

# Federal Register

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Wednesday  
June 16, 1982

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## Selected Subjects

- Air Taxis**  
Civil Aeronautics Board
- Air Traffic Control**  
Federal Aviation Administration
- Coal Mining**  
Surface Mining Reclamation and Enforcement Office
- Continental Shelf**  
Land Management Bureau
- Government Procurement**  
Agency for International Development  
Customs Service
- Grant Programs—Social Programs**  
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- Marketing Agreements**  
Agricultural Marketing Service
- Pesticides and Pests**  
Environmental Protection Agency
- Postal Service**  
Postal Service
- Radio**  
Federal Communications Commission
- Railroads**  
Interstate Commerce Commission
- Tobacco**  
Agricultural Marketing Service



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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 29

#### Tobacco Publications; Establishment of Fees and Charges

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule.

**SUMMARY:** The Tobacco Inspection Act of 1935 authorizes the Secretary to collect, publish, and distribute, without cost to growers, timely information relating to the marketing of tobacco. Pursuant to Section 1121 of the Agriculture and Food Act of 1981 which authorizes the Department to collect reasonable fees for the distribution, upon request, of copies of publications which report economic research and statistical information, the Department promulgates these regulations as an interim final rule establishing fees and charges to cover the cost of postage, printing and handling of tobacco publications requested by the general public, except that no fee will be charged to other government agencies who cooperate in the collection of market data for the requested publication, growers, and the news media.

**EFFECTIVE DATES:** July 1, 1982. Comments due on or before July 16, 1982.

**ADDRESS:** Send comments to J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Room 502, Annex Building, Washington, D.C. 20250. Comments will be available for public inspection at this location during the hours of 8:00 am to 4:30 pm, Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Larry L. Crabtree, Assistant Branch Chief, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-3489.

**SUPPLEMENTARY INFORMATION:** The Tobacco Inspection Act (7 U.S.C. 511-511(q)) authorizes the Secretary to collect and distribute tobacco market data "without cost to growers." Since passage of the Act in 1935, the Department has distributed tobacco publications through the mail, without cost to anyone requesting them. The Agriculture and Food Act of 1981 (7 U.S.C. 2242a) authorizes the Department to collect fees for the reporting of economic research and statistical data. In accordance with this legislative authorization, the Department promulgates these regulations by this interim final rule to establish and collect reasonable fees for the distribution of tobacco publications to the general public, except that no fees will be charged to other government agencies who cooperate in the collection of market data for the respective publications, growers, and the news media. A limited distribution list will be established with other bureaus within USDA for copies of publications under the principle of data exchange to complement the various responsibilities of those organizations. The Department's decision to collect fees for tobacco publications is consistent with both the Department's goal of reducing its cost of distributing publications and the Congressional policies which placed the tobacco inspection program under user fees. In furtherance of this policy, the Department has requested Congress to amend the Tobacco Inspection Act to give the Secretary authority to also collect fees from growers for publications distributed through the mail. This legislation is now before Congress. The Agriculture and Food Act of 1981, establishes authority for the Department to promulgate regulations to establish and collect fees and charges to cover the Department's cost for the printing, handling, and mailing of tobacco publications. Fees for individual publications will vary according to the number of pages, frequency of issues, length of marketing season for the crop, number of subscribers, cost of equipment, personnel, and other factors affecting printing and distribution. With

the expected fluctuating costs of printing, handling, and postage, it has been determined that it would be inappropriate for the fees to be specified in the regulations where any changes would require time consuming and expensive rulemaking procedures. Therefore, the fees will be computed and announced annually by the Director of the Tobacco Division. Any modification in the fees will simply reflect changing costs incurred by USDA for the duplication, handling, and distribution of the publications. Based on estimates of current costs and activity level, fees during the initial subscription period for surface mail, effective July 1, 1982, for the United States, Canada, and Mexico are as follows:

