure 850 feet long; (2) the existing Lock 5 Reservoir, having a surface area of 380 acres, at a normal pool elevation of 102.8 feet; (3) the existing 50-foot wide, 1,700-foot long power canal with headgates; (4) a new powerhouse containing three turbine generators having a total rated generating capacity of 7.8 MW located at the site of the existing abandoned powerhouse; (5) the existing tailrace channel; (6) a 1,200-foot long, 34.5-kV transmission line; and (7) appurtenant works. The Applicant estimates that the average annual energy output would be 46,000,000 kWh. The dam is owned by the New York Department of Transportation. The power canal and powerhouse site are owned by the Applicant and are both located at the east side of the Hudson River.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 14, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) of 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rule's may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9307 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE 82-1-000]

Iowa Southern Utilities Co.; Application for Exemption

April 5, 198.

Take notice that Iowa Southern Utilities Company (ISU) filed an application on January 18, 1982, for exemption from certain requirements of Part 290 of the Commission's regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in §§ 290.404(a) and 290.404(g)(1).

In its application for exemption ISU states that it should not be required to file the specified data for the following reasons:

(1) The cost of conducting a sample load metering program is prohibitive for a small utility.

(2) The proposed alternative compliance program entailing the use of borrowed load data will satisfy the purposes of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 24, 1982. Within that 45 day period such person must also serve a copy of such comments on: Mr. W. M. Heusinkveld, Director of Rates, Iowa Southern Utilities Company, 300 Sheridan Avenue, Centerville, Iowa 52544.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9308 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6056-000]

The Metropolitan Water District of Southern California; Application for Exemption of Small Conduit Hydroelectric Facility

April 5, 1982.

Take notice that on March 4, The Metropolitan Water District of Southern California (Applicant) filed an application, under section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydrolectric project from requirements of Part I of the Act. The proposed Perris Small Conduit Hydroelectric Project (FERC Project No. 6056) would be located on the Applicant's Perris Bypass Pipeline, in Riverside County, California. Correspondence with the Applicant should be directed to: Mr. Evan L. Griffith, General Manager, The Metropolitan Water District of Southern California, P.O. Box 54153, Terminal Annex, Los Angeles, California 90054.

Purpose of Project—The power generated by the project would be sold to a public or private utility.

Project Description—The project would consist of a powerhouse with an installed capacity of 7.9 MW. The powerhouse would operate under a head of 160 feet and would generate approximately 40 million kWh annually.

Agency Comments—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions

to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9309 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-13-000]

Laketon Asphalt Refining, Inc. Granting in Part Request for Further Extension of Time

March 13, 1982.

On February 12, 1982, Laketon Asphalt Refining, Inc. (Laketon) filed a request for a stay of the requirement to file its petition for review of a decision and order issued by the Department of Energy (DOE Case No. BYX-0228). Laketon requested that this stay be granted pending action by DOE on Laketon's Motion for Reconsideration. On February 17, 1982 a notice was issued granting an extension of time for the filing of a petition for review to April 1, 1982.

Laketon now seeks a further extension of time for the filing of a petition for review. In its March 23, 1982 filing Laketon avers that it does not anticipate a decision by DOE with respect to Laketon's Motion for Reconsideration prior to April 1, 1982. Laketon also states its intention to file motions for discovery and evidentiary hearing which DOE must consider in connection with the Motion for Reconsideration. Additionally, even in the event that Laketon's motions for discovery and evidentiary hearing are denied, DOE has indicated that a hearing will be convened for purposes of oral argument within three or four weeks. Laketon requests that the Commission grant an additional extension of time for filing its petition for review until thirty days following a final decision by DOE.

In view of the present status of the DOE proceeding, notice is hereby given that an extention of time for the filing of a petition for review is granted to and including July 1, 1982. In the event that Laketon does not anticipate perfecting its petition by that date and seeks an additional extension, a status report and request for extension should be filed with the the Commission on or before June 25, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9310 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6072-000]

Public Utility District No. 1 of Lewis County, Wash.; Application for Preliminary Permit

April 5, 1982.

Take notice that Public Utility District No. 1 of Lewis County, Washington (Applicant) filed on March 9, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6072 to be known as the Skate Creek Waterpower Project located on Skate Creek in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary H. Kalich, Manager, Public Utility District No. 1 of Lewis County, P.O. Box 330, Chehalis, Washington 98532.

Project Description—The proposed project would consist of: (1) a 100-foot long, 10-foot high diversion structure; (2) a 10,500-foot long, 54-inch diameter diversion power conduit; (3) an 800-foot long, 54-inch diameter penstock; (4) a powerhouse with a total installed capacity of 5.8 MW; and (5) a 2.2-mile long, 115-kV transmission line from the powerhouse to an existing transmission line. The proposed project would be located within the Gifford Pinchot National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $200,000.

Competing Applications—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5417 filed on September 25, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit

comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PEITTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9311 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5248-000 and 5250-000]

West Slope Power Co.; Rejecting Appeal

April 5, 1982.

On December 31, 1981, the Deputy Director, Office of Electric Power Regulation, granted an exemption from licensing to West Slope Power Company, Projects Nos. 5248-000 and 5250-000, Whiskey Creek, Madera County, California. On March 1, 1982, Mr. C. J. Bishop filed an appeal of the Deputy Director's order and also requested that a public hearing on this matter be held in the town of North Fork in Madera County, California.

Section 1.7(d) of the Commission's regulations (18 CFR 1.7(d) (1981) requires that any appeal of staff action be filed within 30 days, which in this instance makes January 30, 1982 the last day for filing an appeal. Mr. Bishop's appeal is 30 days late, and good cause has not been shown why Mr. Bishop's appeal should now be considered. Accordingly, Mr. Bishop's appeal along with his request for a public hearing on this matter is rejected.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9312 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4066-001]

Yolo County Flood Control and Water Conservation District; Application for Exemption for Small Hydroelectric, Power Project Under 5 MW Capacity

April 5, 1982.

Take notice that on February 19, 1982, Yolo County Flood Control & Water Conservation District (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 4066) would be located on North Fork Catches Creek near Clear Lake Oaks in Lake County, California.

Correspondence with the Applicant should be directed to: Mr. William L. McAnlis, Manager, Yolo County Flood Control & Water Conservation District, P.O. Box 1940, Woodland, California 95695.

Project Description—The proposed project would consist of:

(1) The existing 60-inch diameter outlet pipe from the Applicant's existing 225-foot high, earthfilled Indian Valley Dam with a surface area of 77,440 acres and capacity of 260,000 acre-feet;

(2) A powerhouse with a total installed capacity of 1,400 kW located against the west wall of the existing outlet works and the north wall of the existing stilling basin; and

(3) A 2-mile long, 12-kV transmission line interconnecting with an existing 12-kV Pacific Gas and Electric Company transmission line.

The Applicant estimates that the average annual energy production would be 7.19 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice approrpiate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specifc terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before May 24, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE

COMPETING APPLICATION","COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9313 Filed 4-6-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-C31048A; PH-FRL 2092-3]

Airco Industrial Gases; Approval of Application to Conditionally Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Airco Industrial Gases to register the insecticide Carbon Dioxide involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 211, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of June 17, 1981 (46 FR 31745) that Airco Industrial Gases, 575 Mountain Ave., Murray Hill, NJ 07974, had submitted an application to register the insecticide Carbon Dioxide containing 99.95 percent of the active ingredient carbon dioxide. The application proposed a changed use pattern of the product.

The application was approved on March 10, 1982 for general use to include use as grain fumigant. The product was assigned EPA registration No. 38719-5.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: March 29, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-9162 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

[PW-33; PH-FRL 2092-4]

Shell Chemical Co.; Withdrawal of Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Shall Chemical Co. has withdrawn two pesticide petitions and one food additive petition for the residues of the insecticide dimethyl phosphate of 3-hydroxy-*N,N*-dimethyl-*cis*-crotonamide.

ADDRESS: Written comments to: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 213, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: In the Federal Register of October 7, 1975 (40 FR 46344) and April 20, 1977 (42 FR 20493), EPA announced that Shell Chemical Co., Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036, had submitted pesticide petitions PP 6F1675, (40 FR 46344), PP 7F1918 and food additive petition FAP 7H5160, (42 FR 20493).

The petitions proposed the following:

PP 6F1675. Proposed the establishment of a tolerance for residues of the insecticide dimethyl phosphate of 3-hydroxy-*N,N*-dimethyl-*cis*-crotonamide in or on the raw agricultural commodities wheat and sorghum grain at 0.05 part per million (ppm).

PP 7F1918. Proposed the establishment of a tolerance for residues of the above insecticide in or on the raw agricultural commodity citrus fruit at 0.5 ppm.

FAP 7H5160. Proposed the establishment of a food additive regulation permitting the use of the insecticide on growing citrus with a tolerance limitation in or on dried citrus pulp of 1 ppm.

The petitioner has withdrawn these petitions without prejudice to further filing in accordance with the regulations.

(Secs. 408(d)(1), 68 Stat. 514, (21 U.S.C. 346a(e))) and 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)) of the Federal Food, Drug and Cosmetic Act)

Dated: March 26, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-9163 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Doc. Nos. 82-163 and 82-164 File Nos. 20011-CD-P-(2)-82 and 21606-CD-P-2-82

Continental Telephone Co. of Illinois and American Paging, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 25, 1982.

Released: March 30, 1982.

In re applications of Continental Telephone Company of Illinois for authority to change frequency from 43.48 MHz to 152.84 MHz for one-way station KDS784 in the Domestic Public Land Mobile Radio Service at Rochelle, Illinois, and to construct an additional site on frequency 152.84 MHz for station KDS784 at Dekalb, Illinois CC Docket No. 82-163, File No. 20011-CD-P-(2)-82; American Paging, Inc. for authority to construct an additional site in the Domestic Public Land Mobile Radio Service for one-way station WXR944 operating on frequency 152.84 MHz at Aurora, Illinois CC Docket No. 82-164, File No. 21606-CD-P-(2)-82.

1. Presently before the Chief, Mobile Services Division, acting pursuant to delegated authority, are the captioned applications of Continental Telephone Company of Illinois (Continental) and

American Paging, Inc. (American). Continental has filed a petition to dismiss or deny American's application and responsive pleadings have been filed. Since both applications propose use of frequency 152.84 MHz, they are electrically mutually exlusive. Therefore, a comparative hearing will be held to determine which applicant would better serve the public interest.

2. Continental and American are currently providing one-way service in the western portion of the Chicago metropolitan area. Continental proposes to modify its facilities to change its authorized frequency from 43.58 MHz to 152.84 MHz to eliminate interference to television reception caused by its station at Rochelle, Illinois, and to add a base station at Dekalb, Illinois, to better serve residents in the Dekalb area.[1] American proposes to add to existing one-way Station WXR944 a base station at Aurora, Illinois, to enable it to extend its one-way service to Aurora area residents and permit wide-area subscribers in the Chicago metropolitan area to place one-way calls to the Aurora area.[2]

3. Continental in its petition raises only one issue: that American is not eligible under the Commission's Rules to operate on frequency 152.84 MHz because that frequency is allocated exclusively for wireline carriers. Continental argues that since American is a wholly-owned subsidiary of a wireline company but owns no wireline facilities itself, it is not a wireline company.

4. In its opposition, American asserts that contrary to Continental's claims, the Commission has ruled that an affiliate of a landline telephone company is eligible to apply for wireline frequencies under Section 22.501(h)(1) even though the affiliate is engaged solely in providing nonwireline service, and the service is provided outside the geographic boundaries of its sister company's landline telephone service area. Specifically, American cites the Commission's decision in *Burlington, Brighton & Wheatland Telephone Company*, FCC 82–76, released February 19, 1982, where the Commission stated that a newly formed nonwireline subsidiary of TDS was eligible to hold CPLMRS station licenses for wireline freuqncies. As further indication that Continental's petition is without merit, American notes that Continental never objected to American's original application for authority to use frequency 152.84 MHz.

5. In reply, Continental for the first time states that its is aware of the *Burlington* case but asserts that the Commission's statement is contrary to the plain language of Section 22.501(h)(1). It therefore requests that the Commission reconsider the *Burlington* decision and dismiss or deny American's application. Continental also argues that the previous grant to American was erroneous and that if the Commission wants to change the eligibility rules to allow American to apply for wireline frequencies, it must do so by way of rulemaking and not by adjudication.

6. We have reviewed the arguments raised in the pleadings and the case law cited and find that American is eligible to apply for and be authorized to operate on frequency 152.84 MHz. Continental's request for reconsideration of the *Burlington* decision in this proceeding is improper under Sections 1.106(b)(2) and 1.115(g) of the Commission's Rules and will be dismissed. In the *Burlington* decision, the Commission denied an application for review of a Common Carrier Bureau decision involving assignments of licenses (Memorandum Opinion and Order, Mimeo No. 00368, released January 6, 1981). At note 1 of the decision, the Commission simply restated a policy regarding the allocation scheme in § 22.501(h) that has been in effect since 1963: an affiliate of a wireline carrier is eligible *only* for the wireline frequencies in § 22.501(h). Thus, Continental's petition to dismiss or deny must be denied.

7. On review of the subject applications, and in view of the foregoing determination, we find that both applicants are legally and technically qualified to construct and operate their proposed facilities.

8. Accordingly, it is ordered, pursuant to section 309 of the Communications Act of 1934, as amended, that the Continental Telephone Company of Illinois application, File No. 20011–CD–P–2–82 and the America Paging, Inc., application, File No. 21606–CD–P–(2)–82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations and facilities pertaining to that service;

(b) to determine on a comaprative basis the areas and populations that each applicant will serve within prospective interference-free areas within the 43 dBu contours,[3] based upon the standards set forth in Section 22.504(a) of the Commission's Rules; [4] and to determine and compare the relative demand for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced, what disposition of the subject applications would best serve the public interest, convenience and necessity.

9. It is further ordered, that the hearing shall be held before an Administrative Law Judge at a time and place to be specified in a subsequent order.

10. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

11. It is further ordered, that the applicants may file written notices of appearances under Section 1.221 of the Commission's Rules within 20 days of the release date of this Order.

12. It is further ordered, that the Petition to Deny or Dismiss filed by Continental is denied.

13. It is further ordered, that the request for reconsideration filed by Continental is dismissed.

14. The secretary shall cause a copy of this Order to be published in the Federal Register.

William F. Adler,

Acting Chief, Mobile Services Division Common Carrier Bureau.

[FR Doc. 82–9341 Filed 4–6–82; 8:45 am]

BILLING CODE 6712–01–M

[1] Continental also operates two-way DPLMRS Station KSJ624 at Dekalb and serves one-way units on a secondary basis. The proposed Dekalb facility will allow Continental to transfer its existing one-way subscribers from its two-way facility to its proposed one-way facility.

[2] American's application also proposed a base station at Elgin, Illinois, but that portion of the application was dismissed as defective.

[3] For the purposes of this proceeding, the interference-free area is defined as that area within the 43 dBu contour as claculated from § 22.504, in which the ratio of desired-to-undesired signal is always equal to or greater than R in FCC Report No. R–6406, equation 8.

[4] Section 22.504(a) of the Commission's rules describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contrours F(50,50) for the facilities involved in this proceeding. (The applicants should consult Bureau Counsel in an effort to submit joint technical exhibits).

[BC Docket Nos. 82-167, 82-168; File Nos. BP-810817AP, BP-811030AB]

Hawaii Broadcasting Co., Inc. and Alegria II, Inc.; Order Designating Applications For Consolidated Hearing on Stated Issues

Adopted: March 25, 1982.
Released: March 30, 1982.

In re applications of Hawaii Broadcasting Co., Inc., KPUA, Hilo, Hawaii, Has: 970 kHz, 5 kW, U, Req: 670 kHz, 10 kW, U, BC Docket No. 82-167, File No. BP-810817AP; Alegria II, Inc., Waimea, Hawaii, Req: 670 kHz, 10 kW, U, BC Docket No. 82-168, File No. BP-811030AB; for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast stations.

2. Hawaii Broadcasting's proposal would increase the KPUA service area by more than half, but applicant has not submitted the required program proposal. See Deregulation of Radio, 84 FCC 2d 968, 999 (1981). An amendment is necessary.

3. Both applicants failed to state the height of their proposed antennas in the local notices of the filing of their applications, as required by § 73.3580 of the Commission's rules. They must therefore republish corrected local notices. In addition, we have no evidence that KPUA broadcast its local notice as required.

4. Both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Since the proposals are for different communities, an issue must be specified to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service. Further, since the proposals would serve substantial common areas, a contingent comparative issue will be specified.

5. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

2. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

6. It is further ordered, that Hawaii Broadcasting Co., Inc., shall file the amendment specified in paragraph 2 above within 30 days after this order is published in the **Federal Register.**[1]

7. It is further ordered, that both applicants shall republish corrected local notice, and that Hawaii Broadcasting shall broadcast a correct local notice if it has not already done so, and shall file statements of notice with the presiding Administrative Law Judge within 40 days after this order is printed in the **Federal Register.**

8. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

9. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-9342 Filed 4-6-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Both applicants have been requested by pre-designation letter to file certain environmental information. If they have not yet done so, they must file that information within 30 days after this order is published in the **Federal Register.**

[CC Docket Nos. 82-161, 82-162; File Nos. 20617-CD-P-(2)-82, 23000-CD-P-(1)-81]

Radio Telephone Company of Gainesville, Inc. and Call-Com, Inc.; Order Designating Applications For Consolidated Hearing on Stated Issues

Adopted: March 25, 1982;
Released: March 30, 1982.

In re applications of Radio Telephone Company of Gainesville, Inc., CC Docket No. 82-161, File No. 20617-CD-P-(2)-82, for a construction permit to operate Station KFL922 on frequencies 454.050 and 454.225 MHz in the Domestic Public Land Mobile Radio Service at Gainesville, Florida; Call-Com, Inc., CC Docket No. 82-162, File No. 23000-CD-P-(1)-81, for a construction permit to establish a new two-way station to operate on frequency 454.050 MHz in the Domestic Public Land Mobile Radio Service at Dunnellon, Florida.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Radio Telephone Company of Gainesville, Inc. (RTC) and Call-Com, Inc. RTC proposes to add additional channels to operate on frequencies 454.050 and 454.225 MHz for its existing two-way mobile radio station KLF922 at Gainesville. Call-Com proposes to establish a new two-way radio service at Dunnellon to operate on frequency 454.050 MHz. The proposals of RTC and Call-Com to use fequency 454.050 MHz in the same geographic area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. RTC's proposal to use frequency 454.225 MHz is not mutually exclusive with any other pending application.

2. We find both applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities. We further find that a grant of the request by RTC to operate on frequency 454.225 MHz will serve the public interest, convenience and necessity. Accordingly, it is ordered, pursuant to section 309 of the Communications Act of 1934, as amended, that the application of Radio Telephone Company of Gainesville, Inc. File No. 20617-CD-P-(2)-82 for operation of Station KLF922 is granted in part to the extent that the request for frequency 454.225 MHz is granted, and that the application of Radio Telephone Company of Gainesville, Inc. File No.

20617-CD-P-(2)-82 to operate on frequency 454.050 MHz and the application of Call-Com, Inc. File No. 23000-CD-P-(1)-81 are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[1] based upon the standards set forth in § 22.504(a) of the Commission's rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, that the applicants may file written notices of appearance under § 1.221 of the Commission's rules within 20 days of the release date of this order.

6. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Acting Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-9343 Filed 4-6-82; 8:45 am]

BILLING CODE 6712-01-M

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[2] Section 22.504(a) of the Commission's rules and regulations describes a field strength contour of 39 decibels above on microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The Applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

[BC Docket Nos. 82-159, 82-160; File Nos. BPCT-790717KH, BPCT-800710KH]

Rawlins Broadcasting Corp. and Strang Telecasting, Inc.; Order Designating Applications For Consolidated Hearing on Stated Issues

Adopted: March 23, 1982.

Released: March 29, 1982.

In reapplications of Rawlins Broadcasting Corporation, Channel 11 Rawlins, Wyoming, BC Docket No. 82-159, File No. BPCT-79071KH; Strang Telecasting, Inc., Channel 11, Rawlins, Wyoming, BC Docket No. 82-160, File No. BPCT-800710KH, For a construction permit.

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Rawlins Broadcasting Corporation (RBC) and Strang Telecasting, Inc. (Strang) for a new commercial television station to operate on Channel 11 in Rawlins, Wyoming.

Strang Telecasting, Inc.

2. *Financial qualifications.* Strang estimates its total construction and operating costs will be $97,000. It proposes to lease $1,600,000 of equipment and facilities from Hadar Leasing International Company (Hadar) with monthly payments deferred until eighteen months after installation. To meet operating and miscellaneous costs of $97,000, Strang relies on $25,000 of existing capital and a $125,000 loan from Hadar. On March 27, 1981, however, Hadar filed a debtor's voluntary petition for relief in the United States Bankruptcy Court for the Southern District of New York, seeking relief under Chapter 11 of Title 11 of the United States Code. In re Hadar Leasing International Co., No. 81-B-1068-9.[1] In that petition, Hadar claims liabilities of $4,150,000 and assets of $2,600,000. Therefore, Strang cannot rely on Hadar as a source of equipment or funds. Since Strang cannot rely on Hadar for lease of its equipment, we cannot determine Strang's total costs. Hadar proposed to purchase equipment from Phillips Broadcast Equipment Corporation (Phillips) for lease to the applicant. This purchase would be financed through Hundred East Credit Corporation (Hundred East), a financing affiliate of Phillips. On March 20, 1981, Hundred East filed a civil complaint against Hadar and several individual defendants, for fraud and breach of contract. Under these circumstances, Strang cannot reasonably rely on financing from Hundred East or Hadar. In addition, Strang's balance sheet shows no net liquid assets. Therefore, we cannot find that Strang has any funds to finance its proposal. Appropriate financial issues will be specified.

3. *Other matters.* Strang filed an engineering amendment changing its transmitter location and antenna height but did not submit a new city grade contour. An appropriate issue will be specified.

Rawlins Broadcasting Corporation

4. *Air hazard issue.* We have not received a determination from the FAA that RBC's proposed tower height and location would not be a hazard to air navigation. An appropriate issue will be specified.

5. *Conditional grant.* RBC's proposed tower will be located 1.37 miles from KRAL, a nondirectional AM station in Rawlins. Because of the proximity of RBC's proposed tower to KRAL, any grant of a construction permit to RBC will be conditioned to ensure that KRAL's radiation pattern is not adversely affected by the construction of the proposed station.

Conclusion and Order

6. Except as indicated by the issues specified below, the Commission finds the applicants legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the applications will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, on the following issues:

1. To determine with respect to Strang Telecasting, Inc.,

(a) The applicant's total costs to construct and operate as proposed;

(b) The availability funds to meet its costs;

(c) The applicant's amended predicted city grade contour;

(d) Whether, in light of the evidence adduced pursuant to (a) through (c)

[1] We take official notice of Hadar's bankruptcy petition which was filed with the Commission as an addition to an application for transfer of control of WDHO-TV, Toledo, Ohio. (File No. BTCC-810330KE).

above, the applicant is qualified to construct and operate as proposed.

2. To determine with respect to Rawlins Broadcasting Corporation whether there is a reasonable possibility that the tower height and location proposed would be a hazard to air navigation.

3. To determine, which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that, if Rawlins Broadcasting Corporation's application is granted, the construction permit shall contain the following condition.

Prior to construction of the TV tower authorized herein, the permittee shall notify AM station KRAL so that the AM station may determine operating power by the indirect method. The permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects on the pattern of the AM station. Subsequent to construction of the TV tower and installation of all appurtenances thereon, antenna impedance measurements of the AM antenna shall be made, and sufficient field strength measurements shall be made, at a minimum of 10 locations along each of eight equally spaced radials, to establish that the radiation pattern of the AM station is essentially omidirectional. The results shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence Limited Program Tests.

9. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding with respect to issue 2.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice, as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-9344 Filed 4-6-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1342]

Petitions for Reconsideration of Actions in Rule Making Proceedings

March 31, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before April 22, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Riverton, Wyoming). (BC Docket No. 81-575, RM-3849)

Filed by: David J. Goldman, Attorney for Wind River Communications, Inc., on 3-22-82.

Subject: Amendment of Part 1 of the Commission's rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings. (Gen Docket No. 81-768)

Filed by: Victor M. Lopez, Law Student, UCLA School of Law on 3-24-82.

Subject: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations, (New Smyrna Beach, Orlando, and Winter Park, Florida). (BC Docket No. 80-774, RM's 3513, 3627 & 3671)

Filed by: Charles J. McKerns & Nancy L. Wolf, Attorneys for Palmer Communications Incorporated on 3-26-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-9377 Filed 4-6-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Executive Committee Meeting, Notice of April Meeting, Thursday, April 15, 1982—9:30 a.m., Conference Room 3200/3202, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Agenda

1. Administrative Matters.

2. Discussion concerning the future of RTCM.

1982 Annual Meeting of the RTCM Assembly, Monday, April 26, 1982—9:00 a.m., The Westin Hotel, Fifth at Westlake, P.O. Box 1826, Seattle, WA 98111.

Agenda

1. Introductory Remarks. Administrative Matters.
2. Election of Assembly Member Applicants.
3. Election of RTCM Officers.
4. Committee Reports.
5. Report of the Executive Secretary.
6. Other Business.
7. Announcements and Adjournment.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-9376 Filed 4-6-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed; Seaway Port Authority of Duluth, et al.

Notice is hereby given that the following agreement has been filed with the Commission for review and 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 the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10427; or may inspect the agreement 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 the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 16, 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 agreement and the statement should indicate that this has been done.

AGREEMENTS NOS.: T–4039 and T–4039–A.

FILING PARTY: William M. Burns, Esquire, Hanft, Fride, O'Brien & Harries, P.A., 1200 Alworth Building, Duluth, Minnesota 55802.

SUMMARY: Agreement No. T–4039, between the Seaway Port Authority of Duluth (Authority) and St. Lawrence Cement Co. (Lessee) provides for the Authority's lease to Lessee of certain premises at Duluth, Minnesota, to be used as a wharf and coment distribution facility. The cement will be shipped in bulk by Lessee on the Great Lakes to the facility at Duluth where it will be stored in silos and distributed by rail and truck. The initial term of the lease is twenty years, with renewal options of three-ten year periods. Dockage and wharfage at the facility are available to the general public when not being used by Lessee. Lessee shall have option to purchase the facility at the end of the full fifty year lease period. The Authority will assess a standard dockage fee to ships loading or discharging at the premises.

Agreement No. T–4039–A is a loan agreement between the parties whereby the Authority will execute revenue bonds in the amount of $18,000,000 to finance the proposed construction at the leased premises. The interests of the Authority in the loan agreement will be pledged to secure the bonds to a trustee who in turn will draw amounts under a letter of credit covering the interest and principal on the bonds to pay the bond holders. The term of financing is 10 years from May 1, 1982.

By Order of the Federal Maritime Commission.

Dated: April 1, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-9270 Filed 4-6-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Caldwell Bancshares, Inc.; Acquisition of Bank

Caldwell Bancshares, Inc., Caldwell, 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 80 percent or more of the voting sharaes of First State Bank, Chilton, 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 April 30, 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 qustions 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9272 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Florida Westcoast Banks, Inc.; Formation of Bank Holding Company

Florida Westcoast Banks, Inc., Venice, Florida, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Venice, Venice, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9273 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

InterFirst Corp.; Acquisition of Bank

InterFirst Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First International Bank-Chelmont, National Association, El Paso, Texas, a proposed new bank. 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9274 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Madison Bancorp, Inc., Formation of Bank Holding Company

Madison Bancorp, Inc., Madison, 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 87.0 percent or more of the voting shares of the Madison Bank, Madison, 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9275 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Merchants Bancorp.; Formation of Bank Holding Company

Merchants Bancorporation, Topeka, 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 100 percent of the voting shares of the successor by merger to The Merchant Bank of Topeka, N.A., Topeka, 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9276 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Midlands Financial Services, Inc.; Formation of Bank Holding Company

Midlands Financial Services, Inc. Omaha, Nebraska, 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 94.75 per cent or more of the voting shares of Nebraska State Bank of Omaha, Omaha, Nebraska. 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9277 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

North County Bancorp; Formation of Bank Holding Company

North County Bancorp, Escondido, 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 percent of the voting shares of North County Bank, Escondido, 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9278 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Pioneer Bancshares, Inc.; Formation of Bank Holding Company

Pioneer Bancshares, Inc., Canmer, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.9 percent or more of the voting shares of Canmer Deposit Bank, Canmer, Kentucky. 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 April 23, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9279 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Southeast Banking Corp.; Proposed Merger of Southeast Mortgage Company, Miami, Florida With Churchill Mortgage Company, Miami, Florida

Southeast Baking Corporation, Miami, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to merge two of its existing subsidiaries, Southeast Mortgage Company, Miami, Florida and Churchill Mortgage Company, Miami, Florida.

Applicant states that the resulting company would engage in mortgage banking activities. These activities would be performed from offices of Applicant's subsidiary in Miami, Florida and the geographic areas to be served are the Miami and Ft. Lauderdale, SMSAs, in Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

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

must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than April 30, 1982.

Board of Governors of the Federal Reserve System, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9280 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

Yazoo Capital Corp.; Formation of Bank Holding Company

Yazoo Capital Corporation, Yazoo City, Mississippi, 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 Bank of Yazoo City, Yazoo City, Mississippi. 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 April 30, 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, March 31, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-9281 Filed 4-6-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, May 6-7, 1982, Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on May 6 from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 6, from 9:30 a.m. to adjournment, and on May 7, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: March 29, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82-9282 Filed 4-6-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, NIA; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 3-4, 1982, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. to adjournment on Monday, May 3, and from 9:00 a.m. until 1:30 p.m. on Tuesday, May 4. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 4, from 1:30 p.m. until adjournment for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C-05, National Institutes of Health, Bethesda, Maryland 20205, (telephone: 301/496-5898) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not consider appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: March 29, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-9283 Filed 4-6-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, May 13-14, 1982, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on May 13 from 9:00 a.m. to 9:30 a.m. to review administrative details.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 13, from 9:30 a.m. to adjournment and on May 14, from 9:00 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Leon J. Niemiec, Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 10A–03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.398, project grants in cancer research manpower, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: March 29, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82–9284 Filed 4–6–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, May 20–21, 1982, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on May 20 from 9:00 a.m. to 5:00 p.m. with current status reports including the Report of the Acting Director, NICHD, comments by the Associate Director for Extramural Research and Training, NIH, the review of the NICHD Genetics and Teratology Program, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 21 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: March 29, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 82–9285 Filed 4–6–82; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Availability of Cancer Bioassay Reports of Di(2-ethylhexyl)phthalate and Bisphenol A

The HHS' National Toxicology Program today announces the availability of Technical Reports on carcinogenesis bioassays of Di(2–ethylhexyl)phthalate (DEHP), a component of vinyl bags and tubing used to store and transfer blood, plasma, and intravenous fluids, and Bisphenol A, a chemical intermediate used to make epoxy, polycarbonate, and polystyrene resins.

DEHP, which is used to increase the flexibility of polyvinylchloride plastics, caused liver tumores in both sexes of rats and mice in this 103 week feeding study.

Although not soluble in water, DEHP dissolves in liquids containing fats and proteins. As a result, DEHP has been found in the tissues of patients who were repeatedly transfused with blood or plasma stored in vinyl products. A patient receiving frequent transfusions could possibly receive as much as 1,500 milligrams of DEHP in a year.

In addition to these uses, DEHP is found in plastic milk containers and is approved by the Food and Drug Administration for use in food contact articles. About 400 million pounds were produced in 1977.

In the 103 week feeding study of Bisphenol A, although some biological effects were observed after administration, no convincing evidence of carcinogenicity was found in either sex of rats and mice.

Positive results in these studies demonstrate that a chemical is carcinogenic for animals and that exposure is a potential hazard to humans. However, because of the limited experimental conditions, negative results—in which the test animals do not have a greater incidence of cancer than the controls—do not necessarily mean that the chemical is not an animal carcinogen. Quantification of human risk is beyond the purview of these studies.

Copies of these Technical Reports—*Carcinogenesis Bioassay of Di(2-ethylhexyl phthalate* (T.R. 217) and *Carcinogenesis Bioassay of Bisphenol A* (T.R. 215)—are available without charge by writing to the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709; Telephone: (919) 541–3991, FTS 629–3991.

Dated: March 29, 1982.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 82–9287 Filed 4–6–82; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Cancer Bioassay Reports on 1,2-dibromoethane (EDB), 2,6-dichloro-p-phenylenediamine, and Agar

The HHS' National Toxicology Program today announces the availability of Technical Reports on carcinogenesis bioassays of 1,2-dibromoethane (EDB), a widely-used industrial chemical and gasoline additive; 2,6-dichloro-p-phenylenediamine, a chemical used to make synthetic fibers and cure polyurethane; and Agar, an algae derivative used in foods and pharmaceuticals.

EDB caused cancer in both sexes of rats and mice in this 78–103 week inhalation study. Exposure caused

cancers in the nasal cavity and circulatory system in both sexes of rats, as well as mesotheliomas on the testes of the males and mammary and lung cancers in the females. EDB also caused lung cancer in both sexes of mice as well as other tumors in the female mouse.

This confirms an earlier National Cancer Institute study (T.R. #86) that found that administration of EDB by gavage (stomach tube) caused cancers in rats and mice.

In addition to its use in gasoline, EDB is a widely-used solvent, a chemical intermediate in dye manufacture, a grain fumigant, and an ingredient in aproximately 100 pesticides. Approximately 244 million pounds were produced in 1977.

2,6-dichloro-p-phenylenediamine caused liver cancer in male and female mice in 103 week feeding study. It was not found to cause cancer in rats. The sole U.S. manufacturer ceased production in 1978.

Agar, which is used as a gelling agent in pharmaceuticals, did not cause cancer in either rats or mice in a 103 week feeding study. It is used in bakery and confectionery goods; in meat, fish, and dairy products; as a clarifying agent in beer and wine; and in making dental impressions. An estimated 200,000 pounds a year are used.

Positive results in these studies demonstrate that a chemical is carcinogenic for animals and that exposure is a potential hazard to humans. However, because of the limited experimental conditions, negative results—in which the test animals do not have a greater incidence of cancer than the controls—do not necessarily mean the chemical is not an animal carcingen. Quatification of human risk is beyond the purview of this study.

Copies of these Technical Reports—*Carcinogenesis Bioassay of 1,2-dibromoethane* (T.R. 210), *Carcinogenesis Bioassay of 2,6-dichloro-p-phenylenediamine* (T.R. 219), and *Carcinogenesis Bioassay of Agar* (T.R. 230)—are available without charge by writing to the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541-3991, FTS 629-3991.

Dated: March 29, 1982.

David P. Rall, M.D., Ph. D.,

Director, National Toxicology Program.

[FR Doc. 82-9288 Filed 4-6-82; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Chemicals (16) Nominated for Toxicological Testing; Request for Comments

SUMMARY: On March 3, 1982, the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) reviewed 16 chemicals nominated for toxicological testing. The evaluation of nominated chemicals by the Committee constitutes an integral part of the NTP chemical nominating and selection process. This notice lists the 16 chemicals reviewed by the Committee and requests public comment on them.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS, CONTACT: Dr. Dorothy Canter, Assistant to the Director, National Toxicology, Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee are published with request for comment in the **Federal Register** and *NTP Technical Bulletin*. This enables individuals and groups to participate in the NTP evaluation process, thereby helping the NTP to make better informal decisions as to whether to select, reject, or defer chemicals for testing.

The Comments and data supplied as a result of this request for information are reviewed and summarized by NTP technical staff and made available to both the NTP Board of Scientific Counselors for its evaluation of nominated chemicals and to the NTP Executive Committee for decision making. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21228).

On March 3, 1982, the CEC met to evaluate 16 chemicals nominated to the NTP for various types of toxicological testing. Listed below are the chemicals and their Chemical Abstract Service (CAS) registry numbers:

Chemical	CAS No.
2-amino-6-nitrobenzothiazole	6285-57-0
Benzonitrile	100-47-0
Benzo(f)quinoline	85-02-9
Carminic acid	1260-17-9
1-chloro-2-propanol	127-00-4
2-chloro-1-propanol	78-89-7
Colchicine	64-86-8
L-cysteine	52-90-4
2-ethylhexanol	104-76-7
L-isoleucine	73-32-5
L-lysine	56-87-1
Mono(2-ethylexyl) phthalate	4376-20-9
m-nitrobenzoyl chloride	121-90-4
p-nitrobenzoyl chloride	122-04-3
Phenamiphos	22224-92-6
Pyruvic acid	127-17-3

The chemicals 2-ethylhexanol and mono(2-ethylhexyl) phthalate were nominated by the National Cancer Institute (NCI) and the Environmental Protection Agency (EPA) for carcinogenicity testing. Both of these compounds were previously selected by the NTP for mutagenicity testing. 2-Ethylhexanol was negative in the *Salmonella* assay. It is presently on test in an *in vitro* cytogenetics assay. Mono(2-ethylexyl) phthalate is now being tested in the *Salmonella* assay.

The remaining fourteen compounds were nominated by the NCI. m-Nitrobenzoyl chloride and p-nitrobenzoyl chloride were nominated for cell transformation studies. p-Nitrogenzoyl chloride was previously selected by the NTP for mutagenicity testing in the *Salmonella* assay and is currently on test.

Colchicine was nominated for an epidemiological study and for limited research studies. The NTP is presently testing colchicine in the *Salmonella* assay and has selected the chemical for testing in Drosophila, *in vitro* cytogenetics and aneuploidy assays. L-Cysteine, L-isoleucine, L-lysine, and pyruvic acid were nominated for carcinogenicity testing and for studies regarding their potential role as modifiers of the carcinogenic process. The other chemicals (2-amino-6-nitrobenzothiazole, benzonitrile, benzo(f) quinoline, carminic acid, 1-chloro-2-propanol, 2-chloro-1-propanol and phenamiphos) were nominated for carcinogenicity testing. None of these seven compounds has been previously selected for toxicological testing by the NTP.

Interested parties are requested to submit pertinent information as well as comments on the nominations of the 16 chemicals.

Of particular relevance to the NTP in its evaluation and decision making process are the following types of data:

(1) Completed, ongoing and/or planned toxicological testing in the private sector including detailed protocols and, in the case of completed studies, resultant data.

(2) Modes of productive, present production levels and potential for occupational exposure.

(3) Uses and resulting exposure levels, where known.

(4) Results from toxicological studies of structurally related compounds.

Kindly submit such information in writing on or before May 7, 1982.

Submissions received after this date, however, will be accepted and utilized where possible.

Dated: March 29, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-9289 Filed 4-6-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Insignificant Revision in 5-Year OCS Leasing Schedule; Reoffering Sale #2

AGENCY: Office of OCS Program Coordination, Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The 5-Year OCS Leasing Schedule issued on June 18, 1980, provided for Reoffering Sale #2 to be held in June 1982. After analyzing whether either moving the sale by one month, to July 1982, or reducing the number of proposed tracts from the maximum permitted was a significant revision under section 18 of the OCS Lands Act, we have concluded that it would not be a significant revision of the 5-Year Program. Copies of this analysis are available from the address mentioned later.

FOR FURTHER INFORMATION CONTACT: Wallace Macnow, Office of OCS Program Coordination, U.S. Department of the Interior, 18th & C Street, NW., Room 5150, Washington, D.C. 20240, (202) 343-9314.

Dated: March 26, 1982.

Donald Paul Hodel,

Under Secretary of the Interior.

[FR Doc. 82-9370 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[AR 035766]

Arizona; Order Providing for Opening of Public Lands; Correction

March 29, 1982.

In FR Doc. 82-5525 appearing at pages 8864 and 8865 in the issue of March 2, 1982, make the following changes:

On page 8864, second column, under Serial No. AR 035766 change the 7th line now reading "That portion of sec. 20, T. 13 N., R. 20 W.," to read "That portion of sec. 23, T. 13 N., R. 20 W".

Mario L. Lopez,

Chief, Branch of Land and Minerals Operations.

[FR Doc. 82-9367 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-10-M

Realty Action—Life Occupancy Lease; Public Land in Marion County, Oregon

March 30, 1982.

The following described public land (Revested Oregon and California Railroad Grant Land) has been examined and identified as suitable for a life occupancy lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762, 43 U.S.C. 1732):

Willamette Meridian, Oregon

T. 9 S., R. 2 E.,
Sec. 25, a portion of the NW¼SW¼.
Containing approximately 0.74 acres.

The purpose of the lease is to continue to authorize the use of the land by Mrs. Blanche M. Syverson because she has developed and used the land for over 30 years. The issuance of the lease would give Mrs. Syverson the security of the tenure to the land through her lifetime.

The terms and conditions applicable to the lease are:

1. The lease will be nontransferable.
2. The lease will terminate when Mrs. Blanche M. Syverson is no larger physically able to occupy her home.
3. The lease rental will be based upon the appraised fair market rental and the ability of Mrs. Syverson to pay such rental.
4. The lease will be issued subject to any valid existing rights.

Detailed information concerning the lease, including the planning documents, environmental documents, and the record of public comments, is available for review at the Salem District Office, 1717 Fabry Road, S.E., P.O. Box 3227, Salem, Oregon 97302.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salem District Manager, P.O. Box 3227, Salem, Oregon 97302. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

John D. Evans,

Acting District Manager.

[FR Doc. 82-9302 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-049863 and Nev-049908]

Nevada; Classifications Vacated; Correction

In the FR Doc 82-3002, published on page 5471, on Friday, February 5, 1982, change line 9 to read: "approximately 2.50 acres in Douglas County,".

In the FR Doc 82-3001, published on page 5471, on Friday, February 5, 1982, change lines 6 and 7 in second column to read: "approximately 420.00 acres in Lyon County, Nevada."

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-9301 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-050189]

Nevada; Order Providing for Opening of Public Lands

In an exchange of lands under the provisions of section 8 of the Act of June 28, 1934, as amended, the following described lands were reconveyed to the United States:

Mount Diablo Meridian, Nevada

T. 33 N., R. 49 E.
Sec. 3, Lots 1, 2, S½NE¼, SE¼.

The area described comprises 318.77 acres. The lands lie in Eureka County approximately 6 miles northeast of Dunphy, Nevada.

All minerals are in private ownership.

At 7:30 a.m. on May 7, 1982, subject to valid existing rights and multiple use classification N-2474, the land described above is hereby restored generally to the operation of the public land laws.

All valid applications received from the date of this publication until and including 7:30 a.m. on May 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, Nevada 89801.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 82-9303 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-84-M

Federal-State Coal Advisory Board; Renewal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Renewal of the Federal-State Coal Advisory Board.

SUMMARY: This notice is published in accordance with the provisions of

section 7(a) of the Office of Management and Budget Circular A–63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92–463), the Secretary of the Interior has determined that renewal of the Federal-State Coal Advisory Board is necessary and in the public interest. The General Services Administration concurs in the renewal of this board.

The purpose of the board is to advise the Secretary of the Interior and Director, Bureau of Land Management, regarding the Federal coal management program in accordance with the provisions of Part 3400 of Title 43 of the Code of Federal Regulations. Two subdivisions of the board, the Green River-Hams Fork and Uinta-Southwestern Utah Regional Coal Teams, acting in concert and in addition to their responsibilities regarding Federal coal management, constitute the Regional Oil Shale Team and will advise the Secretary and Director regarding Federal oil shale leasing matters.

EFFECTIVE DATE: The renewal of the Federal-State Coal Advisory Board was effective on March 20, 1982.

ADDRESS: Any inquiries or suggestions should be sent to: Director (540), Bureau of Land Management, 18th and C Streets NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz, (202) 343–4636.

April 1, 1982.

Robert F. Burford,

Director.

[FR Doc. 82–9338 Filed 4–6–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

California; Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as additions to the Salton Sea know geothermal resources area, effective September 5, 1980.

(5) California

Salton Sea Known Geothermal Resources Area

San Bernardino Meridian, California

T. 12 S., R. 12 E.,
Sec. 24.
T. 12 S., R. 13 E.,
Sec. 19 and 20;
Sec. 20, W 1/2;
Sec. 28, W 1/2;
Sec. 29, 30, 31, and 32.
T. 11 S., R. 14 E.,
Secs. 8, 17, and 20.

The area described aggregates 7,085.40 acres, more or less.

Date: March 31, 1982.

Eddie R. Wyatt,

Chief, Onshore Minerals Management Division.

[FR Doc. 82–9368 Filed 4–6–82; 8:45 am]

BILLING CODE 4310–MR–M

Getty Oil Company—Cache Creek-Bear Thrust Final Environmental Impact Statement

Notice of Availability of Final Environmental Impact Statement—Proposed Oil and Gas Drilling Near Jackson, Teton County, Wyoming.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior, Minerals Management Service (MMS), in cooperation with the Forest Service (FS), has prepared the final environmental impact statement (FEIS) on proposed oil and gas drilling in the Bridger-Teton National Forest, Teton County, Wyoming. The draft environmental impact statement (DEIS) addressed two oil and gas drilling proposals for the Cache Creek and Bear Thrust Units. On September 2, 1981, the National Cooperative Refinery Association (NCRA) notified the MMS that its pending Application for Permit to Drill (APD) was withdrawn. Consequently, the FEIS addresses only the Bear Thrust drilling proposal by Getty Oil Company. The FEIS and DEIS together assess the environmental impacts of Getty's proposed exploration and conceptual development and production of oil and gas from leased Federal lands in the vicinity of Jackson, Wyoming.

Comments received on the DEIS during the comment period were considered in the preparation of, and are produced in, the FEIS. The FEIS contains specific revised pages of the DEIS in lieu of a complete final. This abbreviated form is consistent with the Council on Environmental Quality regulation 40 CFR 1500.4(m). Therefore, for complete EIS analysis, both the DEIS and FEIS must be used together.

The MMS and FS have reviewed the comments concerning Getty's Bear Thrust Unit APD near Little Granite Creek and have concluded that the analysis and conclusions in the DEIS should stand as is. Therefore, the MMS and FS recommend use of the Little Granite Creek road access alternative for Getty's APD request.

The MMS and FS will execute a decision document concerning pending oil and gas drilling activities addressed in the EIS within 90 days after release of the FEIS.

The FEIS is available for public review at the following places:

U.S. Geological Survey Library, Denver; West Building No. 3, 1526 Cole Boulevard, Golden, CO
U.S. Geological Survey Library, Room 4A100, National Center, Reston, VA
National Agricultural Library, U.S. Department of Agriculture, 10301 Baltimore Boulevard, Beltsville, MD
Teton County Library, 320 South King Street, Jackson, WY
U.S. Forest Service, 340 North Cache Street, Jackson, WY
Rock Springs Public Library, 400 C Street, Rock Springs, WY
Laramie County Library, 2800 Central Avenue, Cheyenne, WY
Natrona County Library, Documents Department, Walcott and 2nd Streets, Casper, WY

A limited number of copies are available on request from John Matis, Task Force Leader, Minerals Management Service, Box 25046, MS 609, Federal Center, Denver, CO 80225 ((303) 234–4435); Reid Jackson, Forest Supervisor, Bridger-Teton National Forest, Box 1888, Jackson, WY 83001 ((307) 733–2752); and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, 169 Federal Building, 1961 Stout Street, Denver, CO 80202.

Dated: April 2, 1982.

Eddie R. Wyatt,

Acting Chief, Onshore Minerals Management Division.

[FR Doc. 82–9369 Filed 4–6–82; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Lake Mead National Recreation Area, Arizona/Nevada; Intent To Prepare an Environmental Impact Statement/ Announcement of Public Meetings

Notice is hereby given that in accordance with the Environmental Policy Act of 1969, the U.S. Department of the Interior, National Park Service has begun preparation of an environmental impact statement on the general management plan for Lake Mead National Recreation Area.

The statement will assess potential environmental impacts associated with various levels of development, visitor use and resources management within

the national recreation area. Specific issues to be addressed include capacity of visitor facilities, cabin site lease policy, flood hazards and mitigation, mining and mineral leasing, off-road vehicle use, endangered/threatened species, exotic species and cultural resources.

In addition, the alternatives for wilderness presented in the 1979 Wilderness Draft Environmental Impact Statement (DES 79–12) will be incorporated in this document.

The National Park Service's Notice of Intent to prepare an Environmental Impact Statement for the Willow Beach Flood Hazard Mitigation Plan, Lake Mead National Recreation Area, which was published in the **Federal Register** Tuesday, August 12, 1980, page 53577, Volume 45, Number 157, is hereby withdrawn because the Plan will be a part of the General Management Plan for the area.

To assist the National Park Service in defining issues and refining alternatives, we will hold a series of four scoping meetings during the week of April 26–29. Representatives of the National Park Service will be available to discuss issues and the planning process at each of these meetings. The workshops will begin at 1:30 p.m. and continue to 5 p.m. and then resume from 7–10 p.m. local time. The locations of the meetings are as follows:

Monday, April 26, 1982. Bullhead City Chamber of Commerce, First and Main Streets, Bullhead City, Arizona.
Tuesday, April 27, 1982. University of Nevada, Moyer Student Union, Lounge 201, 4505 South Maryland Parkway, Las Vegas, Nevada.
Wednesday, April 28, 1982. Pasadena City College, Ciradian Faculty Dining Room, 1570 East Colorado Boulevard, Pasadena, California.
Wednesday, April 28, 1982. Santa Ana College, Room 204, Johnson Center, 17th at Bristol, Santa Ana, California.

Written comments for consideration in developing the General Management Plan should be submitted to the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005 by May 15, 1982. Anyone having questions about the public workshops, the planning process or the environmental impact statement should communicate with the National Park Service at the address above.

Dated: March 30, 1982.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 82-9339 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 30, 1982. Waiver of the 15-day public commenting period following this publication is necessary for the Pennsylvania nominations listed below in order for listing of eligible properties to be accomplished before April 15, 1982. Listing in the National Register by this date will qualify the properties for purposes of donating an easement. Donation of the easement will aid in the preservation of the properties. Waiver of the public commenting period will allow timely listing which is necessary to assist in the preservation of these properties.