- (1) Flue-cured type 11—\$8.00—consisting of weekly and season issues.
- (2) Flue-cured type 12—\$8.00—consisting of weekly and season issues.
- (3) Flue-cured types 11 and 12—\$14.00—combined mailing of these types.
- (4) Flue-cured type 13—\$8.00—consisting of weekly and season issues.
- (5) Flue-cured type 14—\$6.00—consisting of weekly and season issues.
- (6) Flue-cured types 11-14—\$25.00—consisting of weekly and season issues for each type.
- (7) Annual Flue-cured Market Review—first copy \$2.00, with additional copies \$1.00 each.
- (8) Virginia fire-cured type 21—\$6.00—consisting of weekly and season issues.
- (9) Virginia sun-cured type 37—\$4.00—consisting of weekly and season issues.
- (10) Virginia fire and sun-cured types 21 and 37—\$8.00—combined mailing of these types.
- (11) Kentucky—Tennessee fire-cured—types 22 and 23—\$6.00—consisting of weekly and season issues.
- (12) One-Sucker—type 35—\$4.00—consisting of weekly and season issues.
- (13) Green River—type 36—\$4.00—consisting of weekly and season issues.
- (14) Kentucky—Tennessee fire-cured, One-sucker and Green River dark air-cured types 22, 23, 35, and 36—\$10.00—combined mailing of these types.
- (15) Annual Fire and Dark air-cured Market Review—first copy \$2.00, with additional copies \$1.00 each.
- (16) Burley type 31—\$10.00—consisting of weekly and season issues.

(17) Annual burley Market Review—first copy \$2.00, with additional copies \$1.00 each.

An additional fee of \$2.00 will be charged for requests for surface mailing outside of the United States, Canada, or Mexico. Charges for air mail service outside of the United States, Canada, and Mexico will vary depending on the type of service requested. Weekly issues will continue to be available to growers, without charge, in auction warehouses during the marketing season. The Department recognizes the importance of the function served by the news media such as wire services, newspapers, news magazines, and broadcast news outlets, in the dissemination of information to the general public, and the Department will not charge a fee for the distribution of market news reports to these organizations. However, based on the extensive number of existing trade journals and trade association publications aimed at organizational memberships, the Department has determined that it would not be appropriate to provide tobacco publications free of charge to these numerous organizations which service limited audiences.

Requests for file copies, large volumes of issues, or requests which require special handling, shall be assessed fees sufficient to cover the actual cost of the requested service. Subscription fees will be prorated for requests arriving after the end of the application period, but may be subject to an additional fee to cover the Department's handling costs.

The authority for these regulations is contained in the Tobacco Inspection Act (49 Stat. 7 U.S.C. 511-511(q)) and the Agriculture and Food Act of 1981 (Pub. L. 97-98).

In anticipation of the collection of fees for tobacco publications from the general public, the tobacco market news program budget for the 1983 fiscal year, effective October 1, has been correspondingly reduced. The Department has determined that the expected start up costs associated with the implementation of a fee system including any possible adjustments in the market news systems brought about by the implementation of subscription fees, and the necessity of having the system in full operation prior to October 1, 1982, necessitates proceeding now with an interim final rule.

Accordingly, it is found upon good cause shown that notice and other public procedures, with respect to this action are impracticable, unnecessary and contrary to the public interest, and good cause is found for publishing this

interim final rule at this time with opportunity for public comments after publication.

The Administration has also determined that the comment period in this interim final rule will end 30 days after publication hereof, and such comment period is adequate to provide all interested parties an opportunity to file views and comments.

This interim final rule has been reviewed under U.S.D.A. procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small businesses. All tobacco warehousemen and producers and some tobacco buyers fall within the confines of "small business", as defined in the Regulatory Flexibility Act. A substantial number of buyers on auction markets who use the publications do not meet the definition of small businesses either because of their individual size or because of their dominant position in one or more marketing areas. The Department has informally advised all segments of the tobacco industry of the anticipated implementation of charges for publications and that these publications and information would remain available. It has been determined that the economic impact upon all entities, small and large, will not be adverse and will in no way affect normal competition in the market place.

#### List of Subjects in 7 CFR Part 29

Tobacco publications, Subscription fees, Tobacco.

#### PART 29—TOBACCO INSPECTION

Accordingly Part 29, Subpart B, Title 7, Code of Federal Regulations, is amended as follows:

Section 29.131 is revised to read as follows:

##### § 29.131 Tobacco publications.

The regulations in this section are issued to implement a subscription fee system for publications issued by the Tobacco Division, Agricultural Marketing Service. All other means of dissemination of market data currently in use, such as commercial and public wire service, telephone answering devices, radio and television will

continue without charge to the recipient. Publications under the Act and this section shall be distributed in whatever manner and form and for whatever purpose the Director may choose, and will be available for distribution as follows:

(a) Publications consisting of timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco shall be available on an annual subscription through the mail upon written application and payment of a fee, except that no fee will be charged to other government agencies who cooperate in the collection of market data for the respective publication, growers, and the news media. There shall be an application period during the months of: (1) April and May for the flue-cured and Virginia fire and sun-cured types of tobacco: *Except* that the 1982 application period for flue-cured, Virginia fire and sun-cured types of tobacco will begin upon publication of these regulations and (2) August and September for burley and the dark fire and air-cured types of tobacco in Kentucky and Tennessee.

(b) Subscription fees for publications shall be calculated by the Director annually to recover costs of printing (including machinery, paper, ink, and miscellaneous supplies) postage, and handling (including the accounting system, fee collection, and personnel with necessary supervision), and released prior to the application periods. In order to keep subscription fees to a minimum level, the Director may choose to combine the data of two or more types of tobacco into a single publication.

(c) Requests involving research of records, file copies, large volumes of issues, or requests which require additional handling, shall be assessed fees sufficient to cover the actual cost of the requested service to the Department.

(d) Subscription fees will be prorated for requests arriving after the end of the application period, but may be subject to an additional handling charge to cover additional costs incurred by the Department.

(e) Information concerning tobacco publications and subscription fees may be obtained from the Director, Tobacco Division, Agricultural Marketing Service, Room 502, Annex Building, United States Department of Agriculture, Washington, D.C. 20250.

Dated: June 11, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-16284 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 10]

### Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Amendment to final rule.

**SUMMARY:** This action lowers the minimum grade requirement for domestic and export shipments of Florida Valencia oranges, including other late type oranges, from U.S. No. 1 to U.S. No. 2 Russet. This change recognizes current and prospective demand for such oranges and is consistent with the remaining crop in the interest of growers and consumers.

**EFFECTIVE DATE:** June 14, 1982.

#### FOR FURTHER INFORMATION CONTACT:

William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

**SUPPLEMENTARY INFORMATION:** This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

The regulation with respect to Florida Valencia and other late type oranges is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee and upon other information.

The minimum grade requirements specified herein reflect the Committee's and the Department's appraisal of the need to revise the grade requirements applicable to Florida Valencia and other late type oranges in recognition of

diminishing available supplies of such fruit. The committee reports an increased market demand for the remaining late orange supply. Specification of these requirements will assure that the available supply of marketable fruit reaches the consumer. It is hereby found that this regulation will tend to effectuate the declared policy of the Act.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the Act to make this regulatory provision effective as specified. This amendment

relieves restrictions on shipments of Florida Valencia and other late type oranges.

#### List of Subjects in 7 CFR Part 905

Agricultural Marketing Service, Marketing Agreements and Orders, Florida Grapefruit, Oranges, Tangelos, Tangerines.

Accordingly, it is found that the provisions of § 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6 (46 FR 60170; 60411; 61441; 47 FR 589; 5912; 5699; 6248; 7203; 10065; 21755), should be and are amended by revising Table I paragraph (a), applicable to domestic shipments, and Table II paragraph (b), applicable to export shipments, to read as follows:

#### § 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) \* \* \*

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in)
(1)	(2)	(3)	(4)
Oranges:			
Valencia and Other Late Type.....	Jan. 14, 1982 to Sept. 12, 1982.....	U.S. No. 2 Russet .....	2-8/16
	On and after Sept. 13, 1982.....	U.S. No. 1.....	2-8/16

(b) \* \* \*

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (in)
(1)	(2)	(3)	(4)
Oranges:			
Valencia and Other Late Type.....	June 14, 1982 to Sept. 12, 1982.....	U.S. No. 2 Russet .....	2-4/16
	On and after Sept. 13, 1982.....	U.S. No. 1.....	2-4/16

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

Dated: June 11, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-16283 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-02-M

## CIVIL AERONAUTICS BOARD

### 14 CFR Part 298

[Economic Reg. ER-1295, Amdt. No. 22 to Part 298, Docket: 34030]

#### Exemption for Air Taxi Operations

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Final rule.

**SUMMARY:** In a separate rulemaking (ER-1295), the CAB adopted rules

prohibiting discrimination by airlines against disabled travelers and implementing the Rehabilitation Act of 1973. In this rule, which applies to certificated carriers and to commuters that are paid a subsidy by the Board, the CAB conforms the air taxi exemption to these new rules.

**DATES:** Adopted: June 3, 1982. Effective: June 15, 1982.

#### FOR FURTHER INFORMATION CONTACT:

David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

**SUPPLEMENTARY INFORMATION:** In SPR-189, issued simultaneously, the Board has adopted a new rule (Part 382) prohibiting airlines from discriminating against the handicapped. This rule applies to certificated carriers and to commuters that are paid a subsidy by the Board. One of the statutory bases of this rule is section 404 of the Federal Aviation Act, from which these commuters are exempted by 14 CFR 298.11. We are therefore amending this section to make clear that these commuters are subject to section 404 to the extent that it prohibits them from discriminating against the handicapped and requires them to comply with the new 14 CFR Part 382. We are also taking this opportunity to reorganize § 298.11(c) for clarity.