Carol D. Shull,

Acting Keeper of the National Register.

PENNSYLVANIA

Philadelphia County

Mayfair House, 410 West Johnson St.
Touraine, The, 1520 Spruce St.

[FR Doc. 82-9340 Filed 4-6-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43962, Southwestern Freight Bureau, Agent (No. B–153), increased rates on ground wood paper and newsprint paper from Pine Falls, MB, Kenora and Thunder Bay, ON, to stations in Southwestern Territory, in Supplement No. 247 to its Tariff ICC SWFB 4571, effective April 21, 1982. Grounds for relief: Market Competition and increased revenue to offset increased operating costs.

By the Commission.

Agatha L. Mergenovich,

Secretary.

April 2, 1982.

[FR Doc. 82-9314 Filed 4-6-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–160

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 156605 (Sub-3–1TA), filed March 25, 1982. Applicant: CONN TRUCKING COMPANY, General Delivery, Stark, KY 41176. Representative: Stephen C. Fitch, 155 East Broad Street, Columbus, OH 43215. *Contract* carrier: irregular: *soft clay* from A. P. Greene Refractories, Oak Hill, OH to General Refractories, Hitchins, KY. Supporting shipper: General Refractories Company, 225 City Line Avenue, Bala Cynwyd, PA 19004.

MC 2900 (Sub-3–33TA), filed March 29, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Contract carrier:* irregular: *General commodities (except Classes A and B Explosives)*

between points in the U.S. under continuing contract(s) with the Ford Motor Company. Supporting shipper: Ford Motor Company, One Parklane Boulevard, Dearborn, MI 48126.

MC 161201, (Sub-3–1TA), filed March 29, 1982. Applicant: CRACKER STATE OIL CO., INC., Pine Road, P.O. Box 397, Newnan, GA 30264 Representative: Shiel G. Edlin, 4651 Roswell Road, N.E., Suite I–804, Atlanta, GA 30342. *Petroleum and asphalt in tank vehicles* between points in Hamilton County, TN on the one hand and AL and GA on the other hand. Supporting shipper: Ergon, Inc., P.O. Drawer 1639, Jackson, MS 39205.

MC 119917 (Sub-3–8TA), filed March 29, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive S.E., Atlanta, GA 30316. Representative: David A. Modlinski (same address as applicant). *Food and food products;* between Perrysburg, OH. and points in the U.S. (except AK and HI). Supporting shipper: International Automated Machines, Inc., Oregon Road, Perrysburg, OH 43551

MC 155915 (Sub-3–3TA), filed March 29, 1982. Applicant: M. T. TRANSPORTATION, INC., P.O. Box 636, Goldenrod, FL 32733. Representative: Gerald D. Colvin, Jr., Bishop, Colvin & Johnson, 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular; furniture and fixtures, carpeting, wallcovering and drapes,* between points in IL and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract with Curriculum, Inc., 1375 West Jeffery Street, Kankakee, IL 60901. Supporting shipper: Curriculum, Inc., 1375 West Jeffery St., Kankakee, IL 60901.

MC 160858 (Sub-3–1TA), filed March 26, 1982. Applicant: TARHEEL MOTOR EXPRESS, INC., 309 Trade Street, Forest City, NC 28043. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Used cars in truckaway operation,* between points in Rutherford County, NC, on the one hand, and, on the other, all points in SC, VA, MD, and DC; between points in Cherokee County, SC on the one hand, and, on the other, all points in VA, MD, and DC; and between points in Stanly County, NC, on the one hand, and, on the other, all points in OH. There are five statements in support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 150961 (Sub-3–2TA), filed March 26, 1982. Applicant: NHT, INC., 820 Live Oak Plantation Dr., Talahassee, FL. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. *Contract;* irregular; *Food and related products,* From Plymouth, FL, to Indian Trail, NC, under continuing contract with Harris Teeter Super Markets, Inc. Supporting shipper(s): Harris Teeter Super Markets, Inc., 4017 Chesapeake Drive, Charlotte, NC 28233.

MC 149133 (Sub-3–22TA), filed March 26, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC. d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, Post Office Box 7191, Charlotte, NC 28217. Representative: Charles L. Garrison (same address as applicant). *Garments hanging on hangars, in trailers and such commodities as are dealt in or used by retail department stores,* between points in NC, SC, GA, NY, and CA. Supporting shipper: Lucky Stores, Inc. 6565 Knott Avenue, Buena Park, CA 90620.

MC 106119 (Sub-3–3TA), filed March 26, 1982. Applicant: ASSOCIATED PETROLEUM CARRIERS, INC., Post Office Box 2808—Union Road, Spartanburg, SC 29302. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, DC 20014. *Petroleum products, in bulk in tank vehicles,* between points in Guilford County, NC, on the one hand, and, on the other, points in Carroll, Patrick, Grayson, and Floyd Counties, VA. Supporting shipper: Harrell Oil Company of Mt. Airy, Inc., Post Office Box 747, Mt. Airy, NC 27030.

MC 148589 (Sub-3–1TA), filed March 26, 1982. Applicant: STOREY TRUCKING COMPANY, INC., P.O. Box 126 Henagar, AL 35978. Representative: Blaine Buchanan, 1012 James Building, Chattanooga, 37402. *Contract carrier,* irregular routes, *frozen bakery goods intemperature controlled vehicles,* from DeKalb County, AL to points in CA, AZ, NM, TX, CO, OR, WA and NV under continuing contract with Foodmaker, Inc., of San Diego, CA. Supporting shipper: Foodmaker, Inc., P.O. Box 783, San Diego, CA 92112.

MC 161231 (Sub-3–1TA), filed Mach 25, 1982. Applicant: PLATEAU EXPRESS, INC., Route, 11 Box 226, McMinnville, TN 37110. Representative: Roland M. Lowell, Fifth Floor, 501 Union Street, Nashville, TN 37219. *Such commodities as are dealt in or used by manufacturers of ladle gate valves, firebrick shapes and refractory products, (1) between the facilities utilized by Flo-Con System, Inc., at or near Champaign and Fisher, IL, Forest, MS and Grove City, PA, (and the commercial zones of each) (2) between points named in (1) on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting Shipper: Flo-Con Systems, Inc., 1404 Newton Drive, Champaign, IL.*

MC 145912 (Sub-3–2TA), filed March 25, 1982. Applicant: TRUCK SERVICE, INC., 303 Vance St., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434 Atlanta, GA 30328. *Contract:* Irregular: *Office furniture and fixtures and air conditioned cabs,* from Forest City, NC; Gallatin and Knoxville, TN; Sturgis, MI; Youngtown, OH; and Rochester, MN, to points in the U.S. (except AK and HI) under continuing contracts with G/F Business Equipment, Inc. Supporting Shipper: G/F Business Equipment, Inc., P.O. Box 260, Forest City, NC 28043

MC 158103 (Sub-3–3TA), filed March 25, 1982. Applicant: WILLIS TRANSPORTATION, INC., 102 12th Street, S.E., Ft. Payne, AL 35967. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Contract;* over irregular routes, transporting: *Textile mill products,* from Dalton, GA, to points in CA, WA, OR, ID, UT, NV, CO, DE, MD, PA, NJ, NY, CT, RI, MA, VT, NH, and ME. Restriction: Restricted to the transportation of shipments under a continuing contract(s) with Interstate Brokers, Inc. Supporting shipper: Interstate Brokers, Inc., 1311 Ludie Street, Dalton, GA 30720.

MC 151790 (Sub-3–3TA), filed March 26, 1982. Applicant: FLEXIBLE FLYER TRANSIT CO., INC., 2010 S. Beltline Blvd., Columbia, SC 29201. Representative: Timothy C. Ross (same address as applicant). *Contract* Carrier: Irregular: *Paper and related products* between points within U.S. from or to facilities utilized by Columbia Business Forms. Supporting shipper: Columbia Business Forms, 131C Dutch Plaza, 800 Dutch Square Boulevard, Columbia, SC 29210.

MC 151173 (Sub-3–18TA), filed March 29, 1982. Applicant: HAR-BET, INC., 7209 Tara Boulevard, P.O. Box 855, Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr. (same address as applicant). *Contract:* Irregular: *General Commodities (except commodities in bulk, and classes A and B explosives and Hazardous Waste)* between points in the United States (except AK and HI). Under contract or continuous contract(s) with Time Chemical Inc., and its subsidiaries. Supporting shipper: Time Chemical Inc., 3780 Browns Mill Road, Atlanta, GA 30354.

MC 161051 (Sub-3–1TA), filed March 26, 1982. Applicant: NOWELL TRUCKING CO., INC., 1106 Thomwall Street, Valdosta, GA 31601.

Representative: H. Arthur McLane, 504 North Patterson Street, P.O. Box 921, Valdosta, GA 31601. *Beer, except in bulk,* between points in FL and GA. Supporting witness: Johnson Distributing Company, Inc., P.O. Box 580, 401 South Oak Street, Valdosta, GA 31601.

MC 94350 (Sub-3–4TA), filed March 25, 1982. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. *Motorized recreational vehicles,* from the facilities of Mark III Vans, located at or near Ocala, FL, to points in IL, MT, TX, OK, OH, DE, KY, MO, ND, SD, IA and CA. Supporting shipper: Mark III Vans, 2035 N.W. 8th Avenue, Ocala, FL 32670.

MC 157384 (Sub-3–4TA), filed March 24, 1982. Applicant: BENNY WHITEHEAD, P.O. Box 46, Eufaula, AL 36027. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract:* irregular: *Brass ingots, including materials, equipment and supplies used in the manufacture, sale and distribution of brass ingots,* between Headland, AL, including its commercial zone, on the one hand, and, on the other, points in the U.S., under a continuing contract(s) with American Brass, Inc. Supporting shipper: American Brass, Inc., P.O. Box 306, Headland, AL 36345.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 88368 (Sub-5–14TA), filed March 24, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Continuous Flow Process Grain Driers* between points at or near Waverly, KS, on the one hand, and, on the other, points at or near Jonesboro and Tyronza, AR, Colusa, CA, Crystal Lake and New Berlin, IL, Conrad and Cylinder, IA, New Orleans, and Waterproof, LA, Greenville, and Marks, MS, Altoona, PA and Brownsville and Houston, TX. Supporting shipper: Berico Industries, Inc., P.O. Box 12285, Overland Park, KS 66204.

MC 124813 (Sub-5–34TA), filed March 25, 1982. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Parts for infant seats* from Bonaparte, IA to Denver, CO. Supporting shipper: GM Sales Co., 208 Victor Street, Hubbard, IA 50122.

MC 134282 (Sub-5–5TA), filed March 24, 1982. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Drawer 776, Ennis, TX 75119. Representative: William D. White, Jr., 4200 Republic Bank Tower, Dallas, TX 75201. (1) *Roofing and roofing materials,* and (2) *materials, equipment and supplies* (except in bulk) *used in or incidental to the manufacture, installation and distribution of the commodities in (1) above,* between Carter County, OK and Morris County, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MS, MO, NM, OK, TN, and TX. Supporting shipper: Georgia Pacific Corporation, 1062 Lancaster Avenue, Rosemont, PA 19010.

MC 134405 (Sub-5–17TA), filed March 25, 1982. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118. *Carbon black, in sealed bins,* From Tate Cove, LA to Ardmore, OK. Supporting shipper: Uniroyal, Inc., Uniroyal Road, Ardmore, OK 73401.

MC 139587 (Sub-5–6TA), filed March 26, 1982. Applicant: BROWN REFRIGERATED EXPRESS, INC., Route 4, Box 601, Carthage, MO 64836. Representative: Patricia F. Scott, P.O. Box 258, Liberty, MO 64068. *Malt beverages, empty containers and advertising supplies used in connection therewith,* between points in LaCrosse County, WI, Ramsey County, MN, St. Clair County, IL, Bexar County, TX and Vanderburgh County, IN on the one hand, and, on the other hand, points in Jasper County, MO. Supporting shippers: Duffy Distributors, Inc., P.O. Box 620, Carthage, MO 64836; J. R. Duffy & Co., Inc., P.O. Box 711, Carthage, MO 64836.

MC 144616 (Sub-5–10TA), filed March 24, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd, Fort Worth, TX 76112. (1) *bean bag chairs, foam furniture,* and *materials and supplies used in their manufacture and distribution,* between Bensenville, IL, on the one hand, and, on the other, points in U.S. (except AK and HI), (2) *food and related products,* between Finney County, KS and points in the U.S. (except AK and HI). Supporting shippers: NOW Products, Inc., 619 Thomas Dr, Bensenville, IL 60106; and Kansas Beef Processors, Inc., P.O. Box 957, Rt. 1, Garden City, KS.

MC 146336 (Sub-5–13TA), filed March 25, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th Street, Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Adding machines, caculators and equipment, materials and supplies associated therewith* between Lubbock, TX and all points in CA and IL under continuing contract(s) with Texas Instruments, Inc., Lubbock, TX.

MC 147047 (Sub-5–7TA), filed March 26, 1982. Applicant: C.W.C. TRUCKING COMPANY, P.O. Box 7, Plano, TX 75074. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Chemicals, Petroleum or Related Products* (except in bulk and hazardous waste between Ft. Worth, TX on the one hand, and, on the other, points in the U.S. Supporting shipper: Texas Refinery Corp., One Refinery Place, Ft. Worth, TX 76101.

MC 151179 (Sub-5–4TA), filed March 26, 1982. Applicant: G–M TRANSPORTS, 12344 E. Northwest Hwy., Dallas, TX 75228. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities* (except classes A and B explosives and hazardous waste) between points in the U.S. Under continuing contract with United Forwarding, Inc., Omaha, NE.

MC 151383 (Sub-5–14TA), filed March 26, 1982. Applicant: NICKELL TRUCKING CO., 4901 West 51st St., Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103. Contract, Irregular: *Bolted tanks, knocked down; grain bins, knocked down; iron and steel articles;* and *materials and supplies used in the manufacture, construction and distribution thereof,* under continuing contract(s) with Trico Industries, Inc., Columbian Division of Kansas City, KS. *Air conditioners, furnaces, solar heating and cooling systems,* and *equipment and materials used in the construction, production and distribution thereof,* under continuing contract(s) with Lennox Industries, Inc. of Dallas, TX. Between points in the U.S.

MC 152281 (Sub-5–2TA), filed March 24, 1982. Applicant: MODERN TRANSPORTATION, INC., One Woodsweather Road, Kansas City, KS 66118. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Paint and Related Products and Containers* between the Commercial Zones of Andover and Wichita, KS, and points in TX. Supporting shipper: Pratt & Lambert, Inc., Wichita, KS.

MC 154234 (Sub-5–2TA), filed March 24, 1982. Applicant: LAMBERT TRANSFER CO., 666 Grand Avenue,

Des Moines, IA 50309. Representative: Kenneth L. Kessler, Attorney, P.O. Box 855, Des Moines, IA 50304. *Acids and chemicals* between Ramsey, Hennipen, Anoka, Carver, Scott, Washington and Dakota Counties, MN, on the one hand, and points in the U.S. (except AK and HI), on the other. Supporting shipper: Conklin Company Incorporated, Valley Park Dr., Shakopee, MN 55379.

MC 155594 (Sub-5–2TA), filed March 26, 1982. Applicant: SATAN TRUCKING, INC., Route 2, Box 119, Stonewall, OK 74871. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *Malt beverages, empty used beverage containers, related materials and supplies as are dealt with and used in the sale of malt beverages,* between St. Louis, MO, on the one hand, and, on the other, Durant, Hugo, and Ardmore, OK. Supporting shippers: Ed F. Davis, Inc., P.O. Box 539, Durant, OK 74701; and Midwest Beverage, Inc., P.O. Box 1124, Ardmore, OK 73401.

MC 158938 (Sub-5–4TA), filed March 26, 1982. Applicant: BOSWELL FARMS, INC., 503 South State Street, Lamoni, IA 50140. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Dry Fertilizer* from Omaha, Nebraska City and Falls City, NE; Carlsbad, NM; Military, KS; Joplin, St. Louis, Kansas City; Brunswick and Bonneville, MO; and Tulsa and Pryor, OK to points in IA, MO, KS and NE. Supporting shipper(s): DeBruce Fertilizer, Inc., P.O. Box 10670, Gladstone, MO 64118.

MC 159474 (Sub-5–3TA), filed March 26, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Sugar, in bags,* from Mathews, LA to points in AR. Supporting shipper: Georgia Sugar and Refining, P.O. Box 69, Mathews, LA 70375.

MC 159579 (Sub-5–3TA), filed March 26, 1982. Applicant: SIMPSON'S CARRIER, INC., Box 72, Rural Route, Plainview, NE 68769. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Metal buildings, and parts and components for metal buildings,* from the commercial zones of St. Joseph, MO and Evansville, WI to points in CO, IA, KS, NE and SD. Supporting shippers: Mid-Nebraska Structures, Inc., P.O. Box 1981, Kearney, NE 68847 and Simpson Structures, Inc., P.O. Box 1206, Norfolk, NE 68701.

MC 160798 (Sub-5–1TA), filed March 25, 1982. Applicant: CRYOGENIC TRANSPORTATION, INC., 825 East South Omaha Bridge Road, Council Bluffs, IA 51501. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Anhydrous ammonia, liquid fertilizer and fertilizer ingredients,* from Albany, IL to points in IA and WI, from Fremont, NE to points in IA; from East Dubuque, Niota, Peru, and Seneca, IL and Palmyra, MO to points in WI and IA. Supporting shipper: Growmark, Inc., 1701 Towanda, Bloomington, IL 61701.

MC 161197 (Sub-5–1TA), filed March 25, 1982. Applicant: ALLAN PLEGGENKUHLE, d.b.a. PLEGGENKUHLE GRAIN, Route 2, Fredericksburg, IA 50630. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Fabricated buildings and feed or grain bins,* from Galesburg, IL and Kansas City, MO, to pts in Bremer, Fayette, Buchanan, Black Hawk, Grundy, Butler, Floyd, Chickasaw, and Cerro Gordo Counties, IA. Supporting shipper: Dettmer Welding & Repair, 7th Avenue S.E., Tripoli, IA 50676.

MC 161222 (Sub-5–1TA), filed March 26, 1982. Applicant: WILDHORSE TRUCKING COMPANY, INC., 217 Cedar St., Elk City, OK 73644. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Pipe, fittings and attachments* between points in Custer, Ellis, Dewey and Roger Mills Counties, OK on the one hand, and, on the other, points in CO, LA and TX. Supporting shippers: Dyco Petroleum, P.O. Box 1953, Elk City, OK 73644; Continental Drilling Company, P.O. Box 1406, Elk City, OK 73644.

MC 135953 (Sub-5–6 TA), filed March 29, 1982. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Food and related products* from points in Cuyahoga County, OH and Cherokee County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Stouffer Foods Corporation, 5750 Harper Road, Solon, OH 44139.

MC 139379 (Sub-5–1TA), filed March 29, 1982. Applicant: LES MATHRE TRUCKING, INC., 417 8th Street, Story City, IA 50248. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Meats and meat products,* from the facilities of Tama Meat Packing Corporation at Tama and Des Moines, IA, to pts in the U.S. Supporting shipper: Tama Meat Packing Corporation, P.O. Box 209, Tama, IA 52339.

MC 140149 (Sub-5–2TA), filed March 29, 1982. Applicant: M. C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2d, Suite 411, Little Rock, AR 72201. *Carpet, fiberboard ceiling material, floor tile and linoleum,* from the facilities of RSD Warehouse Company, at City of Commerce, CA, to points in TN, TX, KS, IL, GA and PA. Supporting shipper: RSD Warehouse Company, 6453 Bandini, City of Commerce, CA 90040.

MC 141614 (Sub-5–6TA), filed March 30, 1982. Applicant: J. D. AND BILLY HINES TRUCKING, INC., 1110½ West First Street, Prescott, AR 71857. Representative: J. D. Hines (same as above). *Lumber, wooden pallets and cross ties* from points in AR to points in the U.S. Supporting shipper: Hot Spring County Lumber Company, P.O. Box 128, Beirne, AR 71721.

MC 145240 (Sub-5–2TA), filed March 29, 1982. Applicant: L. D. BRINKMAN TRUCKING CORPORATION, 520 N. Wildwood, Irving, TX 75060. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract, irregular; *Rubber or miscellaneous plastic products and chemicals and related products* from points in LA and MS to Dallas, TX under continuing contracts with Long Mile Rubber Company. Supporting shipper(s): Long Mile Rubber Company, 6824 Forest Park, Dallas, TX 75235.

MC 147196 (Sub-5–47TA), filed March 29, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70181–0686. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Printed paper products* between the facilities of Southern States Periodical Shippers, Inc., located at Jefferson, LA on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: Southern States Periodical Shippers, Inc., 300 Jefferson Highway, Suite 304, Jefferson, LA 70121.

MC 152435 (Sub-5–2TA), filed March 29, 1982. Applicant: STONE LOAD DELIVERY CO., INC., R. R. 2, Harrisonville, MO 64701. Representative: James E. Thompson, Jr., P.O. Box 280, Harrisonville, MO 64701. *Cement, fly ash and sand, and related commodities in bulk,* between points in KS and MO. Supporting shippers: 6.

MC 152959 (Sub-5–12TA), filed March 30, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75067. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General Commodities* (except classes A and B explosives or hazardous materials) between AR, LA, NM, OK and TX on the one hand, and, on the other, points in AR, LA, NM, OK and TX. Restricted to shipments originating at or destined to the facilities of National Piggy Back Services, Inc. Supporting shipper: National Piggy Back

Service, 3733 University Blvd. West, Jacksonville, FL 32217

MC 156328 (Sub-5–5TA), filed March 29, 1982. Applicant: U.S. TRANSPORTATION LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder, President (same as above). Contract; Irregular (1) *Fabricated Metal Products, and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of fabricated metal products.* Between Des Moines, IA on the one hand, and, on the other pts in the U.S. (except AK and HI) under continuing contract or contracts with the Waldinger Corporation, Des Moines, IA.

MC 156328 (Sub-5–6TA), filed March 29, 1982. Applicant: U.S. TRANSPORTATION LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder, President (same as above). Contract; Irregular (1) *Fabricated Metal Home and Office Furniture.* Between Des Moines, IA on the one hand, and, on the other pts in the U.S. (except AK and HI) under continuing contract or contracts with W. P. Johnson Co., Des Moines, IA.

MC 156726 (Sub-5–2TA), filed March 29, 1982. Applicant: SANDHILLS STEAMSHIP & NAVIGATION CO., P.O. Box 808, North Platte, NE 69101. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Passengers and their baggage in charter service,* between (1) Orleans, NE, on the one hand, and, on the other, pts in MO and (2) between Wauneta, NE., on the one hand, and, on the other, pts in IL. Supporting shippers: (1) Orleans Public Schools, Orleans, NE 68966 and (2) Wauneta Public Schools, Wauneta, NE 69045.

MC 156836 (Sub-5–4TA), filed March 29, 1982. Applicant: MURRY JOHNSON, INC., P.O. Box 158, Widener, AR 72394. Representative: Earl Mills (same as above) *Agricultural Chemicals and Products and Supplies used in the manufacture, sale and distribution thereof* between AL, AR, AZ, CA, FL, GA, LA, MO, MS, NC, OK, TN, TX, SC. Supporting shipper: Helena Chemical Company, Suite 3200, 5100 Poplar Ave., Memphis, TN 38137.

MC 159155 (Sub-5–2TA), filed March 29, 1982. Applicant: PULLEN BROS., INC., Rt. 4, Box 6H, Sikeston, MO 63801. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. (1) *Carpet padding and materials used in the manufacture of carpet padding,* between points in the U.S., and (2) *catbox filler, absorbent products, and commodities used in the manufacture and distribution thereof,* between Pulaski County, IL, on the one hand, and, on the other, points in AZ, CO, NM and those in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shippers: Recticel Foam Corp., P.O. Box 625, Buffalo, NY, and Absorbent Clay Products, Inc., 200 N. Main, Anna, IL 62906.

MC 160798 (Sub-5–2TA), filed March 29, 1982. Applicant: CRYOGENIC TRANSPORTATION, INC., 825 East South Omaha Bridge Road, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Liquid gases, compressed gases, and cryogenic gases, in bulk,* between pts in the U.S. (except AK and HI) under continuing contract(s) with Thermice Corporation; Amerigas, Inc., Archer-Daniels-Midland Co.; Airco Industrial Ga, Divison of Airco, Inc.; Liquid Carbonic Corporation; AGA Burdox, Inc.; and M.G. Burdett Gas Products, Inc. Supporting shippers: 7.

MC 160876 (Sub-5–1TA), filed March 29, 1982. Applicant: PYATT TRUCKING, Route 3, Box 359 A–1, Salem, MO 65560. Representative: David S. Limbaugh, P.O. Drawer 110, Salem, MO 65560. *Coal, charcoal, lime and sawdust* between Salem, MO, and various points in AR, ME, OK, KS, OH, NY, AL, PA, TX, GA, IL, IN, MA, CT, SC, IA, WV, NC, TN, KY, CO, MI, MN, LA, VA, Washington, D.C. FL, MD, NJ, MI, NE, RI, WI, CA, & NH. Supporting shipper: Floyd Charcoal Company, P.O. Box 549, Salem, MO 65560.

MC 161236 (Sub-5–1TA), filed March 29, 1982. Applicant: BARBARA KRAKLIO, d.b.a. K & K Trucking, R. R. #1 Box 106, Eldridge, IA 52748. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Coal or coal products,* 1) from Davenport and Dubuque, IA, and Ottawa, IL, to Madison, WI; E. Moline, IL; and Waterloo, Muscatine, and Iowa City, IA and (2) from Prairie du Chien, WI, to Mason City, IA. Supporting shipper: The Pillsbury Company, 203 W. Second Street, Davenport, IA.

MC 161267 (Sub-5–1TA), filed March 30, 1982. Applicant: JACK CRAIN, d.b.a. JACK'S TOWING, Hwy 63 N, Rolla, MO 65401. Representative: Jack Crain (same as applicant). *Wrecked and disabled vehicles* between points in the US. Supporting shipper: Rolla Equipment Co., Rolla, MO.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9318 Filed 4-6-82; 8:45 am]

BILLING CODE 7035-01-M

[Vol. 244]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: March 31, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

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

Amendments to the restriction removal applications are not allowed.

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

Canadian Carrier Applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 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 52704 (Sub-297)X, filed March 23, 1982. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Subs 41, 47, 60, 73, 79, 83, 104, 127, 150, and 218F. Broaden: in Subs 41, 73 and 150, salt and salt products; and in Sub 104, salt (except in

bulk), to "chemicals or chemical preparations, (except in bulk)"; in Sub 47, salt and salt products (other than in bulk), and pepper and mineral mixtures (other than in bulk), when moving in mixed loads with salt and salt products, to "chemicals or chemical preparations, (except in bulk) and spices and mineral mixtures (except in bulk)"; in Sub 60, sugar (other than liquid); and in Subs 79, 83, 127 and 218F, sugar (except in bulk), to "sugar and sugar mill products and by-products (except in bulk)"; all subs to radial authority; and replace named facilities/city-wide authorities in LA: Weeks Island with Iberia Parish (Subs 47, 73); Supreme with Assumption Parish (Subs 60, 83); Houma with Terrebonne Parish (Sub 127); Gramercy with St. James Parish (Subs 79 and 127); Reserve with St. John the Baptist Parish (Sub 218); Kenner with Jefferson Parish (Sub 218); and Chalmette with St. Bernard Parish (Sub 41); remove originating at/destined to facilities/points restriction in Sub 60.

MC 82919 (Sub-1)X, filed January 25, 1982, and previously noticed in the **Federal Register** of February 4, 1982, republished as corrected: Applicant: E & M TRUCKING, INC., d.b.a. DELLA ROSA TRUCKING CO., P.O. Box 150, Martinez, CA 94553. Representative: John Paul Fischer, 256 Montgomery St., San Francisco, CA 94104. Lead, broaden: (1) from petroleum products to "petroleum, natural gas and their products, and industrial inorganic or organic chemicals."

MC 119395 (Sub-3)X, filed March 11, 1982. Applicant: WILLIAM'S CHEMICAL TRANSPORT, INC., 500 Lambson Lane, New Castle, DE 19720. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Lead and Sub 2 permits: broaden (1) to (a) "chemicals and related products" from chemicals (lead permit); and (b) "drugs, chemicals and related products, and materials, equipment and supplies used in their manufacture and distribution," from drugs and chemicals, and materials, equipment and supplies used in their manufacture and distribution (Sub 2); (2) to "between points in the U.S.," under contract(s) with non-specified shippers, in the lead; and with the named shipper, in Sub 2; and (3) remove the "in containers" and "except in bulk" restrictions in Sub 2.

MC 119657 (Sub-24)X, filed March 19, 1982. Applicant: GEORGE TRANSIT LINE, INC., 111 Fifth Avenue S.W., Altoona, IA 50009. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 1, 2, 3, 5, 6, 7, 8, 9, 10, 16, 21, 22, 23 Certificates and E-1, E-2 and E-3 Notices broaden the commodity description: (1) "Farm products" in Sub 10 from livestock; "food and related products and farm products" in Sub 10 from feed and seed; "chemicals and related products" in Sub 10 from salt; "food and related products" in Sub 10 from potatoes; "food and related products" in the lead and Sub 10 from animal and poultry feed and prepared animal and poultry feed; in Subs 1, 5 and 10 from animal and poultry feed ingredients; in Sub 2 from feed ingredients; in Sub 9 from feed, feed concentrates, feed supplements, premixes and feed ingredients; in Sub 10 from commercial feed; and in E-1, E-2 and E-3 from Animal and Poultry feed ingredients; "Machinery" in the lead from radios, ironers and parts therefore and washing machines and parts therefore, and washing machines, washing machine parts and materials used in the manufacture thereof, ironers and parts thereof drain tubs; "pulp, paper and related products" in the lead from paper fibre cartons, and in Sub 22 from paper and related products and materials, equipment and supplies used in the manufacture, sale and distribution of paper and paper products; "pulp, paper and related products and rubber and plastic products" in Subs 9 and 16 from paper and polyethylene bags; "chemicals and related products" in Sub 3 from Diammonium Phosphate, in Sub 5 from dry urea and dry fertilizer, in Sub 6 from dry fertilizer and dry fertilizer materials; in Sub 9 from agricultural pesticides, in Sub 7 from monosodium phosphate, disodium phosphate, sodium tripoly phosphate, monocalcium phosphate, dicalcium phosphate, defluorinated phosphate and ammonium sulphate, in Sub 16 from agricultural chemicals and in Sub 23 from agricultural pesticides; "transportation equipment" in Sub 8 from semi-trailers; "farm products" in Sub 10 from commercial seed, grain and seed and livestock. "Petroleum, natural gas and their products" in Sub 10 from petroleum products and refined petroleum products. "Ores and minerals and clay, concrete, glass or stone products" in Sub 21 from limestone and limestone products. (2) broaden cities to counties: Polk County, IA in the lead and in Subs 3, 6, 8, 9, 16 and 22 from Des Moines, IA; Peoria, IL commercial zone in the lead from Peoria, IL, Jasper County, IA in the lead from Newton, IA; Vermilion County, IL in the lead from Danville, IL; Bureau, McLean and Cook Counties, IL in Sub 3 from Depue, Colfax and Riverdale, IL; Otoe County, NE in Sub 5 from Nebraska City, NE, and in Sub 10 from Syracuse, NE; Clinton County, IA in Subs 7 and 16 from Clinton, IA; Benton, Crawford, Franklin, O'Brien, Page, Pocahantas, Polk and Washington Counties, IA in Sub 9 from Van Horne, Denison, Sheffield, Sheldon, Shenandoah, Pocahantas, Des Moines and Washington, IA; Gage County, NE in Sub 10 from Adams, Barneston, Beatrice and Liberty, NE; Johnston and Pawnee Counties, NE in Sub 10 from points in NE within twenty miles of Liberty, NE; Pottawattamie and Mill Counties, IA in Sub 10 from Council Bluffs, IA and points within ten miles thereof; Jefferson County, NE in Sub 10 from Fairbury, Harbine, Jansen, Plymouth and Reynolds, NE; Lancaster County, NE in Sub 10 from Hickman, Lincoln and Panama, NE; Muscatine County, IA in Sub 10 from Montpelier, IA; Richardson and Saline Counties, NE in Sub 10 from Humboldt and Western, NE; Pulaski County, AR in Sub 16 from Jacksonville, AR; Webster County, IA in Sub 21 from Ft. Dodge, IA; Benton County, IN in Sub 22 Fowler, IN; Cook County, IL in Sub 22 from Franklin Park, IL; Lee County, IA in Sub 22 from Keokuk, IA. (3) remove, from all authority grants, restrictions against commodities in bulk, commodities in bags, tacking restrictions, same vehicle restrictions dry bulk restrictions, container restrictions, plantsite, warehouse, etc. restrictions, tank or dump vehicle restrictions, and all origin and destination restrictions; (4) to radial authority in all subs, except Subs 8, 22, and 23; (5) authorize service to all intermediate points in Sub-No. 10; (6) broaden the off-route points in NE within 20 miles of Liberty to Gage, Johnson, and Pawnee Counties; (7) delete the exception against service to Des Moines, Eagle Grove, and Fort Dodge, IA, in Sub-No. 1.

MC 128791 (Sub-15)X, filed March 26, 1982. Applicant: JOULE YACHT TRANSPORT, INC., 12290 Automobile Blvd., Clearwater, FL 33520. Representative: M. Craig Massey, P.O. Drawer 1109, Lakeland, FL 33802. Subs 4, 11, 13 and 14, broaden (1) boats, and boat parts to "boats and commodities the transportation of which because of size and weight require the use of special equipment", (2) remove (a) "originating at/destined to" restriction, Sub 13, (b) facilities limitation, Subs 13 and 11.

Note.—Subs 4, 11, and 13 are subsumed by Sub 14.

MC 133288 (Sub-5)X, filed March 15, 1982. Applicant: HARTLEY TRUCKING COMPANY, INC., Box 398, Ravenswood, WV 26164.

Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. No. MC–138335 (M1F) and Sub 1 permits: broaden to "between points in the U.S. (except AK and HI)," under continuing contract(s) with the named shipper.

MC 134282 (Sub-25)X, filed March 16, 1982. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Drawer 776, Ennis, TX 75119. Representative: William D. White, Jr., 4200 Republic Bank Tower, Dallas, TX 75201. Lead and Subs 2, 4, 5, 7, 8, 11, 13, 15, 19, 20F, 21F, 23F and 24F. Broaden: gypsum, gypsum products and materials used in connection with the installation of gypsum products (lead and Sub 2); construction materials (Sub 7); gypsum wallboard (Sub 8); asphalt roofing products and materials used in the installation of such roofing products (Sub 11); roofing materials (Sub 15); composition shingles and roofing materials (Sub 19); roofing, building and insulation materials (Sub 20); and construction materials (Sub 21), to "building materials"; gypsum board paper (Subs 4, 13 and 24); and pulpboard and fiberboard (Sub 5) to "pulp, paper and related products"; remove restrictions: in bulk (Subs 7, 15, 19, 20, 21 and 23); in tank vehicles (Sub 15); except iron and steel articles (Sub 20); replace named facility with county-wide authority: Sweetwater with Nolan County, TX (lead, Subs 4, 13); Hamlin with Jones and Fisher Counties, TX (Sub 2); Pryor with Mayes County, OK (Subs 4, 13); Meridian with Lauderdale County, MS (Sub 5); Irving with Dallas County, TX (Sub 7); West Memphis with Crittenden County, AR (Sub 8); Daingerfield with Morris County, TX (Sub 11); Ennis with Ellis County, TX (Subs 15, 23); Stephens with Ouachita County, AR; East Camden with Ouachita County, AR (Sub 19); Houston with Harris County, TX; Marrero with Jefferson Parish, LA; Camden with Ouachita County, AR; and Texarkana with Miller County, AR (Sub 21); and Hutchinson with Reno County, KS (sub 24).

MC 145204 (Sub-4)X, filed March 30, 1982. Applicant: TVF SECURITY CO., INC., P.O. Box 815, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Lead permit: broaden (1) potato chips, potato twists, potato puffs, fried pork skins, and pretzels to "food and related products"; (2) between points in the US under continuing contract(s) with named shippers.

MC 147108 (Sub-5)X, filed March 26, 1982. Applicant: CARRIER TRANSPORT SERVICES OF CALIFORNIA, INC., 2553 Wyandotte Street, Mountain View, CA 94043. Representative: Daniel W. Baker, Esq., 100 Pine St., #2550, San Francisco, CA 94111. Sub 4X certificate broaden household goods, furniture and fixtures to "household goods, furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale and distribution of furniture and fixtures."

MC 148831 (Sub-2)X, filed March 10, 1982. Applicant: STUMPS REFRIGERATED EXPRESS, INC., R.D. #1, Tiro, OH 44887. Representative: David A. Turano, 100 E. Broad Street, Columbus, OH 43215. Sub 9: (1) broaden commodity description: animal feed, mineral feed, mixtures and feed ingredients to "food and related products"; (2) broaden territorial description: Matoon to Coles County, IL; Terre Haute to Vigo County, IN; and Hutchinson to Reno County, KS; (3) eliminate facilities limitations; (4) change one-way to radial authority; and (5) remove the except in bulk/in tank vehicles restrictions.

[FR Doc. 82-9317 Filed 4-6-82; 8:45 am]
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Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate 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. OP4–115

Decided: March 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 156926 (Sub-1), filed March 22, 1982. Applicant: H.A.L. TRUCKING, 2663 Root St., San Diego, CA 92123. Representative: Harry A. Lane (same address as applicant), (714) 278–3317. Transporting *food and other edible products and byproducts intended for*

human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161136, filed March 22, 1982. Applicant: ROBERT O. and CONNIE M. TORGERSON, Rt. 3, Box 23, Mead, WA. Representative: Jim Pitzer, 15 S Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161146, filed March 22, 1982. Applicant: LAURELL AND LARRY DAHL, d.b.a. DAHL TRUCKING, Rural Route, Ettrick, WI 54627. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53706, (608) 238–3119. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–117

Decided: March 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 161187, filed March 24, 1982. Applicant: CHARLES H. BOWERS, 408 W. Center St., Mebane, NC 27302. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. As a *broker of general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in the U.S. (except AK and HI).

Volume No. OP5–73

Decided: March 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161039, filed March 16, 1982. Applicant: IMPERIAL FREIGHT BROKERS, INC., P.O. Box 522203, Miami, FL 33152. Representative: John A. Dominguez (same address as applicant), (305) 592–6910. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161089, filed March 18, 1982. Applicant: ELTON L. CASE AND ELIZABETH CASE, d.b.a. CASE FOODS, Route 4, Hwy 96 West, Franklin, TN 37064. Representative: Elton L. Case (same address as applicant), 615–790–1738. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (including AK but excluding HI).

Volume No. OP5–75

Decided: March 31, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 144609 Sub 13, filed March 25, 1982. Applicant: DOMINGUEZ BROS. TRUCKING CO.; 1500 South Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 1600 W. 38th St., Suite 410, Austin, TX 78731, 512–451–7409. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 158708 (Sub-1), filed March 19, 1982. Applicant: BEST-WAY TRUCK LINE, INC., Highway 10 West, P.O. Box 188, Richmond, MO 64085. Representative: Marshall D. Becker, 7171 Mercy Rd., Suite 610, Omaha, NE 68106, (402) 392–1220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161129, filed March 22, 1982. Applicant: B. AND B BROS. TRUCKING CO., INC., 1402 Water Works Rd., P.O. Drawer 2128, Columbus, MS 39701. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, and (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9316 Filed 4-6-82; 8:45 am]

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Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deeemed 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 for 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. OP 3–050

Decided: March 31, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams. (Member Carleton not participating.)

MC 2934 (Sub-115), filed March 22, 1982. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (Same address as applicant), (317) 875–1142. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Hyatt Hotels Corporation of Rosemont, IL.

MC 67234 (Sub-50), filed March 22, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods*, between point in U.S., under continuing contract(s) with Sperry Corporation, of Blue Bell, PA.

MC 94565 (Sub-6), filed March 24, 1982. Applicant: B. K. W. COACH LINE, P.O. Box 254, Hummels Wharf, PA 17831. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101, (703) 821–1305. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round trip special and charter operations, between Muncy, PA, and points in Juniata County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108404 (Sub-5), filed March 24, 1982. Applicant: MERCHANTS DELIVERY MOVING & STORAGE CO., 1211–1223 State Street, Racine, WI 53402. Representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203, (414) 273–7410. Transporting *household goods* between points in the U.S., under continuing contract(s) with S. C. Johnson and Son, Inc., Western Publishing Company, Inc., J. I. Case Co., Walker Manufacturing Company, a division of Tenneco, Inc., First Wisconsin Bank of Racine, Marine First National Bank of Racine, Modine Manufacturing Co., all of Racine, WI, and Tenneco Automotive Division of Tenneco, Inc., of Deerfield, IL.

MC 111625 (Sub-28), filed March 23, 1982. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghampton, NY 13902. Representative: J. Edward Derrick, (same address as applicant), (607) 729–2284. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Cives Corporation of Conklin, NY.

MC 125535 (Sub-39), filed March 23, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Rd., St. Louis, MO 63141. Representative: Donald S. Helm, (same address as applicant), (314) 569–1161. Transporting *general commodities* (except classes A and B explosives, households goods and commodities in bulk in tank vehicles), between points in the U.S., under continuing contract(s) with W. R. Grace & Company, Construction Products Division of Cambridge, MA.

MC 127905 (Sub-7), filed March 22, 1982. Applicant: LYNN H. SCOTT, INC., 8532 Blossvale Road, Blossvale, NY 13308. Representative: Edward L. Nehez, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *foundry materials, equipment and supplies, clay, concrete, glass or stone products, resin and containers*, between points in AL, CT, GA, IL, IN, MA, MI, NJ, NY, OH, PA, RI, SC, TN, VA and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128685 (Sub-41), filed March 23, 1982. Applicant: DIXON BROS. INC., P.O. Drawer 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248–2611. Transporting *cement*, between points in Larimer and Boulder Counties, CO, on the one hand, and, on the other, points in WY.

MC 134134 (Sub-105), filed March 23, 1982. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68107. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting (1) *chemicals and related products*, (2) *clay, concrete, glass or stone products*, (3) *paper, pulp and related products*, (except classes A and B explosives, household goods, and commodities in bulk), between points in MA, CT, NY, NJ, PA, IN, IL, MO, and WI, on the one hand, and, on the other, points in NY, PA, OH, MI, IN, KY, TN, WI, IL, MN, IA, MO, ND, SD, NE, KS, and CO.

MC 140834 (Sub-3), filed March 23, 1982. Applicant: TURNER TRANSPORTATION, INC., Route 2 S. Second St., Mitchell, IN 47446. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *transportation equipment, in drive-away service*, between points in the U.S., under continuing contract(s) with Engineering Equipment Company, and FWD International, Inc., both of Oakbrook, IL.

MC 142145 (Sub-11), filed March 25, 1982. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of metal buildings, between points in the U.S, under a continuing contract(s) with American Buildings Company, of Eufaula, AL.

MC 147035 (Sub-8), filed March 19, 1982. Applicant: JOSEPH C. GRINGERI, d.b.a. JAYCO, 154 Rangeway Rd., Billerica, MA 01821. Representative: David E. McCabe, P.O. Box 402, Kittery, ME 03904, (207) 439–1847. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, between points in the U.S., under continuing contract(s) with A. J. Cunningham Packing Corp. of Quincy, MA.

MC 147385 (Sub-2), filed March 23, 1982. Applicant: D & B TRUCKING, INC., 5315 E. Belmont Ave., Fresno, CA 93727. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting (1) *rubber and plastic products*, and *paper bags*, between points in Fresno County, CA, on the one hand, and, on the other, points in AZ, NV, CO, OR, UT, and WA; and (2) *furniture*, (a) between points in Fresno County, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY; and (b) between points in Los Angeles County, CA, on the one hand, and, on the other, points in AZ, OR, UT, and WA.

MC 147605 (Sub-4), filed March 19, 1982. Applicant: MILLER PAVING LTD.,

Box 250, Unionville, Ontario, CN L3R 2V3. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202, (716) 854–5870. Transporting *liquid asphalt,* between points in the U.S., under a continuing contract(s) with Gibson-Homans of Canada, Ltd., Toronto, Ontario, Canada.

MC 147825 (Sub-5), filed March 22, 1982. Applicant: VERNE'S AUTO SALES, INC., 2804 Neva Rd., Antigo, WI 54409. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting (1) *machinery,* and (2) *transportation equipment,* between Chicago, IL, on the one hand, and, on the other, points in WI.

Note.—Applicant intends to tack and interline this authority with its existing authority.

MC 150084 (Sub-4), filed March 10, 1982. Applicant: PRIDE TRANSPORT, 1102 W 1300 So, Salt Lake City, UT 84104. Representative: Franklin L. Slaugh, 8522 S 1300 E Ste D–203, Sandy, UT 84070. Transporting *building materials,* between points in the U.S., under continuing contract(s) with J. D. Woods, Inc., of Salt Lake City, UT.

MC 150865 (Sub-9), filed March 22, 1982. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 720 South Lafayette St., Shelby, NC 28150. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20014, (301) 986–1410. Transporting *food and related products* (except commodities in bulk), between points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, NC, OH, OK, SD, SC, TN, TX, VA, and WI.

MC 152775 (Sub-5), filed March 22, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *metal products,* between points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 154885, filed March 19, 1982. Applicant: COACHMAN SERVICES, INC., P.O. Box 568, Barre, VT 05641. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *general commodities* (except classes A and B explosives and hazardous materials), between points in MI, NY, NJ, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157565 (Sub-1), filed March 22, 1982. Applicant: BUD MEYER TRUCK LINES, INC., P.O. Box 97, Theilman, MN 55987. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *chemicals* (except in bulk, *cleaning compounds,* and *toilet preparations,* between points in IL, KS, and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157824, filed March 25, 1982. Applicant: SCOTT FREIGHTLINES, INC., 1765 Sixth Ave., S., Seattle, WA 98134. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA and OR.

MC 159064, filed March 22, 1982. Applicant: R & R COURIERS LTD., P.O. Box 1083; Brantford, Ontario, Canada N3T 5L7. Representative: Robert McGregor (same address as applicant), (519) 752–5651. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Linimar Machine Limited, of Ariss, Ontario, Canada, Massey-Ferguson, and Trailmobile Canada Limited, both of Brantford, Ontario, Canada.

MC 159354 (Sub-1), filed March 22, 1982. Applicant: RONH THEATRICAL TRANSPORT SPECIALIST, INC., 701 Mallard Lane, Deerfield, IL 60115. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. Transporting *such commodities* as are dealt in or used in the staging of industrial, theatrical, television, and convention shows, between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 161114, filed March 22, 1982. Applicant: POLAR MANUFACTURING CO., Route 1, Holdingford, MN 56340. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *lumber and wood products,* between points in the U.S., under continuing contract(s) with Ferche Millwork, Inc., of Rice, MN.

MC 161115, filed March 19, 1982. Applicant: LAGNIAPPE INTERNATIONAL, INC., 6135 Hillsboro Rd., Nashville, TN 37215. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. As a *broker* at Nashville, TN, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

MC 161134, filed March 22, 1982. Applicant: OTTAWA CHARTER BUS SERVICE, INC., 8360 NW Barrybrooke Dr., Kansas City, MO 64151. Representative: Robert D. Smith (same address as applicant), (816) 741–8822. As a *broker,* at Kansas City, MO, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* between points in MO and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161144, filed March 22, 1982. Applicant: J.N. LEASING CO., INC., 105 Van Keuren Ave., Jersey city, NJ 07306. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting *such commodities* as are dealt in or used by persons whose business is the sale of books and printed matter, between points in the U.S., under continuing contract(s) with The Baker & Taylor Company, Div. of W. R. Grace & Co., of New York, NY.

MC 161184, filed March 23, 1982. Applicant: RIVER VALLEY CYCLE TRANSPORT, INC., Rt. 1, box 20–A, Russellville, AR 72801. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *motorcycles and machinery,* between points in AR, on the one hand, and, on the other, points in TX and LA.

MC 160624, filed February 18, 1982, previously noticed in the **Federal Register** on March 5, 1982. Applicant: WHITE PLAINS BUS CO., INC., 91 Fulton St., White Plains, NY 10601. Representative: Garrison R. Corwin, Jr., 100 Mamaroneck Ave., P.O. Box 370, Mamaroneck, NY 10543, (914) 698–2746. Transporting *passengers,* in charter operations, beginning and ending at points in Westchester and Bronx Counties, NY, and extending to points in MA, RI, CT, VT, NH, ME, PA, NJ, DE, VA, and DC.

Note.—This republication changes the application category from contract to common carrier authority.

Volume No. OP2–65

Decided: March 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 47583 (Sub-152), filed March 10, 1982. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: Pamela J. Clayton (same address as applicant), 913–321–6914. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, CO, IA, KS, LA, MO, NE, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 98752 (Sub-10), filed March 16, 1982. Applicant: ZEPHYR LINE, INC., 84

Western Ave., West Springfield, MA 01089. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, 617–742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, ME, MA, NH, NY, RI, and VT, on the one hand, and, on the other, points in NJ and PA, and (2) between points in NJ and PA.

MC 129262 (Sub-10), filed March 8, 1982. Applicant: AYERS AND MADDUX, INC., 144 Escalada Dr., Nogales, AZ 85621. Representative: Fred H. Mackensen, c/o Murchison & Davis, Suite 4150, 2029 Centry Park East, Los Angeles, CA 90067, 213–879–5955. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 135953 (Sub-26), filed March 12, 1982. Applicant: CHEROKEE LINES, INC., 1113 North Little Street, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *food and related products*, between points in Cuyahoga County, OH, and Cherokee County, SC, on the one hand, and, on the other, points in the U.S. (excpet AK and HI).

MC 143023 (Sub-8), filed March 15, 1982. Applicant: CHI-WAUKEE TRUCK LINES, INC., 1501 W. Pershing Road, Chicago, IL 60609. Representative: Donald E. Weishaar, Suite 4, 2777 Finley Road, Downers Grove, IL 60515, (312) 620–8664. Transporting *metal cans, pails, plastic containers, and lids and closures*, between points in the U.S., under continuing contract(s) with United Coatings, Inc. of Chicago, IL.

MC 143502 (Sub-3), filed March 8, 1982. Applicant: THE GOOD MECHANIC AUTO COMPANY, INC., d.b.a. G & M AUTO CO., 7224 Euclid Ave., Cleveland, OH 44103. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *transportation equipment*, between points in Summit, Cuyahoga, Lake, Medina, and Lorain Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144953 (Sub-14), filed March 8, 1982. Applicant: MULLEN TRUCKING LTD., P.O. Box 87, Aldersyde, AB, Canada TOL 0A0. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717–17th St., Denver, CO 80202, (303) 892–6700. Transporting *chemicals and related products*, between ports of entry on the international boundary between the U.S. and Canada, at points in WA, ID, MT and ND, on the one hand, and on the other, those points in the U.S. in and west of MI, IL, MO, AR and LA. (except AK and HI).

MC 145102 (Sub-85), filed March 12, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of metal products and machinery, between points in the U.S. (except AK and HI).

MC 145773 (Sub-16), filed March 10, 1982. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IN, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146293 (Sub-88), filed March 9, 1982. Applicant: REGAL TRUCKING CO., INC., P.O. Box 829, Lawrenceville, GA 30246. Representative: Richard M. Tettelbaum 4126 Pleasantdale Rd., Suite B–227, Doraville, GA 30340, 404–441–2550. Transportating *textile mill products*, between points in the U.S. (except AK and HI).

MC 146452 (Sub-7), filed March 8, 1982. Applicant: ALBERTSON'S TRUCKING, INC., P.O. Box 20, 250 Parkcenter Blvd., Boise, ID 83726. Representative: David W. Wiley, 1100 Norton Bldg., Seattle, WA 98104, 206–622–4067. Transporting *such commodities* as are dealth in or used by chain grocery stores (except commodities in bulk), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 146553 (Sub-28), filed March 17, 1982. Applicant: ADRIAN CARRIERS, INC., P.O. Box 3532, Davenport, IA 50808. Representative: Jame M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, 515–274–4985. Transporting *food and related products* (1) between St. Louis, MO and Columbus, OH, on the hand, and, on the other, points in Clinton and Dubuque Counties, IA, and (2) between points in Houston County, GA, on the one hand, and, on the other, points in IL.

MC 147322 (Sub-5), filed March 17, 1982. Applicant: NOR–PAC DISTRIBUTING CORP., P.O. Box 429, Cosmopolis, WA 98537. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273, 206–235–1111. Transporting *lumber and wood products, metal products, machinery, and pulp, paper and related products*, between points in WA, OR, CA, ID, NV, MT, AZ, NM, UT, and WY.

MC 148893 (Sub-9), filed March 15, 1982. Applicant: WREN TRUCKING, INC., 1989 Harlem Road, Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting *such commodities* as are dealt in or used by lawn and garden stores, between points in NY, on the one hand, and, on the other, points in AR, CT, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, WI and DC.

MC 149142 (Sub-4), filed March 11, 1982. Applicant: WESLEY J. REYNOLDS, d.b.a. W. R. TRUCKING, 3022 MacArthur Blvd., Oakland, CA 94602. Representative: Wesley J. Reynolds (same address as applicant), (415) 482–3165. Transporting *machinery, parts, and hardware*, between points in the U.S., under continuing contract(s) with Campbell Chain Div., McGraw Edison Company, of York, PA.

MC 151333 (Sub-3), filed March 12, 1982. Applicant: PASCUZZO & HONEYMAN TRUCKING, INC., 5127 S. Maywood Ave., Maywood, CA 90270. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, 213–655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, OR, TX, UT, WA, and WY.

MC 151632 (Sub-12), filed February 26, 1982. Applicant: EASTWOOD CARRIERS, INC., P.O. Box 1073, Lockhouse Rd., Westfield, MA 01086. Representative: John C. Cook, Jr. (same address as applicant), (413–568–1631) Transporting *general commodities* (except classes A and B explosives), between points in MA, OH, PA, NH, VT, CT, NY, NJ, and RI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152232 (Sub-2), filed March 15, 1982. Applicant: TYLER TRANSPORTATION, INC., 2020 Old State Road, 31–E, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *frozen foods and related commodities*, between points in the U.S., under continuing contract(s) with Mrs. Smith's Frozen Foods Co., of Pottstown, PA.

MC 153483 (Sub-4), filed March 12, 1982. Applicant: ANTWELLER

TRUCKING CO., INC., Star Route, Montgomery City, MO 63361. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102, 314–635–7166. Transporting *paint and paint products,* between points in Mo, on the one hand, and, on the other, points in MN, NE, KS, AR, MS, WI, MI, IL, IN, OH, KY, TN, AL, GA, FL SC, NC, VA, WV, PA, NY, VT, NJ, MA, CT, RI, NH, MD, DE, and ME.

MC 154772 (Sub-1), filed March 8, 1982. Applicant: CUTLER-MAGNER COMPANY, 12th Ave. W. and The Waterfront, P.O. Box 60807, Duluth, MN 55802. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, 612–340–0808. Transporting (1) *building material, construction materials, and pulp, paper and related products,* between points in ND, SD, northern MI, IA, MN, WI and IL, (2) *ores and minerals, clay, concrete, glass and stone products, and primary metal products,* between points in IA, WI, IA, ND, SD, MN and MT, (3) *clay, concrete, glass and stone products,* between points in Le Sueur, St. Louis and Nicollet Counties, MN, and Douglas county, WI, on the one hand, and, on the other, points in MI, IL and IN, (4) *food and related products,* between points in Koochiching, Itasca and Carlton Counties, MN, on the one hand, and, on the other, points in Linn County, IA, (5) *chemicals and related products, and farm products,* between points in Douglas County, WI and St. Louis County, MN, on the one hand, and, on the other, points in MN, WI, ND, SD, MT, IL, IN and MI, and (6) *coal and coal products,* between Minneapolis St. Paul, MN, on the one hand, and, on the other, points in Douglas County, WI.

MC 156133 (Sub-2), filed March 12, 1982. Applicant: TRI STATE TIRE & RUBBER, INC., d.b.a. TANDEM TRANSPORT, 322 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *building and construction materials,* (1) between the facilities of The Celotex Corporation, at points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) between the facilities of Abitibi-Price Corporation at points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 157422 (Sub-1), filed March 16, 1982. Applicant: DONALD J. EVANS, d.b.a. DYS ENTERPRISES, INC., 3107 Fireweed Dr., Colorado Springs, CO. 80907. Representative: Janet L. Evans (same address as applicant), 303–599–0705. Transporting *bentonite,* between points in WY, CO, KS, OK, NM, AR, LA, UT and TX.

MC 157853 (Sub-1), filed March 12, 1982. Applicant: VAN HEUSEN TRANSPORTATION CORPORATION, P.O. Box 307, Schuylkill Haven, PA 17972. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518, (215) 385–6086. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the facilities of Cardinal Container Corp., Cardwell Industries, General Battery Corp., Phillips-Van Heusen Corporation, Walk-In Shoe Company, and points in AL, AR, CT, DE, FL, GA, LA, MA, MD, MS, NJ, NY, NC, PA, RI, SC, TN, TX, VA, WV, and DC.

MC 159503 (Sub-1), filed March 12, 1982. Applicant: D.A.F. AGGREGATE, INC., d.b.a. D.A.F. TRANSIT, P.O. Box 163, Walker, MN 56484. Representative: D. A. Fisher (same address as applicant), (218) 547–1922. Transporting (1) *general commodities* (except Classes A and B explosives, commodities in bulk, and household goods), between points in Cass, Crow Wing, Hubbard, and Wadena Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *chemicals and related products,* between points in Cayuga County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159922, filed March 15, 1982. Applicant: MARJENN TRUCKING COMPANY, 600 Arch Street, Cresson, PA 16630. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, (412) 471–3300. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Jennmar Corporation, Keystone Bolt of Kentucky, Keystone Bolt Company, Frank Calandra of Kentucky, Inc., Jennmar Corporation of West Virginia, Inc., Jennmar Corporation of Illinois, Inc., Keystone Bolt Company of West Virginia, Inc., Keystone Bolt of Illinois, Frank Calandra of West Virginia, Inc., Frank Calandra of Illinois, Inc., Jennmar Corporation of Kentucky, Inc., and Frank Calandra, Inc., all of Cresson, PA.

MC 159982 (Sub-2), filed March 15, 1982. Applicant: O.L. EXPRESS, LTD, Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Land O' Lakes, Inc., Spencer Beef Division, of Arden Hills MN.

MC 159982 (Sub-3), filed March 16, 1982. Applicant: O.L. EXPRESS, LT., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *such commodities* are dealt in or used by grocery houses, between points in Polk County, IA, on the one hand, and, on the other, points in AR, IL, IN, KS, MI, MN, MS, MO, NY, OH, PA, and WI.

MC 160062, filed March 12, 1982. Applicant: O.R. TRUCKING, INC., 6149 S. Ridge West, Geneva, OH 44041. Representative: Lewis S. Witherspoon, 2455 North Star Rd., Columbus, OH 43221, 614–486–0448. Transporting *commodities in bulk,* between points in the U.S., under continuing contract(s) with By-Products Management of Ohio, Inc., of Cleveland, OH.

MC 160642, filed March 8, 1982. Applicant: E. & B. MUD WAREHOUSING LTD., P.O. Box 1786, Claresholm, AB, Canada TOL 0T0. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717-17th St., Denver, CO 80202, 303–892–6700. Transporting *chemicals and related products, lumber and wood products, clay, concrete, glass or stone products, ores and minerals and mercer commodities,* between points in the U.S., under continuing contract(s) with Wyo-Ben, Inc., of Billings, MT.

MC 160832, filed March 3, 1982. Applicant: BRADSHAW FREIGHT SYSTEM, P.O. Box 203, Winchester, TN 37398. Representative: R. W. Bradshaw (same address as applicant), 615–967–4170. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contracts with (1) Anloma Corp, of Creston, IA, (2) Lebanon Chemical Corporation, of Danville, IL., (3) Hunter Oil Co., Chattanooga, TN, (4) Turnbull Cone Baking Co., of Chattanooga, TN, (5) Tennessee Fan, of Secacus, NJ, (6) Southern Proce. Co., of Chattanooga, TN, (7) Poly-Pa., Inc., of Dalton, GA and (8) Log Cabin Co., Inc., of Dalton, GA.

MC 160982, filed March 12, 1982. Applicant: COUTRY COTTAGE TOURS, County Road 1745 Pilot, Route 2, Box 428, Zebulon, NC 27597. Representative: Sylvia Strickland, Route 2, Box 428, Zebulon, NC 27597, 919–269–5175. As a *broker* at Pilot, Route 2, Zebulon, NC, in arranging for the transportation by motor vehicle of *passengers and their baggage,* between

points in NC, on the one hand, and, on the other, points, in the U.S.

MC 161102, filed March 19, 1982. Applicant: MOON INC., d.b.a. ADVENTURE COACHES, 7512 Wilden Dr., Des Moines, IA 50322. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Boone, Dallas, Jasper, Madison, Marion, Polk, and Warren Counties, IA, and extending to points in the U.S.

Volume No. OP4–118

Decided: March 31, 1982.

By the Commission, Review Board No. 2, Member Carleton, Fisher, and Williams. (Members Carleton not participating.)

MC 138796 (Sub-2), filed March 22, 1982. Applicant: NELSON, INC., P.O. Box 38, Deerwood, MN 56444. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Crow Wing, Aitkin, and St. Louis Counties, MN, on the one hand, and, on the other, points in the U.S. (except HI), (2) *motorcycles and snowmobiles,* between points in MN, on the one hand, and, on the other, points in the U.S. (except HI), (3) *rubber and plastic products,* between St. Cloud and Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except HI), and (4) *clay, concrete, glass or stone products* between points in MN, on the one hand, and, on the other, points in the U.S. (except HI).

MC 146676 (Sub-9), filed March 22, 1982. Applicant: BURKS TRUCKING, INC., P.O. Box 235, Green Springs, OH 44836. Representative: E. H. Van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155796 (Sub-6), filed March 22, 1982. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 S. 72nd St., Omaha, NE 68124. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *such commodities* as are dealt in by household furniture and appliance stores, between Omaha, NE, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NJ, NY, OH, OR, PA, SC, SD, TN, TX, VA, VT, WA, and WI.

MC 158666 (Sub-1), filed March 22, 1982. Applicant: TURNER & WARD, INC., P.O. Box 336, Sanger, TX 76266. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Ft Worth, TX 76112, (817) 457–0804. Transporting (1) *pet food,* between points in Hopkins County, TX, on the one hand, and, on the other, points in AL, LA, MS, OK and WV, and (2) *plumbing supplies and materials,* between points in Collin and Taylor Counties, TX, on the one hand, and, on the other, points in CA.

MC 161126, filed March 19, 1982. Applicant: WINN STREET SERVICE, 90 Mountain Rd., Burlington, MA 01903. Representative: James F. Martin, 8 W. Morse Rd., Bellingham, MA 02019, (617) 966–2093. Transporting *transportation equipment,* between points in the U.S. (except AK and HI).

Volume No. OP5–72

Decided: March 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 31389 (Sub-337), filed March 23, 1982. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, NC. Representative: Daniel R. Simmons (same address as applicant), 919–721–2433. 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 Gravely of Clemmons, NC.

MC 57369 (Sub-3), filed March 19, 1982. Applicant: MARTELL MOTOR EXPRESS, INC., 3 Brick Kiln Rd., Billerica, MA 01862. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019, 617–966–2093. Transporting (1) *synthetic laytex,* between points in MA, RI, CT, VT, NH, and ME; (2) *paper and paper products,* between points in MA on the one hand, and, on the other, points in ME, NH, VT, RI, and CT; and (3) *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities which because of their size or weight require the use of special handling or equipment), between points in MA. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of its existing certificate of Registration, (MC 57369 Sub-1).

MC 79658 (Sub-17), filed March 12, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with Control Data Corporation of Minneapolis, MN.

MC 116519 (Sub-104), filed March 22, 1982. Applicant: FREDERICK TRANSPORT LIMITED, R.R. #6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005, 202–783–3525. Transporting in foreign commerce only, *general commodities* (except classes A and B explosives, household goods as defined by the Commission), between ports of entry on the United States-Canada boundary line, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 125018 (Sub–8), filed March 10, 1982. Applicant: TENNESSEE TRUCK LINES, INC., Route 4, Dandridge, TN 37725. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., 202–347–8862. Transporting *paper and paper products and such commodities as are dealt in or used by manufacturers of containers,* between points in the U.S. (except AK and HI).

MC 138569 (Sub-4), filed March 22, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: David J. Stanton, 2040 West Main, Suite 202, Rapid City, SD 57701, 605–348–7746. Transporting *crushed limestone,* between points in Pennington and Fall River Counties, SD and points in Morrill and Scottsbluff Counties, NE.

MC 147348 (Sub-18), filed March 18, 1982. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 221 W. Second, Suite 411, Little Rock, AR 72201, 501–375–3022. Transporting *such commodities as are dealt in or used by wholesale, retail, discount, variety and department stores,* between points in Navarro County, TX and points in Shelby County, TN, and AR.

MC 150589 (Sub-6), filed March 17, 1982. Applicant: J & K TRANSPORTATION CO., INC., 1600 Industrial, Dearborn, MI 48120. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *metal and plastic containers and closures,* between points

in the U.S. (except AK and HI) under continuing contract(s) with Crown Cork & Seal, Inc., of Philadelphia, PA.

MC 152338, filed March 22, 1982. Applicant: DONALD L. HORNER, d.b.a., HORNER GRAIN & TRUCKING, P.O. Box 506, Hudson, SD 57034. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, 712–277–1434. Transporting *chemicals and related products,* between points in IL, IN, IA, KS, MN, MO, NE, ND, OH, and SD.

MC 155118 (Sub-5), filed March 19, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolk Rd., Des Plaines, IL 60018. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, 312–263–1600. Transporting (1) *wearing apparel,* under continuing contract(s) with Haggar Company of Dallas, TX, (2) *household products,* under continuing contract(s) with Clopay Corporation of Cincinnati, OH, (3) *plastic articles,* under continuing contract(s) with Plastican, Inc. and Plastics Manufacturing Company, both of Dallas, TX, (4) *household appliances* under continuing contract(s) with Rival Manufacturing Company of Kansas City, MO, (5) *such commodities* as are dealt in by retail clothing stores, under continuing contract(s) with Seat Stores, Inc. of Eden Prairie, MN. and (2) *such commodities* as are dealt in by retail shoe stores, under continuing contract(s) with Volume Shoe Corporation of Topeka, KS. between points in the U.S. (except AK and HI).

MC 160888, filed March 22, 1982. Applicant: JOHN H. SCHUEMAN, P.O. Box 577, AVOCA, IA 51521. Representative: James F. Crosby, 7363 Pacific St., Suite #210B, Omaha, NE 68114, 402–387–9900. Transporting *food and related products,* between points in Douglas County, NE on the one hand, and, on the other, those points in the U.S. and in west of MI, OH, IN, IL, MO, AR, and LA, (except AK and HI).

MC 160969, filed March 12, 1982. Applicant: ERNIE CHUCHURU, d.b.a. C'S ENTERPRISES, 63097 Spring Creek Blvd., Montrose, CO 81401. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, 303–839–0057. Transporting *metal products,* between points in the U.S. (except AK and HI) under continuing contract(s) with Delta Incorporated of Arkansas, of Jonesboro, AR.

MC 161128, filed March 22, 1982. Applicant: BEREA MOVING & STORAGE CO., 3790 West 150th St., Cleveland, OH 44111. Representative: Ardella F. Melton, 13826 Janell Dr., Columbia Station, OH 44028, 216–236–3171. Transporting (1) *household goods,* and (2) *office furniture and fixtures,* between points in OH on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MI, MO, MS, NC, NJ, NY, PA, SC, TN, TX, VA, WI, and WV.

MC 161138, filed March 22, 1982. Applicant: ARTHUR L. KANAK d.b.a. FAIR WINDS TRAVEL AGENCY, INC., 1112 First Capitol Dr., St. Charles, MO. 63301. Representative: Arthur L. Kanak (same address as applicant), 314–946–7979. To operate as a *broker* at St. Charles, MO, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in St. Charles, Warren and Lincoln Counties, MO, and extending to points in the U.S. (including AK but excluding HI).

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Decided: March 31, 1982.

By the Commission, Review Board No. 2, Members Krock, Joyce, and Dowell.

FF–49 (Sub-5), filed March 24, 1982. Applicant: STOR DOR FREIGHT SYSTEM, INC., 1601 South Western Ave., Chicago, IL 60608. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017, 212–532–5100. 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.

MC 22139 (Sub-18), filed March 22, 1982. Applicant: ROBERT F. ZAPORA d.b.a. R. F. ZAPORA MOTOR TRANS., 22 Auburn Rd., Manchester, NH 03104 Representative: George F. Gobin, (same address as applicant), (603) 623–5302. Transporting *granular activated carbon* between points in ME, NH, VT, MA, RI, and CT.

MC 41098 (Sub-75), filed March 18, 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 *household goods,* between points in U.S. under continuing contract(s) with American Airlines, Inc. of Dallas, TX.

MC 59909 (Sub-19), filed February 25, 1982. Initially published in the **Federal Register** on March 24, 1982. Applicant: JACOBS TRANSFER, INC., a division of the Jacobs Companies, Inc., 2300 Beaver Rd., Landover, MD 20785. Representative: Eric Meierhoefer, 1029 Vermont Ave. NW., Washington, D.C. 20005, (202) 347–9332. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Baltimore, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Applicant intends to tack this authority with its regular-route authority.

Note.—This application is republished to include the notice concerning tacking.

MC 109448 (Sub-42), filed March 19, 1982. Applicant: PARKER TRANSFER CO., 1539 Lowell St., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad, St., Columbus, OH 43215, (614) 228–1541. Transporting *printed matter* between Nashville, TN, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 114829 (Sub-30), filed March 22, 1982. Applicant: GENERAL CARTAGE COMPANY, INC., P.O. Box 417, Sterling, IL 61081. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *food and related products* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 117919 (Sub-2), filed March 23, 1982. Applicant: CORCORAN'S TRANSPORTATION, INC., 45 Brown Pl., Waterbury, CT 06702. Representative: Eileen Corcoran (same address as applicant), 203–754–5127. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, hazardous materials, those of unusual value, and those commodities which because of their size or weight require the use of special handling or equipment), between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, and DC.

MC 135739 (Sub-4), filed March 23, 1982. Applicant: DOUBLE J MACHINERY TRANSPORT, INC., Route 2, Napoleon, OH 43545. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in CA, CT and MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144428 (Sub-16), filed March 25, 1982. Applicant: TRUCKADYNE INC., P.O. Box 308, Mendon, MA 01756. Representative: Joseph A. Reed (same address as applicant), 1–800–982–4723. Transporting *such commodities* as are

dealt in or used by manufacturers and distributors of printed matter and educational materials and supplies, between points in the U.S. under continuing contract(s) with Houghton Mifflin Co. of Burlington, MA.

MC 149308 (Sub-19), filed March 19, 1982. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: Donald W. Smith, P.O. Box 40240, Indianapolis, IN 46240, (317) 846–6555. 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 Scott Paper Company of Philadelphia, PA.

MC 152839 (Sub-3), filed March 19, 1982. Applicant: ROCKET MOTOR FREIGHT LINES, INC., 2715 Rockwood Dr., P.O. Box 623, Springfield, IL 62703. Representative: Garry L. Smith, 913 So. Sixth St., Springfield, IL 62703, (217) 753–3925. Transporting *petroleum products* between points in IL, IA, and WI.

MC 154508 (Sub-1), filed March 22, 1982. Applicant: LIMESTONE PRODUCTS, INC., P.O. Box 618, Portland, IN 47371. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–638–1301. Transporting general commodities (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. under continuing contract(s) with Meshberger Stone Corp., of Berne, IN.

MC 155068, filed February 24, 1982. Applicant: R. DAVIDSON, Rt. 1, Mt, Ulla, NC 28125. Representative: Robert L. Davidson (same address as applicant), 704–663–2736. Transporting *modular buildings complete or in sections*, between points in the U.S. (except AK and HI), under continuing contract(s) with Summey Building Systems, Inc., of Dallas, NC.

MC 156009, filed March 22, 1982. Applicant: KENNY STEVENS, d.b.a. STEVENS TRUCKING, P.O. Box 19608, Oklahoma City, OK 73144. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *metal products and machinery* between points in OK, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 159049, filed March 12, 1982. Applicant: ROBERTSON TRUCKING, INC., 4460 North Springfield, Chicago, IL 60625. Representative: Irwin D. Rosner, 134 North LaSalle St., Chicago, IL 60602, 312–478–6867. Transporting *sand in bags, foundry facing, fluxing compound, and drycore compound*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hoffman Foundry Supply, Div. Whitehead Brothers, Co., of Cleveland, OH.

MC 160848, filed March 22, 1982. Applicant: EDWARD SLESZYNSKI, d.b.a. EPS TRUCKING, 535 Army Trail Rd., Addison, IL 60101. Representative: Ellen A. Fredel, 30 North LaSalle St., Suite 3100, Chicago, IL 60602, 312–580–2000. Transporting *metal products*, between points in the U.S. under continuing contract(s) with Stanley Machining & Tool Corp. and Autonetics, Inc. both of Lincolnwood, IL.

MC 161118, filed March 19, 1982. Applicant: KELLY'S TRUCKING INCORPORATED, 7036 Grand Ave., Duluth, MN 55807. Representative: Richard A. Kelly, Jr., (same address as applicant), (218) 624–9681. Transporting *coal and coal products* between points in the U.S. (except AK and HI).

MC 161119, filed March 22, 1982. Applicant: GREGORY S. SEVERT, d.b.a. SEVERT TRUCKING, 3160 W. Beaver St., Jacksonville, FL 32205. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202, (904) 353–9707. Transporting (1) *food and related products* (except in bulk), between points in CA, on the one hand, and, on the other, points in St. Johns County, FL, and (2) *insecticides* (except in bulk), between points in AZ, CA, TX, and NV, on the one hand, and, on the other, points in Duval County, FL.

MC 161149, filed March 22, 1982. Applicant: METEOR LINES LIMITED, 2117 S. May St., Chicago, IL 60608. Representative: Donald S. Mullins and T. M. Schlechter, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in AL, AZ, AR, CA, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, TN, TX, UT, VA, WV, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161159, filed March 23, 1982. Applicant: SAGA INTERNATIONAL HOLIDAYS, LTD., Park Square Bldg., Suite 1162, 31 St. James Ave., Boston, MA 02116. Representative: Ronald W. Ruth, 225 Franklin St., Boston, MA 02110, 617–423–6100. To operate as a *broker* at Boston, MA, arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9315 Filed 4-6-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 285N)]

Conrail Abandonment Between Pana and Paris, IL; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board No. 1, issued a certificate and decision authorizing the Consolidated Rail Corporation (Conrail) to abandon its rail line between Pana (milepost 167.2) and Paris (milepost 93.0) in Edgar, Coles, Moultrie, Shelby and Christian Counties, IL, a total distance of 74.2 miles effective on March 11, 1982.

The Commission has received requests to independently appraise the net liquidation value of two segments of the line. The City of Shelbyville requested an appraisal of the segment between mileposts 151 and 153. The Coles County Board requested an appraisal of the segment between milepost 116.5 and 129.5.

On April 2, 1982, Conrail and Shelbyville notified the Commission that it was their opinion that the net liquidation value of the segment between mileposts 151 and 153 is $26,667. The Commission has decided to accept that figure. The Commission is continuing its appraisal of the line segment between milepost 116.5 and 129.5. Publication of that finding will occur in the future.

In conclusion, the Commission has decided that the net liquidation value of portions of this line is as follows: (a) mileposts 93 to 116.5 is $2,112,085; (b) mileposts 129.5 to 151 is $1,922,334; (c) mileposts 151 is $26,667; and (d) mileposts 152 to 167.2 is $1,276,239.

If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of any of these line segments it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9439 Filed 4-6-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 751-TA-6]

Birch Three-Ply Door Skins From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a review investigation concerning the Commission's affirmative determination in investigation No. AA1921-150, Birch Three-Ply Door Skins From Japan.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has initiated an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review its determination in investigation No. AA1921-150. The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of birch three-ply door skins from Japan if the antidumping order regarding such merchandise were to be revoked. Birch three-ply door skins are provided for in item 240.14 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On January 12, 1976, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act, 1921, by reason of the importation of birch three-ply door skins from Japan which were determined by the Secretary of the Treasury to be, or likely to be, sold in the United States at less than fair value.

On February 18, 1976, the Department of the Treasury issued a finding of dumping (T.D. 76-48) and published notice thereof in the **Federal Register** (41 FR 7389).

The Department of Commerce published notice of the preliminary results of its most recent administrative review of the antidumping finding in this matter in the **Federal Register** on March 18, 1982 (47 FR 11737).

On January 8, 1982, the Commission received a request to review its affirmative determination in investigation No. AA1921-150 from counsel representing the Hokkaido Plywood Manufacturers Associataion of Japan.

The Commission requested comments from the public regarding the institution of a review investigation in a notice published in the **Federal Register** on February 10, 1982 (47 FR 6116). Comments supporting the request for an investigation were received from four U.S. firms that either import or purchase birch three-ply door skins from Japan: Toyomenka (America), Inc.; C. Itoh & Co. (America), Inc.; Pan Asiatic Trading Co., Inc.; and Nu-Dor, Inc. Comments opposing the institution of an investigation were received from Patat Plywood Corp., a U.S. producer of such door skins. On the basis of the request for review and all comments filed concerning the request, the Commission on March 30, 1982, voted to institute investigation No. 751-TA-6.

The Commission determined that the alleged changed circumstances were sufficient to warrant a review investigation. For example, the production facilities of the domestic producer that accounted for a majority of U.S. production at the time of the Commission's determination have been sold and are no longer used for the production of door skins, and the share of the U.S. market for birch three-ply door skins lost by Japan following the dumping finding has been taken by other foreign suppliers rather than by domestic producers.

The investigation will be conducted in accordance with § 207.45(b) of the Commission's Rules of Practice and Procedure (19 CFR 207.45(b)). The purpose of the investigation is to determine whether an industry in the United States would be materially injured, or would be threatened with material injury or the establishment of an industry in the United States would be materially retarded by reason of imports of birch three-ply door skins from Japan if the antidumping order regarding such merchandise were to be revoked.

Dates.—Pursuant to § 207.45(b) of the Commission's Rules of Practice and Procedure, the 120-day period for completion of this investigation begins on the date of publication of this notice in the **Federal Register.**

Written submissions.—Any person may submit to the Commission written statements of information pertinent to the subject matter of the investigation on or before June 3, 1982. A signed original and fourteen true copies of such statements must be submitted in accordance with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential business data." Confidential submissions must conform with the requirements of § 201.6 of the Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except confidential business data, will be available for public inspection. A staff report containing preliminary findings of fact will be available to all interested parties on May 21, 1982.

Public hearing.—The Commission will hold a public hearing in connection with this investigation on June 10, 1982, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.), May 20, 1982. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 10:00 a.m., e.d.t., on May 21, 1981, in Room 117 of the U.S. International Trade Commission Building, and may file prehearing briefs on or before June 3, 1982. For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A, C, and E (19 CFR 207), and part 201, subparts A through E (19 CFR 201).

FOR FURTHER INFORMATION CONTACT: David Coombs, investigator, Office of Investigations, U.S. International Trade Commission (202-523-1376) or Lairold Street, Esq., Office of the General Counsel, U.S. International Trade Commission (202-523-3395).

By order of the Commission.
Issued: April 1, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-9361 Filed 4-6-82; 8:45 am]
BILLING CODE 7020-02-M

[332-140]

The Competitive Status of Major Supply Regions for Fall-Harvested Fresh White or Irish Potatoes in Selected Markets

AGENCY: International Trade Commission.

ACTION: At the request of the United States Trade Representative, the Commission has instituted investigation No. 332-140 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of gathering and presenting information on the competitive status of major supply regions for fall-harvested fresh white or Irish potatoes in selected markets. The study will examine the consumption of fresh potatoes for fresh-

market use and other uses by region, production and costs of production by region, and competitive conditions in selected Northeastern U.S. markets for fresh-market potatoes from major supply sources. The study also will include an examination of economic conditions relating to the importation of such potatoes from Canada, including currency exchange rates.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Macomber or Mr. William Lipovsky, Agriculture, Fisheries, and Forest Products Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–724–1765 or 202–724–0097, respectively.

BACKGROUND: The USTR requested on March 15, 1982, that the Commission investigate the competitive conditions affecting the potato industry of the State of Maine and that although the Northeastern U.S. market should be emphasized, the analysis of the Commission's report should not be confined to that area. He stated that it is particularly important for the Commission's analysis to indicate the relative importance of the various factors which affect the comparative position of Maine producers vis-a-vis producers in other States or marketing regions of the United States and Canada.

PUBLIC HEARING: A public hearing in connection with the investigation will be held beginning at 10 a.m., on June 30, 1982, in the Regency Room, Bangor Holiday Inn, 500 Main Street, Bangor, ME. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, June 24, 1982.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but not later than July 6, 1982. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: April 2, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-9362 Filed 4-6-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 751-TA-5]

Salmon Gill Fish Netting of Manmade Fibers From Japan

Determination

On the basis of the record [1] developed in this investigation, the Commission unanimously determines [2] that the establishment of an industry in the United States would be materially retarded, by reason of imports of salmon gill fish netting of manmade fibers from Japan covered by antidumping order T.D. 72–158, if the order were to be modified or revoked.

Background

On July 28, 1981, the Commission received a request to review its determination in *Fish Nets and Netting of Manmade Fibers From Japan,* Inv. No. AA1921–85, T.C. Pub. No. 477 (1972). On October 14, 1981, the Commission instituted an investigation, pursuant to section 751(b) of the Tariff Act of 1930, to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order (T.D. 72–158) regarding fish nets and fish netting of manmade fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of manmade fibers.

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the **Federal Register** on October 21, 1981 (46 FR 51675). The public hearing was held on March 2, 1982, in Portland, Oregon. All interested persons were afforded an opportunity to appear in person or by counsel.

[1] The "Record" is defined in § 207.2(i) of the Commission's rules of practice and procedure (47 FR 6190, February 10, 1982).

[2] Commissioners Frank and Haggart not participating.

Views of the Commission

Imports of salmon gill fish netting of manmade fibers from Japan have been subject to an antidumping order (T.D. 72–158) covering all types of fish netting of manmade fibers from Japan since June 1972 (37 FR 11560, June 9, 1972). Based on the record developed in this investigation, [3] we conclude that the establishment of an industry in the United States would be materially retarded by reason of imports of salmon gill fish netting of manmade fibers covered by the antidumping order if the order were to be modified or revoked.

Scope of the Commission's investigation

On April 18, 1972, the Commission determined that an industry in the United States was being injured within the meaning of the Antidumping Act, 1921, by reason of imports of fish netting of manmade fibers from Japan which the Secretary of the Treasury had determined were being sold or were likely to be sold at less than fair value. [4] As a consequence of the Commission's determination, the Secretary of the Treasury issued an antidumping order overing the merchandise.

The Commission received a request on July 28, 1981, filed under section 751(b) of the Tariff Act, to review its determination. The request alleged changed circumstances in the domestic production of salmon gill fish netting and alleged that the modification or revocation of the outstanding antidumping order with respect to imports of salmon gill fish netting would not result in material injury or the threat of material injury to a domestic industry. The review request also claimed that the establishment of a domestic industry would not be materially retarded by such modification or revocation. This investigation focused entirely on salmon gill fish netting. Prior to the institution of the Commission's investigation, no information concerning changed circumstances was alleged with regard to the domestic production of fish netting other than salmon gill netting of manmade fibers. [5]

[3] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i), 47 FR 6190, February 10, 1982).

[4] *Fish Nets And Netting Of Manmade Fibers From Japan,* Inv. No. AA1921–85, TC Pub. 477 (1972).

[5] Section 751(b)(1) of the Tariff Act states, in relevant part—

Whenever the * * * Commission receives information concerning, or a request for the review of, * * * an affirmative determination * * * which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the **Federal Register**

The domestic industry

In general, the domestic industry consists of all domestic producers of a like product or those producers whose total output of the like product constitutes a major proportion of the domestic production of that product.[6] A like product is a product which is like, or in the absence of like, most similar in characteristics and uses with, the imported product subject to investigation.[7]

The imported Japanese salmon gill fish netting of manmade fiber is of three types described in detail in the Report.[8] They are "crystal" multifilament netting, twisted monofilament netting, and monofilament netting. Monofilament netting is illegal for use in the United States except by native (Indian) fishermen. An additional type of salmon gill netting, cable-laid netting, is produced in Japan, but very little of this netting has been imported since 1977.[9]

There are no domestic producers of twisted monofilament or monofilament salmon gill fish netting. Also, there is no information on the record indicating that domestic producers of other types of fish netting have any interest in producing these types of netting. Two domestic firms currently produce crystal netting and a third is about to begin production.

Harbor Net and Twine of Hoquiam, Washington, has produced a small amount each year since 1978. Its output, however, is insignificant when compared with domestic consumption of crystal netting and is considered by fishermen to be of a lesser quality than Japanese netting.[10] However, the company has established a distinct niche in the market for crystal netting. Normally, orders for imported salmon gill fish netting are placed in late October and early November in anticipation of the opening of the fishing season the following April. Orders placed later for imported crystal netting are often delayed as foreign manufacturers are working on the orders they have already received.[11] Harbor Net and Twine primarily produces for fishermen who do not order in the fall.[12] The company indicated that its sales of crystal netting do not directly compete with the Japanese crystal netting subject to the outstanding antidumping order.[13]

A second domestic company has just commenced production and shipments of crystal netting. Nichimo Northwest is a joint venture of Nichimo, Japan, with the principals of the Northwest Net and Twine and the Powers Twine companies.[14] Nichimo, Japan, is a manufacturer and exporter of crystal netting subject to the antidumping order. The information on the record indicates that Nichimo Northwest began production at its Everson, Washington, plant in February 1982 and that a shipment of crystal netting was delivered to a domestic customer in March 1982.[15]

The third company, Nylon Net Co., of Memphis, Tennessee, one of the largest domestic producers of fish netting, is developing a manmade fiber yarn in a joint project with Firestone Fibers and Textiles Company. This fiber will be competitive with that used in imported crystal netting.[16] Nylon Net Co. stated at the March 3, 1982, hearing that it expects to begin production of crystal netting by April 1982.[17] The stated intentions of Nylon Net raise the issue of whether the modification or revocation of the outstanding antidumping order would materially retard the establishment of an industry in the United States.

Harbor Net and Twine's production is insignificant and not competitive with the imports subject to investigation. The second firm, Nichimo Northwest,[18] has only delivered one shipment. Nylon Net Co. has not yet begun production. Accordingly, there is no established domestic industry producing salmon gill fish netting.

The likely effects of modifying or revoking the antidumping order[19]

The existence of an antidumping order is presumed to change the pricing behavior of importers and exporters of the merchandise subject to the order. To avoid what is equivalent to a special tax on merchandise sold at less than fair value, importers and exporters of merchandise subject to an antidumping order often will raise the price of the imports in the United States, lower the home market or other reference price, or both. Alternatively, exporters may leave the U.S. import market and produce in the United States. In the present case, for example, Nichimo, Japan, would be in a position to phase out its exports if Nichimo Northwest successfully produces the crystal netting in the United States.

The task of the Commission in a section 751(b) review investigation is to forecast the likely behavior of the importers if they were not subject to antidumping duties on sales made at less than fair value and judge whether that behavior would result in material injury or the threat of material injury to the domestic industry or the material retardation of the establishment of a domestic industry. The modification or revocation of the outstanding antidumping order's coverage of salmon gill fish netting or manmade fibers would have the effect of removing a major disincentive to dumping.

United States law contains a procedure for reviewing antidumping orders in instances where affected foreign companies are no longer selling at less than fair value. In this circumstance, the Department of Commerce, not the Commission, is the proper forum for a request for a review of the order. A company may be removed from the coverage of an antidumping order if the Commerce Department finds that its sales have not resulted in dumping margins for a period of two years. We may assume, then, that a request for review by the Commission is sought on the premise that less-than-fair value sales may resume or continue.[20] [21]

Section 106 of the Trade Agreements Act of 1979 makes antidumping orders issued under the Antidumpoing Act, 1921, subject to review under section 751(b), 19 CFR 207.45(a) (46 FR. 18022, March 23, 1981). *See*, Matsushita Electric Industrial Co. Ltd., et al., v. United States, et al., United States Court of International Trade, Consolidated Court No. 81-7-00901, Slip Opinion 81-114, December 15, 1981.

[6] Section 771(4)(A) of the Tariff Act, 19 U.S.C. 1677(4)(A).

[7] Section 771(10) of the Tariff Act, 19 U.S.C. 1677(10).

[8] Report at A-4 and A-5.

[9] *Id.*

[10] ID. at A-25

[11] Id. at A-11.

[12] *Id.*

[13] Letter to the USITC from the Secretary/Treasurer of Harbor Net and Twine, dated December 21, 1981. Reproduced in the Report at A-45.

[14] Transcript of public hearing at 27.

[15] Letter to Mr. Kenneth R. Mason, Secretary, USITC, from Lummi Fishery Supplies, Inc., dated March 11, 1982, and letter to Mr. Kenneth R. Mason, Secretary, USITIC, from the Law Officers of George R. Tuttle, dated March 12, 1982.

[16] Transcript of hearing at 171.

[17] *Id.* at 179.

[18] Nichimo Northwest is related to an exporter of the Japanese crystal netting subject to the outstanding antidumping order, the related parties provision in section 771(4)(B) of the Tariff Act authorizes the Commission to exclude the firm from the domestic industry if the circumstances for such exclusion are appropriate. Section 771(4)(B) of the act provides that—

Related Parties.—When some producers are related to the exporters or importers, or are themselves importers of the . . . dumped merchandise, the term 'industry' may be applied in appropriate circumstances by excluding such producers from those included in that industry.

A company's being controlled by a foreign exporter indicates that it may have a position in the domestic market unlike that of other domestic producers in that it would not be as likely to be adversely affected from competition with imports sold at less than fair value. Inasmuch as we do not find that a domestic industry is established, we do not reach the question of whether to exclude the firm on the basis of the related party provision.

[19] See Additional Views of Vice Chairman Calhoun.

[20] See Views of Chairman Alberger, Vice Chairman Calhoun, and Commissioner Bedell.

It is our judgment that the establishment of a domestic industry would be materially retarded by imports of Japanese salmon gill fish netting if the outstanding order were modified or revoked. The absence of U.S. production of a yarn comparable in quality to the Japanese product has been the key element in the inability of U.S. fish netting producers to compete successfully with imports of Japanese crystal netting.[22] The Japanese crystal netting is a higher quality product than that formerly available from domestic producers.[23] Moreover, attempts by domestic salmon gill fish netting producers to import Japanese yarns for domestic production of crystal netting were frustrated by delays in filling orders and by deposit requirements.[24]

The Nylon Net Co. is currently testing a yarn developed by Firestone Fibers and Textiles Company of Hopewell, Virginia, for use in the manufacture of crystal netting.[25] Firestone has the capacity to produce 1.5 million pounds of the yarn per year.[26] In comparison, the total domestic consumption of salmon gill fish netting in 1980 was under 400,000 pounds.[27] We note that Nylon Net Co. and Firestone have collaborated in the development and production of a black tuna netting which is being marketed successfully both in the United States and abroad.[28]

The Commission has rejected allegations of material retardation in other cases because there was no showing of a substantial commitment to commence production of the subject products.[29] In the present case, however, Nylon Net has made substantial investments in the development of a marketable crystal netting.[30] It is our judgment that its market entry would be materially retarded, and perhaps frustrated entirely, by unrestrained less than fair value sales of Japanese imports.

As a fisherman testified at the public hearing,[31] "Quality nets are at the heart of this [Salmon] fishery because the fishing time is so short and the effort is so intense."[32] The cost of crystal netting is a fraction of a salmon gill netters' expenses.[33] A fisherman will pay large premiums for better qualifty netting.[34] Customer acceptance depends upon many features.[35]

Understanding the situation of the nascent domestic industry is not possible independent of an evaluation of imports in the domestic market. Taiwan became a significant supplier of salmon gill fish netting during 1981. Although small when compared with Japan or Taiwan, Korean imports also dwaft the current output of the two U.S. companies producing crystal netting. Both the Taiwanese and Korean netting are currently priced much lower than the Japanese crystal netting and they have been consistently priced lower than the Japanese product.[36] The price difference reflects quality differences.[37] Nylon Net Co. plans to market a crystal netting product comparable to Japanese quality in the same price range as the Japanese product.[38] Nylon Netting Co. will have a delivery advantage over the imports.[39] But it is impossible to forecast the length of time it would take Nylon Net to achieve the necessary customer acceptance, if, in fact, its product is equivalent to the Japanese product in quality. During this period of market entry, any price reductions in the Japanese product would force Nylon Net's prices toward those of the Taiwanese and Korean imports,[40] reducing its revenues and displacing its position at the higher quality end of the market. A modification or revocation of the outstanding antidumping order would invite this response.

Additional Views of Vice Chairman Calhoun

It seems to me that there are established Commission standards for analyzing section 751 cases within which our analysis here ought to be explicitly undertaken. These standards were established by the majority of the Commission in *Television Receiving Sets From Japan.*[41] My understanding of *Televisions* is that in Section 751 cases, we must first and foremost determine "whether the domestic industry would be injured if exporters and importers no longer subject to the constraint resume less-than-fair-value sales where advantageous."[42] In pursuing this objective, we have established that we are

"to assess the inhibiting effect that the order has on the pricing, production, and marketing strategies of the companies subject to it, to predict the effect of revocation on those strategies and on the marketplace, and then to determine whether these effects would result in material injury or the threat thereof to the domestic industry."[43]

It is my further understanding that *Televisions* establishes that our analysis of section 751 cases assumes the continuation of the wrongful practice unless there is a finding from the Department of Commerce to the contrary.[44]

I wish to make it clear that my deicision in this investigation is based upon this Commission standard.

Issued: March 31, 1982.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 82-9363 Filed 4-6-82; 8:45 am]

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Television Receiving Sets From Japan, Inv. No. 751-TA-2, USITC Pub. 1153, at 8 (1981).

[21] Commissioner Eckes finds it unnecessary to reach this assumption in the disposition of this case.

[22] Transcript of hearing at 166-167.

[23] Report at A-22, transcript of hearing at 25.

[24] Transcript of hearing at 167.

[25] Report at A-11.

[26] Transcript of hearing at 174.

[27] Report at A-14.

[28] Transcript of hearing at 175-176.

[29] See *Motorcyle Batteries from Taiwan*, Inv. No. 731-TA-42 (Final), USITC Pub. 1228 (1982), *Synthetic L-Methionine from Japan*, Inv. No. 751-TA-6, USITC Pub. 1167 (1981), cf. *Certain Ultramicrotome Freezing Attachments*, Inv. No. 337-10-10, USITC Pub. 771 (1976) ("prevention of establishment" provision of section 337(a) of the Tariff Act).

[30] Transcript of hearing at 227.

[31] Vice Chairman Calhoun notes that, for him, the significance of one fisherman's testimoney is a function of his many years of professional experience. Nevertheless, in Vice Chairman Calhoun's view, it cannot be overlooked that this was the testimony of only one person based upon that person's subjective, though substantial, experience and not premised upon an objective data base. Thus this single testimony should not be considered a major factor in Vice Chairman Calhoun's decision in this investigation.

[32] *Id.* at 37.

[33] Report at A-6; transcript of hearing at 115.

[34] Transcript of hearing at 114, 142.

[35] These features include: color selection; range of mesh sizes; uniformity of mesh sizes; consistent strength; heat-set knots ot reduce slippage; resin treatment; the ability of the dye to produce a fast color; transparency of the twine; and, a reliable supplier. Transcript of hearing at 36, 37, and Answer of Trans-Pacific Trading Inc. to Written Questions Submitted by Commissioner Stern, at 12.

[36] Report at A-25; transcript of hearing at 205-206, 228.

[37] Report at A-25.

[38] Transcript of hearing at 229.

[39] *Id.* at 226.

[40] This scenario need not affect Nichimo Northwest which could market the same product as the imported Japanese netting at the same prices. However, it could only do so as a related party benefitting from the pricing of the Japanese imports.

[41] *Television Receiving Sets From Japan*, Inv. No. 751-TA-2, USITC Pub. 1153 (1982).

[42] *Id.*, p. 8.

[43] *Id.*, p. 9.

[44] *Id.*, p. 8.

[Investigation No. 731-TA-44 (Final)]

Sorbitol From France

Determination

Based on the record [1] developed an investigation No. 831-TA-44 (Final), the Commission determines [2] that an industry in the United States is

[1] The "record" is defined in § 207.2(i) of the Commission's rules of practice and procedure, 47 FR 6190, February 10, 1982.

[2] Commissioners Frank and Haggart did not participate.

materially injured [3] by reason of imports from France of sorbitol [4], which the Department of Commerce has determined is being, or is likely to be, sold in the United States at less than fair value (LTFV).[5]

Background

On November 30, 1981, the Department of Commerce made a preliminary determination that there was a reasonable basis to believe that sorbitol imported from France was being, or was likely to be, sold in the United States at LTFV within the meaning of section 733(b) of the Tariff Act of 1930, 19 U.S.C. 1673b(b). Accordingly, on December 10, 1981, the Commission instituted a final antidumping investigation under section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of the imports of such merchandies into the United States.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on December 16, 1981, (46 FR 61354.). The hearing was held in Washington, D.C. on February 24, 1982, and all persons who requested the opportunity were permitted in person or by counsel.

Views of Chairman Bill Alberger and Vice Chairman Michael J. Calhoun

After considering all available information, we conclude: (1) that an industry in the United States is materially injured by reason of imports of crystalline sorbitol from France which are sold at less than fair value; (2) that an industry in the United States is not materially injured or threatened with material injury by reason of imports of liquid sorbitol from France which are sold at less than fair value.

The domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." Section 771(10) defines "like product" as a product which is like, or in the absence of like, most similar in characteristics and uses with the article under investigation.

The staff report describes in detail [6] the composition, characteristics, and uses of sorbitol. Generally, however, sorbitol is a sugar alcohol made from dextrose and is about 60 to 70 percent as sweet as sugar. It is used as a sugar substitute in foods and confections as well as a humectant, stabilizer, emulsifier and a surfactant in such diverse products as detergents, paints, dry cleaning formulations, cosmetics and drugs.

There are two types of sorbitol—crystalline, available in both granular and powdered forms, and an aqueous solution, i.e., liquid sorbitol. Both crystalline and one type of liquid sorbitol, the 70 percent solution are imported into the United States from France. These two types of sorbitol are essentially the same as the domestic products. All five domestic producers produce liquid sorbitol, but only two, Pfizer and ICI, produce crystalline sorbitol.

Crystalline and liquid sorbitol have distinct and dissimilar end uses, and the characteristics of each prevent their interchangeability. Crystalline sorbitol is primarily used in sugarless gums, mints, and other confections. Liquid sorbitol is used in toothpaste, cosmetics, foods, pharmaceuticals, and industrial surfactants.

Although crystalline and liquid sorbitol have the same chemical formula, their distinctiveness is further demonstrated in their production processes. Once liquid sorbitol is produced, it can be further processed into crystalline sorbitol on separate equipment (which may be housed in a different physical plant). This additional process is very capital intensive requiring considerable outlay for separate equipment and additional personnel. Crystalline sorbitol, therefore, sells for a much higher price than liquid sorbitol because of the extra production process. Thus, crystalline and liquid sorbitol do not compete with one another.