Since this amendment is interpretative in nature and merely conforms one part of our rules to another, the Board finds that notice and public procedures thereon are unnecessary.

#### List of Subjects in 14 CFR Part 298

Air taxis, Alaska, Antitrust, Consumer protection, Insurance, Reporting requirements.

#### PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Accordingly, the Board amends 14 CFR Part 298, Classification and Exemption of Air Taxi Operators, as follows:

##### 1. The authority for Part 298 is:

**Authority:** Secs. 204, 401, 404, and 416 of Pub. L. 85-726, as amended, 72 Stat. 743, 754, 760, 771; 49 U.S.C. 1324, 1371, 1374 and 1386.

2. Paragraphs (c) and (d) of § 298.11 are amended to read:

##### § 298.11 Exemption authority.

(c) Subsection 404(a), except for the requirements that air taxi operators shall—

(1) Provide safe service, equipment, and facilities in connection with air transportation;

(2) Provide adequate service insofar as that requires them to comply with Parts 252 and 382 of this chapter;

(3) Observe and enforce just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations and practices as provided in tariffs filed jointly by air taxi operators with certificated air carriers or with foreign air carriers; and

(4) Establish just, reasonable, and equitable divisions of such joint rates,

fares, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers;

(d) Subsection 404(b), except that the requirements of that subsection shall apply to through service provided pursuant to tariffs filed jointly by air taxi operators with air carriers or with foreign air carriers and to transportation of the handicapped to the extent that that is required by Part 382 of this chapter;

\* \* \* \* \*  
By the Civil Aeronautics Board.  
**Phyllis T. Kaylor,**  
*Secretary.*

[FR Doc. 82-16090 Filed 6-15-82; 8:45 am]  
BILLING CODE 6320-01-M

#### 14 CFR Part 382

[Special Reg. SPR-189, Enactment of Part 382; Dockets: 34030, 39963]

#### Nondiscrimination on the Basis of Handicap

**AGENCY:** Civil Aeronautics Board.  
**ACTION:** Final rule.

**SUMMARY:** The CAB is adopting new rules to prohibit unlawful discrimination against disabled air travelers and to implement section 504 of the Rehabilitation Act of 1973. The purpose of the rules is to ensure that handicapped persons receive adequate air transportation service, without unjust discrimination based on handicap.

**DATES:** Adopted: June 3, 1982. Effective: Subpart A on June 15, 1982. Subparts B and C on September 13, 1982, except for §§ 382.11, 382.12, and 382.15 which will take effect on December 12, 1982.

**FOR FURTHER INFORMATION CONTACT:** About this rule—David Schaffer, Office of the General Counsel, Rules and Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442; about a specific instance of discrimination—Consumer Assistance Division, Office of Congressional, Community, and Consumer Affairs, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-6047.

**SUPPLEMENTARY INFORMATION:** By SPDR-70, 44 FR 32401, June 6, 1979, the Board proposed rules to ensure that handicapped travelers have adequate access to air transportation and to prohibit unjust discrimination against them. These rules implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, which prohibits

discrimination against otherwise qualified handicapped persons in activities or programs receiving Federal financial assistance. In SPDR-70, the Board proposed general rules prohibiting discrimination, and specific rules to limit air carriers' discretion to refuse to carry disabled passengers or to require them to be attended, to require airlines to provide certain services and assistance to handicapped travelers on request, and to establish compliance procedures. The notice also requested comment on whether the Board should require low-cost structural modifications of aircraft to increase their accessibility.

We received a large number of comments from airlines, groups representing disabled people, government agencies, flight crew unions, and others. In addition, many individuals commented on the proposed rule. After reviewing the comments, we have decided to adopt the basic framework of the proposed rules, but to make changes in several of its provisions. The following discussion covers both general jurisdictional issues raised by the commenters and changes in individual provisions.

#### Jurisdictional Issues

Section 504 of the Rehabilitation Act applies only to air carriers that receive Federal financial assistance. In SPDR-70, however, the Board proposed, in the alternative, to apply this rule to all subsidized and unsubsidized certificated air carriers and air taxis, or to all these carriers in their operations with aircraft of more than 30 seats. The Board relied on section 404 of the Federal Aviation Act as authority for the broader coverage. That section requires carriers to provide "adequate service" and prohibits them from engaging in unjust discrimination.