We conclude that there are two distinct products being imported and that there are two like products. We, therefore, find that there are two domestic industries, one producing crystalline and one producing liquid sorbitol.

Although the staff is uncomfortable with the allocations which are the basis of the separate profits and loss data for crystalline and liquid sorbitol, we do not believe that separate profit and loss data is always essential to measure the impact of imports on domestic production of separate products. Section 771(4)(D) states that the effect of the dumped imports shall be assessed against the production of the like product "if available data permit the separate identification of production *in terms of such criteria as* the production process *or* the producer's profits," (emphasis added). The Commission's investigation has provided information on the separate production process for liquid and crystalline sorbitol. As well, we have separate information on the levels of domestic production, domestic shipments, domestic market share for each of the like products, and pricing and lost sales information. Although separate profit and loss data have also been supplied, their accuracy is subject to question. These data do, however, tend to support our view that the problems are in crystalline production, not liquid. In our view, sufficient data are available to permit our separate assessment of the impact of imports from France of crystalline and liquid sorbitol on the industries producing a like product.

Section 771(7)(B) directs the Commission in making its material injury determinations, to consider among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.

I. Crystalline Ssorbitol

Material Injury

Our determination that dumped crystalline sorbitol from France has materially injured the domestic industry is based on steadily increasing imports from 1978 through 1981, on declines in production, and on substantial declines in commercial shipments and market share. [7]

Volume of imports: From 1978 through the first eleven months of 1981, imports of crystalline sorbitol from France have increased steadily. French imports of this product also took an increasingly

[3] Commissioners Alberger and Calhoun determined an industry is being materially injured by imports of crystalline sorbitol only. Commissioner Eckes determined that an industry in the United States is materially injured, or is threatened with material injury by reason of imports from France of sorbitol.

[4] For purposes of this investigation, sorbitol is defined as a hexitol—a polyhydric alcohol with six hydroxyl (OH groups)—which has the formula $C_6H_8(OH)_6$, as provided for in item 493.68 of the Tariff Schedules of the United States.

[5] The retardation of the establishment of an industry in the United States was not an issue in this investigation.

[6] Staff report, p. A-2-3.

[7] Due to the small number of firms comprising the domestic industry, nearly all the statistical information obtained by the Commission is regarded as confidential business information. For this reason, the information is discussed only in general terms.

higher share of the domestic market from 1978 through January–November 1981. In contrast to liquid sorbitol, imports of crystalline sorbitol did not decline in 1981. Furthermore, the percentage of total French sorbitol exports also steadily increased to the point where French exports occupy a substantial percentage of crystalline exports to the United States.[8]

Impact of imports on prices: Prices of imported crystalline sorbitol were consistently below the U.S. producers' prices from 1978 to 1980 often by substantial margins. In 1981, prices of imported crystalline rose to the point where they were slightly above domestic prices. Although U.S. producers' prices increased in each quarter of the period of investigation, these increases have not kept pace with price increases for other industrial chemicals or with price increases for the key raw material used in the production of sorbitol, i.e., dextrose.[9]

Impact of imports on the domestic industry: At the same time imports were increasing, domestic production of crystalline sorbitol steadily declined from 1978 through the first eleven months of 1981.[10] Domestic shipments also declined substantially at this time, as did the value of these shipments.[11] The U.S. producers continually lost market share during the period under investigation—with the most substantial loss coming in January–November 1981. Inventories remained fairly steady during the period, but the ratio of inventories to sales increased from 1978 through January–November 1981.[12] Although prices were allowed to rise, the increases were not sufficient to cover the high costs associated with the production of crystalline sorbitol.[13] Additionally, the lost sales information gathered by the Commission shows that of those sales lost to French imports in 1980 and 1981, the largest quantities were of the crystalline type of sorbitol. For these reasons, we believe that the steadily increasing imports from France of crystalline sorbitol have caused material injury to the domestic industry producing the like product.

II. Liquid Sorbitol

No material injury or threat of material injury

Several factors indicate that the domestic industry producing liquid sorbitol is on an upswing and is not materially injured. The most significant are decreasing imports and increasing production and shipments in 1981.

Volume of imports: In 1978 and 1980, French imports of liquid sorbitol rose steadily. However, when the first eleven months of 1981 are compared to the level of imports in the same period of 1980, it is apparent that imports of liquid sorbitol from France have begun to decline sharply, falling by nearly 17 percent.[14]

Effect of imports on prices: Although imports of liquid sorbitol from France consistently undersold the domestically produced product during 1979 and 1980, the imported product was consistently priced higher than the domestic product during the first eleven months of 1981. Furthermore, during 1979 and 1980, the margins of underselling were often not that great. Domestic producers' prices rose steadily throughout the period. The average price of liquid sorbitol rose by 41 percent from $28.76 per 100 pounds in the first quarter of 1978 to $40.48 per 100 pounds in October–November 1981.[15]

Impact of imports on the domestic liquid sorbitol industry: There are strong indications that the domestic industry is returning to a healthy state. Although domestic production of liquid sorbitol declines from 1978 to 1980, production increased in January–November 1981.[16] Similarly, U.S. producers' commercial shipments declined from 1978 to 1980 and then recorded a sharp increase in January–November 1981.[17] At the same time, inventories held as of November 1981, on an annualized basis, were significantly below year-end levels in 1978–1980.[18]

France did not maintain a very large share of the U.S. market for liquid sorbitol throughout the period of investigation. In fact, the January–November 1981 level of market penetration was well below that of the same period in 1980 and was only 0.5 percent higher than that reached in 1978. This sharply contrasts with the share of the market gained by imports from France of crystalline sorbitol.[19] As shown previously, crystalline imports increased steadily from 1978 through November 1981.

We did not find that the domestic industry producing liquid sorbitol was threatened with material injury by reason of such imports from France. We have no information to indicate that additional unused capacity is available particularly for export to the U.S. Further, Roquette has announced plans to begin producing liquid sorbitol at its U.S. subsidiary in November 1982. As this U.S. production comes on stream, imports, of liquid sorbitol from France are expected to cease.[20] All of these factors indicate that the domestic liquid sorbitol industry is on an upswing, recapturing domestic market share and returning to a healthy state.

Views of Commissioners Paula Stern and Alfred E. Eckes

Based on the record of this investigation, we have found that an industry in the United States is materially injured by LTFV imports of sorbitol from France.[21] The precipitous decline in the condition of the domestic sorbitol industry in 1980 is linked to the impact of LTFV imports from France in the U.S. market. The continuing strong performance of such imports in 1982 has prevented a return to prior performance levels for the domestic industry.

The Domestic Industry

Views of Commissioner Stern. I concur with the like product analysis of Chairman Alberger and Vice Chairman Calhoun, but find under section 771(4)(D) that the available data do not permit the separate identification of production of each like product. Separate data on liquid and crystalline sorbitol production are available on production levels, shipments, pricing, consumption, and imports, but not on profitability,[22] capacity utilization, employment, and exports. The available data demonstrate that import-related problems of crystalline sorbitol producers are more severe than those of liquid sorbitol producers. However, I do not consider that the available disaggregated data are sufficient to make an assessment of material injury by reason of LTFV imports for production of each product. Therefore, in accordance with section 771(4)(D), I have assessed the effect of LTFV imports by examining the production of all sorbitol.

[8] Staff report, p. A–27.
[9] Id., p. A–29.
[10] Id., p. A–11.
[11] Id., pp. A–11 and A–14.
[12] Staff report, p. A–17.
[13] Id., p. A–29.
[14] Id., p. A–27.
[15] Staff report, p. A–31.
[16] Id., p. A–11.
[17] Id., p. A–11.
[18] Id., p. A–17.
[19] Id., pp. A–27 and A–28.
[20] Id., p. A–9.
[21] Commissioner Eckes notes that the industry also faces a threat of material injury as well as present injury. The production of liquid sorbitol in the United States will commence in late 1982 at which time it seems that importations of that type of sorbitol should cease. Importation of crystalline sorbitol will continue for some time in the future. Certainly the clearly established past unfair pricing practices used to achieve market share would be continued in the absence of the antidumping order.
[22] Separate data on profitability were supplied by domestic producers, but the Commission's staff recommends against using these data which are based on standard cost allocations. See Report at A–20.

Views of Commissioner Eckes.

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." Section 771(10) defines "like product" as a product which is like, or in the absence of like, most similar in characteristics and uses with the article under investigation.

Sorbitol, which has a chemical formula of $C_6H_8(OH)_6$, is a sugar alcohol made from dextrose which is about 60 to 70 percent as sweet as sugar. There are two forms of sorbitol which are imported and also produced domestically—crystalline and liquid sorbitol, which do have different end uses. Because sorbitol can be digested without insulin and does not cause tooth decay, it is used as a sugar substitute in diet foods and candies. Sorbitol's chemical structure makes it useful as a humectant, stabilizer, emulsifier and a surfactant. Because of these characteristics, it is used in such diverse products as detergents, paints, drycleaining formulations, cosmetics, and drugs.

Commissioner Eckes concludes that the appropriate like product in this investigation is all isolated sorbitol, including the "polyols." [23] Even though crystalline and liquid sorbitol have different forms and end uses, they have the same fundamental characteristic—that is, the same chemical formula. Both are derived wholly from the same feedstock, namely dextrose. The only difference between the two types is that once liquid sorbitol is formulated, only additional physical concentration of liquid sorbitol is required to obtain the crystalline form; no further chemical changes are required. Thus the like product in this investigation consists of all sorbitol, and the domestic industry consists of all the producers of sorbitol.

A majority of the Commission has separated crystalline and liquid sorbitol production and found separate like products. At the request of the Commission, Pfizer and ICI, the only two domestic producers of both crystalline and liquid sorbitol, provided the Commission with separate profit and loss information regarding both types. These producers do not maintain separate profitability records on both types for their own use. The Commission staff was unable to recommend the data provided because of concerns regarding the allocation of costs between the types produced. The fact that these producers maintain only one profit center for their own cost analyses suggests the unity which characterizes the production of all sorbitol. The separation of crystalline and liquid sorbitol otherwise results in a product analysis against which the Senate Finance Committee cautioned:

> The requirement that a product be "like" the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not "like" each other, *nor should the definition of "like product" be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.*[24] *(Emphasis added.)*

Condition of the Domestic Industry

Despite improved trends in 1981, the industry has been unable to reach its 1978/1979 levels of performance. The U.S. sorbitol industry experienced significant problems during 1980 when imports of less-than-fair-value sorbitol from France were at their highest level, both absolutely and as a share of open market domestic consumption.

Domestic production of all sorbitol declined slightly from 1978–1979 and then precipitously from 1979–1980, from 163 million pounds to 133 million pounds over the three year period. Production figures for January–November 1981 show increased levels over the corresponding 1980 period, but still well below 1978/1979 levels. Domestic sorbitol production capacity increased over the period at a rate comparable to capacity expansion in the over-all U.S. chemical industry. However, utilization of capacity steadily declined from 72 percent in 1978 to 52 percent in 1980. Comparison of January–November data shows somewhat increased utilization during 1981 when compared with 1980, but the 1981 level remains far below the 1978 level and the November 1981 operating rate of 70 percent for the chemical industry as a whole.[25]

Levels of U.S. producers' commercial shipments followed a similar trend to production levels, declining by almost 16 percent from 1979 to 1980, from 143 million pounds to 122 million pounds, respectively. January–November 1981 shipments increased by 19 percent over the corresponding 1980 period, but were still below the 1978/1979 levels. Declines in producers' year-end inventories in 1980 could be attributable to selling off of inventories; inventories in November 1981, were 6 percent higher than comparable 1980 levels. Employment levels of all production and related workers producing sorbitol declined significantly throughout the period, resulting in a reduction of almost one-third of the work force from 1978 levels.[26]

The financial performance of the industry deteriorated significantly in 1980 and has not recovered to previous profitability levels. The ratio of net operating profits to net sales declined slightly from 1978 to 1979, then plummeted in 1980 and in 1981 remained well below earlier levels. Profitability in 1981 was still below the median for a chemicals industry, despite the fact that January–November 1981 net sales were at the highest levels for the period under consideration.[27]

Impact of LTFV Imports

The decline in the performance of the U.S. sorbitol industry between 1979 and 1980 coincided with a dramatic growth in U.S. imports from France. This substantial absolute increase in imports from France took place as the U.S. market for sorbitol contracted.[28] As a result, market penetration by the French product nearly doubled.[29]

In 1981 there was an upturn in the U.S. sorbitol market. Consumption rose roughly 19 percent over the 1980 level. Still, imports from France in large part retained the gain in market share obtained in 1980.

We did not look only at the rise in imports in assessing their impact. We also carefully analyzed data on prices to establish a causal nexus between the imports and the continuing difficulties present in the domestic industry. Data availability limited explicit price comparisons to U.S. producers' prices f.o.b. point of shipment and U.S. importers' prices delivered to end-user customers. This basis for price comparison tends to understate or perhaps even eliminate margins of underselling. Even on this basis,

[23] The term "polyol" is used as the sorbitol industry uses it to mean non-USP sorbitol.

[24] Senate Rep. No. 96–249, 96th Cong., 1st Sess. at 90–91 (1979); (emphasis added).

[25] The decline in capacity utilization is greater than can be accounted for by any increases in capacity.

[26] Some of this decrease in employment may be attributable to increased productivity.

[27] See Office of Economics memorandum dated March 22, 1982.

[28] Open market consumption declined 6 percent between 1979 and 1980.

[29] Commissioner Stern takes note that plans by Roquette to commence production of sorbitol in the United States are expected to affect future import trends. Roquette's subsidiary will commence production of liquid sorbitol in Gurnee, Illinois, in the fourth quarter of this year and production of crystalline sorbitol in mid-1983. The respondent has indicated that "Roquette's imports of liquid sorbitol will fall dramatically, followed by a similar drop in crystalline sorbitol, as production of these products in the United States come on stream.

however, during most of 1980 when imports from France soared, reported margins of underselling were significant [30] for both crystalline and liquid sorbitol.[31]

Even though in 1981 reported comparison showed no clear pattern of underselling, we point out again that reported price comparison may well understate underselling.[32] Moreover, although domestic prices and import prices have risen substantially over the period of the investigation, it is evident that domestic prices have been significantly suppressed by imports. Prices have not risen enough to cover increasing costs and maintain acceptable profit levels.[33] If domestic prices had been able to rise sufficiently to cover changes in producer costs, we expect there would have been a clear pattern of underselling in 1981. Further, in 1981 the fact that this case was in progress and that the plant in the United States would soon start production may have influenced the importer's pricing policy. The link between the deteriorating condition of the U.S. industry and ant-competitive behavior of the foreign supplier has been established.

Finally, responses obtained by the Commission staff on alleged lost sales also support the attribution of injury in the domestic industry to LTFV imports. The responses confirmed that price was often a deciding factor in domestic purchases of French sorbitol.

Issued: March 29, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-9364 Filed 4-6-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-50 (Final)]

Stainless Clad Steel Plate From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation.

SUMMARY: As a result of an affirmative preliminary determination by the United States Department of Commerce that there is a reasonable basis to believe or suspect that stainless clad steel plate from Japan, provided for in item 607.94 of the Tariff Schedules of the United States, is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. § 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-50 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

EFFECTIVE DATE: March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0339.

SUPPLEMENTARY INFORMATION: On November 20, 1981, the Commission unamiously determined, on the basis of the information developed during the course of investigation No. 731-TA-50 (Preliminary), that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports from Japan of stainless clad steel plate which were allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before May 31, 1982.

Written submissions: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before May 27, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of facts will be made available to all interested parties on May 14, 1982.

Public hearing: The Commission will hold a public hearing in connection with this investigation on June 3, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10:00 a.m., e.d.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.) on May 13, 1982. Persons desiring to appear at the hearing and make oral presentations may file a prehearing brief and should attend a prehearing conference to be held at 9:30 a.m., e.d.t., on May 14, 1982, in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before May 27, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with rule § 207.22. Posthearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR 207), and part 201, subparts A through E (19 CFR 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20).

By order of the Commission.

Issued: March 30, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-9365 Filed 4-6-82; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endownment for the Arts; 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 Visual Arts Panel (Photography Fellowhips) to the National Council for the Arts to be held on April 27-30, 1982, from 9:30 a.m.-5:30 p.m. on the first floor of the Consul

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[30] Underselling in several quarters in 1980 was higher than at any other period of this investigation.

[31] Commissioner Stern notes that the LTFV margins for each of these products contributed substantially to the underselling.

[32] The staff attempted to adjust the data to construct delivered price comparisons, but the results were still ambiguous. *See* Staff Report at A-31.

[33] *See* Office of Economics memorandum dated March 22, 1982, pp. 3-4.

Building of the Columbia Plaza, 2400 Virginia Avenue, NW., Washington, D.C.

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.

Dated: April 1, 1982.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-9371 Filed 4-6-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on April 22, 1982, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open for public observation.

At this meeting, the Panel will discuss the status of TMI–2 cleanup activities.

Further information on the meeting may be obtained from Dr. William Travers, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301/492–7466.

Dated: April 1, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-9395 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to facility Operating License No. DPR–35 issued to Boston Edison Company (the licensee) which revised the technical Secifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to increase Maximum Average Planar Linear Heat Generation Rate operating limits by allowing credit for core spray heat transfer.

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 Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve as significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendment.

For further details with respect to this action, see (1) the application for amendment dated Janauary 18, 1982, (2) Amendment No. 59 to License No. DPR–35, 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 Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single 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, Md., this 31st day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactor Branch No. 2, Division of Licensing.

[FR Doc. 82-9387 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co. and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR–66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment modifies the inservice surveillance requirements for safety related 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 Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 11, 1982, (2) Amendment No. 49 to License No. DPR–66 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 B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. 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, Md., this 30th day of March, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-9388 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, and, in some cases to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 131-5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Installation of Transducers" and is intended for Division 1, "Power Reactors." It is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations with regard to the installation of transducers in nuclear power plants. The guide endorses, with certain exceptions, ANSI/ISA-S67.01, "Transducer and Transmitter Installation for Nuclear Safety Applications," which was developed by the Instrument Society of America.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by June 1, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 31st day of March 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research

[FR Doc. 82-9394 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the license for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of its date of issuance, and is to be implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendment adds a license condition to include the Commission-approved Safeguards Contingency Plan as a part of the license.

The licensees' filings, which have been handled by the Commission as an application, comply 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 the 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 the amendment.

The licensees' filing dated September 28, 1981, consists of Safeguards Information required to be protected from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see (1) Amendment No. 53 to License No. DPR-72 and (2) the Commission's related letter to Florida Power Corporation dated March 25, 1982. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida. A copy of the amendment and the Commission's related letter 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 25th day of March 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-9389 Filed 4-6-82; 8:45 am]

BILLING CODE 7590.01.M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 75 to Facility Operating License No. DPR-50, Issued to Metropolitan Edison Company, Jersey Central Power and Light Company, Pennsylvania Electric

Company, and GPU Nuclear Corporation (the Licensees), which revised Technical Specifications (TSs) for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility to establish the correct description of the location of the temperature detectors inside the containment building and to change the number of temperature readouts used for computing the average containment building temperature.

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 anmendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 11, 1980, as supplemented June 4 and November 13, 1981, (2) Amendment NO. 75 to License No. DPR–50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. 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 25th day of March 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-9390 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp. (R. E. Ginna Nuclear Power Plant); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that the Sierra Club has requested pursuant to 10 CFR 2.206 that the Director of Nuclear Reactor Regulation order the Rochester Gas & Electric Corporation to show cause why the operating license for the R. E. Ginna Nuclear Power Plant should not be suspended or, in the alternative, why permission to restart the reactor should not be withheld until such time as the licensee and the NRC have taken all essential actions to ensure adequate protection of public health and safety. The Sierra Club sets forth in its petition a number of issues which it believes should be reviewed by the NRC before the plant resumes operation. The plant was shut down in January 1982 after the rupture of a steam generator tube.

In accordance with 10 CFR 2.206, a final decision to grant or deny the petition will be made within a reasonable time and, in all events, before any attempt to resume operation of the Ginna plant.

Copies of the Sierra Club's petition are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington D.C. 20555 and in the Local Public Document Room at the Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-9391 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority; Issuance of Amendment Facility Operating License No. DPR-77

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR–77, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Unit 1 (the facility) located in Hamilton County, Tennessee. This amendment updates the Technical Specifications to make them consistent with the Sequoyah Unit 2 Technical Specifications.

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 regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulation 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) Tennessee Valley Authority letter dated December 15, 1981, (2) Amendment No. 12 to Facility Operating License No. DPR–77, 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 the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 12 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 25th day of March 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-9392 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-513]

Washington Public Power Supply System (WPPSS Nuclear Project No. 4); Receipt of Petition

Notice is hereby given that the Coalition for Safe Power, Portland, Oregon, has petitioned the Director of Nuclear Reactor Regulation under 10 CFR 2.206 for issuance of an order to show cause why construction Permit No. CPPR–174 for the Washington Public Power Supply System's (WPPSS) Nuclear Project No. 4 should not be revoked. As a basis for the requested action, the petitioner alleges that WPPSS has made material false statements with regard to the reasons assigned in its application dated July 21, 1981, for extension of the construction permit. The petition is being treated

under 10 CFR 2.206, and, accordingly, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room for WPPSS Nuclear Project No. 4 at the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352.

Dated at Bethesda, Maryland, this 6th day of January 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-9393 Filed 4-6-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22442; 70-6720]

Blackhawk Coal Co.; Proposal To Sell and Lease Back Coal Mining Equipment

April 1, 1982.

The Blackhawk Coal Company ("Blackhawk"), c/o American Electric Power Service Corporation, 161 West Main Street, Lancaster, Ohio 43130, a wholly-owned coal mining subsidiary of Indiana & Michigan Electric Company ("I&ME"), and operating subsidiary of American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 and applicable rules promulgated thereunder.

Blackhawk proposes to enter into a Master Lease Agreement ("the Lease") with Manufacturers Hanover Trust Company (the "Lessor") under which it will commit to lease to Blackhawk underground coal mining equipment with a total cost to Lessor of not more than $20,000,000 including incidental taxes and charges. New equipment will be leased as well as equipment already owned by Blackhawk which will be sold to Lessor and leased back. The equipment includes a continuous miner, diesel scoops, longwall shearers and face conveyors, haulage chain, shields, lighting and a variety of supporting equipment. The Lease permits Blackhawk to purchase from the Lessor all equipment at the end of the appropriate lease term or earlier.

The Lease provides for rental at varying terms of 3, 5, 7 or 10 years. Rent will be paid quarterly in arrears. Each rental payment will consist of a) a sum computed by amortizing Lessor's cost for each particular piece of equipment on a level basis over the number of calandar quarters that correspond to the lease term for that equipment and b) a variable interest charge on the balance of Lessor's outstanding, unamortized cost for the particular item on the first day of that quarter. The interest rate under part b) will be determined by reference to the lower of either i) Lessor's published "prime" rate in effect from time-to-time on the first day of the quarter (or ¼ of 1% above the prime rate where the lease term is more than 5 years) or ii) a certain percentage above the London interbank Eurodollar offered rate ("LIBO" rate) in effect from time-to-time during the lease term. Assuming a prime rate of interest of 17% in effect on tihe first day of any given quarter, the effective annual interest rate under part b) would be 17% or lower if the LIBO rate is at least ½ of 1% below the prime rate. For lease terms of more than 5 years, the effective interest rate would be 17¼%.

Blackhawk supplies coal primarily to I&ME for use at the coal-fired Tanner's Creek Generating Station. Blackhawk has also sold limited amounts of coal to non-affiliated third parties, and anticipates increasing the volume of such sales in the ensuing years. It has been represented, however, that no increase in production above current levels is anticipated as a result of the lease of this equipment, except in accordance with a prior order of this Commission (HCAR No. 22237). Blackhawk believes that the mining equipment described herein will contribute significantly to maintaining and improving the efficiency and capacity of I&ME's fuel supply operations. It is further believed that the sale and lease back of relatively new equipment already owned will help improve the cash flow and financial positions of blackhawk and I&ME.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 27, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on tihe applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-9331 Filed 4-6-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

April 1, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Galaxy Oil Company, Common Stock, $.10 Par Value (File No. 7-6198)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 22, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-9336 Filed 4-6-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22441; 70-6714]

Columbia Gas System Inc.; Proposal To Issue and Sell Common Stock Pursuant to Dividend Reinvestment Plan

April 1, 1982.

The Columbia Gas Sytem, Inc. ("Columbia") 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

Columbia proposes to issue and sell up to an additional 3,000,000 shares of its authorized, but unissued common stock, from time to time through April 30, 1985 pursuant to its Dividend Reinvestment Plan ("Plan"). By order dated June 7, 1979 (HCAR No. 21087), Columbia was authorized to issue and sell 1,000,000 shares pursuant to the Plan. Of those 1,000,000 shares 837,382 had been issued as of February 16, 1982.

Columbia Gas System Service Corporation, a subsidiary of Columbia, administeres the Plan for participants. Chemcial Bank, New York, acts as custodian and provides other services related to the Plan for Columbia. There are no brokerage commissions or service charges in connection with purchases under the Plan. All holders of record of Columbia common stock are eligible to participate in the Plan. As of February 1982, approximately 25,124 of Columbia's 138,441 shareholders were participating in the Plan. Participation in Columbia's Plan has risen substantilly in recent months, in part due to Columbia's qualification as a "utility" under The Economic Recovery Tax Act of 1981. Since participation in the Plan is expected to be greater in the next two years. Columbia is seeking authorization for the additional shares of common stock after full issuance of the 1,000,000 shares of common stock previously authorized.

The additional shares would be issued at a price equal to the average closing price on the New York Stock Exchange for the 20 consecutive trading days immediately preceding the investment date. The funds generated from the issuance of common stock will be added to Columbia's general funds. These funds will be used, together with funds presently available and those to be generated from operations, to satisfy the demands upon such general funds, including the capital expenditures program of Columbia's subsidiaries. Columbia requests an exception from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5).

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 26, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy of the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-9332 Filed 4-6-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12343; 812-5073]

Narragansett Capital Corp.; Filing of an Application for an Order Exempting Applicant and Permitting Certain Transactions Between Applicant and Certain of its Officers and Directors

March 31, 1982.

Notice is hereby given that Narragansett Capital Corporation ("NCC" or Applicant"), 40 Westminster Street, Providence, RI 02903, a closed-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on January 7, 1982, and an amendment thereto on March 24, 1982, for an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Sections 18(d) and 23 (a) and (b) and pursuant to Section 17(d) and Rule 17d-1 thereunder to permit certain transactions between NCC and certain of its officers and directors whereby NCC will adopt an Incentive Stock Option Plan ("Plan") as an executive compensation plan, and grant options under the Plan to principal officers of NCC ("Principal Officers") and others as determined by its board of directors upon receipt of an order from the Commission and approval of other regulatory authorities and upon authorization of the Plan by NCC shareholders. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant is a small business investment company licensed by the Small Business Administration ("SBA") pursuant to the Small Business Investment Act of 1958 (the "SBA Act"). Applicant is a publicly held company whose common stock is traded in the over-thecounter market. As of November 30, 1981, NCC had outstanding 1,976,629 shares held by approximately 1500 shareholders.

Applicant states that it has qualified and elected to be taxed as a regulated investment company (a "RICO") under Section 851 of the Internal Revenue Code, and intends to continue to so qualify and elect.

Applicant has submitted to the Commission applications for orders of the Commission with respect to a proposed reorganization pursuant to which the SBIC operations of NCC are to be transferred to a wholly-owned subsidiary, Narragansett Venture Coporation ("NVC"), and NCC may organize a venture capital limited partnership, Narragansett First Fund ("NFF"), of which NCC will be the sole general partner, the Principal Officers will be Class B Limited Partners, and unrelated investors will be Class A Limited Partners. Those applications are currently pending, and Applicant states that the transactions contemplated therein will be consummated as soon as practicable when the requested orders are issued by the Commission.

Applicant represents that it intends to become a business development company (a "BDC"), as defined in the Act, and to cause NVC to so elect as soon as practicable after the Internal Revenue Code has been amended to permit such elections to be made without the loss of status as a RICO. NCC represents that it qualifies otherwise now as a BDC and that NVC will so qualify, and that NCC will conduct its operations and maintain its investment portfolio as if it were a BDC and will cause NVC to do the same until such amendment to the Code is adopted and the elections made.

Applicant requests exemptions from the provisions of Sections 18(d) and 23 (a) and (b) of the Act and an order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder in connection with the adoption by NCC of the Plan and the granting of options thereunder to the Principal Officers. NCC states

that authorization of the Plan by the shareholders of NCC will be sought at the next annual meeting of its shareholders to be held on or about April 22, 1982, or any Special Meeting thereof held within 12 months of the adoption of the Plan, and that options to Principal Officers will not be issued until shareholder authorization is obtained.

Applicant states that the Plan is intended to increase the ability of NCC to retain talented and experienced key executives familiar with the venture capital business and to attract other talented executives by enabling them to obtain an equity interest in NCC and to provide incentive to obtain appreciation in the common stock of NCC. NCC states that efforts were commenced as early as 1978 to provide incentive compensation linked to the performance of the NCC common stock but those efforts were unsuccessful. Upon the passage of the Small Business Investment Incentive Act of 1980 (the "1980 Act"), NCC decided to propose a stock option plan similar to those permitted for BDC's by the Act, as amended by the 1980 Act. The Plan to be proposed to shareholders was adopted by the NCC board of directors on September 23, 1981.

Applicant states that the Plan, which is to be administered by its board of directors, has been drafted to bring the options within the Internal Revenue Code's definition of "incentive stock options," so that the Plan can provide beneficial income tax treatment for the option holders on the exercise of the options and to comport with the provisions of the 1980 Act permitting stock option plans for BDC's. The Plan is limited to 200,000 shares of NCC common stock; the aggregate number of shares with respect to which options may be granted to any one employee cannot exceed 40,000 shares; and the aggregate fair market value of the shares with respect to which any one employee may be granted options in any calendar year will not exceed $100,000, subject to certain unused limit carryovers. Applicant further states that the purchase price of shares under each option shall be fair market value of the NCC common stock at the time the option is granted (110% of such value in the case of an option holder who owns more than 10% of the outstanding shares of NCC voting stock), and the option period cannot exceed ten years (five years in the case of a 10% holder). The purchase price to be paid upon the exercise of an option must be paid in cash, except that upon receipt of an appropriate order of the Commission under the Act, the board of directors may permit payment of the purchase price by shares of NCC common stock. The board of directors may lend an option holder funds with which to exercise an option, provided the loan would comply with Sections 571(j) and 62 of the Act. Employees receiving options must agree to remain in the full-time employ of NCC or one of its subsidiaries for at least two years.

Applicant represents that, as a condition to the granting of the order requested, it will comply (and to the extent applicable, will cause NVC and NFF and any other investment company controlled by NCC to comply) with the following:

(i) NCC will elect to become a BDC as soon as reasonably practicable after the Internal Revenue Code is amended to permit NCC to retain its status as a RICO following such election and, until such election is effective, will conduct its operations and maintain its investment portfolio as if it were a BDC;

(ii) NCC will not permit the Principal Officers or other employees of NCC or NVC to participate in the Plan if the Principal Officer or other employee is then a partner in NFF, nor will NCC permit any Principal Officer or other employee holding an option under the Plan to participate as a partner of NFF, except as otherwise permitted by Commission order;

(iii) The granting of options under the Plan and compensation payable by NCC (and NVC) to any person who is a participant under the Plan will be fixed by a required majority of the NCC board of directors, who will take into consideration the present and anticipated benefits under the Plan;

(iv) Neither NCC nor NVC will have a profit-sharing plan as described in Section 57(n) of the Act while the Plan is in effect.

(v) NCC intends to conduct its operations and maintain its investment portfolio as if it were a BDC and cause NVC to do the same until the Internal Revenue Code is amended to permit BDC's to elect to be taxed as RICO's and such elections are made.

Section 18(d) of the Act, in part, makes it unlawful for any registered management investment company to issue any warrant or rights to subscribe or to purchase a security of which such company is the issuer except in the form of warrants or rights to subscribe not later than one hundred and twenty days after their issuance and issued exclusively and ratably to a class or classes of such company's security holders.

Section 23(a) of the Act prohibits any registered closed-end investment company from issuing any of its securities for services or for property other than cash or securities, including securities of which the company is the issuer, except as a dividend, a distribution or in connection with a reorganization. Section 23(b), in pertinent part, further prohibits a registered closedend company from selling any of its common stock at a price below the net asset value of such stock except under limited circumstances not applicable to the present situation.

Section 17(d) of the Act and Rule 17d–1 thereunder, make it unlawful for any affiliated person of any registered investment company to effect any transaction in connection with any joint enterprise or joint arrangement in which the registered investment company is a participant, except pursuant to an order of the Commission.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the adoption of the Plan and the issuance of options thereunder would violate Sections 18(d) and 23 (a) and (b) of the Act, absent a Commission order. Applicant also states that the Principal Officers are affiliates of NCC and will be affiliates of NVC and NFF, both of which will be affiliates of NCC, and that the adoption of the Plan and the issuance of options thereunder would be deemed a joint enterprise or a joint arrangement or profit sharing plan in which NCC is a participant. Accordingly, the adoption of the Plan and the issuance of options thereunder would be prohibited by Section 17(d) of the Act and Rule 17d–1 thereunder in the absence of an order of the Commission. NCC requests an order pursuant to Section 6(c) granting exemptions from Sections 18(d) and 23 (a) and (b) of the Act and an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting the adoption of the Plan and the subsequent issuance of options pursuant to the Plan.

In support of its application, Applicant asserts that the exemptions sought

pursuant to Section 6(c) of the Act are necessary or appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act since the Plan will benefit NCC and its shareholders by increasing the ability of NCC to retain a telented, experienced and successful core of key executives familiar with the buiness of NCC and to attract other talented executives. Applicant states that the NCC board of directors has determined that the Plan is the best way to provide an incentive for the key executives to benefit the NCC stockholders since all will have an interest in seeing the market value of the NCC common stock appreciate. The Plan requires each option holder to agree to remain in the employ of NCC or one of its subsidiaries for at least two years from the date of the granting of the option and to devote their entire time and skill to the service of NCC or its subsidiaries. NCC believes that giving its key executives a proprietory interest in NCC and an opportunity to achieve profits taxable at the favorable capital gain rate permitted by Section 422A of the Internal Revenue Code will result in higher prices for the NCC common stock.

Applicant asserts that Congress has recognized that stock options are necessary and appropriate in the public interest by the enactment of the 1980 Act which permits BDC's to establish stock option plans. Applicant further asserts that to deny such a stock option plan to NCC would make it uncompetitive in attracting capable management and work to the detriment of the NCC shareholders. Since NCC now qualifies to elect to become a BDC, NVC will so qualify, and both will continue to so qualify and will elect to become BDC's as soon as they can do so without loss of status as RICO's, Applicant submits that NCC should be permitted to establish a stock option plan which wouild be permitted for a BDC. NCC also submits that the enactment by Congress of Section 422A of the Internal Revenue Code by the Economic Recovery Tax Act of 1981 reflects recognition that stock option plans meeting the specific requirements of that section are in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

NCC also submits that the adoption of the Plan and the granting of options thereunder, satisfy the standards of Section 17(d) and Rule 17d–1 thereunder in that such actions are consistent with the provisions, policies and purposes of the Act for the reasons set forth above and the participation of NCC under the Plan is not on a basis less advantageous than that of the other participants. NCC points out that all options granted under the Plan must comply with the detailed specific provisions of the Plan, and although the term, number of shares and other provisions of each option need not be identical, the number of shares as to which options may be granted to any one employee cannot exceed 40,000, the option price under all options must be the then market value, and the aggregate market value of the shares as to which any one employee may be granted options in any calendar year cannot exceed $100,000, subject to certain unused limit carryovers.

NCC also points out that all of the options to be granted to the Principal Officers will contain identical terms under identical stock option agreements, the aggregate number of shares under such options will constitute only slightly in excess of 1 percent of the outstanding shares and the total number of shares that can be issued pursuant to the Plan (200,000) is only 10.1 percent of the outstanding shares. NCC submits that options must of necessity not be identical if they are to reflect the responsibilities of a particular employee for the profitable operations of NCC and to provide appropriate incentive in the light of other compensation of the particular employee. The terms of each option and the selection of the employees to be covered is determined initially by a compensation committee composed of three directors, none of whom are "interested persons" of NCC (as defined in the Act) and subsequently by a required majority of the board of directors. The compensation committee and the required majority of the board of directors apply the same criteria with respect to all employees in determining other compensation, as well as possible participation under the Plan and take into consideration the present and future value of any options granted in determining the amount of other compensation to be paid to such employees. Similarly, any loan to any option holder for the purpose of purchasing shares permited by the Plan must, inter alia, be approved by the compensation committee and a majority of the board of directors as in the best interest of NCC and its shareholders. If an option holder wishes to pay the purchase price upon exercise of an option by the delivery of shares of NCC stock, as is permitted by the Plan, such action would be subject to the receipt of any appropriate order of the Commission which may be required by the Act and subject to approval by the compensation committee and a majority of the board of directors.

Notice is further given that any interested person may, not later than April 21, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–9333 Filed 4–6–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18608; File No. SR–NYSE–82–4]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

New York Stock Exchange, Inc., relating to the rule change concerning the written authorization from a customer permitting the loan of securities held on margin. Comments requested on or before April 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on March 22, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-

regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would remove the provision in Rule 402 (Rule 402(b)) that requires a member organization to obtain a *separate* written authorization from a customer permitting the loan of securities held on margin. Member organizations would be permitted to integrate the consent to loan securities agreement into the overall margin agreement required to be signed by all margin customers.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change.

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Exchange Rule 402 requires that member organizations obtain custody and control of securities and maintain reserves as prescribed by Rule 15c3–3 promulgated under the Securities Exchange Act of 1934. Rule 402(b) prohibits a member organization from lending, either to itself, as a broker-dealer or to others, securities which are held on margin for a customer which are eligible to be pledged or loaned, unless they shall first have obtained a separate written authorization from the customer.

The purpose of the proposed change to Rule 402(b) is to relieve member organizations of the burden of obtaining *separate* written authorization from a customer permitting the loan of securities held on margin. The proposed amendment would remove the present requirement of two signatures (one on the margin agreement and one on a consent to loan securities agreement), thereby, permitting the customer permission to loan securities to be incorporated into the overall margin agreement. Adoption of the amendment would facilitate a member organization's back-office operations by eliminating the need to receive, process and retain unnecessary paperwork.

Statutory Basis for the Proposed Rule Change

The proposed rule change is consistent with Rule 15c3–3 and Section 6(b)(5) of the Act. It is consistent with Rule 15c3–3 in that member organizations continue to be required to obtain custody and control of securities and maintain reserves as prescribed by Rule 15c3–3.

The proposed rule amendment is consistent with Section 6(b)(5) in that it will enhance the processing of the information with respect to securities transactions by eliminating unnecessary paperwork.

B. Shelf-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

On or before May 12, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approved such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 28, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 30, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-9337 Filed 4-6-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12345; 812-4782]

Samuel Meltzer and Charles Meltzer; Filing of Application for an Order Granting an Exemption

April 1, 1982.

Notice is hereby given that Samuel Meltzer, 980 Fifth Avenue, New York, New York, and Charles Meltzer, 115 Central Park West, New York, New York, have filed an Application for an Order pursuant to Section 9(c) of the Investment Company Act of 1940 ("Investment Company Act") exempting them from the provisions of Section 9(a) of the Investment Company Act. All interested persons are referred to the application on file with the Commission, and amendment number one thereto, for a statement of the representations contained therin, which are summarized below.

Applicants Charles Meltzer and Samuel Meltzer were previously officers and directors of Marlene Industries Corporation ("Marlene"), a New York Corporation engaged in the manufacture and sale of ladies' clothing. Marlene's common stock was registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and was traded on the American Stock Exchange. Applicant Charles Meltzer, prior to October 31, 1979, was the Chairman of the Board of Directors of Marlene, and prior to November 2, 1979, the President of Marlene. Applicant Samuel Meltzer served as a director of Marlene until October 31, 1979 and as its Treasurer until November 2, 1979.

On April 16, 1979, the Commission instituted a civil injunctive action against Charles Meltzer, Samuel Meltzer and Marlene in the United States District Court for the Southern District

of New York, captioned "Securities and Exchange Commission v. Marlene Industries Corp. et al." 79 Civil 1959 (S.D.N.Y.) (JMC). The Complaint charged violations of Sections 10(b), 13(a), 13(b)(2), and 14(a) of the Exchange Act and Rules 10b–5, 12b–20, 13a–1, 14a–3 and 14a–9 thereunder. Specifically, the Complaint alleged that, since in or about the latter part of 1975, defendants Charles Meltzer, Samuel Meltzer and Marlene employed devices, schemes and artifices to defraud and failed to disclose material facts concerning among other things: (1) The payment of undisclosed benfits to Charles Meltzer and Samuel Meltzer in excess of their disclosed annual remunerations by means of inaccurate cash allowance vouchers; (2) corporate expenditures for the personal benefit of the Meltzers, which were charged to various accounts on the books and records of Marlene; (3) the solicitation of proxies by statements alleged to be false and misleading; (4) the keeping of inaccurate books, records and accounts; and (5) the failure to maintain a system of sufficient internal accounting controls.

Simultaneously with the filing of the Complaint, all three defendants consented to the entry of Permanent Injunctions and Orders for Equitable Relief, without admitting or denying the allegations of the Commission's Complaint. Charles Meltzer and Samuel Meltzer were permanently enjoined, directly or indirectly from:

(1) Violating or aiding or abetting violations of Section 10(b) of the Exchange Act and Rule 10b–5 thereunder, in connection with the purchase or sale of the common stock of Marlene, or any other security, by employing any device, scheme or artifice to defraud, engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person, or making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;

(2) Aiding or abetting violations of Section 13(a) of the Exchange Act and Rules 12b–20 and 13a–1 thereunder, by filing or causing to be filed with the Commission any annual report of Marlene, or any other issuer required to file such reports with the Commission, pursuant to Sections 12 and 13 of the Exchange Act and the rules and regulations thereunder, which is materially false or misleading;

(3) Aiding or abetting violations of Section 14(a) of the Exchange Act, and Rules 14a–3 and 14a–9 thereunder, by filing or causing to be filed with the Commission, or issuing, disseminating or causing to be issued or disseminated, any proxy soliciting material of Marlene, or any other issuer required to file such materials, containing any statement which, at the time and in the light of circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading; and

(4) Violating or aiding or abetting violations of Section 13(b)(2) of the Exchange Act by: (a) Failing to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets; and (b) failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) Transactions are executed in accordance with management's specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management authorization; and (iv) recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

The Consent Judgments and Orders further provided that, for a three year period, defendants Charles Meltzer and Samuel Meltzer woud each be required to furnish to any issuer (whose securities are publicly traded on any national or over-the-counter securities exchange), with which he intends to become associated as an officer or director, a written statement disclosing (1) the allegations of the Commission's Complaint and (2) the terms of the Consent Judgment. In addition, disgorgement was ordered in the amount of $110,000 against Charles and Samuel Meltzer who were each required to pay $55,000 to Marlene. Defendant Marlene was ordered, *inter alia*, to nominate and recommend for election to the Board, for three years, at least three independent directors and maintain for a period of at least three years an Audit Committee of the Board.

In November 1979, following the sale of Marlene's assets and an amendment to Marlene's Certificate of Incorporation which changed its name to MI Fund, Inc. and its corporate purpose to that of a closed-end diversified management investment company, MI Fund filed a Notification of Registration under the Investment Company Act with the Commission. In order to comply with Section 9(a) of the Investment Company Act, Charles Meltzer and Samuel Meltzer resigned from their respective positions with the Company as directors on October 31, 1979, and as officers on November 2, 1979.

Section 9(a) of the Investment Company Act provides, in pertinent part, that it is unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of any advisory board, investment adviser, or depositor for any registered investment company, if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) of the Investment Company Act provides that, upon application, the Commission shall grant an exemption from the provisions of Section 9(a) of the Investment Company Act either unconditionally or on an appropriate temporary or other condition 9(a), as applied to the applicant, are undully or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants Charles Meltzer and Samuel Meltzer submit that the prohibitions of Section 9(a) of the Investment Company Act should not apply to them as they would be unduly and disproportionately severe, as applied to them, and their conduct has not been such as to make it against the poblic interest or protection of investors to grant their application for the following reasons:

(1) Section 9(a) prohibits the Meltzers from serving as officers or directors of MI Fund;

(2) By virtue of their ownership of 94% of the stock of MI Fund, the Meltzers have a valid interest in serving as officers and directors;

(3) The Meltzers have embarked on a course of study of the fiduciary obligations of officers and directors of investment companies and are aware of potential conflicts of interest;

(4) MI Fund has given complete investment responsibility for, and custody of it's funds to, Manufacturers Hanover Trust Company, so that the Meltzers will have no access to the

monies or securities of the Fund and the type of activities mentioned in the Commission's 1979 Complaint could not occur;

(5) Applicants' representation that, by virtue of Marlene's Consent Judgment, the Fund must have at least three independent directors constituting a majority of the Board of Directors until at least July 1982 and thereafter, at least 40% of the Board must be independent directors pursuant to Section 10 of the Investment Company Act;

(6) The Meltzers have never been the subject of an SEC enforcement proceeding other than the 1979 Complaint and have never before applied for a Section 9(a) exemption; and

(7) The Meltzers consented to the entry of the Final Judgments against them, without admitting or denying the allegations of the Commission's complaint.

Applicants further represent that they understand that the granting of this application would not preclude the Commission from commencing proceedings under Section 9(b) of the Investment Company Act on the basis of conduct other than that giving rise to the present application, nor would it preclude the Commission, in any such proceeding, from taking such conduct into consideration.

Applicants further agree that, as a condition of the granting of this Application:

(1) They may never take salaries or directors' fees from MI Fund;

(2) The Company's funds and securities shall be held by the Fund's Custodian and investment adviser and the Applicants shall have no access thereto;

(3) The Applicants may not be in any way related to the investment adviser of the Fund;

(4) The term of the Audit Committee shall be extended for two years until the Annual Meeting in July of 1984, and shall continue until that date with its present constitution of three directors, two of whom must be independent;

(5) The Audit Committee shall review all expenditures by the Fund on a quarterly basis; and

(6) The Audit Committee shall approve prior to payment all proposed non-recurring expenditures by the Fund of $1,000 and above.

Notice is further given that any interested person may, not later than April 30, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request shall be served personally or by mail upon Albert M. Kaufman, Esq., Ballon, Stoll & Itzler, 1180 Avenue of the Americas, New York, New York 10036, Attorney for the Applicants. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0–5 of the rules and regulations promulgated under the Investment Company Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notive of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–9334 Filed 4–6–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–8039]

Tacoma Boatbuilding Co., Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

April 1, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Tacoma Boatbuilding Co., Inc. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on February 2, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before April 22, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–9335 Filed 4–6–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12; Rev. 2]

Delegation of Authority to the Associate Administrator for Finance and Investment

Delegation of Authority No. 12, Revision 1, (38 FR 13063), as amended (38 FR 16001, 38 FR 26509, 40 FR 8398, 40 FR 18054, 41 FR 42994, and 42 FR 10083) is hereby revised to delegate authority to the position of Associate Administrator for Finance and Investment as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Associate Administrator for Finance and Investment the following authority:

A. FINANCIAL ASSISTANCE ACTIVITIES

1. To approve or decline applications for business, development company, disaster, and all other types of loans and guaranty of debentures sold by development companies (hereinafter referred to as loans) authorized to be made by the Agency, (including SBIC and 301(d) and debentures and pollution

control financing guarantees) including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for loans.

3. To determine eligibility and make size determinations of loan applicants.

4. To take all necessary actions in connection with the sale of SBA guaranteed Certified Development Company debentures from time to time to the Federal Financing Bank or any other duly qualified purchaser as determined by SBA.

5. To take all necessary actions in connection with the servicing, administration, collection, and liquidation of all loans (including those made under the Small Business Investment Act), other obligations and acquired property, with the exception of those loans classified as in litigation; to resolve nonunanimous Compromise Committee recommendations, to accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereof, but is *not* authorized:

(a) To sell any primary obligations or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

(b) To deny liability of the Small Business Administration under terms of a participation or guaranty agreement, or the initiation of a suit for recovery from a participation or guaranty agreement.

6. To take all necessary actions in connection with the liquidation of EDA loans for the Department of Commerce.

7. To take all necessary actions in connection with the servicing (financial aspects) of Certificates of Competency and, as appropriate, financial aspects of contracts let by SBA under Section 8(a) of the Small Business Act, as amended.

B. PARTICIPATING LENDING INSTITUTIONS ACTIVITIES

1. *Eligibility.* To take all necessary actions in connection with determinations of eligibility for lending institutions to participate in SBA lending and financial assistance programs, including the suspension or revocation of such eligibility.

2. *Regulation.* To take all necessary actions in connection with the regulations of lending institutions participating in SBA lending and financial assistance programs, in accordance with the Small Business Act, as amended and Title V of the Small Business Investment Act, as amended, and the Regulations thereunder as amended from time to time.

C. DISASTER ACTIVITIES

1. To declare a disaster loan area for Economic Injury Disaster Loans upon notification that the Secretary of Agriculture has declared a natural disaster for that area.

2. To amend declarations made under authority of paragraph C. 1 above in accordance with amendments made by the Secretary of Agriculture.

3. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

D. INVESTMENT ACTIVITIES

To take any and all actions necessary to carry out the provisions of Titles I, II, III, and IV (with the exception of Section 310 of Title III) of the Small Business Investment Act of 1958, as amended, and of the regulations thereunder as amended from time to time, including without limitation all necessary action in connection with the making, servicing, administration, collection, sale and liquidation of partially or fully disbursed loans, obligations and property (real, personal, or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement for cash, credit, or property (real, personal, or mixed, tangible or intangible).

E. LEASE GUARANTEE ACTIVITIES

1. To take necessary actions in connection with the administration and servicing of lease rental guarantee insurance policies ("lease guarantees").

2. To process claims arising under lease guarantee policies.

F. SURETY BOND ACTIVITIES

1. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment or performance bonds on contracts up to the statutory limit.

2. To approve or decline all claims reimbursement requests from participating surety companies on contract defaults bonded with SBA guarantees.

3. To enter into agreements with the participating surety and/or insurance companies and to modify and revise the same whenever necessary.

4. To approve or decline applications for reinsured guarantees received from participating surety and/or insurance companies.

5. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under surety bond guarantees upon default.

6. To make size determinations for the purposes of surety bond guarantee program.

G. POLLUTION CONTROL FINANCING ACTIVITIES

1. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

2. To determine eligibility and make size determinations of applicants for pollution control financing guarantees.

3. To take all necessary action in connection with the servicing, administration, collection and payment of claims arising under the guarantees upon default of the small business.

4. To enter into participation agreements with qualified companies and to revise such agreements when necessary.

5. To approve the investment of funds in the pollution control guarantee fund not needed for payment of operating expenses or for the payment of claims arising under the pollution control financing program in bonds or other obligations of, bonds or other obligations guaranteed as to principal and interest by, the United States.

H. INITIAL PLACEMENT AND SECONDARY MARKET ACTIVITY

1. To plan, develop policies and procedures, direct and administer all aspects of the secondary market program and to execute any necessary documents thereto.

2. To exercise primary responsibility for secondary market matters dealing with brokers/dealers, the investment community and lenders selling the guaranteed portion of SBA loans, to insure sale closings, program oversight and relations with the fiscal and transfer agent, including reporting program activity and arranging any necessary review of the fiscal and transfer agent's activities.

3. To enter into agreements and/or contracts for necessary services to be procured to insure the efficient operation of the secondary market program.

4. To provide secondary market outreach regarding SBA lending programs included in the Small Business Act of 1953, as amended, and the Small Business Investment Act of 1958, as amended, which are appropriate for secondary market activity.

5. To determine and develop policy and procedures necessary for field support of secondary market activities.

II. The authority delegated herein may be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Associate Administrator for Finance and Investment.

Effective Date: April 7, 1982.

Dated: March 31, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-9269 Filed 4-6-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

National Productivity Advisory Committee; Meeting

The Subcommittee on Research, Development and Technological Innovation of the National Productivity Advisory Committee will meet at 1:00 pm on April 22, 1982, in Room 3424, Main Treasury Building, 15th and Pennsylvania, NW., Washington, D.C.

The purpose of the meeting will be to discuss ways of increasing productivity growth through better use of research, development and technological innovation.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

April 1, 1982.

[FR Doc. 82-9298 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1981 Rev. Supp. No. 20]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $5,365,000 has been established for the company.

Name of Company:
GENERAL CASUALTY COMPANY OF WISCONSIN

Business Address:
Post Office Box 369
Madison, Wisconsin 53701

State of Incorporation:
Wisconsin

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1981 Revision, at page 33967 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: March 29, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-9294 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 23]

Surety Companies Acceptance on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $962,000 has been established for the company.

Name of Company:
NORTHWESTERN PACIFIC INDEMNITY COMPANY

Business Address:
Suite 500, Lloyd Building
700 N.E. Multnomah Street
Portland, Oregon 97232

State of Incorporation:
Oregon

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33971 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: March 30, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-9295 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 21]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $710,000 has been established for the company.

Name of Company:
PLANET INSURANCE COMPANY

Business Address:
Compliance Department
4 Penn Center Plaza
Philadelphia, Pennsylvania 19103

State of Incorporation:
Wisconsin

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to tranact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33972 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: March 30, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-9296 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1981 Rev., Supp. No. 22]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Section 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $2,026,000 has been established for the company.

Name of Company:
Regent Insurance Company

Business Address:
Post Office Box 369
Madison, Wisconsin 53701

State of Incorporation:
Wisconsin

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annual as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision, at page 33973 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of Treasury, Washington, D.C. 20226.

Dated: March 30, 1982.

W. E. Douglas,

Government Financial Operation.

[FR Doc. 82-9297 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Number 104-3]

Disestablishment of Energy Legislative and Regulatory Analysis Staff, Office of Special Studies, Office of the Assistant Secretary (Economic Policy); Position of Special Assistant to Assistant Secretary (Economic Policy) on Energy Matters Abolished

March 22, 1982.

By virtue of the authority vested in me as the Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The Energy Legislative and Regulatory Analysis Staff, Office of Special Studies, Office of the Assistant Secretary (Economic Policy), is hereby disestablished.

2. The position of Special Assistant to the Assistant Secretary (Economic Policy) on Energy Matters is abolished.

3. This Order is effective May 1, 1982.

4. This Order amends Treasury Department Order No. 104-1, dated October 1, 1979.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 82-9299 Filed 4-6-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 67
Wednesday, April 7, 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).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, April 8, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Open to the public.

1. *Aluminum Wire*
The Staff will brief the Commission the status of the "old technology" aluminum wire project and will present options for the orderly completion of the project.
2. *Chain Saws: ANPR*
The staff will brief the Commission on issues related to an Advance Notice of Proposed Rulemaking concerning chainsaws.

Closed to the public:

3. *Compulsory Process Matter*
The staff will brief the Commission on a compulsory process matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492-6800.

[S-502-82- Filed 4-5-82; 3:50 pm]

BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:10 a.m. on Friday, April 2, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept the bid of The Philadelphia Saving Fund Society, Horsham Township (P.O. Horsham), Pennsylvania, for an assisted merger with The Western Saving Fund Society of Philadelphia, Haverford, Pennsylvania; (2) approve the application of The Philadelphia Saving Fund Society for consent to merge, under its charter and title, with The Western Saving Fund Society of Philadelphia and to establish the main office and 36 branches of The Western Saving Fund Society of Philadelphia as branches of The Philadelphia Saving Fund Society; and (3) provide financial assistance to The Philadelphia Saving Fund Society, pursuant to section 13(e) of the Federal Deposit Insurance Act, in order to facilitate the merger and prevent the probable failure of The Western Saving Fund Society of Philadelphia.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 5, 1982.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Assistant Executive Secretary.

[S-497-82 Filed 4-5-82; 3:40 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:40 p.m. on Saturday, April 3, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept appointment as Receiver of Aquia Bank and Trust Company, Stafford, Virginia, which was closed by the Virginia State Corporation Commission at 12:00 Noon (EST) on Saturday, April 3, 1982; and (2) authorize the execution of an indemnity bond for the faithful performance of the Corporation's duties as such Receiver.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 5, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-498-82 Filed 4-5-82; 3:40 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:35 p.m. on Sunday, April 4, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept the offer of Peoples Bank of Danville, Danville, Virginia, for the purchase of certain assets of and the assumption of the liability to pay deposits made in Aquia Bank and Trust Company, Stafford, Virginia, which was closed by the Virginia State Corporation Commission at 12:00 Noon (EST) on Saturday, April 3, 1982; and (2) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit

Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 5, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-499-82 Filed 4-5-82; 3:41 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, April 12, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish branches:

Penobscot Savings Bank, Bangor, Maine, for consent to merge, under its charter and with the title "Heritage Savings Bank," with Heritage Savings Bank, Rockland, Maine, and to establish the five officers of Heritage Savings Bank as branches of the resultant bank.

Caledonia State Bank, Caledonia, Minnesota, for consent to merge, under its charter and with the title "Minnesota State Bank of Caledonia," with Americana State Bank of Hokah, Hokah, Minnesota, and to establish the sole office of American State Bank of Hokah as a branch of the resultant bank.

Applications for consent to purchase assets and assume liabilities and to establish one branch:

Peoples Bank and Trust Company, Anchorage, Alaska, for consent to purchase the assets of and assume the liability to pay deposits made in the Anchorage Financial Center Branch of First Bank, Ketchikan, Alaska, and to establish that office as branch of Peoples Bank and Trust Company.

First State Bank of the Oaks, Thousand Oaks, California, for consent to purchase the assets of and assume the liability to pay deposits made in the Newbury Park Branch of Union Bank, Los Angeles, California, and for consent to establish the Newbury Park Branch as a branch of First State Bank of the Oaks.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,156-L—The Drovers' National Bank of Chicago, Chicago, Illinois

Case No. 45,169—The Greenwick Savings Bank, New York, New York

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Campbell, Woods, Bagley, Emerson, McNeer & Herndon, Huntington, West Virginia, in connection with the receivership of The Metro Bank of Huntington, Inc., Huntington, West Virginia.

Reports of committee and offices:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Report of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits:

Audit Report re: Legal Division's Case Status System, dated October 19, 1981.

Audit Report re: Confirmation of Lodging Claims, dated December 31, 1981.

Audit Report re: Audit of Equipment Purchases and Rentals, dated January 12, 1982.

Report of the Director, Division of Liquidation:

Memorandum re: East Gadsden Bank, Gadsden, Alabama, Sale of Residential Mortgage Loans to the Federal National Mortgage Association (FNMA).

Discussion Agenda:

No matter scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: April 5, 1982.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Assistant Executive Secretary.

[S-500-82 Filed 4-5-82; 3:41 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, April 12, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to change the general character of a bank's business from that of a mutual savings bank to that of a commercial bank pursuant to Part 333 of the Corporation's rules and regulations:

Alaska Mutual Bank, Anchorage, Alaska.

Personnel actions regarding appointments, promotions,

administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: April 5, 1982.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Assistant Executive Secretary.

[S-501-82 Filed 4-5-82; 3:42 pm]

BILLING CODE 6714-01-M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, April 12, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of continued weekly publication of money supply data.
2. Publication of notice inviting comment on an application by BankAmerica Corporation, San Francisco, California, to acquire the Charles Schwab Corporation and engage in securities brokerage activities.
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: April 2, 1982.

James McAfee,

Associate Secretary of the Board.

[S-492-82 Filed 4-5-82; 11:27 am]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., following a recess at the conclusion of the open meeting on Monday, April 12, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: April 2, 1982.

James McAfee,

Associate Secretary of the Board.

[S-493-82 Filed 4-5-82; 11:28 am]

BILLING CODE 6210-01-M

9

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 13093, March 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, April 14, 1982.

CHANGES IN THE MEETING: Emergency notice rescheduling the time for convening the meeting to be held on Wednesday, April 14, 1982.

By action jacket SE–82–04, the United States International Trade Commission, in conformity with 19 CFR 201.37(b), voted to reschedule the meeting of Wednesday, April 14, 1982, from 10:00 a.m., to 2:30 p.m.

Commissioners Alberger, Calhoun, Stern, Eckes, Frank, and Haggart determined by recorded vote that Commission business requires the change in schedule and affirmed that no earlier announcement of the change to the Agenda was possible and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523–0161.

[S-494-82 Filed 4-5-82; 2:29 pm]

BILLING CODE 7020-02-M

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SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 12713, March 24, 1982

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, March 22, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting on Thursday, April 1, 1982, following the 10:00 a.m. open meeting.

Formal order of investigation.
Subpoena enforcement action.
Institution of administrative proceeding of an enforcement nature.
Litigation matter.

The following item will be considered at a closed meeting scheduled for Monday, April 5, 1982, at 1:30 p.m.

Litigation matter.

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: Richard Starr at (202) 272–2467.

April 2, 1982.

[S-495-82 Filed 4-5-82; 2:46 pm]

BILLING CODE 8010-01-M

11

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1286]

TIME AND DATE: 6 p.m. (EST), Monday, April 12, 1982.

PLACE: W.N. Neff Vocational Center Auditorium (Adjacent to Abingdon High School), I–81, Exist 9 (Turn left), Abingdon, Virginia.

STATUS: Open.

A—*Project Authorizations*

1. Project Authorization No. 3601—Computer systems replacement for the Browns Ferry and Sequoyah simulators at the Power Operations Training Center.
2. Project Authorization No. 3574.1—Amendment to Project Authorization for demonstration-scale unit for curtain granulation of urea.

C—*Power Items*

1. Interagency subagreement between TVA and the U.S. Department of Energy, in accordance with TVA/DOE Memorandum of Understanding, covering arrangements for cooperation in the development of dry storage technologies for spent nuclear fuel.
2. Supplement to membership agreement with Electric Power Research Institute for TVA funding support of the Nuclear Safety Analysis Center.
3. Deed and bill of sale to Middle Tennessee Electric Membership Corporation covering conveyance of TVA's Smyrna Airport Substation located in Rutherford County, Tennessee.

*New power contract with Tennessee Chemical Company providing for power supply for operation of Cities Service Company's Copperhill, Tennessee, plant, which is being purchased by Tennessee Chemical; And assignment agreement among Cities Service, Tennessee Chemical, and TVA providing for assignment of power contract from Tennessee Chemical to Cities Service in the event sale of plant is not closed.

D—Personnel Items

1. Amendment to personal services contract with United Engineers & Constructors, Inc., Philadelphia, Pennsylvania for architectural engineering, and other related services, requested by the Office of Engineering Design and Construction.

E—Real Property Transactions

*1. Amendment to resolution relating to sale to the City of Courtland, Alabama, of a permanent easement for the construction, operation, and maintenance of sewage treatment facilities and access road affecting approximately 25.59 acres of the Courtland Plant Site in Lawrence County, Alabama.

2. Proposed grant of 19-year lease for commercial recreation development to Stock Creek Marina, affecting approximately 2.5 acres of Fort Loudoun Reservoir Land on Tennessee Highway 33 (Old Maryville Pike)—Tract No. XTFL-118L.

F—Unclassified

1. Supplement to contract with Commonwealth of Virginia covering arrangements for cooperation in the development of a comprehensive plan for strip mine reclamation and flood damage reduction in the Straight Creek Watershed at St. Charles, Virginia.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: April 5, 1982.

[S-496-82 Filed 4-5-82; 3:40 pm]

BILLING CODE 8120-01-M

* Item approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Wednesday
April 7, 1982

Part II

Environmental Protection Agency

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Financial Requirements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[SWH-FRL-1942-76]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Financial Requirements

AGENCY: Environmental Protection Agency.

ACTION: Revised interim final rules.

SUMMARY: These regulations revise interim final regulations that were promulgated on January 12, 1981 (46 FR 2851–66, 2877–88). Under the January 12, 1981, regulations owners or operators of hazardous waste management facilities had to estimate the costs of closure and post-closure care of such facilities and had to assure financial responsibility for those costs through any of three mechanisms:

—A trust fund
—A letter of credit, or
—A surety bond.

State guarantees or State-required mechanisms that are equivalent to the mechanisms specified in the regulations could also be used to satisfy the requirements. Today's regulations provide two additional options that can be used by owners or operators to demonstrate financial responsibility:

—A financial test which demonstrates the financial strength of the company owning the facility (or a parent company guaranteeing financial assurance for subsidiaries), or
—An insurance policy that will provide funds for closure or post-closure care.

In addition, specifications for the mechanisms included in the January 12, 1981, regulations have been modified, and minor clarifications have been made to the rules for estimating the costs of closure and post-closure care.

These amendments thus deal only with closure and post-closure financial assurance requirements. Third-party liability insurance requirements were also included in the January 12, 1981, promulgation. They will be the subject of a separate **Federal Register** notice to be published shortly.

DATES: Effective Dates: July 6, 1982 for standards for financial assurance of closure and post-closure care (40 CFR 264.142–151 except 264.147, and 265.142–151 except 265.147); November 19, 1980, for the cost-estimating standards for interim status facilities (40 CFR 265.142 and 265.144), and July 13, 1981, for cost estimating standards for general status (40 CFR 264.142 and 264.144). The liability requirements (§§ 264.147 and 265.147) currently have an effective date of April 13, 1982.

Comment Date: EPA will accept public comments on the revised regulations until June 7, 1982.

ADDRESSES: Comments should be sent to Docket Clerk (Docket No. 3004), Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Docket: The public docket for these regulations is located in Room S269–C, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., which is open to the Public from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Among other things, the docket contains background documents which explain, in more detail than the preamble to this regulation, the basis for the provisions in this regulation.

Submissions and Correspondence to the Regional Administrator: All documents and correspondence to be submitted to the Regional Administrator regarding these financial requirments should be marked "Attention: RCRA Financial Requirements" as part of the address.

Copies of Regulations: Single copies of these regulations will be available while the supply lasts from RCRA Hotline, (800) 424–9346 (toll-free) or (202) 382–3000.

FOR FURTHER INFORMATION CONTACT: For general information call the RCRA Hotline or write to Emily Sano, Desk Officer, Economic and Policy Analysis Branch, Hazardous and Industrial Waste Division, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

For information on implementation of these regulations, contact the EPA regional offices below:

Region I

Gary Gosbee, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223–1591

Region II

Helen S. Beggun, Chief, Grants Administration Branch, 26 Federal Plaza, New York, New York 10007, (212) 264–9860

Region III

Anthony Donatoni, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–7937

Region IV

Dan Thoman, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 881–3067

Region V

Thomas B. Golz, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–4023

Region VI

Henry Onsgard, Attention: RCRA Financial Requirements, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767–3274

Region VII

Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3307

Region VIII

Carol Lee, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837–6258

Region IX

Richard Procunier, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 974–8165

Region X

Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1260

SUPPLEMENTARY INFORMATION:

I. Authority

These regulations are issued under the authority of Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 USC 6905, 6912(a), and 6924.

II. Background

Section 3004(6) of RCRA requires EPA to establish financial responsibility standards for owners and operators of hazardous waste management facilities as may be necessary or desirable to protect human health and the environment. EPA has concluded that, at a minimum, financial responsibility standards are necessary and desirable to assure that funds will be available for proper closure of facilities that treat, store, or dispose of hazardous waste and for post-closure care of hazardous waste disposal facilities. The financial responsibility standards promulgated January 12, 1981, included requirements for such assurance and also for liability insurance coverage. The amendments

promulgated today, and this Preamble, are limited to the requirements for financial assurance for closure and post-closure care.

Financial responsibility standards for inclusion in Part 264 (general standards to be used in issuing permits) and Part 265 (interim status standards for existing facilities awaiting final disposition of permit applications) were first proposed on December 18, 1978 (43 FR 58995, 59006–07). Under the proposed regulations, the owner or operator could assure payment of closure and post-closure costs only with a trust fund. The closure trust fund had to be fully paid up when established, while the post-closure fund could be built up over 20 years or the remaining operating life of the facility, whichever was shorter.

As a result of commenters' suggestions and further Agency analysis, a reproposal was issued May 19, 1980 (45 FR 32260–32278), which allowed a variety of options in providing financial assurance for closure and post-closure care: trust fund, surety bond, letter of credit, financial test, guarantee of the owner's or operator's obligations by an entity meeting the financial test, and a revenue test for municipalities. The reproposal allowed both the closure and post-closure trust funds to build over 20 years or the remaining life of the facility, whichever was shorter. State guarantees or State-required mechanisms could be used to satisfy the financial requirements if they were substantially equivalent to the mechanisms specified.

Also on May 19, 1980, final regulations establishing interim status standards for estimating the costs of closure and post-closure care (40 CFR 265.140, 142, and 144) were promulgated (45 FR 33243–44). The compliance date for these cost-estimating standards was changed from November 19, 1980, to May 19, 1981, by an amendment issued October 30, 1980 (45 FR 72040).

Interim final regulations establishing requirements for mechanisms providing financial assurance for closure and post-closure care were promulgated on January 12, 1981 (46 FR 2851, 2877–2888) with an effective date of July 13, 1981. These regulations allowed the use of trust funds, surety bonds, and letters of credit to satisfy the requirements for financial assurance for closure and post-closure care. For interim status facilities, the closure and post-closure trust fund pay-in period was 20 years or the remaining life of the facility, whichever was shorter. The pay-in period was limited to the term of the permit for permitted status. State guarantees and State-required mechanisms that are equivalent to the mechanisms specified in the regulations could also be used to satisfy the requirements.

At the time of the January 12 promulgation, the Agency had not yet decided whether to allow use of a financial test, a guarantee based on a financial test, or a revenue test for municipalities to satisfy the financial requirements. The Agency's analysis of the numerous issues raised by commenters regarding these mechanisms was not complete at that time. The Agency decided to proceed with promulgating regulations for the other mechanisms because of the need to begin assuring financial responsibility for hazardous waste management and also the need to meet the court-ordered schedule for issuing RCRA regulations. The Agency intended to publish its decisions or regulations on the financial test, guarantee, and revenue test within 3 months of the January 12, 1981, promulgation so that owners and operators would have adequate opportunity to consider any newly available options prior to the effective date of July 13, 1981. However, this work could not be completed in the expected time. Furthermore, comments on the January 12 regulations indicated that some revision of those regulations would be desirable. To allow adequate time for completing the work on the additional options and the revisions, the effective date was deferred from July 13 to October 13, 1981 (notice published May 18, 1981, 46 FR 27119). On October 1, 1981, the effective date was again deferred, to April 13, 1982, because the revised regulations were not ready for promulgation, and the Agency was considering whether to propose withdrawal of the liability requirements.

The effective date for the standards for financial assurance of closure and post-closure care is now July 6, 1982. The effective date is thus further extended because the Agency believes that owners and operators will need approximately 3 months after promulgation to review the revised regulations and make arrangements to establish financial assurance. Owners and operators who plan to use the new insurance option need only submit by the effective date a statement from a qualified insurer saying that the insurer is considering issuance of a closure or post-closure insurance policy meeting the specifications of the regulation to the owner or operator. Within 90 days after the effective date, these owners and operators must submit a certificate of insurance as specified in the regulations or, if the policy is not issued, evidence of having established other financial assurance. The Agency is making this special provision for prospective users of the insurance option because the closure and post-closure insurance mechanisms are being published for the first time today; a competitive market in this insurance is not available; and the Agency believes an additional period should be allowed during which the market might develop and the price advantages of a competitive market might become available to owners and operators.

The current effective date for the liability requirements, April 13, 1982, is retained for the present; these requirements will be the subject of a separate **Federal Register** notice to be published shortly.

Today's promulgation consists essentially of the January 12, 1981, regulations with revisions to the mechanisms for financial assurance for closure and post-closure care, the addition of certain other mechanisms, and revisions to the cost-estimating provisions. The added mechanisms that may be used in providing financial assurance for closure and post-closure care are a financial test, a guarantee based on the financial test, and insurance. A revenue test for municipalities was not adopted for reasons explained below.

The following sections discuss the additions, significant changes, and major issues raised by commenters:

III. Financial Assurance for Closure and Post-Closure Care

A. The Financial Test and Guarantee

Following the original proposal of financial requirements in December 1978, commenters suggested that the Agency allow many different means of financial assurance as alternatives to the proposed trust fund, including a test of financial soundness. The Agency agreed that a financial test might provide adequate assurance of financial responsibility and developed such a test for inclusion in the reproposed regulations of May 19, 1980 (45 FR 33268, 33272). Evaluation of comments received on that test and further Agency analysis resulted in the financial test promulgated today.

1. *The Proposed Test.* Under the reproposed regulations of May 19, 1980, an owner or operator could satisfy the requirements for finanical assurance of closure or post-closure care by having: (1) At least $10 million in net worth in the United States; (2) a total-liabilities-to-net-worth ratio of not more than three; and (3) net working capital in the United States equal to at least twice the estimated closure and post-closure costs of the owner or operator. These

characteristics had to be demonstrated in a financial statement audited by an independent certified public accountant. The statement was to contain unconsolidated balance sheets dated no more than 140 days prior to the date that the test was applied. An owner or operator using the financial test had to notify the Agency within 5 days of learning that he no longer met the test; he was then obliged to substitute other financial assurance within 30 days. This financial test was intended to work so that an owner or operator who passed it had the financial capability to establish one of the alternative forms of financial assurance should he later fail the test. Firms passing the test were not likely to fail suddenly. This objective was retained in the subsequent development of the financial test.

2. *The Financial Test Promulgated Today.* After a detailed reevaluation, the Agency is promulgating regulations that allow an owner or operator to satisfy the financial assurance requirements by demonstrating that he meets either of the following sets of criteria.

Alternative I:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates.

Alternative II:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates.

In developing the financial test the Agency was particularly concerned with three general goals: (1) Funds should be available for closure and post-closure care for protection of human health and the environment. (2) As a matter of equity, the parties responsible for closure and post-closure obligations, i.e., owners and operators, should pay those costs. (3) Costs to the regulated community of providing financial assurance should be as low as possible. The amount of direct public costs in the form of unfunded closure and post-closure care resulting from use of the test indicates the degree to which the first two goals are achieved, and the amount of private costs to owners and operators of providing financial assurance is the indicator for the third goal. In assessing the various possible test criteria, the Agency examined these costs and considered them in selecting the elements of the test.

The following sections summarize the comments received on the proposed financial test and how the final requirements were selected. This information is presented in detail in a Background Document which covers the financial test and revenue test for municipalities.

3. *Comments on May 19, 1980, Proposed Test: General Aspects.* Some commenters suggested that the minimum net worth and working capital requirements be higher, lower, or deleted entirely. Alternative tests or additional elements of a test were suggested, including net income, cash flow measures, "quick assets," and financial ratios. Bond ratings were suggested as an alternative to or substitute for the proposed financial test. Many commenters said the reporting requirements were not consistent with other financial reporting requirements and therefore represented high additional costs.

4. *Separate Industry Tests.* Some commenters suggested that each industry should have its own financial test. A review of the industries that provided comments of this kind, as well as a general analysis of industry data and previous studies of the forecasting of financial distress, suggest that a single test can be used for most firms engaged in manufacturing. However, financial tests found to be valid for distinguishing viable from nonviable firms engaged in manufacturing were often not valid or useful for establishing the viability of firms in industries with unique financial characteristics, such as utilities. Positive net working capital, for instance, is uncommon for electric utilities and firms in some other service-related industries. As a result, an alternative financial test option was developed (see Alternative II above), which is based on bond ratings and is more appropriate for utilities and firms with similar financial characteristics. The Agency believes on the basis of its evaluation (see paragraph 8 below) that with these two options the financial test is valid for all industries likely to engage in hazardous waste management. However, anyone who believes that separate test criteria are necessary for a particular industry may submit a petition under Section 7004(a) of RCRA requesting inclusion of such criteria in the regulations. To enable the Agency to evaluate the petition adequately, it should describe the proposed criteria fully and how they may be routinely verified, and include data and analysis demonstrating the need for separate test criteria and their validity.

5. *Net Working Capital Requirement.* Some commenters strongly objected to the use of working capital as a test criterion, stating that their industries commonly did not maintain a positive net working capital position (excess of current assets over current liabilities). The Agency's analysis found that in manufacturing industries likely to engage in hazardous waste treatment, storage, or disposal, virtually all viable firms maintain positive net working capital. For a manufacturing firm, a negative net working capital position is an excellent indicator that the firm is in a difficult financial situation. The Agency's review of financial data for bankrupt manufacturing firms indicated that the vast majority experienced rapid decline in working capital in the years immediately prior to bankruptcy. As a result, the Agency decided to require that firms maintain a multiple of the cost estimates in the form of net working capital in one of the two test options. Firms that satisfy the other test option, which requires an investment-grade bond rating, will have proven access to credit and demonstrated viability.

Some commenters suggested modifications to the common definition of working capital that would allow owners and operators to use existing lines of credit, cash flow, or fixed assets that could be liquidated to satisfy part or all of the net working capital requirement. The Agency has decided to retain the present definition of working capital. Some of the alternatives proposed by the commenters (lines of credit, liquidation value of fixed assets) are not usual line items in financial statements and would therefore add to the administrative burden of these regulations. More importantly, the Agency believes that, given the significance of negative net working capital as an indicator of financial distress, it is useful to retain net working

capital, as currently defined, as an element in one of the test alternatives.

In the proposed test of May 19, 1980, the owner or operator had to have net working capital amounting to twice the cost estimates in order to use the financial test. This was intended to ensure that the payment of closure and post-closure costs could be made before insolvency occurred. However, given the possibility of rapid deterioration in net working capital of a firm experiencing serious financial distress, and the possibility that lengthy legal proceedings may be required before the owner or operator establishes other financial assurance, a higher multiple seemed advisable. The Agency conducted an analysis of firms which had experienced rapid deterioration of their financial condition for 2 to 3 years prior to business failure. This analysis showed that net working capital of these firms fell by an average of 66 percent in 2 years. The Agency believes that in order to ensure that adequate liquid assets, as indicated by net working capital, will be available for closure and post-closure care, net working capital of at least six times the estimated costs is an appropriate level. This figure is obtained by multiplying the factor of 2 (to ensure current ability to pay) times 3 (to ensure against a high rate of deterioration before payment can be brought about). With a multiple of 6, it is likely that even a rapidly deteriorating firm will have net working capital amounting to twice the cost estimates 2 years after failing the test.

6. *Net Worth Requirements.* The May 19, 1980, proposed financial test required net worth (total assets minus total liabilities) of at least $10 million. The Agency has decided to retain that requirement for several reasons. The business failure rate for firms with $10 million or more in net worth is significantly lower than for firms overall. The Agency estimates that it would enter into twice as many bankruptcy proceedings to recover funds for closure and post-closure care if the $10 million in net worth criterion were dropped, even if other criteria were retained. In addition, the number of instances in which the hazardous waste facility itself represents the only significant income-producing asset of an owner or operator will be reduced by a $10 million in net worth requirement. If the facility is the owner's or operator's only source of income, closure will cut off all his income and thus increase the risk that there will not be adequate funds to complete closure and post-closure care.

Since firms with $10 million or more in net worth are more stable than smaller companies, the Agency believes these larger firms are less likely to abandon hazardous waste facilities or otherwise avoid closure or post-closure responsibilities. The Agency furthermore believes that retaining the $10 million requirement will keep the burden of administering this new financial assurance mechanism at manageable levels; monitoring the use of the financial test by less stable firms can be expected to be more time-consuming and a greater administrative burden. The Agency will, however, continue to explore the possibilities of having a financial test for firms of less than $10 million in net worth. Suggestions from the public are invited on this issue.

A number of commenters suggested that a firm passing the financial test should be required to have a net worth at least as great as the net working capital requirement. While it is unusual for firms to have less net worth than net working capital, the possibility does exist, and such a firm would be very weak financially. The Agency agrees with these commenters and has added a requirement that a firm have a net worth of at least six times the closure and post-closure cost estimates.

One commenter recommended that owners and operators be allowed to meet requirements for amounts of net worth with tangible net worth only. Assets of firms often include intangibles such as goodwill, patents, and trademarks which may be difficult to convert into cash to pay for closure or post-closure costs. The Agency agrees with the commenter and is providing that only tangible net worth may be used to meet the requirements for $10 million in net worth and for net worth of at least six times the cost estimates. In the financial ratio requirements, however, net worth rather than tangible net worth is used since that is customary for financial ratios, which were found to be effective predictors of financial stability.

7. *Financial Ratios.* The third component of the proposed financial test was a required ratio of total liabilities to net worth of less than 3 to 1. A number of commenters suggested that this ratio was unrealistically high and that cutoff points of 2 to 1 or 1.5 to 1 would be better measures of viability. In reevaluating this requirement, the Agency found that a ratio of 2 to 1 to be a more appropriate ratio. Other commenters suggested adding other financial variables to the test, such as cash flow, net income, and current and quick asset ratios. The Agency considered all of these in its evaluation of alternative tests, as described immediately below.

8. *Evaluation of Alternative Tests.* Following the suggestions of several commenters, the Agency conducted an extensive analysis of the performance of numerous financial tests and made detailed calculations of the costs they would entail.

A sample consisting of 178 viable firms and 66 bankrupt firms was constructed for the empirical testing of candidate financial tests. The bankrupt firms were identified from previous bankruptcy forecasting literature and an independent search; all had filed for bankruptcy between 1966 and 1979. The sample of nonbankrupt firms was designed to represent the expected asset size range and mix of industries likely to seek to use a financial test. Another sample of 26 nonbankrupt utilities was also studied. From the comments on the proposed test, and from the research results of previous bankruptcy forecasting, the Agency assembled a list of over 300 candidate financial tests.

For each test evaluated against the sample, the Agency computed two primary measures of effectiveness. One was the likely rate of bankruptcy for firms passing the test. This measure determines the effectiveness of a test in eliminating firms that would be major sources of direct public costs and also indicates the potential burden of the test on Agency resources (i.e., the burden of having to recover closure and post-closure costs from these firms in bankruptcy proceedings). The other primary measure was the percentage of viable firms that would be able to use the financial test as an option. This factor represents the test's potential for reducing private costs by allowing firms to use an alternative which costs less than a letter of credit or other financial mechanism.

The effectiveness of tests in eliminating firms in the bankrupt firm sample varied widely. Where several tests attained the same level of effectiveness in eliminating bankrupt firms, the test that simultaneously allowed the greatest number of viable firms to use it was judged a "best test." This methodology enabled the Agency to identify 16 "best test" options which could be further evaluated. Among these "best tests," those without the $10 million in net worth requirement were eliminated because, as explained above, the Agency believes the requirement is necessary for assuring that funds will be available for closure and post-closure care.

Of the tests requiring $10 million in tangible net worth, the one which resulted in the lowest sum of direct public and private costs was selected as one of the financial test options. It requires that an owner or operator have $10 million in tangible net worth, have tangible net worth and net working capital each at least six times the sum of closure and post-closure costs, and pass two of the following three ratio tests: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5. (The "sum of net income plus depreciation, depletion, and amortization" used in the second ratio is often referred to as "cash flow.")

Finally, the owner or operator must have assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the closure and post-closure cost estimates. This requirement was included to help ensure accessibility to funds in the event of bankruptcy or other default. The Agency believes that allowing firms to meet this requirement by having 90 percent of their assets in the United States rather than requiring all firms using the test to have six times the cost estimates in U.S.-located assets will save some firms added reporting costs while providing equivalent assurance. The standards of the American Institute of Certified Public Accountants provide that information about the identifiable assets fo a firm's foreign operations should be included in its financial statements if those assets are 10 percent or more of total assets. The Securities and Exchange Commission requires that firms filing Form 10K reports indicate those assets located outside the United States if 10 percent or more of their assets are located outside this country. A firm with less than 10 percent of its assets outside the country and filing a Form 10K will therefore not have to take the additional step of identifying the exact amount of assets in the United States in order to meet this requirement of the financial test.

Bond ratings are required in the alternate test option. An analysis of available data on the performance of the two major bond rating services (Moody's and Standard and Poor's) showed that firms receiving any of the four highest ratings (investment-grade bonds) have compiled a record of financial strength at least equal to that indicated by meeting the criteria of the first test option. In order to ensure that adequate assets are available to cover possible closure and post-closure expenditures, a firm using the bond ratings test must also have (1) tangible net worth amounting to at least $10 million and at least six times the sum of closure and post-closure cost estimates and (2) assets in the United States must represent at least 90 percent of total assets or at least six times the sum of cost estimates.

The Agency will initially accept bond ratings issued only by Moody's or Standard and Poor's. However, in order to determine whether there are other bond rating services that could also be used, EPA requests information establishing how well the ratings assigned by other bond-rating services have performed over time.

In its study of ratings that might be used in the financial test, the Agency focused on bond ratings because they relate to long-term debt, and closure and post-closure costs are generally long-term obligations. However, the Agency is considering the advisability of also using commercial paper ratings in the same manner. If its analysis indicates that they would be effective when so used, the Agency intends to amend the regulation to allow use of certain commercial paper ratings as an alternative to bond ratings in the financial test. The Agency invites comment on such use of commercial paper ratings.

The Agency estimates that amending the financial assurance requirements to allow use of the financial test significantly reduces the overall costs of the regulation. As much as 96 percent of currently viable firms with $10 million in net worth would pass the test. If the test were not allowed as a financial assurance mechanism, the additional costs to those firms are estimated at $3 million per year. The Agency's analysis indicates that only a very small percentage of the firms that pass this test could be expected to go bankrupt without providing alternative financial assurance (.01 percent).

The Agency concluded from its evaluation that the financial test should be allowed as a means of satisfying the financial requirements because it provides strong assurance of availability of funds and minimizes regulatory costs.

9. *The Closure and Post-Closure Cost Estimates.* An owner or operator may use the test to demonstrate financial assurance for closure, post-closure care, or both closure and post-closure care of one or more facilities.

The "current closure and post-closure cost estimates" referred to in the test criteria must include, first, all such estimates for facilities of which the firm using the test is the owner or operator and for which it is demonstrating financial assurance through the financial test of Parts 264 or 265. Second, if the firm is providing one or more guarantees as specified in these regulations (see later discussion of corporate guarantee), the cost estimates of the facilities for which closure or post-closure care is being guaranteed must be included. Third, if the firm has facilities in States where EPA is not administering the financial requirements but the firm is demonstrating financial assurance to the State through a financial test equivalent or substantially equivalent to the test in Parts 264 and 265, the cost estimates covered by such tests must be included. Finally, if the firm is the owner or operator of facilities for which financial assurance for closure or required post-closure care is *not* being demonstrated, to a State or EPA, through the financial test or any of the other mechanisms specified in these regulations or equivalent or substantially equivalent State mechanisms, the closure and post-closure cost estimates for such facilities must be included. There are likely to be some facilities in this last category because, in the first phase of authorization of States to administer the RCRA regulations, States are not required to adopt requirements for establishment of financial assurance, although they are encouraged to do so. In later phases of authorization, States must have financial requirements equivalent or substantially equivalent to those in Parts 264 and 265.

The Agency's objective in these provisions is to assure that the sum of closure and post-closure costs against which the firm's financial condition is being tested through the financial test is complete. The sum should include all estimated closure and post-closure costs which the firm is obligated to cover, minus those covered by acceptable financial assurance mechanisms other than the financial test.

10. *Reporting Requirements.* The reporting requirements of the proposed test were revised following evaluation of the numerous comments on the requirements and further information obtained on financial reporting practices. To minimize reporting costs, and as recommended by commenters, the Agency evaluated only tests which it could administer without requiring the routine submission of financial data which would ordinarily not be obtained in the preparation of financial statements.

As evidence of satisfying the financial test, a firm must submit:

(1) A letter to the Regional Administrator signed by its chief financial officer that includes the required data from the firm's independently audited, year-end financial statements and the cost estimates for closure and post-closure care; and

(2) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(3) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that the accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements and, in connection with this procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

The Agency believes that the independent accountant's reports add significantly to the reliability of the data submitted and therefore must be required. Independent accountants are guided by standards set by the Securities and Exchange Commission for auditors within the scope of the Federal securities laws and by a Code of Professional Ethics promulgated by the American Institute of Certified Public Accountants. In addition, the profession is regulated, to differing extents, by State licensing boards and State societies of certified public accountants.

If the auditor's opinion that is included in his report on examination of the owner's or operator's financial statements is an adverse opinion or contains a disclaimer of opinon, the owner or operator will be disallowed from using the financial test to satisfy the financial requirements. An adverse opinion states that the financial statements do not present fairly the financial condition of the firm in conformity with generally accepted accounting principles. A disclaimer of opinion states that the auditor does not express an opinion on the financial statements. The Agency believes that in either case it cannot rely on data from such financial statements to determine whether the firm passes the financial test.

The Regional Administrator may disallow use of the financial test based on other qualifications expressed in the auditor's opinion of the firms's financial statements. If the opinion raises questions as to whether the firm will continue as a "going concern," the Regional Administrator will disallow use of the financial test. Other qualified opinions will be evaluated on a case-by-case basis. The owner or operator must provide alternative financial assurance within 30 days after disallowance.

After the initial submission of the letter from the chief financial officer and the accountant's reports, a new letter and new reports for each subsequent fiscal year must be submitted to the Regional Administrator within 90 days after the end of the firm's fiscal year. Alternatively, the owner or operator must deliver to the Regional Administrator, by the end of this 90-day period, a notice of intent to provide substitute financial assurance as specified in the regulations and, within 120 days after the end of the fiscal year, establish the substitute financial assurance.

If the Regional Administrator has reason to believe that the owner or operator may no longer meet the test criteria, he may request additional financial reports or other relevant information from the owner or operator. Upon a finding by the Regional Administrator that the owner or operator no longer meets the criteria, the owner or operator will be required to establish other financial assurance. Failure to provide alternate assurance when required, after disallowance or after no longer passing the test, will be considered a violation of RCRA regulations and cause for issuance of a compliance order or initiation of legal proceedings under Section 3008 of RCRA.

A number of firms will probably show part or all of the estimated costs of closure and post-closure care of their hazardous waste facilities as liabilities on their financial statements. However, since this may not yet be common practice, and it is not clear to what extent the estimated costs will appear as liabilities in the statements, the test as currently constituted does not assume that the statements include the estimated closure or post-closure costs as liabilities. In order not to penalize those firms that do include these costs in their liabilities, the chief financial officer is authorized to subtract any portion of closure and post-closure costs included in liabilities from the figure shown for total liabilities in his annual letter and add that amount to the figures for net worth and tangible net worth.

The effective date of the regulations may come too soon after the end of an owner's or operator's fiscal year to allow adequate time to prepare the required documents based on data for the just-completed fiscal year. To resolve this problem, the financial test provisions in Part 265 allow a one-time extension if an owner's or operator's fiscal year ends during the 90 days before the effective date and if the firm's financial statements are being independently audited. The extension may last up to the date 90 days after the end of the fiscal year. To obtain the extension the chief financial officer of the firm must send a letter to the Regional Administrator by the effective date of these regulations. In the letter he must request the extension; certify that he has grounds to believe that his firm meets the financial test criteria; identify the facilities to be covered and their cost estimates; specify the date when the firm's fiscal year ended; specify the date no more than 90 days after the end of the fiscal year when he will submit the documents required; and certify that the firm's year-end financial statements are being independently audited.

The Agency is studying the possibility of reducing the reporting burden of the financial test for many owners and operators by using data they have already submitted in routine reports to the Securities and Exchange Commission. Such data are available on computer tapes from commercial companies. If this approach proves feasible, users of the test who file data regularly with the SEC may have to report only current closure and post-closure cost estimates annually to EPA. The Agency plans to examine the workability of this system during the first year that the financial test is in use. Following evaluation of the results, the Agency will decide whether to amend the regulations to eliminate reporting of data that is obtainable through the automated system.

11. *The Corporate Guarantee.* Under the May 19, 1980, proposal, an owner or operator could meet the financial assurance requirements by obtaining a guarantee from another entity that met the financial test requirements. The object was to allow qualified parent corporations to provide financial assurance for subsidiaries. In the guarantee requirements promulgated today, the guarantee is explicitly restricted to such use. Furthermore, the Agency has adopted a definition of parent and subsidiary (a parent must own at least 50 percent of the voting stock of the subsidiary) which ensures that the connection between the two firms will be close and direct. The parent company is likely to have a strong interest in the satisfactory performance of its subsidiary, and this incentive strengthens the guarantee, in the Agency's view. Nevertheless the

Agency invites comments on the question of whether a guarantee by a business entity other than a parent corporation, as defined in these regulations, should be allowed. Comments addressing the extent of need for such an option, how it should differ from the one promulgated today, and the enforceability of such a guarantee under State laws are particularly encouraged.

Under the regulations promulgated today, the parent-guarantor must meet the same requirements as an owner or operator using the financial test and has an independent contractual obligation to EPA. In effect, he "stands in the shoes" of the owner or operator, as far as assurance for closure or post-closure care is concerned, through this guarantee. If the owner or operator fails to perform closure or post-closure care as required, the guarantor must do so or fund a trust fund in the full amount of the cost estimates in the name of the owner or operator. If the guarantor falls below the test criteria or is disallowed from continuing as a guarantor because of qualifications in the auditor's opinion of the guarantor's financial statements, the guarantor must provide alternate assurance financial assurance in the name of the owner or operator if the owner or operator himself does not do so.

The cancellation provisions are comparable to those of the surety bonds and letters of credit (*infra*). The guarantor must give a 120-day notice of cancellation to the owner or operator and the Regional Administrator by certified mail. If the owner or operator does not establish alternate financial assurance and obtain the Regional Administrator's written approval of this assurance within 90 days after the notice is received, the guarantor must provide alternate assurance in the name of the owner or operator.

B. Closure and Post-Closure Insurance

This promulgation includes insurance as another mechanism that may be used to satisfy the financial assurance requirements (§§ 264.143(e), 264.145(e), 265.143(d), and 265.145(d)). The insurance mechanism was not sufficiently developed for inclusion in past proposals or in the interim final regulations of January 12, 1981, although the Agency's consideration of such a mechanism was noted in the Background Document for the January 12 regulations. The Agency believes that the insurance mechanism will provide strong financial assurance; add to the range of options available to owners and operators, especially small entities; and offer cost advantages to some owners and operators.

As explained above in the Background section, owners and operators who plan to use the insurance option have until 90 days after the effective date to submit evidence of having obtained the insurance. They do have to submit by the effective date a statement from a qualified insurer saying that the insurer is considering issuance to the owner or operator of a closure or post-closure insurance policy conforming to the specifications of the regulations. If such a policy is not issued, the owner or operator must submit evidence of other financial assurance as specified in these regulations within 90 days after the effective date.

The Agency decided to include the insurance option in the interim final regulations without first proposing it for several reasons. First, inclusion of the insurance option in today's regulations will provide a reasonable degree of assurance that owners and operators will be able to consider insurance along with the other mechanisms as the means they will use to satisfy the financial assurance requirements by the effective date. Later promulgation of the insurance option could mean that owners and operators who prefer this option would first have to obtain another instrument until the insurance mechanism was allowed and until they could review its provisions and make arrangements to obtain it. Second, promulgation of the insurance option at this time provides prospective suppliers of the insurance with a firm basis for analysis and planning. The Agency believes this may lead to the development of a more competitive market among insurers by the date certificates of insurance must be submitted by owners and operators, and that such competition would be conducive to reasonable prices for the insurance. Third, the insurance option does not impose additional regulatory burdens on the owner or operator but rather adds to his range of alternatives in meeting a regulatory requirement.

Because the financial requirements are being issued as interim final regulations, there will be a 60-day comment period. Any inadequacies in the closure and post-closure insurance provisions may be called to the Agency's attention during that time. The agency will make any necessary corrections before the date by which those who select the insurance option must submit a certificate of insurance (90 days after the effective date of the regulations).

1. *Face Amount of Policy.* The policy will be issued with a face amount (the total amount the insurer is obligated to pay under the policy) equal to at least the current cost estimate for closure or post-closure care unless the policy covers only part of the estimated cost and the rest is covered by another instrument. When the cost estimate increases, the face amount of the policy must be increased by the owner or operator, unless the increase is covered by another instrument. when the estimate decreases, the face amount may be decreased following written approval by the Regional Administrator.

During the post-closure period, the face amount of the post-closure policy will increase annually to reflect earnings of the funds remaining under the policy. The minimum increase must be equal to the face amount, less any payments by the insurer for post-closure expenses, multiplied by 85 percent of the most recent investment rate or the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities. The Agency believes this provision ensures a rate of return that is reasonable compared with other low-risk investments and allows for compensation to the insurer for administrative costs. A higher rate of return may be agreed upon by insurer and insured.

2. *Maintenance of Coverage.* The owner or operator must continue to make premium payments which are due unless alternate financial assurance as specified in the regulations is substituted. Failure to pay the premium without alternate financial assurance will constitute a serious violation of these regulations, a violation that begins upon receipt by the Regional Administrator of a notice of cancellation, termination, or nonrenewal.

The insurer may cancel, terminate, or fail to renew the policy only if the premium is not paid. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If the cost estimates to which the policy applies have increased, the insurer and insured may agree to cover that increase in the renewal policy.

In order to cancel, terminate, or not renew the policy upon nonpayment of premium, the insurer must provide 120 days' notice to the owner or operator and the Regional Administrator, by certified mail. Cancellation, termination, or nonrenewal may not occur, however, if by the expiration date: the Regional Administrator deems the facility to be abandoned; the Regional Administrator terminates interim status or the permit,

whichever is in effect; closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; the owner or operator is named as a debtor in bankruptcy proceedings; or the premium is paid.

The owner or operator may cancel the policy if the Regional Administrator gives written consent based on his receipt of alternate financial assurance that meets the requirements of the regulations or on completion of the closure or post-closure obligations.

3. *Payment Provisions.* The insurer will make available the face amount of the policy for closure whenever closure occurs. The amount for post-closure care will be made available whenever post-closure care begins. These funds for closure and post-closure care will be made available regardless of the owner's or operator's ability to pay these costs. The insurer will pay out the funds at the direction of the Regional Administrator to the owner or operator or any other party authorized to conduct closure or post-closure care. The Regional Administrator will approve payments when they are in accordance with the closure or post-closure plan or otherwise justified.

The Regional Administrator may withhold reimbursement of a portion of closure expenditures as he deems prudent if he determines that the cost of closure appears to be significantly greater than the face amount of the policy. The purpose of such withholding is to extend financial assurance until completion of closure. Any funds withheld will be released when satisfactory certifications of closure are received by the Regional Administrator. These provisions for payment are the same as those for the trust fund.

4. *Costs and Availability.* Development of the insurance plan was encouraged by the Agency in hopes of providing smaller entities with a widely available alternative to the trust fund. Insurance offers several advantages over the trust fund. The insurance plan assures that the full amount of the cost estimate will be available for closure or post-closure care whenever the the funds are needed, even upon abandonment of the facility, financial incapacity of the owner or operator, or premature closure. By contrast, the trust fund can provide only that which has been paid into the fund plus trust earnings. The owner or operator as well as the public benefits from this complete coverage, as the owner or operator is relieved of the economic burden of the potential liability for closure and post-closure costs. With insurance coverage, these costs will not appear as liabilities on the financial statements of the firm.

The cost of the insurance to owners and operators will be strongly affected by the tax treatment of the premium payments. EPA plans to ask IRS to clarify how tax rules apply to this insurance plan. Individual owners and operators may request a ruling or determination letter under Revenue Procedure 80–20.

5. *Requirements for Insurers.* The requirements for this insurance include qualifications of the insurer. The insurer must, at a minimum, be licensed to transact the business of insurance, or be eligible to provide insurance as an excess or surplus lines insurer, in one or more States. The Agency is studying the need to include other qualifications and invites comments on this matter. Among the possible qualifications that the Agency is studying are those suggested by the National Association of Insurance Commissioners and others in connection with the liability requirements of §§ 264.147 and 265.147.

The NAIC recommended the following wording for a provision setting forth qualifications that must be met by providers of the liability insurance:

"The Regional Administrator shall not accept insurance policies as complying with this section unless such policies are underwritten by an insurance institution which:

"(1) Is domiciled in the United States and authorized to transact the business of insurance as an admitted or nonadmitted insurer in the state where the insured facility is located, or

"(2) Is a captive insurer licensed under a state law authorizing the formation and operation of captive insurers, or

"(3) Is an alien insurer in good standing on the Non-Admitted Insurers Quarterly List published by the Non-Admitted Insurers Information Office of the National Association of Insurance Commissioners."

Another commenter said a rating of at least "A" in *Best's Insurance Reports* and a Best's financial size rating, which may be related to the size of the risk involved, should be required of insurers. Other commenters advised that many companies rely heavily on captive insurers for liability coverage and captives should not be excluded by the regulations.

The Agency invites comments on the subject of qualifications for insurers providing insurance for costs of closure and post-closure care, including comments on the suggestions received regarding liability insurance.

C. Trust Funds

A number of revisions, mainly clarifications and corrections, have been made to the January 12, 1981, trust fund provisions. The following describes the revisions and major comments received.

1. *The Trust Agreement.* The Agency has made the following changes to the wording of the trust agreement. In the revised agreement, the identification of facilities and cost estimates are on a separate Schedule A instead of in the agreement itself; this avoids amending the entire agreement when a cost estimate changes. Inadvertent carryovers from a trust agreement used as a model (an agreement for trusts under the Employee Retirement Income Security Act) were eliminated. A clarification was made to avoid the implication that the owner or operator could impose specific investment directions on the trustee. The section on annual valuations was revised to make it clear when the trustee must furnish the valuations (at least 30 days prior to the anniversary date of establishment of the fund, with securities valued as of no more than 60 days prior to the anniversary date). The section on successor trustees was revised to allow trustees to resign without first obtaining written agreement from the Regional Administrator and the owner or operator but with resignation effective only after a successor is appointed and accepts the trust, which is standard practice. These changes in the trust agreement resulted from evaluation of suggestions from the banking community.

2. *Updating Cost Estimates in the Trust Agreement.* The trust agreement must show the current cost estimate or portion thereof for which financial assurance is being demonstrated through the trust fund. The January 12, 1981, regulations did not explicitly state that the owner or operator must keep this information up to date. This information must be up to date in order for the Regional Administrator to monitor the amount of funds being assured through the trust fund and the adequacy of payments. A provision has therefore been added to the trust regulations stating that whenever the amount of the cost estimate being assured through the trust fund changes, the owner or operator must update Schedule A of the trust agreement, which contains this information,within 60 days after the change.

3. *The Pay-In Period.* Several commenters said that limiting the pay-in period for the trust funds under Part 264 to the term of the permit seemed unreasonable and recommended a period of 20 years or remaining operating life, whichever is shorter, as under Part 265. As stated in the preamble to the January 12 regulations,

however, the Agency does not want to be in the position of considering, at the end of the term of a pemit, whether to allow a poorly managed facility to remain in operation so that it could continue to build its trust fund to cover the costs of closure and post-closure care. The trust must therefore be fully funded over the term of the initial permit or the remaining operating life of the facility, whichever is shorter, to assure that the money to provide proper closure and post-closure care will be available. In the January 12, 1981, regulations, the pay-in period under Part 264 was the term of the permit only; it was assumed that the term would never exceed operating life. The change to term of permit or operating life, whichever is shorter, was made since it is possible that operating life will not always extend to the formal term of the permit.

4. *Initial Payment into Trust for a New Facility.* The January 12, 1981, regulations required the first payment for a trust fund for a new facility 60 days before waste was first received for treatment, storage, or disposal. A commenter said that this was unnecessary and that it was also unfair because the surety bonds and letters of credit do not have to be effective until waste is received. The revised regulation requires the initial payment to be made before the first receipt of waste rather than 60 days before. The Agency agrees with the commenter that little is gained in added financial assurance by requiring payment 60 days in advance. The trust agreement, however, must be submitted to the Regional Administrator 60 days in advance of the initial receipt of waste at the facility.

5. *Tax Treatment.* One comment was received on the tax treatment of the trust fund. The Internal Revenue Service is currently considering the tax treatment of these trusts. Owners and operators who desire individual rulings may request them from the IRS.

6. *Payments for Closure.* Under the proposed regulations of December 18, 1978, the entire amount of the closure trust fund was retained by the trustee until completion of closure. Financial assurance for closure was thus maintained in case closure was not completed or not completed properly. The Agency decided, however, that this would impose a hardship on some owners and operators, since, in effect, they would have to pay for closure twice before they were reimbursed. Under the proposed regulations of May 19, 1980, therefore, owners and operators could be reimbursed even while closure was taking place. However, the Regional Administrator was to withhold approval of payment of 20 percent of the fund until he received satisfactory certifications of closure. The January 12, 1981 regulations continued the withholding of 20 percent, and the trust agreement required the trustee to notify the Regional Administrator when 20 percent remained in the fund following payment of bills. The Agency has concluded, however, that it is more properly the Regional Administrator's role to keep track of the amount of funds remaining and therefore deleted that requirement in the trust agreement. In addition, the Agency is concerned that in some instances where the cost estimate is found to be seriously inadequate, more than 20 percent should be held in reserve. Therefore, the regulations now provide that if the cost of closure appears to be significantly greater than the value of the trust fund, the Regional Administrator may withhold such amounts from payment as he deems prudent until he receives satisfactory certifications of closure.

Both in the January 12, 1981 regulations and the revised regulations, the Regional Administrator has 60 days to make determinations regarding requests for payments out of the trust funds. One commenter stated that this provision penalized the owner or operator by restricting cash flow. The Agency believes that there will be instances when 60 days will be needed by the Agency to approve payments from the trust funds in order to adequately assess whether the bills are in accordance with the closure plan for the facility or are otherwise justified. The Regional Administrator may need part of this period to determine whether the cost of closure is significantly greater than the value of the trust fund, and if so, what portion of the fund should be withheld from disbursement until satisfactory completion of closure. The Agency recognizes that withholding approval of release of the funds can cause a problem to owners and operators and will follow a policy of expediting payment requests as quickly as possible, with 60 days as the limit.

D. Surety Bonds

The only substantive changes to the January 12, 1981 regulations for surety bonds used to satisfy the financial assurance requirements are changes in the cancellation provisions and in the timing of the guaranteed payment of funds for closure into a standby trust fund.

1. *Cancellation Provisions.* The requirements for the surety bonds and letters of credit in the January 12, 1981 regulations included a provision preventing their cancellation or termination while a compliance procedure was pending. This prohibition has been eliminated and other related changes have been made in the cancellation provisions. The changes are the same for letters of credit and surety bonds and are discussed in the following section on letters of credit.

2. *Time of Funding.* The financial guarantee bond for closure now guarantees funding of the standby trust fund before the beginning of final closure, while in the January 12 regulation the trust had to be funded 60 days before the beginning of closure. (Alternatively, the standby trust must be funded 15 days after an order to begin closure is issued by the Regional Administrator or a court of competent jurisdiction.) The 60-day period was required to ensure that funds would be available by the expected date of closure, either from the owner or operator or the surety. Upon reconsideration, however, the Agency believes the added assurance of advanced funding is not necessary. In order to obtain and retain the surety bond, the owner or operator must assure the surety company of its continuing capacity to meet obligations. The Agency believes it is unlikely that the owner or operator with a surety bond will fail to fund the trust; however, if he does fail, under the terms of the bond the surety must fund the trust in his place.

3. *Limits on Use of Performance Bonds.* Financial guarantee bonds may be used as a financial assurance instrument during interim status (Part 265) and permitted status (Part 264), and they may be used to cover part or all of the closure or post-closure cost estimate. Performance bonds are allowed only for permitted status and must cover the whole amount of the estimate.

A few commenters disagreed with the Agency's decision to not allow use of performance bonds during interim status (Part 265). The Agency's reason for retaining this restriction is as follows. During interim status the closure and post-closure plans for a facility are generally not reviewed by the Regional Administrator until shortly before the time of closure. Upon such review the Regional Administrator may find that major changes are needed in the plans. The Agency believes a performance bond is not appropriate when the actual required performance for the particular facility may not be specified in any detail during most of the term of the bond.

One commenter said he disagreed with the Agency's decision not to allow

an owner or operator to cover a cost estimate partially with a performance bond and partially with other instruments. The commenter said the surety company would simply pay its pro rata share if the owner or operator defaulted. The Agency has decided to retain this restriction because putting together the performance guarantee with funds from sources other than the surety may necessitate protracted negotiations among financial institutions which would delay closure or post-closure care.

4. *Format.* The January 12, 1981 regulations had separate bond forms for closure and for post-closure care because the Agency believed combining them might be confusing. Commenters suggested that a combined format would be more convenient and save paperwork. The Agency accepted this suggestion. One financial guarantee bond or performance bond may now be written to cover closure, post-closure care, or both. Identifying information at the beginning of the form will indicate which type of coverage is being provided for each facility.

5. *Availability.* Several members of the surety industry commented that, because of the long periods of the obligations and the cancellation provisions requiring alternate financial assurance, they would either not write these bonds or do so only for their largest, strongest clients. Commenters from the regulated community, however, have recommended that bonds be included as an allowable option or indicated that they intended to obtain bonds. The Agency believes that the availability of surety bonds may increase as experience of sureties with hazardous waste facilities increases. Also, bonds may be more available for facilities that are nearing the time of closure since the period of the obligation would then be relatively short and definite.

E. Letters of Credit

Several changes were made in the letter of credit in the January 12, 1981 regulations. Most were recommended by banks and banking organizations to achieve conformity with current practices.

1. *Cancellation Provisions.* Under the January 12, 1981 regulations for termination or cancellation of letters of credit and surety bonds, the issuing institution had to provide at least 90 days' notice of intent to terminate or cancel the instrument. The notice was to be sent by certified mail to both the owner or operator and to the Regional Administrator. Upon receipt of the notice, the Regional Administrator was to issue a compliance order requiring the owner or operator to provide, within 30 days, alternate financial assurance in accordance with the regulations. The issuing institution could not terminate the instrument while a compliance procedure was pending. If the owner or operator failed to establish alternate financial assurance, the Regional Administrator could direct the issuer of the letter of credit or bond to pay the amount of the credit or bond into the owner's or operator's standby trust. The Agency believes a compliance proceeding should be instituted to provide opportunity for a hearing in accordance with procedures under Section 3008 of RCRA prior to ordering such payment. Since it might not always be possible to hold a hearing within the 90-day period, it seemed necessary to prevent termination until the compliance procedure was completed.

Financial institutions that issue letters of credit expressed strong dissatisfaction with the provision preventing expiration while a compliance procedure is pending, since it did not permit a definite date of termination, which is considered an important feature of letters of credit. Staff of the U.S. Comptroller of the Currency confirmed that this cancellation provision went against accepted principles regarding letters of credit. Sureties did not cite the provision specifically but said that the cancellation provisions did not give them adequate opportunity to limit their risk.

One commenter opposed issuance of a compliance order by the Regional Administrator upon his receipt of a notice of cancellation from a surety. The commenter said it seemed unfair to the owner or operator since he would not have an opportunity to obtain alternate financial assurance before such an order was issued.

In response to the comments by financial institutions and others, the Agency modified its approach to cancellation of letters of credit and surety bonds. The prohibition of expiration while a compliance procedure is pending was eliminated. Under the revised regulations, notices of cancellation must be delivered to both the owner or operator and the Regional Administrator at least 120 days before actual cancellation. A compliance procedure will not be instituted because a cancellation notice is received. Owners or operators will have 90 days to provide alternate financial assurance and obtain written approval from the Regional Administrator based on his determination that the mechanism is in accordance with the required specifications. If the owner or operator fails to provide such assurance and obtain such approval within the 90 days, the Regional Administrator will direct the issuing institution to make payment into the owner's or operator's standby trust. The Agency views such drawings on the instruments in the 30 days before cancellation as the normal and necessary means of maintaining financial assurance through these instruments.

The Agency believes that this provision avoids the problem of the uncertain expiration date and allows the owner or operator an adequate opportunity after a cancellation notice to clearly establish alternate financial assurance before the Regional Administrator draws on the instrument.

Several commenters said that uncertainty of the expiration date would also be caused by the provision in the January 12 regulations requiring that the 90-day period for notice of cancellation was to begin on the date of receipt of the notice by the Regional Administrator, as shown on the return receipt, rather than on the date such notice was sent. The Agency believes, however, that the amount of uncertainty should be minimal in most instances and that the possibility of delay in delivery can be planned for and monitored by the sender. The provision is necessary to prevent expiration from taking place without the knowledge of the Regional Administrator or the owner or operator and to prevent shortening of the effective notification period due to delays between mailing and actual receipt. As explained above, under the revised regulations 120 days' notice is required to allow adequate time for the owner or operator to obtain substitute financial assurance and approval of such assurance by the Regional Administrator. This period is to begin on the date when both the owner or operator and the Regional Administrator have received the notice, as evidenced by the return receipts.

2. *Standby Trust.* Comments were received on the requirement that the issuing institution deposit any payments it makes into the owner's or operator's standby trust. Banks said that letters of credit do not usually entail such a responsibility, and furthermore the bank cannot know whether it has deposited the money into the right trust. They recommended that the Regional Administrator make the deposit or at least have the bank depend on the Regional Administrator's instructions in making the deposit. Under the revised regulations the bank still must deposit the funds into the standby trust, since

EPA does not have authority to directly receive funds derived from financial assurance mechanisms under RCRA, but the deposit must be made in accordance with the Regional Administrator's instructions.

3. *Separate Letter Identifying Facilities and Cost Estimates.* The letter of credit in the January 12, 1981, regulations incorporated information identifying the facilities for which funds were being assured and the amounts of the credit designated for financially assuring closure or post-closure care of each facility. Commenters said that such information is usually not included in letters of credit, which should be written as simply and briefly as possible. Since the information could be in an accompanying letter from the owner or operator, the Agency decided to require such a letter and remove the requirement for having the information in the letter of credit itself.

4. *Certifications.* Certification of authority to execute the letter of credit was part of the required language for the letter of credit included in the January 12, 1981, regulations. Commenters said such a certification is not part of other letters of credit and serves no purpose. One commenter said that a person who would write a letter of credit without authority to do so would not be stopped by a certification in the letter. The Agency agrees that it provides little added protection and has removed it.

Commenters also recommended that certification that the wording of the letter is identical to the wording specified in the regulations be eliminated, but the Agency believes the requirement is necessary to ensure that the specified wording is used. Standard language is necessary because infinite variations are otherwise possible, and the Agency does not have the resources or expertise to review unlimited numbers of variations to determine whether they adequately assure availability of funds for closure and post-closure care.

One commenter stated that it was unreasonable to require wording identical to that specified in the regulations because regulations change. To clarify the Agency's intent, the revised regulations now state that the wording of the letter of credit must be identical to that specified in the regulations as these regulations were constituted on the date the letter was executed. This change has been made also in each of the other financial assurance instruments.

5. *Facilities in Different Regions.* Several commenters from the regulated community said they should be allowed to cover facilities in different Regions with one letter of credit. The Agency did not allow this in the January 12, 1981, regulations because it appeared that, under the policies of some banks, increasing and decreasing the amount of the credit could be a complex procedure when multiple beneficiaries were involved. However, the Agency has now decided to allow coverage of facilities in different Regions with a single letter of credit. Where banking procedures are cumbersome the owner or operator is likely to use a separate letter of credit for each Region since he must still meet the time requirements for increasing the amount of the credit if the cost estimate goes up. In instances where coverage in different Regions through one letter is not complicated, there may be paperwork savings for the owner or operator in obtaining such a letter of credit.

F. Revenue Test for Municipalities

A revenue test for municipalities was part of the May 19, 1980 reproposal (45 FR 33268, 33273). A municipality passed the test and thereby demonstrated financial assurance if it had annual general tax revenues which were 10 times the cost estimates to be covered. As with the financial test, however, the Agency could not reach a decision as to whether to include or not include the revenue test in time for the January 12, 1981, regulations.

After intensive study the Agency has decided not to include the revenue test for municipalities among the allowed mechanisms. The analysis leading to this decision is described in the Background Document for the financial test and revene test. The Agency is concerned that if funds are not set aside specifically for closure and post-closure care, the municipality will face difficulties in allocating funds for that purpose when they are needed. If budgetary and legislative processes, bond issues, or voter approval of new taxes are necessary, there is the possibility that necessary closure and post-closure activities will not be performed in a timely manner. A majority of comments received from local officials and other individuals knowledgeable about local government finances, as well as the literature on the subject, stress the fact there is little leeway in most local budgets and some municipalities are presently in severe financial straits. A 10-percent budget reallocation would be possible only in extreme situations. Also, the Agency has not been able to find strong empirical support for the argument that a larger multiple will provide satisfactory assurance. It is not clear that municipalities will be able to shift expenditures rapidly to closure or post-closure care regardless of the multiple adopted. Furthermore, enforcement proceedings to bring about such a reallocation by a municipality may engender difficult issues in Federal-State-local relations.

The Agency considered the use of a test for municipalities based on detailed financial information indicative of current financial solvency. Accounting and reporting procedures of municipalities in general vary greatly, however. The Agency concluded that a requirement which would be based upon the quantification of assets and tangible net worth would not be uniformly applicable because of these various accounting and reporting methods presently employed by municipalities. The Agency does not believe that municipal bond ratings, a criterion suggested by several commenters, would be adequate as a sole indicator of ability to pay the amounts of the estimated closure or post-closure costs. The Agency was thus unable to develop a set of financial indicators, similar to the financial test criteria, that would be suitable for municipalities in general. A number of special-purpose, fee-based municipalities are essentially identical to private entities; because of their financial characteristics and accounting and reporting practices they may be able to use the financial test to satisfy the financial assurance requirements.

The Agency believes that other municipalities that are financially sound will be able to use a trust fund or one of the other financial assurance mechanisms allowed. The guarantee by the State (§§ 264.150 and 265.150) may be an especially appropriate mechanism for municipalities. Municipalities are created by State law, and the States are in a far better position to gauge the financial condition of their municipalities than is EPA. Consequently, in the event a State wishes to reduce the cost of the program upon its municipalities, it may choose to guarantee the obligations of certain or all of its municipalities. In the even a State lacks sufficient confidence in the fiscal strength of its municipality to extend such a guarantee, it would clearly not be appropriate for EPA to allow the municipal entity to avoid providing adequate financial assurance.

G. Use of State Mechanisms

States in which EPA is administering the RCRA financial requirements may also have issued their own financial requirements applicable to owners and operators. Under the financial requirements of Parts 264 and 265, an

owner or operator may use State-required mechanisms to meet EPA's requirements for financial assurance for closure and post-closure care and liability coverage if such mechanisms are equivalent to those specified by EPA. Commenters on this provision (§§ 264.149 and 265.149) in the January 12, 1981, regulations said it was inadequate because it did not say who would decide whether the mechanism was equivalent or how equivalency would be determined. The Agency agreed with these comments and revised the Section. It now provides that the Regional Administrator will decide whether the mechanism is equivalent. Two principal factors will be evaluated: whether availability of funds for financial assurance for closure or post-closure care or for liability coverage is of a least equivalent certainty, and whether the amount of funds assured is at least equivalent. The Regional Administrator also has discretion to consider other factors. If a mechanism is equivalent except in the amount of funds it will make available, the owner or operator may still use the mechanism in satisfying the EPA financial requirements but must make up the difference in amount by increasing the funds available through the State mechanism or through use of the EPA-specified mechanisms.

An owner or operator who wishes to use a State-required mechanism to satisfy the financial requirements of Parts 264 or 265 must submit a request to do so and evidence of establishment of the State-required mechanism. He will be considered to be in compliance with the relevant portion of the financial requirements of Parts 264 or 265 pending a determination of equivalency by the Regional Administrator.

These same provisions for determining equivalency were incorporated into §§ 264.150 and 265.150, which allow owners and operators to use State guarantees to satisfy the financial requirements of Parts 264 and 265 if they are equivalent to mechanisms specified in those Parts.

H. Exemption of Facilities With Small Cost Estimates

Several commenters recommended that the Agency exempt facilities with small closure cost estimates from the requirements for financial assurance for closure because the cost of establishing financial assurance would amount to more than the cost of closure. The Agency has concluded that, on the basis of current available information, an exemption should not be allowed on the grounds that the cost estimate is small. A small cost estimate is not an indication that the risk of damage is small. The failure to perform necessary closure or post-closure activities at sites at which even a small amount of hazardous waste is present could result in a great deal of damage. Many large firms will be able to use the financial test to easily cover small estimates. Small firms should be able to reduce the administrative costs of financial assurance for small amounts to a minimum by using a fully collateralized letter of credit.

The Agency believes a facility for which the cost estimate is as small as the minimum cost of providing financial assurance will usually be a small storage facility owned or operated by a hazardous waste generator. Under existing rules for hazardous waste generators (§ 262.34), waste generators can avoid providing financial assurance by not storing waste on site longer than 90 days. This practice would also promote environmental protection.

Over the next year, the Agency plans to study actual facilities with relatively small closure cost estimates to evaluate the potential risks posed to human health and the environment should an exemption be allowed. The Agency will then review the question of exempting facilities with small estimates in light of the study findings. For purposes of this review the Agency also solicits information from owners and operators with closure cost estimates of up to $10,000 on the specific costs of the mechanisms they are using to satisfy the financial assurance requirement.

I. Restricting Means of Financial Assurance

Several commenters have stated that EPA should not require specific means of financial assurance and specific wording of financial instruments because alternate methods and wording may be preferable to some owners and operators and equally effective for the Agency's purposes.

As discussed in the Preamble to the January 12, 1981, regulations (46 FR 2823), the Agency has concluded that it must require specific mechanisms for financial assurance. An open-ended approach would impose an intolerable administrative burden on the Agency, especially in light of its limited experience and resources in the area of evaluating financial mechanisms. EPA believes it has allowed those mechanisms which adequately provide financial assurance and are feasible, and EPA will continue to be receptive to proposals and petitions for additions and improvements to the allowed options.

J. Notice of Release From Financial Assurance for Post-Closure Care

The January 12, 1981, regulations in Part 264 provided that when an owner or operator completed all post-closure care requirements to the satisfaction of the Regional Administrator for the period of post-closure care specified in the permit for the facility or the period specified by the Regional Administrator after closure, whichever period was shorter, the Regional Administrator would, at the request of the owner or operator, notify him that he is no longer required to maintain financial assurance for post-closure care of the facility. In Part 265, this provision was the same except that, rather than the period specified in the permit, a period of 30 years for post-closure care was used, in accordance with Subpart G of Part 265. In the revised regulations, the notice of release is contingent on completion of all post-closure care requirements in accordance with the post-closure plan. The Agency intends that the post-closure plan for the facility will continuously reflect the post-closure care requirements for the facility, including the period of post-closure care. The Agency therefore decided that financial assurance for post-closure care should be explicitly tied to the plan and the period set forth in the plan.

During the post-closure period, if the owner or operator can demonstrate that the amount of funds assured by a mechanism specified in these regulations exceeds the amount that will be needed over the entire period of post-closure care, the Regional Administrator may approve a decrease in the amount assured by the mechanism. Potential effects of inflation as well as requirements specified in the post-closure plan will be major considerations in evaluating requests for decreases in the amounts of funds assured.

K. Incapacity of Owners, Operators, Guarantors, and Issuing Institutions

The January 12, 1981, regulations required that if the institution that has issued the surety bond, letter of credit, or insurnace policy used by an owner or operator to satisfy the financial requirements become incapacitated by bankruptcy, insolvency, or suspension or revocation of its license or charter, the owner or operator must establish other financial assurance within 60 days after such an event. The Agency decided to eliminate insolvency of the issuing institution from this provision in the revised regulations because of its

conclusion that insolvency is not a readily identifiable condition.

Under the revised regulations, an owner or operator using a trust fund to satisfy the financial requirements must also obtain alternate financial assurance if the trustee institution becomes bankrupt or its authority to act as trustee is suspended or revoked. The Agency decided that mainenance and quality of financial assurance are better protected if trust funds are also covered by this provision. The affected owner or operator may comply with the requirement simply by arranging for a successor trustee that meets the qualifications of the regulations.

One commenter said that the period during which alternate assurance must be provided should be extended to 120 days and should begin after public notice of the event rather than the event itself. The Agency has retained the provision in its original form since it believes 60 days is adequate time for an owner or operator to become aware of incapacity of the issuing institution and to obtain an alternate mechanism.

The Agency has added a provision requiring an owner or operator named as a debtor in a bankruptcy proceeding under Title 11 of the U.S. Code to notify the Regional Administrator within 10 days after commencement of the proceeding. It is important that the Regional Administrator be aware of such an event since it may have important implications for continuity of operations at the facility and the owner's or operator's ability to meet financial obligations such as costs of closure and post-closure care. Under the terms of the guarantee based on the financial test, a guarantor is also obligated to notify the Regional Administrator if he is named as debtor in a bankruptcy proceeding.

IV. Estimating Costs of Closure and Post-Closure Care

Several clarifications have been made to the cost-estimating regulations (§§ 264.142, 264.144, 265.142, 265.144). The cost-estimating regulations for interim status facilities were issued as final regulations on May 19, 1980 (45 FR 33243–33244). The compliance date for these regulations was changed from November 19, 1980, to May 19, 1981, by an amendment issued on October 30, 1980. The cost-estimating regulations for permitted status were issued as interim final regulations on January 12, 1981 (46 FR 2852 and 2856) and were effective July 13, 1981. The clarifications include:

In the revised Part 265 cost-estimating regulations, it is made clear that the adjustment for inflation must be done on the anniversary of the date on which the first estimate was prepared, rather than on the anniversary of the effective date of the regulations (November 19, 1980). This is consistent with the specifications for Part 264 and the Agency's intent that the adjustments should be done on an annual basis.

In the previous regulations, the required annual inflation adjustments to the post-closure cost estimates were clearly limited to the operating life of the facility, but changes in the estimates due to changes in the post-closure plan were not. The revised regulations state that the latter changes are also required only during the operating life of the facility. This revision makes the regulation internally consistent and consistent with the Agency's intent that cost-estimating be required only during operating life.

The previous regulations required that all cost estimates be retained at the facility because the Agency was concerned that the estimates showing a breakdown of costs as well as the adjustments be available at the facility. To reduce the possible burden on owners and operators if they were required to keep every cost estimate over the years and because of the Agency's conclusion that having all prior estimates available at the facility is not necessary, the revised regulation states explicitly that only the latest cost estimate based on the closure or post-closure plan and the latest adjusted cost estimate have to be kept at the facility.

In the January 12, 1981, regulations, the term "adjusted cost estimate" was used to represent the latest estimate as required in the regulations. In the revised regulations, the term "current cost estimate" is used instead to avoid confusion in instances where the latest estimate is one which has not yet been adjusted for inflation.

Because the Agency has received several inquiries from owners and operators as to whether the first estimates were to be prepared in current dollars, the revised regulations state explicitly that current dollars are to be used.

V. Regulatory Impact Analysis

Executive Order 12291 (46 FR 13193, February 19, 1981) requires that EPA prepare a Regulatory Impact Analysis for each major rule. The Order defines a "major rule" as any regulation that is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or
- Significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These revised regulations are not "major" in themselves; rather, they are changes to existing regulations. These changes reduce the cost of meeting RCRA financial responsibility requirements by providing additional options that will be less expensive. Nevertheless, a preliminary Regulatory Impact Analysis of these interim final requirements was completed in September 1981 because they constitute a significant component of the body of RCRA regulations. The final analysis is scheduled to be completed in the spring of 1983, after the Agency determines how it will comply with Executive Order 12291 and publishes that guidance in the **Federal Register**. The following is a summary of the preliminary analysis:

A. Benefits of the Regulation

The financial assurance requirements will result in the following benefits:

1. *Greater Equity.* The requirements will ensure the equitable result that the persons who benefit directly from hazardous waste treatment, storage, and disposal activities will pay the costs of proper closure and post-closure care.

2. *Other Economic Benefits.* The requirements will also provide the following benefits:

- A reduction in the number of accidents resulting from releases of hazardous wastes;
- A reduction in the costs of disposal of hazardous wastes;
- Avoidance of increases in cost of closure and post-closure care by ensuring available funds; and
- Elimination of unfair competition.

a. *Accident Reduction.* The requirements will result in the costs of closure and post-closure care being included in the cost of managing hazardous waste. This should result in reduced amounts of hazardous waste being generated, which will itself reduce the chance of accidents. More importantly, however, facility owners and operators will have greater incentive to improve operating procedures and reduce the risk of accidents. In particular, the funds to be set aside for closure depend directly on the maximum extent of operation (amount of waste exposed) and the maximum amount of inventory. Thus there is a built-in incentive to minimize waste exposed to the environment,

which should reduce the risk of accidents.

b. *Reduced Costs of Proper Disposal.* Owners and operators of hazardous waste treatment, storage, and disposal facilities will now almost certainly be faced with assuming the cost of closure and post-closure care. This creates an incentive to locate, design, and operate facilities to minimize closure and post-closure costs. For example, design and operating procedures which would leave a costly post-closure care responsibility are more likely to be avoided.

c. *Avoidance of Increases in Closure and Post-Closure Costs by Ensuring Available Funds.* The regulations will ensure that nearly every owner or operator will have funds available to cover the costs of proper closure and post-closure care. Past incidents confirm that the absence of funds for closure and post-closure care can lead to significant deterioration in the condition of the facility and that this deterioration results in much higher closure and post-closure costs than would have occurred if funds had been available to take immediate measures. For example, it is less costly to handle hazardous waste in a container before it has ruptured, rusted, or otherwise spilled on the ground, into an aquifer or surface body of water, or in an ecologically sensitive area. Therefore, the regulations will help to reduce the total costs of managing hazardous waste by ensuring that funds will be available for timely closure and post-closure care.

d. *Elimination of Unfair Competition.* In the past, some owners and operators have chosen to ignore costs of closure and post-closure care, which has enabled them to gain a competitive edge over owners and operators who assumed these responsibilities. These regulations will help to discourage unfair competition and ensure that owners and operators bear these costs of their operations.

B. Costs of the Regulation

The annual private costs of these regulations are $9.4 million for closure assurance and $10.6 million for post-closure assurance, for a total annual private cost of $20 million. The annual social costs of the regulations—the value of resources actually used, disregarding transfers of money between private parties and between private parties and the government—are $6.7 million, or 34 percent of annual private costs. Owners and operators of landfills and surface impoundments will incur over 84 percent of the annual private costs and over 53 percent of the annual social costs of these regulations.

C. Comparison of Costs and Benefits

Even if no value is assigned to greater equity in distribution of costs and to reduction in unfair competition, the benefits of these regulations are likely to exceed their social costs if:

- This regulation causes 4.5 percent of the accidents at hazardous waste sites to be prevented, and there is no reduction in the cost of disposal and no avoidance of growth in costs of closure and post-closure care; or
- This regulation causes the costs of closure and post-closure care to be reduced 11 percent, on average, by proper location, design, and operation of hazardous waste facilities, and there is no reduction in accidents; or
- This regulation causes some combination of these two factors such as a 2 percent reduction in the number of accidents at hazardous waste facilities and a 6 percent reduction in the costs of closure and post-closure care.

Because the Agency believes that such savings are likely, because there is considerable value to equitable cost distribution and reduction of unfair competition, and because the record shows considerable irreversible damage from abandonment of hazardous waste facilities, the Agency has concluded that the benefits of these regulations outweigh their costs.

VI. Paperwork Reduction Act

Under the Federal Reports Act of 1942, as amended by the Paperwork Reduction Act of 1980, the Office of Management and Budget (OMB) reviews reporting requirements in regulations in order to minimize the reporting burden on respondents and the cost to government. EPA submitted an information collection report to OMB in March 1981 covering the financial responsibility mechanisms promulgated as interim final regulations on January 12, 1981. EPA believes the reporting of the information required by the additional financial assurance mechanisms promulgated today represents no additional burden to the regulated community. The financial test requirements could result in added reporting burden, if, as provided by the regulations, the Regional Administrator requests financial information in addition to the documents routinely required because of his resonable belief that the firm may not meet the test criteria. However, the financial test is one of several options; the firm may choose to substitute other financial assurance if it does not wish to supply the requested information. The reporting burden for the closure and post-closure insurance provisions promulgated today corresponds closely to that of the trust fund, surety bond, or letter of credit.

In other revisions to the January 12, 1981, regulations, the Agency has reduced the paperwork burden. Owners and operators are no longer required to keep all their estimates for closure and post-closure care (only the latest ones). The same bond form can be used to cover financial assurance for closure and post-closure care. A single letter of credit may be used to cover facilities in different Regions. Instruments specified in both Parts 264 and 265 are now worded identically, so that an owner or operator with multiple facilities can provide financial assurance for those facilities through one instrument even if some facilities are permitted and others are under interim status. (The instruments appear in Part 264 and are incorporated by reference in Part 265.)

An amended information collection report covering the additional mechanisms and revisions will be submitted to OMB. EPA anticipates that OMB review will be completed well before the reporting requirements take effect.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Federal agencies must, in developing regulations, analyze their impact on small entities (small businesses, small governmental jurisdictions, and small organizations). This requirement applies to Federal regulations proposed after January 1, 1981. Of the financial responsibility regulations promulgated today, the only portion that was not proposed before January 1, 1981, is the portion on the insurance for closure and post-closure costs (which was developed specifically with small businesses in mind). In keeping with the spirit of the Regulatory Flexibility Act, however, the following summary is presented of the expected effects of the requirements on small entities.

EPA studies indicate that treaters, storers, and disposers of hazardous waste represent a wide spectrum of U.S. industry. Governmental bodies and other types of organizations are also represented among owners and operators. Large entities are predominant: of a sample of facilities for which notifications were received under Section 3010 of RCRA, two-thirds were located at plants with over 500 employees. A definition of "small entities" for the purposes of the RCRA regulations has not yet been set; however, entities with 500 or more employees at a plant would probably

not be considered small under any such definition. In this same sample, among facilities located at plants with less than 100 employees, the following industries were most frequently represented: Chemicals and Allied Products; Fabricated Metal Products; Agricultural Services; Machinery, Except Electrical; Business Services; Printing and Publishing, Miscellaneous Manufacturing Industries; Electric and Electronic Equipment; Petroleum and Coal Products; Transportation Equipment; and Primary Metal Industries.

In developing the array of financial assurance mechanisms to be included in the regulations the Agency considered every suggested means and has greatly widened the range of alternatives allowed since the first proposal of December 1978. The Agency has sought to allow maximum flexibility within the constraints of the need for reliable financial assurance and for administrative feasibility. The Agency believes that this approach will prove beneficial to owners and operators of all sizes.

Of the financial assurance mechanisms allowed as means of satisfying the requirements, the Agency expects that the trust fund and the insurance plan will be the ones most frequently used by small entities because their availability will not be dependent on the size of the owner or operator. The Agency believes that fully collateralized letters of credit will also be widely available, but except for assurance of small amounts, such instruments would be comparatively expensive for long-term financial assurance. Some small entities will be able to use corporate guarantees written by their parent firms which pass the financial test. Small entities themselves are not likely to pass the financial test, and often will not be able to obtain surety bonds or unsecured letters of credit.

Following are major actions and decisions of the Agency affecting the means of financial assurance available to small entities:

- The Agency developed insurance as an alternative for small entities that would otherwise have only trust funds as available means of financial assurance. As described earlier, the insurance plan may offer cost advantages to small owners and operators as well as provide more effective financial assurance.
- Allowing the trust funds to be built during a pay-in period will lessen the impact of the cost of this instrument. The Agency is concerned that requiring immediate full funding may lead to many premature closures by small and other entities with closure costs that are large in relation to operating income. This could lead to less overall environmental protection as a result of poorly closed or abandoned sites as well as undue economic hardship for small owners and operators.
- The Agency obtained a "no-action" letter from the Securities and Exchange Commission which will allow banks to commingle trust funds for investment purposes. The Agency took this action after it was informed that more banks would be willing to act as trustees for smaller trust funds if the funds could be so commingled.
- The savings to the regulated community resulting from the Agency's decision to allow the financial test as a financial assurance mechanism will not be shared in by small entities. On the basis of its analysis, however, the Agency believes these criteria are necessary to clearly demonstrate financial soundness for purposes of these regulations.
- The Agency believes that its decision not to allow the revenue test as a means by which municipalities could satisfy the financial requirements will affect very few small entities. This test could not be justified as a means of assuring availability of funds for closure and post-closure care, as explained above, under "Revenue Test."
- The Agency's decision not to allow an exemption for facilities with small cost estimates will affect some small entities, although small estimates are not necessarily associated with small entities. The Agency believes that small estimates are likely to be for small hazardous waste storage facilities that may be part of the operations of small or large entities. As discussed above, the Agency has concluded on the basis of currently available information that such an exemption for facilities with small estimates would not be consistent with the need to assure funds for protection of human health and the environment, and that administrative costs of financial assurance for small amounts could be limited through use of collateralized letters of credit. The Agency plans to reevaluate this issue after studying the environmental risks posed by actual facilities with small closure cost estimates.

As a result of the mandates of RCRA, entities of all sizes must incorporate into their management of hazardous waste certain measures to protect human health and the environment. The Agency has concluded that one such measure is assurance of funds for closure and post-closure care of hazardous waste management facilities. Within this context, the Agency has given consideration to the impact of the costs on small entities, as summarized above, and will continue to look for possible ways to reduce costs without sacrificing the goal of the regulations.

VIII. Supporting Documents

Background Documents supporting the financial requirements and providing responses to public comments include:

(1) The Background Document prepared for the regulations as promulgated January 12, 1981. All significant issues raised by commenters on the January 12 regulations regarding financial assurance for closure and post-closure care are discussed in this preamble. Responses to other comments in this area are presented in a summary that has been included in the docket for these regulations.

(2) A Background Document for the Agency's decisions regarding the financial test and the revenue test for municipalities, including responses to comments.

(3) A Background Document for the new insurance option for providing financial assurance for closure and post-closure care.

Copies of these documents and the preliminary Regulatory Impact Analysis are available for review in the EPA regional office libraries and at the EPA headquarters library, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

EPA is also preparing guidance manuals on the financial requirements to assist owners and operators and regulatory officials and expects to make them available from EPA headquarters and the regional offices.

IX. Deletion of "Comments" From Regulations

The financial regulations issued January 12, 1981, included numerous explanatory comments set off from the regulatory text by brackets. On the advice of the Office of the Federal Register, EPA has deleted the comments from the regulations. Most of this explanatory material will be included in the guidance manuals for these regulations.

This regulation and the preliminary Regulatory Impact Analysis were submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart H—Financial Requirements

1. Amend 40 CFR Part 264 by revising §§ 264.140, 264.141(a), 264.142–264.146, and 264.148–264.151(a)–(f) and by adding paragraphs (c)–(g) to § 264.141 and paragraph (h) to § 264.151 as follows:

§ 264.140 Applicability.

(a) The requirements of §§ 264.142, 264.143, and 264.147–151 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this section or in § 264.1.

(b) The requirements of §§ 264.144, 264.145, and 264.146 apply only to owners and operators of disposal facilities.

(c) States and the Federal government are exempt from the requirements of this subpart.

§ 264.141 Definitions of terms as used in this Subpart.

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of § 264.112.

* * * * *

(c) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with §§ 264.142(a), (b), and (c).

(d) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with §§ 264.144(a), (b), and (c).

(e) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(f) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of §§ 264.117–264.120.

(g) The following terms are used in the specifications for the financial test for closure and post-closure care. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

§ 264.142 Cost estimate for closure.

(a) The owner or operator must prepare a written estimate, in current dollars, of the cost of closing the facility in accordance with the closure plan as specified in § 264.112. The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(b) The owner or operator must adjust the closure cost estimate for inflation within 30 days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in paragraphs (b)(i) and (b)(ii) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business.* The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by mutliplying the lastest adjusted closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the closure cost estimate whenever a change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 264.142(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with §§ 264.142 (a) and (c) and, when this estimate has been adjusted in accordance with § 264.142(b), the latest adjusted closure cost estimate.

§ 264.143 Financial assurance for closure.

An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in paragraphs (a) through (f) of this section.

(a) *Closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by establishing a closure trust fund which conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Regional Administrator. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see § 264.151(a)(2)). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

(3) Payments into the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(i) For a new facility, the first payment must be made before the initial receipt of hazardous waste for treatment, storage, or disposal. A receipt from the trustee for this payment must be

submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate, except as provided in § 264.143(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) If an owner or operator establishes a trust fund as specified in § 265.143(a) of this chapter, and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in paragraph (a)(3) of this section. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this section or in § 265.143 of this chapter, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph and § 265.143(a) of this chapter, as applicable.

(6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a) (7) or (8) of this section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Regional Administrator specifies in writing. If the Regional Administrator has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with § 264.143(i), that the owner or operator is no longer required to maintain financial assurance for closure.

(11) The Regional Administrator will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(b) *Surety bond guaranteeing payment into a closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. An owner or operator of a new facility must submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements specified in § 264.143(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.143(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in § 264.143(g).

(7) Whenever the current closure cost estimate increases to an amount greater then the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidence by the return receipts.

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(c) *Surety bond guaranteeing performance of closure.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. An owner or operator of a new facility must submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(c).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust must meet the requirements specified in § 264.143(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.143(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or

(ii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

(6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate.

(7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(8) Under the terms of the bond, the surety may canel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent. The Regional Administrator will provide such written consent when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(10) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(d) *Closure letter of credit.* (1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Regional Administrator. An owner or operator of a new facility must submit the letter of credit to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also

establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements of the trust fund specified in § 264.143(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.143(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(5) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Regional Administrator by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Region Administrator have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in § 264.143(g).

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amout of the current closure cost estimate following written approval by the Regional Administrator.

(8) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the Regional Administrator may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice from issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Regional Administrator will draw on the letter of credit. The Regional Administrator may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Regional Administrator will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the Regional Administrator.

(10) The Regional Administrator will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(e) *Closure insurance.* (1) An owner or operator may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Regional Administrator. An owner or operator of a new facility must submit the certificate of insurance to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or suplus lines insurer, in one or more States.

(2) The wording of the certificate of insurance must be identical to the wording specified in § 264.151(e).

(3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in § 264.143(g). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Regional Administrator, to such party or parties as the Regional Administrator specifies.

(5) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Regional Administrator specifies in writing. If the Regional Administrator has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with § 264.143(i), that the owner or operator is no longer required to maintain financial assurance for closure of the facility.

(6) The owner or operator must maintain the policy in full force and effect until the Regional Administrator consents to termination of the policy by the owner or operator as specified in paragraph (e)(10) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations, warranting such remedy as the Regional Administrator deems necessary. Such violation will be deemed to begin upon receipt by the Regional Adminstrator of a notice of future cancellation, termination, or failure to renew due to

nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Regional Administrator. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Regional Administrator and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Regional Administrator deems the facility abandoned; or

(ii) The permit is terminated or revoked or a new permit is denied; or

(iii) Closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(10) The Regional Administrator will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(f) *Financial test and corporate guarantee for closure.* (1) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (f)(1)(i) or (f)(1)(ii) of this section:

(i) The owner or operator must have:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator must have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following items to the Regional Administrator:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in § 264.151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in paragraph (f)(3) of this section to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.

(5) After the initial submission of items specified in paragraph (f)(3) of this section, the owner or operator must send updated information to the Regional Administrator within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (f)(3) of this section.

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, he must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Regional Administrator may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (f)(1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (f)(3) of this section. If the Regional Administrator finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). An adverse opinion or a

disclaimer of opinion will be cause for disallowance. The Regional Administrator will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in paragraph (f)(3) of this section when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.143(i).

(10) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (f)(1) through (f)(8) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in § 264.151(h). The corporate guarantee must accompany the items sent to the Regional Administrator as specified in paragraph (f)(3) of this section. The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in § 264.143(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the owner or operator.

(g) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (a), (b), (d), and (e), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Regional Administrator may use any or all of the mechanisms to provide for closure of the facility.

(h) *Use of a financial mechanism for multiple facilities.* An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Regional Administrator may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(i) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for closure of the particular facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the closure plan.

§ 264.144 Cost estimate for post-closure care.

(a) The owner or operator of a disposal facility must prepare a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 264.117–264.120. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Subpart G of Part 264.

(b) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 30 days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made as specified in paragraphs (b)(i) and (b)(ii) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business.* The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the post-closure cost estimate during the operating life of the facility whenever a change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in § 264.144(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest post-closure cost estimate prepared in accordance with §§ 264.144 (a) and (c) and, when this estimate has been adjusted in accordance with § 264.144(b), the latest adjusted post-closure cost estimate.

§ 264.145 Financial assurance for post-closure care.

An owner or operator of each disposal facility must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in paragraphs (a) through (f) of this section.

(a) *Post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by establishing a post-closure trust fund which conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Regional Administrator. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see § 264.151(a)(2)). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

(3) Payments into the trust fund must be made annually by the owner or operator over the term of the initial RCRA permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

(i) For a new facility, the first payment must be made before the initial receipt of hazardous waste for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in § 264.145(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversay date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) If an owner or operator establishes a trust fund as specified in § 265.145(a) of this chapter, and the value of that trust fund is less than the current post-closure cost estimate when a permit is awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the fund must be paid in over the pay-in period as defined in paragraph (a)(3) of this section. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this section or in § 265.145 of this chapter, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph and § 265.145(a) of this chapter, as applicable.

(6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a) (7) or (8) of this section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) During the period of post-closure care, the Regional Administrator may approve a release of funds if the owner or operator demonstrates to the Regional Administrator that the value of the trust fund exceeds the remaining cost of post-closure care.

(11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Regional Administrator specifies in writing.

(12) The Regional Administrator will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.145(i).

(b) *Surety bond guaranteeing payment into a post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. An owner or operator of a new facility must submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among

those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements specified in § 264.145(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.145(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in § 264.145(g).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(c) *Surety bond guaranteeing performance of post-closure care.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. An owner or operator of a new facility must submit the bond to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(c).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements specified in § 264.145(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.145(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Perform post-closure care in accordance with the post-closure plan and other requirements of the permit for the facility; or

(ii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days of receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the post-closure plan and other permit requirements, under the terms of the bond the surety will perform post-closure care in accordance with the post-closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

(6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate.

(7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(8) During the period of post-closure care, the Regional Administrator may approve a decrease in the penal sum if the owner or operator demonstrates to

the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(9) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(10) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent. The Regional Administrator will provide such written consent when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.145(i).

(11) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Regional Administrator releases the owner or operator from the requirements of this section in accordance with §264.145(i).

(d) *Post-closure letter of credit.* (1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Regional Administrator. An owner or operator of a new facility must submit the letter of credit to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements of the trust fund specified in § 264.145(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 264.145(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

(5) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Regional Administrator by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Regional Administrator have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in a amount at least equal to the current post-closure cost estimate, except as provided in § 264.145(g).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(8) During the period of post-closure care, the Regional Administrator may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(9) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the post-closure plan and other permit requirements, the Regional Adminstrator may draw on the letter of credit.

(10) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Regional Administrator will draw on the letter of credit. The Regional Administrator may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Regional Administrator will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the Regional Administrator.

(11) The Regional Administrator will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.145(i).

(e) *Post-closure insurance.* (1) An owner or operator may satisfy the requirements of this section by obtaining post-closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Regional Administrator. An owner or operator of a new facility must submit the certificate of insurance to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance, or

eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(2) The wording of the certificate of insurance must be identical to the wording specified in § 264.151(e).

(3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure cost estimate, except as provided in § 264.145(g). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Regional Administrator, to such party or parties as the Regional Administrator specifies.

(5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Regional Administrator specifies in writing.

(6) The owner or operator must maintain the policy in full force and effect until the Regional Administrator consents to termination of the policy by the owner or operator as specified in paragraph (e)(11) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations, warranting such remedy as the Regional Administrator deems necessary. Such violation will be deemed to begin upon receipt by the Regional Administrator of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Regional Administrator. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Regional Administrator and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Regional Administrator deems the facility abandoned; or

(ii) The permit is terminated or revoked or a new permit is denied; or

(iii) Closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(11) The Regional Administrator will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.145(i)

(f) *Financial test and corporate guarantee for post-closure care.* (1) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (f)(1)(i) or (f)(1)(ii) of this section:

(i) The owner or operator must have:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator must have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following items to the Regional Administrator:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in § 264.151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in paragraph (f)(3) of this section to the Regional Administrator at least 60 days before the date on which hazardous waste is first received for disposal.

(5) After the initial submission of items specified in paragraph (f)(3) of this section, the owner or operator must send updated information to the Regional Administrator within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (f)(3) of this section.

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, he must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Regional Administrator may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (f)(1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (f)(3) of this section. If the Regional Administrator finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Regional Administrator will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(9) During the period of post-closure care, the Regional Administrator may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Regional Administrator that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(10) The owner or operator is no longer required to submit the items specified in paragraph (f)(3) of this section when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 264.145(i).

(11) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (f)(1) through (f)(9) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in § 264.151(h). The corporate guarantee must accompany the items sent to the Regional Administrator as specified in paragraph (f)(3) of this section. The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in § 264.145(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(g) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (a), (b), (d), and (e), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Regional Administrator may use any or all of the mechanisms to provide for post-closure care of the facility.

(h) *Use of a financial mechanism for multiple facilities.* An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Regional

Administrator may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(i) *Release of the owner or operator from the requirements of this section.* When an owner or operator has completed, to the satisfaction of the Regional Administrator, all post-closure care requirements in accordance with the post-closure plan, the Regional Administrator will, at the request of the owner or operator, notify him in writing that he is no longer required by this section to maintain financial assurance for post-closure care of the particular facility.

§ 264.146 Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both §§ 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

§ 264.148 Incapacity of owners or operators, guarantors, or financial institutions.

(a) An owner or operator must notify the Regional Administrator by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in §§ 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (§ 264.151(h)).

(b) An owner or operator who fulfills the requirements of §§ 264.143, 264.145, or 264.147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

§ 264.149 Use of State-required mechanisms.

(a) For a facility located in a State where EPA is administering the requirements of this Subpart but where the State has hazardous waste regulations that include requirements for financial assurance of closure or post-closure care or liability coverage, an owner or operator may use State-required financial mechanisms to meet the requirements of §§ 264.143, 264.145, or 264.147, if the Regional Administrator determines that the State mechanisms are at least equivalent to the financial mechanism specified in this Subpart. The Regional Administrator will evaluate the equivalency of the mechanisms principally in terms of (1) certainty of the availability of funds for the required closure or post-closure care activities or liability coverage and (2) the amount of funds that will be made available. The Regional Administrator may also consider other factors as he deems appropriate. The owner or operator must submit to the Regional Administrator evidence of the establishment of the mechanism together with a letter requesting that the State-required mechanism be considered acceptable for meeting the requirements of this Subpart. The submission must include the following information: The facility's EPA Identification Number, name, and address, and the amount of funds for closure or post-closure care or liability coverage assured by the mechanism. The Regional Administrator will notify the owner or operator of his determination regarding the mechanism's acceptability in lieu of financial mechanisms specified in this Subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of §§ 264.143, 264.145, or 264.147, as applicable.

(b) If a State-required mechanism is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this Subpart by increasing the funds available through the State-required mechanism or using additional financial mechanisms as specified in this Subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this Subpart.

§ 264.150 State assumption of responsibility.

(a) If a State either assumes legal responsibility for an owner's or operator's compliance with the closure, post-closure care, or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of §§ 264.143, 264.145, or 264.147 if the Regional Administrator determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this Subpart. The Regional Administrator will evaluate the equivalency of State guarantees principally in terms of (1) certainty of the availability of funds for the required closure or post-closure care activities or liability coverage and (2) the amount of funds that will be made available. The Regional Administrator may also consider other factors as he deems appropriate. The owner or operator must submit to the Regional Administrator a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Subpart. The letter from the State must include, or have attached to it, the following information: the facility's EPA Identification Number, name, and address, and the amount of funds for closure or post-closure care or liability coverage that are guaranteed by the State. The Regional Administrator will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of §§ 264.143, 264.145, or 264.147, as applicable.

(b) If a State's assumption of responsibility is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this Subpart by use of both the State's assurance *and* additional financial mechanisms as specified in this Subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this Subpart.

§ 264.151 Wording of the instruments.

(a)(1) A trust agreement for a trust fund, as specified in §§ 264.143(a) or 264.145(a) or §§ 265.143(a) or 265.145(a) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Trust Agreement

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of ——" or "a national bank"], the "Trustee."

Whereas, the United States Environmental Protection Agency, "EPA," an agency of the United States Government, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility shall provide assurance that funds will be available when needed for closure and/or post-closure care of the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the EPA Identification Number, name, address, and the current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of EPA. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by EPA.

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the EPA Regional Administrator shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the EPA Regional Administrator from the Fund for closure and post-closure expenditures in such amounts as the EPA Regional Administrator shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the EPA Regional Administrator specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; *except that:*

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a–2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To tranfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1 et seq., including one which may be cre[illegible], managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the appropriate EPA Regional Administrator a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to

object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the EPA Regional Administrator shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the EPA Regional Administrator, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the EPA Regional Administrator to the Trustee shall be in writing, signed by the EPA Regional Administrators of the Regions in which the facilities are located, or their designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or EPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or EPA, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the appropriate EPA Regional Administrator, by certified mail within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the appropriate EPA Regional Administrator, or by the Trustee and the appropriate EPA Regional Administrator if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the EPA Regional Administrator, or by the Trustee and the EPA Regional Administrator, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the EPA Regional Administrator issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of [insert name of State].

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in 40 CFR 264.151(a)(1) as such regulations were constituted on the date first above written.

[Signature of Grantor]
[Title]
Attest:
[Title]
[Seal]
[Signature of Trustee]
Attest:
[Title]
[Seal]

(2) The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in §§ 264.143(a) and 264.145(a) or §§ 265.143(a) or 265.145(a) of this chapter. State requirements may differ on the proper content of this acknowledgment.

State of _____
County of _____

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

(b) A surety bond guaranteeing payment into a trust fund, as specified in §§ 264.143(b) or 264.145(b) or §§ 265.143(b) or 265.145(b) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond

Dated bond executed: _____
Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)]

EPA Identification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: ———

Total penal sum of bond: $ _____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA), to have a permit or interim status in order to own or operate each

hazardous waste management facility identified above, and

Whereas said principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit or interim status, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after an order to begin closure is issued by an EPA Regional Administrator or a U.S. district court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, and obtain the EPA Regional Administrator's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EPA Regional Administrator(s) from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by an EPA Regional Administrator that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EPA Regional Administrator.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EPA Regional Administrator(s), as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EPA Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the EPA Regional Administrator(s).

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 264.151(b) as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of incorporation: _____

Liability limit: $ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ _____

(c) A surety bond guaranteeing performance of closure and/or post-closure care, as specified in §§ 264.143(c) or 264.145(c), must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Performance Bond

Date bond executed: _____

Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: _____

Surety(ies): [name(s) and business address(es)] _____

EPA Indetification Number, name, address, and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]:———

Total penal sum of bond: $ _____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA), to have a permit in order to own or operate each hazardous waste management facility indentified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform post-closure care of each facility for which this bond guarantees post-closure care, in accordance with the post-closure plan and other requirements of the permit, as such plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in Subpart H of 40 CFR Part 264, and obtain the EPA Regional Administrator's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the EPA Regional Administrator(s) from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the closure requirements of 40 CFR Part 264, for a facility for which this bond guarantees performances of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the EPA Regional Administrator.

Upon notification by an EPA Regional Administrator that the Principal has been found in violation of the post-closure requirements of 40 CFR Part 264 for a facility for which this bond guarantees performance of post-closure care, the Surety(ies) shall either perform post-closure care in

accordance with the post-closure plan and other permit requirements or place the post-closure amount guaranteed for the facility into the standby trust fund as directed by the EPA Regional Administrator.

Upon notification by an EPA Regional Administrator that the Principal has failed to provide alternate financial assurance as specified in Subpart H of 40 CFR Part 264, and obtain written approval of such assurance from the EPA Regional Administrator(s) during the 90 days following receipt by both the Principal and the EPA Regional Administrator(s) of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the EPA Regional Administrator.

The surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the EPA Regional Administrator(s), as evidenced by the return receipts.

The principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the EPA Regional Administrator(s) of the EPA Region(s) in which the bonded facility(ies) is (are) located.

[The following paragraph is an *optional* rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure and/or post-closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the EPA Regional Administrator(s).

In Witness Whereof, The Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 CFR 264.151(c) as such regulation was constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of incorporation: _____

Liability limit: $ _____

[Signature(s)]

[Name(s) and title(s)]

Corporate seal:

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: $ _____

(d) A letter of credit, as specified in §§ 264.143(d) or 264.145(d) or §§ 265.143(c) or 265.145(c) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

Regional Administrator(s)

Region(s) _____

U.S. Environmental Protection Agency

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No.—— in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars $——, available upon presentation [insert, if more than one Regional Administrator is a beneficiary, "by any one of you"] of

(1) your sight draft, bearing reference to this letter of credit No.——, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Resource Conservation and Recovery Act of 1976 as amended."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 40 CFR 264.151(d) as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

(e) A certificate of insurance, as specified in §§ 264.143(e) or 264.145(e) or §§ 265.143(d) or 265.145(d) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certificate of Insurance for Closure or Post-Closure Care

Name and Address of Insurer (herein called the "Insurer"): _____

Name and Address of Insured (herein called the "Insured"): _____

Facilities Covered: [List for each facility: The EPA Identification Number, name, address, and the amount of insurance for closure and/or the amount for post-closure care (these amounts for all facilities covered must total the face amount shown below).]

Face Amount: _____

Policy Number: _____

Effective Date: _____

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance for [insert "closure" or "closure and post-closure care" or "post-closure care"] for the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of 40 CFR 264.143(e), 264.145(e), 265.143(d), and 265.145(d), as applicable and as such regulations were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.

Whenever requested by the EPA Regional Administrator(s) of the U.S. Environmental Protection Agency, the Insurer agrees to furnish to the EPA Regional Administrator(s) a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in 40 CFR 264.151(e) as such regulations were constituted on the date shown immediately below.

[Authorized signature for Insurer]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

[Date]

(f) A letter from the chief financial officer, as specified in §§ 264.143(f) or 264.145(f) or §§ 265.143(e) or 265.145(e) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Letter From Chief Financial Officer

[Address to Regional Administrator of every Region in which facilities for which financial

responsibility is to be demonstrated through the financial test are located.]

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in Subpart H of 40 CFR Parts 264 and 265.

[Fill out the following four paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: ———.

2. This firm guarantees, through the corporate guarantee specified in Subpart H of 40 CFR Parts 264 and 265, the closure or post-closure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: ———.

3. In States where EPA is not administering the financial requirements of Subpart H of 40 CFR Parts 264 or 265, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Subpart H of 40 CFR Parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: ———.

4. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is *not* demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Subpart H of 40 CFR Parts 264 and 265 or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: ———.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of §§ 264.143 or 264.145, or of paragraph (e)(1)(i) of §§ 265.143 or 265.145 of this chapter are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of §§ 264.143 or 264.145, or of paragraph (e)(1)(ii) of §§ 265.143 or 265.145 of this chapter are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure cost estimates [total of *all* cost estimates shown in the four paragraphs above]	$
*2. Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4]	
*3. Tangible net worth	
*4. Net worth	
*5. Current assets	
*6. Current liabilities	
7. Net working capital [line 5 minus line 6]	
*8. The sum of net income plus depreciation, depletion, and amortization	
*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)	

	Yes	No
10. Is line 3 at least $10 million?		
11. Is line 3 at least 6 times line 1?		
12. Is line 7 at least 6 times line 1?		
*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14.		
14. Is line 9 at least 6 times line 1?		
15. Is line 2 divided by line 4 less than 2.0?		
16. Is line 8 divided by line 2 greater than 0.1?		
17. Is line 5 divided by line 6 greater than 1.5?		

ALTERNATIVE II

1. Sum of current closure and post-closure cost estimates [total of *all* cost estimates shown in the four paragraphs above]	$
2. Current bond rating of most recent issuance of this firm and name of rating service	
3. Date of issuance of bond	
4. Date of maturity of bond	
*5. Tangible net worth [if any portion of the closure and post-closure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line]	$
*6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)	$

	Yes	No
7. Is line 5 at least $10 million?		
8. Is line 5 at least 6 times line 1?		
*9. Are at least 90% of firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 264.151(f) as such regulations were constituted on the date shown immediately below.

[Signature]
[Name]
[Title]
[Date]

* * * * *

(h) A corporate guarantee, as specified in §§ 264.143(f) or 264.145(f) or §§ 265.143(e) or 265.145(e) of this chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Corporate Guarantee for Closure or Post-Closure Care

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the State of [insert name of State], herein referred to as guarantor, to the United States Environmental Protection Agency (EPA), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 40 CFR 264.143(f), 264.145(f), 265.143(e), and 265.145(e).

2. [Owner or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [List for each facility: EPA Identification Number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both.]

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by Subpart G of 40 CFR Parts 264 and 265 for the closure and post-closure care of facilities as identified above.

4. For value received from [owner or operator], guarantor guarantees to EPA that in the event that [owner or operator] fails to perform [insert "closure," "post-closure care" or "closure and post-closure care"] of the above facility(ies) in accordance with the closure or post-closure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator] in the amount of the current closure or post-closure cost estimates as specified in Subpart H of 40 CFR Parts 264 and 265.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located and to [owner or operator] that he intends to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the EPA Regional Administrator by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by an EPA Regional Administrator of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of

the closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner or operator pursuant to 40 CFR Parts 264 or 265.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of Subpart H of 40 CFR Parts 264 and 265 for the above-listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the EPA Regional Administrator(s) for the Region(s) in which the facility(ies) is (are) located and to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by both EPA and [owner or operator], as evidenced by the return receipts.

10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in Subpart H of 40 CFR Parts 264 or 265, as applicable, and obtain written approval of such assurance from the EPA Regional Administrator(s) within 90 days after a notice of cancellation by the guarantor is received by an EPA Regional Administrator from guarantor, guarantor shall provide such alternate financial assurance in the name of [owner or operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the EPA or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 CFR 264.151(h) as such regulations were constitituted on the date first above written.

Effective date: ———————

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: ———————

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

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart H—Financial Requirements

Amend 40 CFR Part 265 by revising §§ 265.140, 265.141(a), 265.142–265.146, 265.148–265.150, by deleting § 265.151, and by adding new paragraphs (c)–(g) to § 265.141 to read as follows:

§ 265.140 Applicability.

(a) The requirements of §§ 265.142, 265.143, and 265.147–151 apply to owners and operators of all hazardous waste facilities, except as provided otherwise in this section or in § 265.1.

(b) The requirements of §§ 265.144, 265.145, and 265.146 apply only to owners and operators of disposal facilities.

(c) States and the Federal government are exempt from the requirements of this Subpart.

§ 265.141 Definitions of terms as used in this Subpart.

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of § 265.112.

(b) * * *

(c) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with §§ 265.142 (a), (b), and (c).

(d) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with §§ 265.144 (a), (b), and (c).

(e) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(f) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of §§ 265.117–265.120.

(g) The following terms are used in the specifications for the financial test for closure and post-closure care. The definitions are intended to represent the common meanings of the terms as they are generally used by the business community.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Net working capital" means current assets minus current liabilities.

"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

§ 265.142 Cost estimate for closure.

(a) On May 19, 1981, the owner or operator must prepare a written estimate, in current dollars, of the cost of closing the facility in accordance with the closure plan as specified in § 265.112. The closure cost estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.

(b) The owner or operator must adjust the closure cost estimate for inflation within 30 days after each anniversary of the date on which the first closure cost estimate was prepared. The adjustment must be made as specified in paragraphs (b)(i) and (b)(ii) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business*. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the closure cost estimate whenever a change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 265.142(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with §§ 265.142 (a) and (c) and, when this estimate has been adjusted in accordance with § 265.142(b), the latest adjusted closure cost estimate.

§ 265.143 Financial assurance for closure.

By the effective date of these regulations, an owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in paragraphs (a) through (e) of this section.

(a) *Closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by establishing a closure trust fund which conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Regional Administrator. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see § 264.151(a)(2)). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure cost estimate covered by the agreement.

(3) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning with the effective date of these regulations or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(i) The first payment must be made by the effective date of these regulations, except as provided in paragraph (a)(5) of this section. The first payment must be at least equal to the current closure cost estimate, except as provided in § 265.143(f), divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in paragraph (a)(3) of this section.

(6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a) (7) or (8) of this section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Regional Administrator specifies in writing. If the Regional Administrator has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with § 265.143(h), that the owner or operator is no longer required to maintain financial assurance for closure.

(11) The Regional Administrator will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.143(h).

(b) *Surety bond guaranteeing payment into a closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements specified in § 265.143(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 265.143(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's

written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in § 265.143(f).

(7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(c) *Closure letter of credit.* (1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Regional Administrator. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements of the trust fund specified in § 265.143(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 265.143(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

(5) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Regional Administrator by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Regional Administrator have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current closure cost estimate, except as provided in § 265.143(f).

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(8) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other interim status requirements when required to do so, the Regional Administrator may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Regional Administrator will draw on the letter of credit. The Regional Administrator may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Regional Administrator will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the Regional Administrator.

(10) The Regional Administrator will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.143(h).

(d) *Closure insurance.* (1) An owner or operator may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Regional Administrator. By the effective date of these regulations the owner or operator must submit to the Regional Administrator a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Regional Administrator or establish other financial assurance as specified in this section. At a minimum, the insurer must

be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(2) The wording of the certificate of insurance must be identical to the wording specified in § 264.151(e).

(3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in § 265.143(f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Regional Administrator, to such party or parties as the Regional Administrator specifies.

(5) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for closure activities, the Regional Administrator will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Regional Administrator specifies in writing. If the Regional Administrator has reason to believe that the cost of closure will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with § 265.143(h), that the owner or operator is no longer required to maintain financial assurance for closure of the facility.

(6) The owner or operator must maintain the policy in full force and effect until the Regional Administrator consents to termination of the policy by the owner or operator as specified in paragraph (d)(10) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these regulations, warranting such remedy as the Regional Administrator deems necessary. Such violation will be deemed to begin upon receipt by the Regional Administrator of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Regional Administrator. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Regional Administrator and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Regional Administrator deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Regional Administrator.

(10) The Regional Administrator will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.143(h).

(e) *Financial test and corporate guarantee for closure.* (1) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria of either paragraph (e)(1)(i) or (e)(1)(ii) of this section:

(i) The owner or operator must have:

(A) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator must have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following items to the Regional Administrator:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in § 264.151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's

financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in paragraph (e)(3) of this section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Regional Administrator of each Region in which the owner's or operator's facilities to be covered by the financial test are located. This letter from the chief financial officer must:

(i) request the extension;

(ii) certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) specify for each facility to be covered by the test the EPA Identification Number, name, address, and current closure and post-closure cost estimates to be covered by the test;

(iv) specify the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations;

(v) specify the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in paragraph (e)(3) of this section; and

(vi) certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in paragraph (e)(3) of this section, the owner or operator must send updated information to the Regional Administrator within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in paragraph (e)(3) of this section.

(6) If the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, he must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Regional Administrator may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (e)(1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (e)(3) of this section. If the Regional Administrator finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, the owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (e)(3)(ii) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Regional Administrator will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in paragraph (e)(3) of this section when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.143(h).

(10) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (e)(1) through (e)(8) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in § 264.151(h). The corporate guarantee must accompany the items sent to the Regional Administrator as specified in paragraph (e)(3) of this section. The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in § 265.143(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(f) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (a) through (d), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Regional Administrator may use any or all of the mechanisms to provide for closure of the facility.

(g) *Use of a financial mechanism for multiple facilities.* An owner or operator may use a financial assurance

mechanism specified in this section to meet the requirements of this section for more than one facility. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the Regional Administrator may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for closure of the particular facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the closure plan.

§ 265.144 Cost estimate for post-closure care.

(a) On May 19, 1981, the owner or operator of a disposal facility must prepare a written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 265.117–265.120. The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Subpart G of Part 265.

(b) During the operating life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 30 days after each anniversary of the date on which the first post-closure cost estimate was prepared. The adjustment must be made as specified in paragraphs (b)(i) and (b)(ii) of this section, using an inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its *Survey of Current Business.* The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(c) The owner or operator must revise the post-closure cost estimate during the operating life of the facility whenever a change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in § 265.144(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: the latest post-closure cost estimate prepared in accordance with §§ 265.144 (a) and (c) and, when this estimate has been adjusted in accordance with § 265.144(b), the latest adjusted post-closure cost estimate.

§ 265.145 Financial assurance for post-closure care.

By the effective date of these regulations, an owner or operator of each disposal facility must establish financial assurance for post-closure care of the facility. He must choose from the options as specified in paragraphs (a) through (e) of this section.

(a) *Post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by establishing a post-closure trust fund which conforms to the requirements of this paragraph and submitting an originally signed duplicate of the trust agreement to the Regional Administrator. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

(2) The wording of the trust agreement must be identical to the wording specified in § 264.151(a)(1), and the trust agreement must be accompanied by a formal certification of acknowledgment (for example, see § 264.151(a)(2)). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.

(3) Payments into the trust fund must be made annually by the owner or operator over the 20 years beginning with the effective date of these regulations or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the post-closure trust fund must be made as follows:

(i) The first payment must be made by the effective date of these regulations, except as provided in paragraph (a)(5) of this section. The first payment must be at least equal to the current post-closure cost estimate, except as provided in § 265.145(f), divided by the number of years in the pay-in period.

(ii) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{CE - CV}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this section, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in paragraph (a)(3) of this section.

(6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other

financial assurance as specified in this section to cover the difference.

(7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

(9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in paragraphs (a) (7) or (8) of this section, the Regional Administrator will instruct the trustee to release to the owner or operator such funds as the Regional Administrator specifies in writing.

(10) During the period of post-closure care, the Regional Administrator may approve a release of funds if the owner or operator demonstrates to the Regional Administrator that the value of the trust fund exceeds the remaining cost of post-closure care.

(11) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the trustee to make reimbursement in such amounts as the Regional Administrator specifies in writing.

(12) The Regional Administrator will agree to termination of the trust when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.145(h).

(b) *Surety bond guaranteeing payment into a post-closure trust fund.* (1) An owner or operator may satisfy the requirements of this section by obtaining a surety bond which conforms to the requirements of this paragraph and submitting the bond to the Regional Administrator. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond must be identical to the wording specified in § 264.151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements specified in § 265.145(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the surety bond; and

(ii) Until the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 265.145(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(i) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iii) Provide alternate financial assurance as specified in this section, and obtain the Regional Administrator's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in § 265.145(f).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases, the penal sum may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this section.

(c) *Post-closure letter of credit.* (1) An owner or operator may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit which conforms to the requirements of this paragraph and submitting the letter to the Regional Administrator. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or State agency.

(2) The wording of the letter of credit must be identical to the wording specified in § 264.151(d).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Regional Administrator will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Regional Administrator. This standby trust fund must meet the requirements of the trust fund specified in § 265.145(a), except that:

(i) An originally signed duplicate of the trust agreement must be submitted to the Regional Administrator with the letter of credit; and

(ii) Unless the standby trust fund is funded pursuant to the requirements of this section, the following are not required by these regulations:

(A) Payments into the trust fund as specified in § 265.145(a);

(B) Updating of Schedule A of the trust agreement (see § 264.151(a)) to show current post-closure cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA Identification Number, name, and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.

(5) The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Regional Administrator by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Regional Administrator have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in § 265.145(f).

(7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(8) During the period of post-closure care, the Regional Administrator may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Regional Administrator that the amount exceeds the remaining cost of post-closure care.

(9) Following a determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the post-closure plan and other interim status requirements, the Regional Administrator may draw on the letter of credit.

(10) If the owner or operator does not establish alternate financial assurance as specified in this section and obtain written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Regional Administrator will draw on the letter of credit. The Regional Administrator may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Regional Administrator will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this section and obtain written approval of such assurance from the Regional Administrator.

(11) The Regional Administrator will return the letter of credit to the issuing institution for termination when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.145(h).

(d) *Post-closure insurance.* (1) An owner or operator may satisfy the requirements of this section by obtaining post-closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Regional Administrator. By the effective date of these regulations the owner or operator must submit to the Regional Administrator a letter from an insurer stating that the insurer is considering issuance of post-closure insurance conforming to the requirements of this paragraph to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Regional Administrator or establish other financial assurance as specified in this section. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

(2) The wording of the certificate of insurance must be identical to the wording specified in § 264.151(e).

(3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure cost estimate, except as provided in § 265.145(f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once post-closure care begins the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Regional Administrator, to such party or parties as the Regional Administrator specifies.

(5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure activities, the Regional Administrator will determine whether the post-closure expenditures are in accordance with the post-closure plan or otherwise justified, and if so, he will instruct the insurer to make reimbursement in such amounts as the Regional Administrator specifies in writing.

(6) The owner or operator must maintain the policy in full force and effect until the Regional Administrator consents to termination of the policy by the owner or operator as specified in paragraph (d)(11) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in the section, will constitute a significant violation of these regulations, warranting such remedy as the Regional Administrator deems necessary. Such violation will be deemed to begin upon receipt by the Regional Administrator of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy most contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail

to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Regional Administrator. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Regional Administrator and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(i) The Regional Administrator deems the facility abandoned; or

(ii) Interim status is terminated or revoked; or

(iii) Closure is ordered by the Regional Administrator or a U.S. district court or other court of competent jurisdiction; or

(iv) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(v) The premium due is paid.

(9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Regional Administrator, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Regional Administrator.

(10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amounts of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(11) The Regional Administrator will give written consent to the owner or operator that he may terminate the insurance policy when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.145(h).

(e) *Financial test and corporate guarantee for post-closure care.* (1) An owner or operator may satisfy the requirements of this section by demonstrating that he passes a financial test as specified in this paragraph. To pass this test the owner or operator must meet the criteria either of paragraph (e)(1)(i) or (e)(1)(ii) of this section:

(i) The owner or operator must have:

(A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets in the United States amounting to a least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator must have:

(A) A current rating for his most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates; and

(C) Tangible net worth of at least $10 million; and

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following items to the Regional Administrator:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in § 264.151(f); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

(A) He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in paragraph (e)(3) of this section if the fiscal year of the owner or operator ends during the 90 days prior to the effective date of these regulations and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than 90 days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by the effective date of these regulations, a letter to the Regional Administrator of each Region in which the owner's or operator's facilities to be covered by the financial test are located. This letter from the chief financial officer must:

(i) Request the extension;

(ii) Certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) Specify for each facility to be covered by the test the EPA Identification Number, name, address, and the current closure and post-closure cost estimates to be covered by the test;

(iv) Specify the date ending the owner's or operator's latest complete fiscal year before the effective date of these regulations;

(v) Specify the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in paragraph (e)(3) of this section; and

(vi) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in paragraph (e)(3) of this section, the owner or operator must send updated information to the Regional Administrator within 90 days after the close of each succeeding fiscal year. This information must consist of

all three items specified in paragraph (e)(3) of this section.

(6) If the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, he must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.

(7) The Regional Administrator may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (e)(1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in paragraph (e)(3) of this section. If the Regional Administrator finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, the owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of such a finding.

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see paragraph (e)(3)(ii) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Regional Administrator will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this section within 30 days after notification of the disallowance.

(9) During the period of post-closure care, the Regional Administrator may approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Regional Administrator that the amount of the cost estimate exceeds the remaining cost of post-closure care.

(10) The owner or operator is no longer required to submit the items specified in paragraph (e)(3) of this section when:

(i) An owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The Regional Administrator releases the owner or operator from the requirements of this section in accordance with § 265.145(h).

(11) An owner or operator may meet the requirements of this section by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (e)(1) through (e)(9) of this section and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be identical to the wording specified in § 264.151(h). The corporate guarantee must accompany the items sent to the Regional Administrator as specified in paragraph (e)(3) of this section. The terms of the corporate guarantee must provide that:

(i) If the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in § 265.145(a) in the name of the owner or operator.

(ii) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Regional Administrator. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Regional Administrator, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the Regional Administrator within 90 days after receipt by both the owner or operator and the Regional Administrator of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

(f) *Use of multiple financial mechanisms.* An owner or operator may satisfy the requirements of this section by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms must be as specified in paragraphs (a) through (d), respectively, of this section, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current post-closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The Regional Administrator may use any or all of the mechanisms to provide for post-closure care of the facility.

(g) *Use of a financial mechanism for multiple facilities.* An owner or operator may use a financial assurance mechanism specified in this section to meet the requirements of this section for more than one facility. Evidence of financial assurance submitted to the Regional Administrator must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for post-closure care assured by the mechanism. If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for post-closure care of any of the facilities covered by the mechanism, the Regional Administrator may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) *Release of the owner or operator from the requirements of this section.* When an owner or operator has completed, to the satisfaction of the Regional Administrator, all post-closure care requirements in accordance with the post-closure plan, the Regional Administrator will, at the request of the owner or operator, notify him in writing that he is no longer required by this section to maintain financial assurance for post-closure care of the particular facility.

§ 265.146 Use of a mechanism for financial assurance of both closure and post-closure care.

An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both §§ 265.143 and 265.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate

mechanism had been established and maintained for financial assurance of closure and of post-closure care.

§ 265.148 Incapacity of owners or operators, guarantors, or financial institutions.

(a) An owner or operator must notify the Regional Administrator by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in §§ 265.143(e) and 265.145(e) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (§ 264.151(h)).

(b) An owner or operator who fulfills the requirements of §§ 265.143, 265.145, or 265.147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

§ 265.149 Use of State-required mechanisms.

(a) For a facility located in a State where EPA is administering the requirements of this Subpart but where the State has hazardous waste regulations that include requirements for financial assurance of closure or post-closure care or liability coverage, an owner or operator may use State-required financial mechanisms to meet the requirements of §§ 265.143, 265.145, or 265.147 if the Regional Administrator determines that the State mechanisms are at least equivalent to the financial mechanisms specified in this Subpart. The Regional Administrator will evaluate the equivalency of the mechanisms principally in terms of (1) certainty of the availability of funds for the required closure or post-closure care activities or liability coverage and (2) the amount of funds that will be made available. The Regional Administrator may also consider other factors as he deems appropriate. The owner or operator must submit to the Regional Administrator evidence of the establishment of the mechanism together with a letter requesting that the State-required mechanism be considered acceptable for meeting the requirements of this Subpart. The submission must include the following information: The facility's EPA Identification Number, name, and address, and the amount of funds for closure or post-closure care or liability coverage assured by the mechanism. The Regional Administrator will notify the owner or operator of his determination regarding the mechanism's acceptability in lieu of financial mechanisms specified in this Subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of §§ 265.143, 265.145, or 265.147, as applicable.

(b) If a State-required mechanism is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this Subpart by increasing the funds available through the State-required mechanism or using additional financial mechanisms as specified in this Subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this Subpart.

§ 265.150 State assumption of responsibility.

(a) If a State either assumes legal responsibility for an owner's or operator's compliance with the closure, post-closure care, or liability requirements of this Part or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of §§ 265.143, 265.145, or 265.147 if the Regional Administrator determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this Subpart. The Regional Administrator will evaluate the equivalency of State guarantees principally in terms of (1) certainty of the availability of funds for the required closure or post-closure care activities or liability coverage and (2) the amount of funds that will be made available. The Regional Administrator may also consider other factors as he deems appropriate. The owner or operator must submit to the Regional Administrator a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this Subpart. The letter from the State must include, or have attached to it, the following information: the facility's EPA Identification Number, name, and address, and the amount of funds for closure or post-closure care or liability coverage that are guaranteed by the State. The Regional Administrator will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this Subpart. The Regional Administrator may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of §§ 265.143, 265.145, or 265.147, as applicable.

(b) If a State's assumption of responsibility is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this Subpart by use of both the State's assurance *and* additional financial mechanisms as specified in this Subpart. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this Subpart.

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Part III

Environmental Protection Agency

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

ENVIRONMENTAL PROTECTION AGENCY

[PRM-FRL-1994-5]

Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits

May 12, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Proposed policy statement and accompanying technical issues document.

SUMMARY: It is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of national ambient air quality standards.

This Policy Statement describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less-costly control approaches. Emissions trading includes several alternatives to traditional regulation: bubbles, netting, and offsets, as well as banking (storage) of emission reduction credits (ERCs) for future use. These alternatives do not alter existing air quality requirements; they simply give states and industry more flexibility to meet these requirements. EPA endorses emissions trading and supports its accelerated use by states and industry to meet the goals of the Clean Air Act more quickly and inexpensively.

This Policy Statement replaces the original bubble policy (44 FR 71779, Dec. 11, 1979) and sets forth minimum legal requirements for creation, storage or use of emission reduction credits in any emissions trade. It also provides criteria for "generic" SIP rules under which states can approve bubble or other trades without case-by-case federal SIP review.

EPA encourages states to continue adopting generic trading rules and approving individual trades. Until EPA takes final action on this proposal, it will evaluate state actions under the principles set forth here and illustrated in the accompanying Technical Issues Document.

EFFECTIVE DATE: This Policy Statement is effective as interim guidance upon publication. The deadline for submitting written comments is July 6, 1982.

ADDRESSES: Comments should be sent in triplicate if possible to: Central Docket Section (A-130), U.S. Environmental Protection Agency, Washington, D.C. 20460, Attn: Doc. No. G-81-2.

DOCKET: EPA has established docket number G-81-2 for this action. This docket is an organized and complete file of all significant information submitted to or otherwise considered by EPA. The docket is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section. A reasonable fee may be charged for copying.

FURTHER INQUIRIES:

Ivan Tether, Regulatory Reform Staff (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2765,

or

Leo Stander, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5516.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it establishes policies that are voluntary and can substantially reduce costs of complying with the Clean Air Act. Furthermore, it can reduce administrative complexity by reducing the number of trades which must be approved by EPA, can stimulate innovation in pollution control, and can allow state and local pollution control agencies to conserve scarce resources.

This Policy Statement was submitted to the Office of Management and Budget for review. Any comments from OMB to EPA are available for public inspection in Docket G-81-2. Pursuant to 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. As a policy designed to allow firms flexibility and to reduce administrative complexity, it will impose no burdens on either small or large entities.

I. Introduction: Components of Emissions Trading

This statement details EPA policy on emissions trading. It presents the minimum conditions EPA considers necessary for emissions trades to satisfy the Clean Air Act. It simplifies past requirements and expands opportunities to use these more efficient alternatives.

A. What Is Emissions Trading?

Emissions trading consists of bubbles, netting, emission offsets, and emission reduction banking. These alternatives involve the creation of surplus reductions at certain emission sources and use of these reductions to meet requirements applicable to other emission sources. Emission trades can provide more flexibility, and may therefore be used to reduce control costs, encourage faster compliance, and free scarce capital for industrial revitalization. Moreover, by developing "generic" trading rules (see section III below) states [1] and industry can be excused from SIP revisions, and attendant delay and uncertainty, for many individual bubbles or other trades.

B. The Bubble Policy and Today's Improvements

EPA's bubble policy lets *existing* plants (or groups of plants) decrease or be excused from pollution controls at one or more emissions sources in exchange for compensating increases in control at other emission sources. Bubbles give plant managers flexibility to develop less costly ways of meeting air quality requirements. Each bubble must be equivalent to the original emission limits in terms of ambient impact and enforceability. Bubbles cannot be used to meet technology-based requirements applicable to new sources.

This Policy Statement replaces the original bubble policy (Dec. 11, 1979; 44 FR 71779) and broadens opportunities for the bubble's use. Major changes include:

- Authorizing generic trading rules for all criteria pollutants;
- Extending use of the bubble to areas which lack approved demonstrations of attainment of the national ambient air quality standards;
- Expanding opportunities for use of bubbles as an alternative means of meeting reasonably available control technology (RACT) requirements;
- Reducing unnecessary requirements for detailed air quality modeling of the ambient impact of each trade;
- Reducing unnecessary constraints on trades involving open dust sources of particulate emissions;
- Allowing VOC and CO sources more time to implement bubbles under administrative compliance schedules, consistent with reasonable further progress and statutory deadlines for attaining ambient standards;
- Allowing sources to use the bubble to come into compliance, instead of having to be on a compliance schedule with original SIP limits to be eligible to bubble; and

[1] "States" includes any entity properly delegated authority to administer relevant parts of a State Implementation Plan (SIP) under the Clean Air Act.

• Allowing broader use of emission reductions from shutdowns.

These and other changes are explained below and in the accompanying Technical Issues Document.

C. Netting

Netting removes the burden of new source review requirements from plants expanding or modernizing in PSD and nonattainment areas, so long as any increase in plant-wide emissions is insignificant. By "netting out" of review the new facility may be exempted from preconstruction permits and associated requirements, including monitoring and modeling, installation of BACT or LAER control technology, the offset requirement, and applicable bans on new construction. The new facility must still meet emission limits established by new source performance standards (NSPS) under Section 111 of the Clean Air Act, Rules governing netting for sources in attainment (PSD) areas were published on August 7, 1980 (45 FR 52676) and rules for nonattainment areas were expanded on October 14, 1981 (46 FR 50766).

D. Emission Offsets

In nonattainment areas, new major stationary sources and modifications may be required to secure sufficient surplus emission reductions to more than "offset" their increased emissions. This requirement is designed to permit industrial growth in nonattainment areas while improving air quality. It is currently implemented by rules published at 40 CFR 51.18(j) and 51.18 (Appendix S), as amended by 45 FR 52676 (August 7, 1980) and 46 FR 50766 (October 14, 1981).

E. Emission Reduction Banking

Banking lets firms store qualified emission reductions for later use in bubble, netting or offset transactions. Banked emission reduction credits (ERCs) can also be sold to firms seeking alternate ways to meet regulatory requirements more quickly flexibly.

EPA's revised offset ruling (40 CFR 51.18, Appendix S) authorized states to establish banking rules as part of their SIPs. This Policy Statement and the Technical Issues Document are EPA's first detailed articulation of the necessary components of a complete state banking rule under the Clean Air Act.

F. Effect of This Policy Statement

Emissions trading is voluntary. States are free to adopt generic rules or let trades continue to be implemented as individual SIP revisions. They may adopt rules which incorporate all or any combination of these trading approaches.

EPA is issuing this Policy Statement as a proposal because elements of emissions trading, particularly banking, raise issues which have not yet been subject to public comment. EPA urges interest parties to address all relevant issues in their comments.

However, until final action the Agency intends to use the principles in this Statement to evaluate trading activities which become ripe for decision, including state adoption of generic bubble and banking rules. Many states are now implementing such rules and should continue to do so.

This Policy Statement is accompanied by a Technical Issues Document for use by states and industry in further understanding emissions trading. The Document offers more detail on minimum requirements and available options under the Clean Air Act. EPA also invites comment on any aspect of the Technical Issues Document.

This notice reflects the current Clean Air Act and existing regulations. A Policy Statement cannot legally alter such requirements. However, it establishes EPA policy in areas not governed by applicable regulations and sets out general principles which states and industry may use to apply those regulations in individual cases. Pending litigation or future rulemaking may alter the general principles outlined here and reflected in the Technical Issues Document. Future federal or state rulemaking, such as additional RACT requirements or changes in ambient standards, may also affect firms that have engaged in emissions trading activities.

II. Minimum Legal Requirements for Creating, Using, and Banking Emission Reduction Credits [2]

A. Creating Emission Reduction Credits

Emission reduction credits (ERCs) are the common currency of all trading activity. To assure that emissions trades do not contravene relevant requirements of the Clean Air Act, only reductions which are *surplus, enforceable, permanent,* and *quantifiable* can qualify as emission reduction credits and be banked or used in an emissions trade.

1. *Surplus:* Only emission reductions not currently required by law can be considered surplus. To define what is surplus, the state must first establish an appropriate emissions baseline against which surplus reductions can be calculated.

In nonattainment areas with approved demonstrations of attainment, the baseline must be consistent with assumptions used to develop the area's SIP. Only reductions not assumed in the area's demonstration of reasonable further progress and attainment can be considered surplus. This generally means that actual emissions must be the baseline where actual emissions were used for such demonstrations, and that allowable emissions may be the baseline where allowable emissions were used for such demonstrations.

In nonattainment areas lacking a demonstration of attainment, states may use a variety of baselines which do not jeopardize attainment by statutory deadlines. In general, states may use as baselines either actual emissions (with source commitment to future reductions if needed for attainment) or emission levels which reflect reasonably available control technology. However, where such areas must attain primary ambient air quality standards by December 1982, baselines reflecting reasonably available control technology for emission sources involved in the trade must be used.

In attainment areas, to be consistent with air quality requirements established in prevention of significant deterioration (PSD) programs under Section 110 and Part C of the Clean Air Act, actual emissions would normally be the baseline. States may use allowable emissions as the baseline, if proper consideration of increment consumption is assured.

2. *Enforceable:* To assure that Clean Air Act requirements are met, each transaction must be approved by the state and be enforceable. Enforceable emission limits may be created through SIP revisions (see Section IV), under generic trading rules (see Section III), through new source construction permits, or through state permits issued under 40 CFR 51.18, among other ways.

3. *Permanent:* Only permanent reductions in emissions can qualify for credit. Permanence can generally be assured by requiring changes in source permits to reflect a reduced level of permissible emissions.

4. *Quantifiable:* Emission reductions must be quantifiable in terms of both *measuring* the amount of the reduction

[2] Because this Policy Statement and accompanying Technical Issues Document reflect general Clean Air Act principles, states and individual sources are free to show that a general principle does not apply to particular circumstances or could be satisfied using approaches other than those described. States and sources have this option under current law, and nothing in this Policy Statement or the accompanying Technical Issues Document restricts their opportunity to make such showings.

and *charcterizing* that reduction for future use. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process or production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions should generally be used to quantify emission levels before and after the reduction.

B. Using Emission Reduction Credits

ERCs may be used by sources in bubble, netting, or offset transactions. The general principles below will assure that all uses of ERCs are consistent with ambient attainment and maintenance considerations under the Clean Air Act.

1. *Emissions trades must involve the same criteria pollutant.* An emission reduction may only be traded against an increase in the same criteria pollutant. For example, only reductions of particulates can be substituted for increases of particulates, reductions of VOCs for increases in VOCs.

2. *All uses of ERCs must satisfy applicable ambient tests.* the Clean Air Act requires that all areas throughout the country attain and maintain national ambient air quality standards. The ambient effect of a trade depends on the dispersion characteristics of the pollutant involved. Ambient considerations will generally not affect trades involving VOC or NO_x, whose impacts occur across broad geographic areas. For these pollutants "pound for pound" trades may be treated as equal in ambient effect. However, dispersion characteristics are important for bubble and offset trades of SO_2, TSP, or CO whose ambient impact may vary with where the emission increases and decreases occur. Trades of these pollutants must demonstrate equivalent ambient impact under the three-tiered modeling screen discussed in the Technical Issues Document or under a similar approach.

3. Trades should not increase hazardous pollutants. Except as may be specifically permitted by future national emission standards for hazardous air pollutants (NESHAPs), a source may not use a bubble to meet NESHAPs requirements or increase emissions beyond the levels they prescribe. Where a significant fraction of a criteria pollutant stream has been listed under Section 112 but not yet regulated, the hazardous emissions involved in the trade should either remain equal or should decrease (i.e., be traded down).

4. *Emission trades cannot be used to meet applicable technology-based requirements.* New or expanding sources cannot use ERCs to meet new source performance standards, best available control technology requirements in PSD areas, or lowest achievable emission rate control technology requirements in nonattainment areas.

5. *States may allow bubbles in areas without approved demonstrations of attainment.* States are authorized to approve bubbles in such areas, so long as timely attainment of air quality standards will not be jeopardized. (See Section II.A above and the Technical Issues Document).

6. *Sources may use the bubble to achieve compliance.* States may allow sources to use a bubble to achieve rapid compliance once applicable emission limits and deadlines are established as part of a bubble application. States need not require sources to develop and go forward with detailed plans (including ordering equipment) to meet original emission limits when new limits which will supercede them are pending under a bubble application.

7. *States may extend certain compliance schedules.* States may give sources more time to implement bubbles by granting compliance extensions as part of approvals under generic rules, where (i) the area has received an attainment extension under Section 172(a)(2) of the Clean Air Act (applicable to VOC or CO); and (ii) the total amount of reductions required to satisfy the state's reasonable further progress demonstration will not be reduced for each year in question. States may grant similar compliance extensions for VOC or CO bubbles approved as individual SIP revisions subject to (i) above, provided the extension is consistent with reasonable further progress requirements (See section IV below).

8. *States may approve bubbles involving open dust sources of particulate emissions, based on modeling demonstrations.* This action reduces past restrictions on trades involving open dust sources of particulate emissions. Such trades may be approved based on acceptable modeling and/or monitoring demonstrations, provided sources agree to post-approval monitoring to determine if predicted air quality results have been realized.

C. Banking Emission Reduction Credits

Only emission reductions that are surplus, permanent, enforceable, and quantifiable can be banked. To provide maximum protection for sources and avoid future legal problems, state banking rules should specify the ownership rights established, the types of sources eligible to bank ERCs, and any additional conditions placed on certifying, holding, or using banked ERCs.

As a legal minimum, state banking rules must establish ownership rights which are consistent with Clean Air Act requirements, including the requirement that SIPs provide for attainment and maintenance of ambient air quality standards "as expeditiously as practicable." States have considerable latitude in meeting this requirement, and may guarantee banked ERCs against any ambient-based reduction in quantity, so long as that guarantee does not interfere with reasonable further progress and attainment should ambient standards change or additional emission reductions be required.

In most states banking will be an extension of ongoing permit activities. The state or its designee will accept and evaluate requests to certify an ERC, maintain a publicly available ERC registry or similar instrument describing the quantity and types of banked credits, and track transfers and withdrawals of ERCs.

III. State Generic Trading Rules

Use of emission reduction credits under state generic rules approved by EPA will not require individual SIP revisions. The Technical Issues Document explains acceptable generic rules and procedures which states may adopt to reduce the need for individual SIP revisions.

Emissions trades can be approved without SIP revisions if evaluated under EPA-approved state procedures that assure no trade will interfere with timely attainment and maintenance of ambient standards. State generic rules are approvable only if their procedures are sufficiently replicable in operation to meet this test. By approving the generic rule, EPA approves in advance an array of acceptable emission limits, and no further case-by-case federal approval is required for individual trades developed under the rule.

Any trade under a generic rule will involve emission increases at some sources and emission decreases at others. For trades to be approvable under a generic rule, the sum of these increases and decreases (i.e., applicable net baseline emissions) must be zero or less. States may adopt generic rules which exempt from individual SIP revisions: (1) *de minimis* trades whose sum of the emission increases, looking only at the increasing sources, totals less than 100 tons per year after applicable control requirements; (2) trades involving VOC or NO_x emissions (3) trades between SO_2 sources, between CO sources, or between TSP

sources, provided those sources are located in the same immediate vicinity and emissions do not increase at the source with the lower effective plume height; and (4) other SO_2, CO or TSP trades which do not increase emissions and for which carefully defined use of a screening model predicts no significant increase in ambient concentrations. EPA encourages states to adopt such rules or develop alternative approaches that equally assure attainment and maintenance of ambient standards.

To the extent state procedures for rulemaking or permit changes do not assure reasonable public notice and opportunity for comment on proposed trades, states should incorporate such provisions as part of their generic rules.

IV. Trades Not Covered by Generic Rules

States and sources may continue to use the SIP revision process to implement trades which are not covered by a generic rule. Because the SIP revision process can take account of many more individual variations, trades which could not be accomplished under a generic rule may still be implemented as site-specific SIP revisions.

EPA will take action on generic rules and individual trades submitted as SIP revisions as quickly as possible after a state has adopted a SIP revision and submitted the action to EPA. EPA encouages "parallel processing" of such revisions, with EPA and the state conducting concurrent review so that both agencies can propose and take final action at roughly the same time. EPA will also publish noncontroversial SIP revisions as immediate final actions, converting them to proposals only if requests to submit comments are received within 30 days (see 46 FR 44477; Sept. 4, 1981).

V. Conclusion

This Policy Statement sets out basic principles for individual trades and approvable generic trading rules. EPA encourages states to use these principles as a framework and refer to the accompanying Technical Issues Document for further discussion and examples. States are encouraged to design other rules which satisfy these principles but meet their specific needs.

As a policy statement, this notice does not establish conclusively how EPA will resolve issues in individual cases. EPA will accept public comment on this proposal as well as on specific SIP changes submitted under it, and will review individually each generic rule and those emissions trades submitted as SIP revisions to determine their acceptability under the Clean Air Act. Interested parties will have full opportunity to scrutinize application of these general principles to specific cases, and to seek subsequent judicial review of such cases, when particular generic rules or individual trades are proposed and approved.

This Statement expands opportunities to use emissions trading. If implemented by states it can allow industry to use the bubble and other trading approaches in additional circumstances and geographic areas. The policy will also reduce adversary tensions, allow states to benefit from industrial knowledge, and encourage quicker compliance, while reducing unnecessary federal review. It represents important regulatory reform, for states as well as industry, by encouraging greater flexibility in meeting air quality goals.

Dated: April 2, 1982.

Anne M. Gorsuch,

Administrator.

Emissions Trading: Technical Issues Document

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Emissions Trading: Technical Issues Document

This Document offers more detail on technical issues for firms and pollution control agencies seeking to implement individual emission trades or generic trading rules that meet the principles in EPA's Emissions Trading Policy Statement.[1] It describes both the minimum legal requirements for emissions trades under the Clean Air Act, and a range of legal options which states [2] may consider. States and industry are encouraged to pursue other approaches consistent with those discussed here.

Emissions trading is voluntary. States may implement emissions trades on a case-by-case basis or develop generic trading rules covering one or more classes of transactions. Trades under approved generic rules will be exempt from individual SIP revisions. Such rules can also provide greater certainty by specifying which trades are quickly approvable.

Section I of this Document explains general legal principles governing all emissions trading. Section II explains principles governing state generic rules. Section III discusses special considerations for emission trades implemented as individual SIP revisions.

Because these sections reflect general Clean Air Act principles, states and individual sources remain free to show that a general principle does not apply to particular circumstances or can be satisfied using another approach. States and sources have this option under current law, and nothing in the Policy Statement or this Document restricts their opportunity to make such showings. (See Section III below).

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[1] Emissions trading was formerly known as "controlled trading".

[2] "States" includes any entity properly delegated authority to administer relevant parts of a State Implementation Plan (SIP) under the Clean Air Act.

I. Components of Emissions Trading

The components of any emissions trade are the *creation* of an emission reduction credit (ERC), its *use* in a trade, and its possible *storage* in a bank.

A. Creating Emission Reduction Credits

States may grant credit only to those emission reductions that are *surplus, enforceable, permanent,* and *quantifiable.* Otherwise use of ERCs might degrade air quality, threaten the viability of the area's SIP, and result in more stringent controls.

1. *All Reductions Must Be Surplus.* Only surplus reductions not currently required by law can be substituted for required reduction as part of an emissions trade without jeopardizing air quality goals.

The first step in qualifying a reduction as "surplus" is to establish a level of baseline emissions. The baseline identifies the level of required emissions beyond which reductions must occur for a source to receive credit. It will generally be determined by whether the area is attainment or nonattainment, and by the way the state developed its SIP.

a. *Use of Actual or Allowable Emissions as the Baseline.* In *attainment areas* the baseline will generally be actual emissions—only reductions below a source's actual level of historical emissions can be considered surplus. Because current regulations specify actual air quality as the basis for determining increment consumption, these rules normally require that actual emissions be used for the area's maintenance strategy. (See 45 FR 52717; Aug. 7, 1980). However, allowable emissions may be used as the baseline if proper consideration is given to increment usage.

In *nonattainment areas* the baseline may be either maximum allowable emissions or actual historical emissions.[3] To determine which baseline is appropriate, the state should examine the assumptions used in developing its demonstration of attainment.

In *nonattainment areas which used allowable emissions as the basis for their attainment strategy,* sources can use their SIP allowable limits as the baseline for creating ERCs. Many states used allowable limits in developing their SO_2 and TSP attainment plans.

Other nonattainment areas used inventories that were either substantially deficient or based on actual emissions, or they relied on measured (and therefore "actual") ambient values as the primary basis for determining SIP emission limits needed to demonstrate attainment. Under current EPA regulations, in these areas some level of actual historical emissions would generally be the baseline. *However,* these areas may approve use of allowable emissions as the baseline on a case-by-case basis, where that use comports with reasonable further progress and the source shows it will neither create a new ambient violation nor prevent the planned removal of an existing violation. (See Section III)

b. *Surplus Reductions in Areas Lacking Approved Demsonstrations.* In several jurisdictions demonstrations of attainment are not yet complete. Some of these jurisdictions are uncertain where to secure sufficient emission reductions; others have not yet adopted enforceable emission limits based on reasonably available control technology (RACT) for specific industrial processes. Additional emission controls on these or other sources generally are needed to reach attainment. The question is how "surplus" should be defined for sources lacking SIP-defined RACT emission limits in these areas. Where RACT is already defined in the SIP, it will of course be the baseline. Where RACT for relevant source categories has not been defined, credit for surplus reductions may be granted in at least two general ways which are consistent with Clean Air Act requirements for reasonable further progress and attainment.

(i) *Use of a RACT Baseline.* If RACT has not been defined in the SIP, the source may agree with the State and EPA to an acceptable RACT limit for the emission sources involved in the trade. A surplus would then consist of any emission reductions in excess of those required to meet RACT. Where sources voluntarily agree to such a RACT level, EPA encourages states not to reexamine the agreed-upon individual emission levels for a period of time consistent with the statutory deadlines for attainment, unless there is no other practical way to satisfy requirements of the Clean Air Act.

A RACT baseline is the only option in areas that will not attain the relevant primary ambient standard by December 1982 and have not received attainment extensions for such standard. Because of the extremely short time period remaining for attainment and the practical difficulty of securing further reductions prior to the December 1982 deadline, this limitation is necessary to assure that trades in these areas comport with the statutory deadline and the mandate for RACT "as expeditiously as practicable."

(ii) *Use of Actual Emissions Baseline.* Areas that will not attain the primary ozone or CO ambient standard by December 1982, but have received attainment extensions until 1987, as well as areas with plans that will attain the primary (but not the secondary) TSP or SO_2 ambient standard by December 1982, may use current actual emissions (or "old" Section 110 SIP limits if applicable) as the baseline. Under this option, sources in these areas could trade using individual emission sources not yet subject to RACT limits, so long as states clearly advise sources of their responsibility to find or produce reductions equivalent to future RACT requirements if and when the state imposes them and sources commit to meet these future requirements. This would give industry flexibility to create and use ERCs at the earliest date. It would also avoid having to negotiate individual RACT baselines through case-by-case SIP revisions.

States that choose not to rquire negotiated RACT baselines should be aware that their SIPs must still comply with Section 172(b)(2), which requires imposition of RACT "as expeditiously as practicable."

C. *No Double-Counting of Reductions.* To be considered surplus, an emission reduction cannot already have been included as part of the area's baseline emissions. Double-counting of reductions—granting credit for the same emission reduction, once to the state and a second time to a source for use in an emissions trade—must be addressed in the following situations.

(i) *Crediting Pre-Existing Emission Reductions.* In *nonattainment areas* credit generally cannot be granted for emission reductions made before nonitoring data was collected for use in SIP planning. Because monitored ambient levels may have *already* reflected these emission decreases, they would have been assumed in calculating the reductions needed to attain ambient standards. States should clearly identify in their rules the date before which reductions will not qualify for credit. The earliest acceptable baseline date would normally be the year of the most recent emission inventory or monitoring data used in planning Part D SIP revisions under the Clean Air Act Amendments of 1977.

In *attainment areas* emission reductions that occurred before the PSD emissions baseline was established generally cannot qualify for credit. States have already assumed these reductions in their PSD baselines. If

[3] See, 45 FR 52728 (Aug. 7, 1980). Several aspects of EPA's August 7th regulations, including the definition of baseline, are currently under judicial review. Any rulemaking changes which result from that litigation may be controlling here.

credited and later used, they could undermine the area's strategy to maintain air quality.

(ii) *Crediting Reductions From Shutdowns.* In general, a state may credit reductions from shutdowns for *bubble trades* if the SIP has not already assumed credit for these reductions in its attainment strategy. So long as reductions from shutdowns have not already been counted in developing an area's attainment strategy, they are an appropriate source of surplus reductions for bubble trades.

Many SIPs assumed a set quantity of reductions from new plant openings and existing plants shutdowns. These SIPs incorporated into their attainment strategy a net "turnover" reduction in emissions because new sources are generally cleaner than those that shut down. Double-counting would occur if a specific source received credit for reductions from such a shutdown, since that reduction was already assumed in the SIP's demonstration of attainment.

States have at least three options to grant sources credit without this kind of double-counting. *First,* they may re-examine any "turnover" credits in their SIP and decide not to take credit for these reductions. *Alternatively,* they may allow credit only after the total quantity of shutdown reductions assumed in the SIP has occurred. *Finally,* they may allow credit for a percentage of the total emission reductions realized from a shutdown, if they can show that such credit is consistent with the SIP's demonstration of attainment and reasonable further progress.

d. *Multiple Use of ERCs.* Once surplus reductions are credited, states should guard against their multiple use. In general, the same ERCs must not be banked by two different entities or used to satisfy two different regulatory requirements at the same time. To prevent these results, states should adopt an ERC registry or equivalent means of accounting for the creation, banking, transfer, or use of all ERCs. (See Section I.C.5)

e. *Reductions from Uninventoried Sources.* Sources not included in an area's SIP emission inventory may apply for credit. In general, so long as granting credit for reductions from these sources will not jeopardize an area's demonstration of attainment or reasonable further progress, there are no legal restrictions on such credits.

In *attainment areas* all sources, regardless of whether they have been included in an inventory, may create ERCs using actual emissions as the baseline. Those emissions need only have been included in the area's PSD baseline.

In *nonattainment areas,* whether sources not on the inventory can create ERCs will turn on how the SIP's demonstration of attainment was designed.

Some areas first monitored ambient values to determine required SIP reductions, then required a proportionate reduction in emissions from certain source categories in order to attain. These areas may grant credit for reductions from uninventoried sources in at least three ways. *First,* they could required the source to use a RACT baseline and grant credit only for reductions below that baseline. *Alternatively,* they could require the same percentage reductions as imposed on inventoried sources, and grant credit only for reductions in excess of that amount. *Finally,* where no demonstration of attainment exists, they may use either a negotiated RACT baseline or (in appropriate circumstances) an actual emissions baseline. (See Section I.A.1.B above)

Other areas developed SIP demostrations based on ambient air quality models rather than area-wide proportionate reductions. To the extent these DIPs demonstrated ambient attainment through reductions required from inventoried sources, reductions from sources not on the inventory can be credited using actual emissions as the baseline.

2. *Alternative Emission Limits Must Be Enforceable. Each bubble, netting, offset or banking transaction must be enforceable and must approved by the state. Under current EPA regulations reductions used in bubble, offset and netting trades must be federally enforceable.*[4] This requirement for enforceability can generally be satisfied either through existing procedures (including individual SIP revisions or state permits issued under 40 CFR 51.18) or through generic rules, since any enforceable compliance instrument imposing emission limits within the scope of a generic rule is deemed part of the SIP.

Emission limits estalished by a trade maust also be incorporated in a compliance instrument which is legally binding and practicably enforceable. *Trades involving individual SIP revisions* automatically satisfy this requirement.

For *trades under generic rules,* a compliance instrument could take the form of an agreement between the source and state, and operating or preconstruction permit, or a consent decree. Many State permits and permit procedures may need revisions to assure that they provide adequate compliance information. However, such revisions need only occur on a case-by-case basis as individual trades are approved.

Compliance instruments should assure that enforcement officials do not have to test simultaneously every emission source involved in a trade. This generally means source-specific emission limits. However, states may use an overall emission limit that applies to a group of emission sources which can be monitored sumultaneously. This will generally require a reliable method of determining compliance through production records, input factors, or similar indirect means. (See 45 FR 80824; Dec. 8, 1980)

The compliance instrument should also specify applicable restrictions on hours of operation, production rates or input rates; enforceable test methods for determining compliance; and necessary recordkeeping or reporting requirements. To be enforceable, these limits must state the minimum time period over which they will be averaged (e.g., lbs/hour, lbs/MMBtu averaged over 24 hours, production rate/day).

3. *All Emission Reductions Must Be Permanent.* An emission reduction credit must be a permanent reduction in the level of pollution emitted by a source. Use of an ERC which is not permanent could adversely affect air quality by allowing increased emission from both the source creating the ERC and the source where it is used.[5]

To receive credit for reductions in operations (e.g., a reduction from 3 to 2 workshifts), a source must have its permit or other compliance instruction altered to reflect the curtailment in production. Future increases in production beyond the permit amount would generally require compensating emission reductions.

[4] In July 1981 EPA administratively stayed certain rules relating to federal enforceability requirements for netting and offsets. 46 FR 36695 (July 15, 1981). This stay has expired and has not been renewed. Requirements of existing regulations accordingly remain applicable.

[5] As an alternative, states may allow trades whose emissions increases and emissions decreases are equal in duration rather than strictly permanent. This is the minimum legal requirement under the Clean Air Act, but may require states to track trades over time to assure ambient equivalence.

Permanence may present special but resolvable problems for reductions from small sources not subject to permits, offset requirements, or production constraints. States which grant credit from these source categories should address the possibility that reductions from one source may be followed by equal or greater increases from simular sources in adjacent areas.

4. *All Reductions Must Be Quantifiable.* Before an emission reduction can be credited it must be quantified. This generally means the state must establish a reliable basis for *Measuring the amount and rate* of the reduction and *describing its characteristics.*

a. *Measuring the Reduction.* To quantify ERCs, emissions must be calculated both before and after the reduction. Although many different methods of calculation are available (e.g., emission factors, stack tests, monitored values, production or process inputs), the same method and averaging time should generally be used to quantify emissions before and after the reduction.

b. *Describing the Reduction.* If an ERC is to be used at the time of creation, only characteristics necessary to evaluate that proposed use need be described. Where the ERC is to be banked and its eventual use is not yet known, a more detailed description is advisable.

B. Using Emission Reduction Credits

This section explains the substantive and procedural principles applicable to use of ERCs in bubble, netting or offset transactions.

1. *Substantive Principles for Using ERCs.*

a. *Emissions Trades Must Involve the Same Pollutant.* The Clean Air Act requires states to develop separate plans to attain and maintain the national ambient air quality standard for *each* criteria pollutant. Thus, all individual bubble, netting or offset cases must involve the same pollutant. Only reductions of particulates can substitute for increases of particulates, reductions of SO_2, for increases in SO_2, etc.

b. *All Uses of ERCs Must Satisfy Ambient Tests.* The Clean Air Act requires that all areas throughout the country attain and maintain ambient standards. In *nonattainment areas,* use of ERCs cannot create a new violation of an ambient standard or prevent the planned removal of an existing violation. In *attainment areas,* use of ERCs cannot violate an increment or ambient standard. The ambient effect of a trade generally depends on the dispersion characteristics of the pollutant involved.

VOC or NO_x Trades. Ambient considerations will not affect trades involving VOC or NO_x, whose impacts occur across broad geographic areas. Within such areas one ton of decreased emissions is generally equivalent in ambient effect to one ton of increased emissions, since the precise location of those increases and decreases ordinarily does not matter. For these pollutants, "pound for pound" trades may be treated as equal in ambient effect.

TSP, SO_2 or CO Trades. Ambient considerations are critical for trades involving SO_2, particulates, or carbon monoxide, whose air quality impact may vary with where the emission increases and decreases occur. One hundred tons of ERCs for these pollutants created at one site may balance the ambient impact of a 100-ton increase at a site nearby, but may only balance the effect of an 80-ton increase at a site further away. In addition to distance between sources, plume parameters, pollutant characteristics, meterology, and topography will also affect the ambient impact of such a trade.

As a general principle, bubble applications must demonstrate ambient "equivalence" and offset transactions must demonstrate ambient progress. Such demonstrations have typically been made through mathematical dispersion modeling which predicts the ambient impact of various emissions.

This Document authorizes use of a three-tiered screen with the degree of required modeling linked to the likely ambient impact of the proposed trade. The following sections describe use of this modeling screen to approve many trades without full-scale ambient modeling. Use of this modeling screen to define the scope of generic rules is discussed in Section II below.

(i) *Level I:* In general no modeling is needed if the proposed TSP, SO_2 or CO trade does not result in a net increase in applicable baseline emissions, the relevant emission sources are located in the same immediate vicinity, and no increase in emissions occurs at the source with the lower effective plume height. In such cases it can reasonably be assumed that "pound-for-pound" trades will produce ambient effects equivalent to what current modeling would predict, and modeling is not required.

(ii) *Level II:* Only limited modeling involving the specific emission sources in the trade is needed for trades not included in Level I, if there is no net increase in applicable baseline emissions and if emissions after the trade will not cause a significant air quality impact at the receptor of maximum predicted impact. In determining "significant" impact, states may use the significance levels established by EPA for determining when air quality monitoring is necessary for PSD cases: 10 $\mu g/m^3$ for the 24-hour standard for TSP; 13 $\mu g/m^3$ (24-hr) for SO_2; and 575 $\mu g/m^3$ (8-hr) for CO. (*See,* 45 FR 52709, Aug. 7, 1980). These levels appropriately identify trades whose potential ambient impact need not be further evaluated before approval.

(iii) *Level III:* Full dispersion modeling, considering all sources in the area of impact, is required if net applicable baseline emissions will increase as a result of the trade *or* if the trade will have a significant impact on air quality at the receptor showing maximum ambient impact.

This modeling screen will ensure that the air quality impact of trades is equivalent to the impact of the original SIP limits.

c. *Trades Should Not Increase Net Baseline Emissions in Nonattainment Areas.* Congress required *nonattainment areas* to demonstrate reasonable further progress (RFP) by reducing emissions each year in amounts sufficient to attain ambient standards by statutory deadlines. In general, RFP is measured by an areawide quantity of reduced emissions.

Trades in such areas which increase total emissions can generally occur only as individual SIP revisions in which the state either demonstrates that the trade is consistent with RFP or revises RFP as part of the proposed SIP revision. EPA will approve such revisions as amendments to the SIP, provided they comport with ambient air quality standards and reasonable further progress.

However, such trades may occur under generic rules where existing sources were required to reduce emissions beyond the amount required to bring the area into attainment. In such cases a growth margin was created which may be used at the discretion of the state to compensate for any increases in emissions without violating reasonable further progress requirements.

In attainment areas trades increasing total emissions could generally be permitted, but may consume some or all of the increment, trigger PSD review, or both.

d. *Emissions Trades Should Not Increase Hazardous Pollutants.* Under the Clean Air Act all sources must meet applicable Section 112 (NESHAPs) regulations for hazardous air pollutants. Except as may be specifically permitted in future Section 112 regulations, a source may neither use a bubble to meet these requirements, nor increase emissions beyond the levels they prescribe.

Where pollutants have been listed under Section 112, but are not yet subject to specific regulations, states may allow trades consisting of equivalent increases and decreases of the same listed pollutant at reasonably

close emission points. States may also approve trades in which reductions in hazardous emissions compensate for increases in non-hazardous emissions. For example, a source may trade benzene for any non-hazardous VOC, if the benzene emissions are decreased (i.e., "traded down").

e. *Emissions Trades Cannot Be Used to Meet Technology-Based Requirements.* The Clean Air Act specifically requires new or expanding sources to meet technology-based new source performance standards (NSPS), regardless of the attainment status of the area in which they are located. This requirement prohibits use of bubbles to meet or avoid NSPS, and has been interpreted to bar use of such a bubble to meet new source review requirements for best available control technology (BACT) in PSD areas, or lowest achievable emission rate control technology (LAER) in nonattainment areas. Thus, new emissions sources subject to new source review cannot use ERCs from existing sources to satisfy these requirements.

Expanding or modernizing sources can, however, use *internal* emission reductions from within the same plant to "net out" of new source review. Such sources still must meet NSPS, but are not subject to BACT in attainment areas (45 FR 52676; Aug. 7, 1980) or LAER in nonattainment areas (46 FR 50766; Oct. 14, 1981), since they are not considered new sources under Parts C and D of the Clean Air Act.

f. *Trades Involving Open Dust Emissions.* Trades involving open dust sources of particulate emissions may be approved based on modelled demonstrations of ambient equivalence. Sources proposing such trades should be required to undertake a post-approval monitoring program to evaluate the impact of their control efforts. If the results of monitoring indicate that initial open dust controls do not produce the predicted air quality impact, further enforceable reductions may be required. States must either require sources to acknowledge their responsibility for further reductions, or deem trading applications to be such an acknowledgment, as a condition of approval.

2. *Procedural Steps for Using ERCS.* Emission trades may be implemented through individual SIP revisions or state generic rules. This section describes principles applicable to either procedure. General principles for generic rules are discussed in Section II below. Special considerations for trades which still require individual SIP revisions are discussed in Section III.

a. *Bubbles Can Be Used to Achieve Compliance.* The bubble policy required that sources be subject to binding compliance schedules based on original SIP emission limits before being eligible to apply for bubbles. This requirement threatened sources with tight milestones for the purchase of conventional control equipment and tended to discourage both rapid compliance and flexibility. Under today's Policy Statement states may promote rapid compliance by allowing sources to agree to emission limits established as part of their bubble application, instead of requiring sources to agree to compliance plans based on their original SIP limits before an application can be filed.

b. *Extensions of Compliance Deadlines.* States may extend compliance deadlines for VOC or CO sources on a case-by-case basis as part of bubble approvals. The Clean Air Act limits such extensions to sources which are located in areas that have received VOC or CO attainment extensions until 1987, and whose bubble will be consistent with reasonable further progress requirements. Because this will usually require a revision of the state's reasonable further progress demonstration, such extensions must generally be submitted as SIP revisions.

However, states may also grant compliance extensions without case-by-case SIP revisions as part of bubble approvals under a generic rule. The rule should provide that: (1) Extensions may only be granted in areas which have received attainment extensions to 1987; and (2) the total amount of reductions claimed in the state's approved RFP demonstration will not be reduced for each year in question. For example, if a source wishes to defer 100 tons per year of reductions from 1982 to 1985, then as part of the bubble approval, the state must show that an additional 100 tons per year of reductions has already occurred in 1982, or that provisions for such additional reductions already exist.

c. *Pending Enforcement Actions.* A bubble cannot be approved for an individual emission source which is presently the subject of a federal enforcement action or outstanding enforcement order unless EPA (and where necessary the appropriate court) approves the proposal and the compliance schedule it contains. This applies to civil actions filed under Clean Air Act Section 113(b), criminal actions filed under Section 113(c), a notice imposing noncompliance penalties issued under Section 120, administrative orders issued under Section 113(a), or a citizen suit filed under Section 304 where EPA has intervened.

This requirement need not preclude bubble approvals under generic rules, provided an appropriate mechanism for securing and recording EPA approval is used. Sources should, however, be aware that such approvals cannot be finally effective until approved by the appropriate court.

C. Banking Emission Reduction Credits

State SIP rules may include a banking provision which addresses ownership and holding of ERCs over time. Without such a provision, firms risk losing surplus reductions should a major SIP revision or new set of control requirements be instituted. Generic banking rules can afford such ERCs substantial protection consistent with the Act's mandate to attain and maintain ambient standards.

The bank can accept and evaluate requests to certify an ERC, serve as a clearinghouse for credits on deposit, and account for transfers and withdrawals of ERCs. These roles will generally be performed by the state as part of its normal permitting activities.

The following sections address both minimum legal requirements for state banking rules and issues states should consider. States may adopt other approaches which produce equivalent results.

1. *Banking Rules Must Designate an Administering Agency.* Banking rules must identify the entity responsible for specific functions. While the state will ordinarily be responsbile for verifying and processing ERC requests, all or part of this responsibility may be delegated to other organizations. Such organization(s) must possess the resources and legal authority to implement delegated activities.

2. *Only ERCs May be Banked.* Banked emission reductions msut be *surplus, permanent, quantifiable* and *enforceable.* This generally means that such reductions must be made at the time they are deposited in the bank as ERCs. *However,* if a firm commits to produce a specific reduction in the future, a state may allow a conditional deposit to be made. In all cases the reduction must actually be achieved before it can be used in an emissions trade.

3. *Procedures for Banking ERCs Should be Defined.* To speed approval of trades and provide greater cerainty for potential ERC creators and users, state banking rules should clearly identify which proposed emission reductions can qualify to be credited and banked, the information required of sources to substantiate their claim for credit, and any required application forms.

4. *Banking Rules Must Establish Ownership Rights.* To prevent two entities from claiming the same ERCs, state banking rules must specify who can own ERCs. For example, while the source creating the ERC will generally be its owner, the state could, as part of its rule, reserve ownership of certain classes of ERCs to itself or local governments.

5. *Banking Rules Must Establish an ERC Registry or Its Equivalent.* An ERC registry or equivalent instrument lets states track ownership, use, and transfer of all banked ERCs. Banking rules must provide that no transfer of title to a banked ERC will take effect until the transaction is reflected in the registry. This tracking system is important to minimize disputes over ownership and provide a central list of certified ERCs which may be available. It can also provide useful information for quickly evaluating any proposed use of a banked ERC.

Information which may help evaluate proposed use of a banked ERC should be recorded at the time of its creation and entered as part of its banking record. This information should include the location of the source creating the ERCs, its stack parameters, the temperature and velocity of its plume, particle size, the existence of any hazardous pollutants, daily and seaonal emission rates, and any other data which might reasonably be necessary to evaluate future use.

To perform these tracking and clearinghouse functions the ERC registry must be accessible to the public. Subject to confidentiality considerations, states should make copies of the ERC registry available at convenient locations and times, and may want to publish a periodic summary of banked ERCs.

6. *Possible Adjustments to ERCs Based on Enforcement Considerations.* To avoid legal problems, banking rules should clearly state what, if any, changes may occur to ERCs after they have been banked. Once an ERC has been used by another source to meet a permit requirement, any violation of the conditions under which that ERC was created should result in enforcement against the source *producing* that emission reduction and not the source *using* the ERCs. If a state attempted to enforce against the source using purchased ERCs, a complex set of third-party lawsuits would ensue. This would likely discourage sources from purchasing ERCs in the Future.

7. *Possible Adjustments to ERCs Based on Ambient Attainment Considerations.* To assure the validity of its demonstration(s) of attainment, a state with a banking rule should assume that all banked emissions will ultimately be used. Thus, in evaluating their ability to attain national standards, states should add to their inventory or measured ambient value, all unused banked reductions at the site at which they were created.

Additional emission reductions may be required from sources because of their area's failure to attain ambient standards, because of an increment violation, or because new RACT requirements are being imposed under a SIP schedule. The existence of banked ERCs must not interfere with states' ability to obtain these additional reductions. For this reason state banking rules should specifically address how ERCs will be treated if additional reductions are required. Available options include:

a. *ERCs Are Absolutely Guaranteed Against Adjustment.* The state would determine the required quantity of reductions and assess necessary controls on the inventory. Sources with banked ERCs would not be exempt from any requirement for additional reductions, but could satisfy that requirement by using their banked ERCs, by reducing emissions elsewhere, or by purchasing equivalent ERCs.

To effectively implement this option, it would be particularly important to state new control requirements in terms of "RACT-equivalent" reductions.

b. *Current ERCs Are Fully Preserved,* but either their use *or* future ERC deposits are suspended until the SIP has committed to secure reductions sufficient to reestablish reasonable further progress or cure an increment violation. Use of either type moratorium would be consistent with air quality objectives while allowing sources to retain or use their entire quantity of banked ERCs. However, this option may be undesirable because of uncertainty regarding the moratorium's start, duration, or potential interference with user planning.

c. *Across-the-Board Discounting.* Under this option, all ERCs in the bank would be discounted by the same factor. For example, if a 10% additional reduction is required from a category of sources for the SIP's new demonstration of attainment, the state would discount all banked ERCs from those types of sources by 10%. Although the quantity of ERCs held by a firm will be reduced, the overall supply of ERCs will decrease, while demand will increase. Therefore, the overall value of remaining ERCs is likely, at minimum, to remain the same. Indeed, other sources may purchase banked ERCs to meet the 10% reductions required of them.

This option is relatively straightforward for VOC or NO_x. For SO_2 or TSP more detailed, source-specific modeling would generally be required to allocate the discount necessary to demonstrate attainment.

States may adopt any of these methods of accommodating possible additional reductions. They may also adopt any equivalent method which achieves the same objectives.

II. Trades Covered by State Generic Rules

This section explains expanded opportunities for states to develop generic rules under which certain classes of emissions trades will be exempt from individual SIP revision.

A. General Principles for Evaluating Generic Rules

A generic rule is approvable if it assures that (1) applicable net baseline emissions will not increase; (2) emissions trades otherwise requiring SIP revisions under §§ 110(i) and 110(a)(3) of the Clean Air Act will be evaluated under procedures that are sufficiently replicable in operation; and (3) emission limits produced under the rule will not interfere with ambient attainment and maintenance. Replicability generally means that specific modeling procedures are prescribed and that states have appropriately defined their choice of models, model inputs, and modeling techniques in applying these procedures to specific trades. Thus, these trades should not create new ambient violations or interfere with the planned removal of existing violations. By approving such generic rules EPA approves in advance an array of acceptable SIP emission limits, and no further case-by-case EPA approval is required.[6]

B. Scope of Generic Rules

States may use a range of mechanisms to exempt trades from EPA review as individual SIP revisions. While several mechanisms are explained below, states may submit other generic rules that satisfy these basic principles.

1. *De Minimis Trades.* Trades in which net baseline emissions do not increase and in which the sum of the emission increases, looking only at the increasing sources, totals less than 100 tons per year after applicable control requirements, may proceed without a

[6] Replicability more generally means a high likelihood that two decision-makers applying the rule to a given trade would reach the same conclusion. For one example of a generic rule incorporating a very simple formula that meets the test of replicability, see 46 FR 20551 (Apr. 6, 1981).

SIP revision. Such trades will have at most a *de minimis* impact on local air quality because only minor quantities of emissions are involved. Moreover, because only trades which produce no net increase in emissions can be exempt, overall air quality will not suffer. The Federal resources required to evaluate these trades could best be used to evaluate actions that have a potential impact on air Quality.[7]

2. *VOC or NO_x* Trades. All VOC or NO_x trades under a generic rule that assures no net increase in applicable baseline emissions may occur without individual SIP revisions.

The ambient impacts of VOC and NO_x emissions are area-wide rather than source-specific. All such emissions within a broad area are considered comparable, regardless of plume height, topography or related factors. Thus, the ambient impact of trades involving VOC or NO_x will by definition be equivalent to that of the sum of the SIP emission limits for the emission sources involved in the trade. As long as the sum of these emission limits is not exceeded, the limits for each specific emission source can be reallocated without adversely affecting air quality. This essentially arithmetical task is so mechanical that VOC or NO_x trades developed in this manner cannot reasonably interfere with ambient attainment and maintenance.

3. *SO_2* CO, or TSP Trades. For trades involving SO_2 CO, or TSP it is more difficult, but by no means impractical, to develop a generic rule which assures that valid ERC uses cannot reasonably interfere with attainment and maintenance.

The ambient impact of these pollutants depends on site-specific factors such as topography and plume height which are ordinarily evaluated by ambient modeling. However, if the emission sources are located in the same immediate vicinity and emissions decrease at the source with the lower effective plume height, therefore minimizing localized ambient impact, equal increases and decreases in emissions from these sources will ordinarily produce equivalent ambient effects (See Level I of the Modeling Screen). As a result, trades involving emission sources within Level I may be treated in the same manner as trades involving VOC or NO_x and may be exempted from individual SIP revisions.

EPA will normally approve generic rules that define "same immediate vicinity" as up to 250 meters between the individual emission sources involved in a trade. *However*, where such trades involve areas with complex terrain, some modeling might still be required to assure that ambient impact is properly considered. Generic rules should specify criteria for identifying such circumstances and for defining what modeling will be required.

4. *Other Mechanisms for Exempting TSP, SO_2, or CO Trades from Individual SIP Revisions.* Other TSP, SO_2 or CO trades can be exempted from individual SIP revisions if they occur under state generic rules which satisfy the replicability and air quality requirements stated above.

Possible generic approaches include:

(a) Developing SIP rules which allow identified sources to meet an array of specific emission limits consistent with ambient attainment and maintenance. For example, states could approve a modeled formula for two or more specific emisson sources which would both satisfy ambient concerns and let firms determine particular permit limits at each emission source. This formula would have to be adopted as part of the SIP.[8]

(b) Developing criteria for use of simplified Level II modeling (see section I.B.1.b, above) for specified trades. This approach would exempt trades which (1) produce no net increase in applicable baseline emissions, (2) can routinely be modeled in a predescribed manner, and (3) will not have significant ambient impact. The generic rule must specify either the particular model that will be employed in a given stituation, or criteria for selecting models in specified circumstances. To limit variability in modeling results the rule must also specify procedures for selecting input data (e.g., wind speed, stability class, source emission rate) which are sufficiently definite to meet the test of replicability. To determine whether a trade will have significant ambient impact these procedures should assess whether the change in emissions after the trade from the increasing source has the potential to cause an increase of more than 10 $\mu g/m^3$ over at 24-hour period for TSP, 13 $\mu g/m^3$ (24 hours) for SO_2, or 575 $\mu g/m^3$ (8 hours) for CO at the receptor of maximum predicted impact.

C Applicability of Generic Rules To Process Fugitive and Open Dust Emissions Trades

Trade involving *process fugitive emissions of VOC or NO_x* may routinely be approved under generic rules. However, because of their dispersion characteristics, it is more difficult to define generic rules that can be applied in a sufficiently replicable fashion to trades involving process fugitive or open dust TSP emissions.

In general *TSP trades involving process fugitive emissions* can be approved under generic rules if: (1) process fugitive emissions are traded against similar sources of process fugitive emissions, or (2) emissions from point sources are traded against process fugitive emissions which can reasonably be represented by a point-source dispersion pattern. This means that relevant parameters such as emission release height must be readily determinable. Unless such trades fall within Level I of the modeling screen or are *de minimis*, only processes whose fugitive emissions can be adequately represented by the dispersion model(s) specified in an approved generic rule can be included in a trade under that rule.

For *TSP trades involving open dust emissions* states should be aware that approvable generic rules which appropriately limit the choice of screening models and relevant inputs (including acceptable emission factors) will currently be difficult to formulate. Accordingly, open dust trades generally will have to be submitted as individual SIP revisions.

D. Enforcing Emission Limits Under Generic Rules

Alternative emission limits approved under generic rules are considered by EPA to be federally enforceable. Generic rules should specify that such alternative limits become applicable requirements of the SIP for purposes of §§ 113 and 304 of the Clean Air Act and are enforceable in the same manner as other SIP requirements. To assure that EPA and citizens know what emission limits apply, generic rules should also specify that EPA be informed of applicable emission limits before and after the trade, following approval of the trade by the state.

E. EPA Oversight of Trades of Under Generic Rules

The Clean Air Act requires EPA to monitor administration of SIPs, including generic rules. *See* § 110(a)(2)(H). EPA will audit the information supplied for each trade and

[7] Although states may exempt *de minimis* trades from federal SIP revisions, these trades are still subject to ambient tests. They should accordingly be evaluated by the state under the modeling screen (See Section I.B.1.b. above) or an equivalent approach.

[8] For example, the emission limits for the four stacks at the stuart Power Plant in Adams County, Ohio are 3.16 pounds of SO_2 per million BTU at each stack, or at the plant's choice (after notification to EPA), any limit in pounds per BTU which satisfies the following equation: $0.0791\ (EL_1+EL_2+EL_3+EL_4<1$. See 40 CFR 5.1881(11).

may request additional relevant information. Should EPA determine that approved trades are substantially inconsistent with generic rules in the SIP, it will notify the state and specify any necessary remedial measures.[9]

F. Public Comment

For trades occuring under generic rules, existing state statutes or regulations will generally provide reasonably adequate notice and comment opportunities. If these opportunities are not provided generic rules should explicitly address this issue.

To ensure public awareness consistent with § 304 of the Clean Air Act, states should also, at a minimum, publish any changes to emission limits which result from trades approved under a generic rule (see 46 FR 20554; April 6, 1981).

III. Trades Not Covered by State Generic Rules

In the absence of a generic rule, states and sources may continue to use SIP revisions to effect bubble or external offset trades. Individual trades may also fall outside the scope of an approved generic rule and still be implemented as individual SIP revisions. The principles described in the Policy Statement and this Document will generally be used to evaluate these emission trades.

Because of the ability of the SIP revision process to take account of individual variations, many trades which could not be accomplished under a generic rule may be acceptable use individual SIP revisions. For example, proposed bubles which produce a net increase in baseline emissions could nevertheless be approved through a SIP revision showing that requirements for attainment and maintenance were satisfied. In submitting such a bubble application, the state would have to revise its reasonable further progress demonstration to account for the increase in emissions and EPA would review the proposal to determine if the demonstration of attainment and RFP were satisfactor. Without such a SIP revision, trades increasing net baseline emissions would generally be acceptable only if compensating additional controls were already required in the SIP.

Through the SIP revision process, states and sources may also demonstrate that a general principle discussed in Section I above does not apply to their particular circumstances, or that such a principle may be satisfied in other ways. For example, they may show that a RACT baseline is unnecessary for a particular source because resulting reductions are not needed for attainment; that despite general requirements for use of an actual emissions baseline, an allowable baseline is acceptable in a particular situation based on air quality modeling; or that reductions from specific shutdowns or uninventoried sources can be fully credited without interfering with reasonable further progress and attainment.

EPA will make reasonable efforts to take prompt action on SIP trading proposals after a state has ruled on an individual application and submitted it to the Agency. EPA will encourage "parallel processing" of proposals, with EPA and state officials conducting concurrent review so that both agencies can give public notice of proposed action at roughly the same time. EPA can then take prompt final action after the state completes its proceedings, provided the state does not substantially alter the proposal after public notice. EPA will also publish non-controversial SIP revisions as immediate final actions, converting them to proposals only if adverse comments are received within 30 days (see generally 46 FR 44477; Sept. 4, 1981).

Appendix.—Regional EPA Emissions Trading Coordinators

Region I: Marcia Spink, Stationary Source Section, Air Programs Branch, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–4448; FTS 223–4448

Region II: Linda Comerci, Permits Administration Branch, Planning and Management Division, 26 Federal Plaza, New York, New York 10007, (212) 264–4333; FTS 264–4333

Region III: David Arnold, Air Programs Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19102, (215) 597–7936; FTS 597–7936

Region IV: Archie Lee, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, (404) 257–3286; FTS 257–3286

Region V: Dick Dalton, Mary Ryan, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6053; FTS 886–6053

Region VI: Michael Mendias, Air Programs Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2734; FTS 729–2734

Region VII: Charles Whitmore, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–6525; FTS 758–6525

Region VIII: Dale Wells, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80296, (303) 837–3763; FTS 327–3763

Region IX: Wally Woo, Air and Hazardous Materials Section, 215 Freemont Street, San Francisco, California 94105, (415) 974–8210; FTS 454–8210

Region X: Dave Bray, Air Programs Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1352; FTS 399–1352

[FR Doc. 82-9293 Filed 4-6-82; 8:45 am]

BILLING CODE 6560-50-M

[9] A trade which does not meet the requirements of a generic SIP rule is not part of an SIP and by defintion cannot replace prior value emission limits in the SIP. (See 46 FR 20554–5; April 6, 1981). In these cases EPA must reserve the right to take remedial action to assure attainment and maintenance, including as a last resort enforcement of the original SIP limits.

federal register

Wednesday
April 7, 1982

Part IV

Department of Energy

Economic Regulatory Administration

Compliance With the National Environmental Policy Act and Environmental Impact Statement for Powerplant Conversions to Coal in the State of Florida

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Compliance With the National Environmental Policy Act and Environmental Impact Statement for Powerplant Conversions to Coal in the State of Florida

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement and notice of scoping meetings.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA), to analyze the potential for cumulative impacts associated with its proposal to issue prohibition orders affecting up to 31 powerplants (Listed in Attachment A) in the State of Florida under the authority granted the Secretary of the Department of Energy in the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended by the Omnibus Budget Reconciliation Act of 1981 (OBRA).

The purpose of the statewide document is to determine the cumulative statewide and community impacts likely to result from a number of site specific coal conversions stemming from the DOE actions. DOE intends to pursue site specific NEPA evaluations for each proposed conversion within the jurisdiction of FUA. The statewide EIS will aid Florida state agaencies in identifying likely conversion candidates by providing a general framework for site specific environmental analyses that will be done as part of the NEPA compliance requirement.

The public is invited to attend one of the following meetings to express its view on the substantive scope of the statewide EIS and on the significant environmental issues which the document should address. Dates of Scoping Meetings: April 28, 1982 (Tallahassee), April 29, 1982 (Orlando), April 30, 1982 (Miami)

HEARING LOCATIONS:

(1) Department of Environmental Regulations, Twin Towers Office Building, 4th fl. Conference Rooms B&D, 2600 Blairstone Rd., Tallahassee, Florida 32301

(2) Chamber of the City Council, City of Orlando, 400 S. Orange Avenue, Orlando, Florida

(3) City Commission Chamber, City of Miami, 3500 Pan American Drive, Miami, Florida

TIME: 10:00 a.m.

Notification to Attend and Submission of Comments: Those individuals planning to attend one of the scoping meetings should contact Mrs. Ellen Russell at the address printed below. Written comments or suggestions for consideration in connection with the preparation of this EIS should be transmitted to Mrs. Russell by April 12, 1982.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, 1000 Independence Ave., SW., Rm. GA-093, Washington, D.C. 20585, (202) 252-2201,

or

Elizabeth V. Jankus, Environmental Compliance Division, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4606.

SUPPLEMENTARY INFORMATION: The Department of Energy is preparing an EIS for the State of Florida to analyze the potential environmental impacts associated with the proposed conversions of up to 31 powerplants at 15 stations from oil to coal. The cumulative approach is being taken because the geographic relationship of these plants to each other (Attachment B) [1] indicates that certain individual impacts, rather than being viewed as isolated occurrences, should be viewed collectively to identify any cumulative or interactive effects, in accordance with the CEQ regulations 40 CFR 1508.7 and 1508.25.

I. Nature of the Action

Under FUA, as amended by the Omnibus Budget Reconciliation Act of 1981, a utility may certify to DOE that it is technically and economically feasible to convert a powerplant from oil to coal. DOE may then issue to the utility a prohibition order, which grants to the utility the status under the Clean Air Act of an existing emission source for the powerplant. DOE issuance of such orders may constitute a major Federal Action under NEPA, and thus requires the appropriate level of NEPA compliance. The statewide EIS described herein will serve as the middle level of a tiered impact assessment between the broader analysis of the Fuel Use Act Programmatic Final Environmental Impact Statement (April 1979) and the future site specific environmental analyses addressing the impacts of individual plant fuel conversions.

II. Details on Site Selection

The 31 Florida powerplants (Attachments A) included in the environmental impact analysis are located in the northwestern, central and southeastern portions of Florida. These 31 plants were selected and submitted to DOE by the Florida Public Service Commission as potential recipients of proposed prohibition orders under the amended FUA. The Commission's initial selection of potential candidates was based on the size and age of the unit. Originally, candidates were units 200 MW or larger constructed after 1970 or units constructed prior to 1970 where another unit at the same site was constructed after 1970. Subsequent to the application of these criteria other utilities indicated interest in coal conversion and were included in the list.

III. Purpose of the Environmental Impact Statement

The purpose of this statewide EIS is to assess the impacts of proposed conversions to coal through the analysis of the cumulative and interactive effects within Florida. The EIS will identify those environmental issues which are of concern to the State of Florida. Currently impacts related to air quality (including long range transport of sulfates and acid rain), water quality, solid waste disposal, transportation of fuel and solid waste, fuel availability, economic growth, and health effects have been identified as major issues and will therefore be addressed in the analysis. Other impacts determined during the public scoping process as being potentially significant will also be addressed. In addition, the EIS will analyze localized effects where interaction between two or more plants proposed for conversion raises questions regarding compliance with applicable environmental standards. Subsquent EISs on proposed individual conversions will analyze site specific impacts.

The Fuel Use Act mandates that all facilities undergoing conversion meet all applicable environmental requirements. The impacts of the proposed plant conversions that are in proximity to each other may be interactive and their impacts must be considered collectively when assessing compliance with environmental standards. One major criterion for assessing the reasonableness of proposed subsets of conversions are the provisions of the Clean Air Act, as amended (CAA). Under the the CAA the State of Florida (with EPA approval) retains control of the emission levels produced by the

powerplants under consideration. To analyze the effect on air quality of multiple coal conversions, DOE must make assumptions about the actions that the state will take in permitting future coal conversions, particularly with regard to allowable levels of sulfur dioxide.

In order to capture the potential variability in State decisions about emissions limits, DOE proposes to model several scenarios each based on a different emission unit. Based on preliminary meetings with State agencies and utilities and following are currently under consideration: New Source Performance Standards; the State Implementation Plan (SIP) as it applies to the units specified; and limits, other than the SIP, that are currently applied to specific units.

The analysis of the scenarios discussed above (or others that DOE may analyze) may show that stations located in proximity to one another would result in "hot spots," *i.e.*, areas where combined emissions may exceed applicable limits on a subregional basis. In these cases further analysis will be conducted to determine feasible mitigative strategies.

It should be noted that compliance with each of the emission scenario implies the use of different types of coals and different types of pollution control technologies. The environmental impacts associated with these combinations will be considered in the impact statement. The public is encouraged to recommend other air quality scenarios that it feels should be assessed.

The public is also encouraged to recommend methodologies for establishing reasonable "subsets" of alternatives among plants so affected. The air quality scenarios associated with the EIS will only examine the use of coal, since from an environmental perspective the use of this fuel represents a worst case. Other fuels (such as refuse derived fuel) can only be assessed realistically at the site specific level, and will be addressed in detail in site specific NEPA documents.

However, the use of other alternative fuels will be addressed at the individual sites on a qualitative basis, and constraints on their use at this scale will be identified. Other alternatives beyond the immediate program authorities of FUA (e.g., conservation) which could help achieve the goal of reduced oil usage will also be addressed in the EIS. The public is encouraged to comment on the nature and scope of such alternatives.

The EIS will be prepared in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA). Upon completion of the draft EIS, its availability will be announced in the **Federal Register** and comments will be solicited.

IV. Purpose of Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with the potential conversion of the 31 powerplants in Florida from oil to coal. The meetings in Tallahassee, Orlando, and Miami will be held to receive comments on the structure of the EIS, anticipated energy/environmental problems, actions that might be taken to address them, and reasonable alternatives that should be considered.

Comments on the feasibility of converting the sites are not appropriate for this meeting and should be reserved for the forum provided by the administrative process which will follow in reaching a decision on specific orders. That process will provide ample opportunity for public discussion and comment on those individual site decisions.

The meetings are scheduled to begin at 10:00 a.m. and will continue until all persons wishing to speak have had an opportunity to do so.

If possible, those planning to present information at the meeting should notify Mrs. Russell. Participants are encouraged to submit to Mrs. Russell, in advance, their intent to participate and copies of any written material. However, public participation is encouraged even without advance submission of written material. Attendees at the meeting will be asked to register. All comments or suggestions made at the meeting as well as written material submitted until then will be carefully considered during the preparation of the draft EIS.

Questions regarding the meeting should be addressed to Mrs. Russell at (202) 252–2201.

Issued at Washington, D.C., on March 31, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

ATTACHMENT A—FACILITIES INCLUDED IN THE CUMULATIVE STUDY

Company plant	County	Unit No.
Florida Power & Light		
1. Cape Canaveral	Brevard	1, 2
2. Fort Meyers	Lee	2
3. Manatee	Manatee	1, 2
4. Martin	Martin	1, 2
5. Port Everglades	Broward	1, 2, 3, 4
6. Riviera	Palm Beach	3, 4
7. Sanford	Volusia	4, 5
8. Turkey Point	Dade	1, 2
Florida Power Corp.		
1. Anclote	Pasco	1, 2
2. Bartow	Pinellas	2, 3
Jacksonville Electric Authority		
1. Northside	Duval	1, 2, 3
Orlando Utilities Commission		
1. Indian River	Brevard	2, 3
Tallahassee, City of		
1. Hopkins	Leon	2, 1
City of Gainesville		
1. Deerhaven	Alachua	2
City of Lakeland		
1. McIntosh	Polk	1, 2

31 powerplants, 15 stations.

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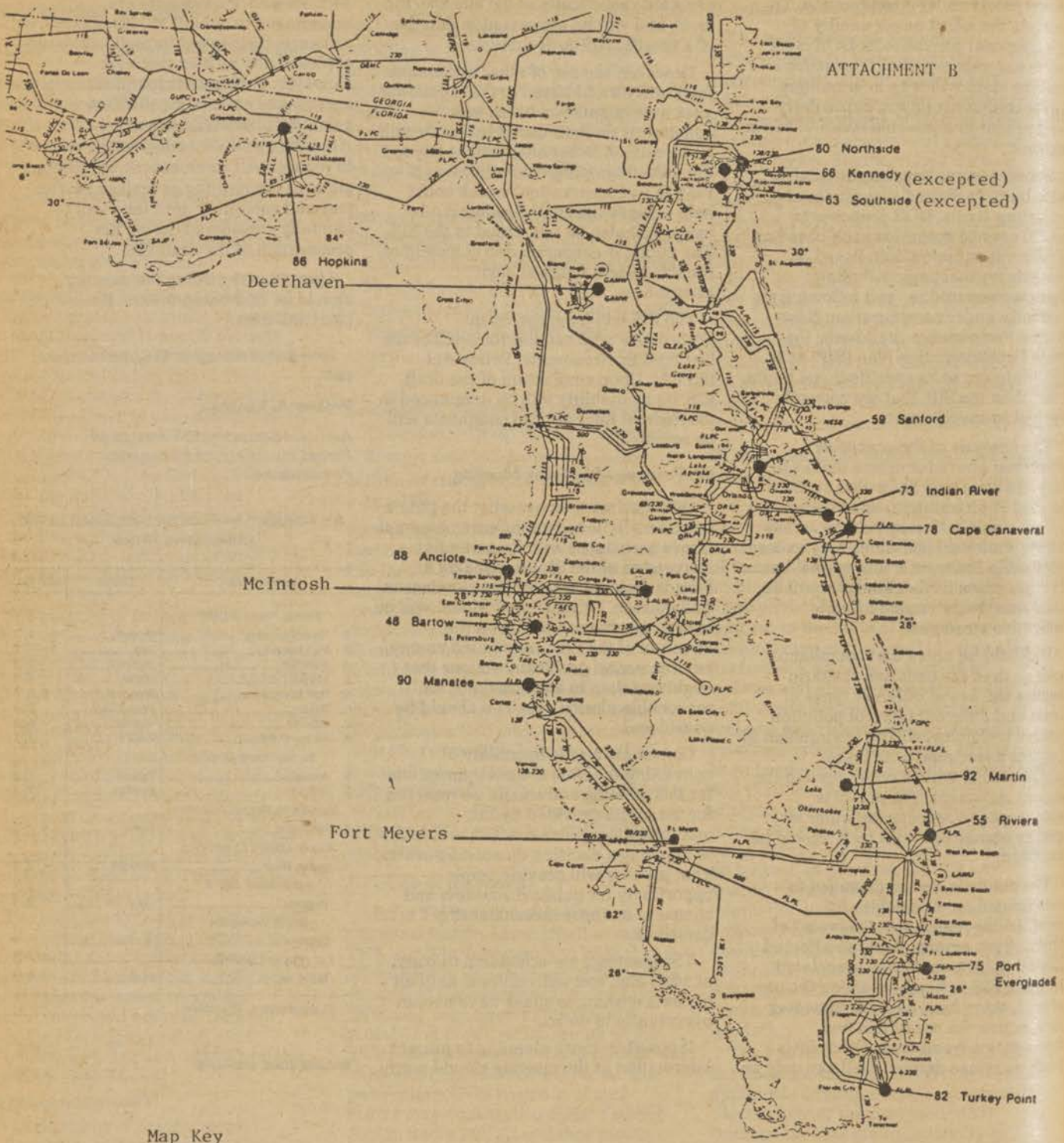

Map Key

Stations ●

[FR Doc. 82-9280 Filed 4-6-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing April 6, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 272 / Pub. L. 97–165 To authorize and request the President to issue a proclamation designating April 4 through 10, 1982, "National Medic Alert Week". (Apr. 3, 1982; 96 Stat. 59) Price: $1.50.

H.J. Res. 447 / Pub. L. 97–166 To authorize and request the President to issue a proclamation designating April 4, 1982, as the "National Day of Reflection". (Apr. 3, 1982; 96 Stat. 60) Price: $1.50.

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