The Air Transport Association (ATA) and several individual airlines objected to the Board's adoption of rules on the handicapped. They contended that the Board should not adopt such a rule because the regulations of the Federal Aviation Administration (FAA) in this area are adequate. Dual regulation, in their view, would be redundant, confusing, and, in some cases, conflicting. If such a rule were adopted by the Board, the carriers argued that it should apply only to subsidized airlines, because section 504 of the Rehabilitation Act applies only to airlines that receive subsidies directly from the Board. They also oppose the broader coverage of the proposal because the basis for that approach (section 404) is slated to expire when the Board sunsets. Citing *Continental*

*Airlines v. CAB*, 522 F.2d 107 (D.C. Cir. 1974), some carriers argued that the Board's adoption of the proposed regulations would violate section 401(e)(4) of the Federal Aviation Act.

Other commenters, however, disagreed. In joint comments, the Disability Rights Center and several other groups representing the disabled (hereinafter the DRC commenters) argued that all airlines receive direct and indirect Federal financial assistance in the form of air traffic control services, airport development grants, operating certificates giving exclusive domain over valuable air routes, and tax subsidies (special investment tax credit treatment under 26 U.S.C. 46(a)(8)), and therefore should all be subject to this rule. The U.S. Architectural and Transportation Barriers Compliance Board, a Federal agency responsible for promoting accessibility for the handicapped, agreed with this position. Although the Civil Aeronautics Board is not the source of this assistance, the DRC commenters stated that the Department of Health, Education and Welfare (now Health and Human Services), in its role as coordinator of administrative implementation of section 504, has designated the Board as the agency responsible for government-wide implementation of the statute with respect to airlines, and argued that Board rules should govern their activities.

The DRC commenters also defended the Board's jurisdiction to apply the rule to all airlines under the Federal Aviation Act. They pointed out that the Board relied on the adequate-service provision of section 404(a), as well as the nondiscrimination provision in section 404(b). The requirement that airlines provide adequate service is not scheduled to expire. They stated that Congress intended the Board to regulate until its sunset, and that Congress has yet to consider the issue of whether various consumer protection functions of the Board will transfer to its successor agencies. While acknowledging that section 401(e)(4) of the Act limits the Board's authority to restrict carrier discretion in changing schedules, equipment, accommodations, and facilities, the DRC commenters distinguished the *Continental* case from the situation here. In *Continental*, they argued, the Board's action in establishing fare differentials based on seating configurations did not further any statutory goals. Here, in contrast, section 401(e)(4) must be balanced against section 404, as the court did in *Capital Airlines v. CAB*, 281 F.2d 48 (D.C. Cir. 1960), holding that the Board

could order airlines to operate more flights in order to provide adequate service.

After considering the comments of the DRC, we have decided that we cannot accept their very broad definition of "Federal financial assistance." In our view, only subsidy paid under either sections 406 or 419 of the Federal Aviation Act qualifies. While an operating certificate may be of some value, it no longer gives airlines exclusive domain over routes, see section 1601(a)(1)(C) of the Act. It therefore presents a situation similar to *Gottfried v. Federal Communications Commission*, 655 F.2d 297 (D.C. Cir. 1981), where it was held that broadcast licenses do not count as financial assistance within the meaning of section 504. Although airports may be recipients of Federal financial assistance and therefore subject to the rules of the Department of Transportation issued under section 504, this does not mean that airlines serving those airports are also covered. In *Angel v. Pan American World Airways, Inc.*, 519 F.Supp. 1173, 1178 (D.C. 1981), the court stated that to "hold that commercial airlines fall within section 504 merely because of assistance provided to airports would expand improperly the accepted proposition that section 504 is limited to direct recipients of Federal funds." It is the position of the FAA, with which we concur, that its air traffic control services and other programs are not financial assistance to airlines. Rather, they are services provided to the public generally to ensure flight safety.

Some commenters cited cases involving Title VI of the Civil Rights Act of 1964 as justification for a broad reading of "Federal financial assistance" in the Rehabilitation Act. They noted that both are civil rights statutes and therefore should be given a broad interpretation, *Griffin v. Breckenridge*, 403 U.S. 88 (1971). While section 504 was modeled on section 601 of Title VI, the Civil Rights Act viewed as a whole has a broader remedial purpose than the Rehabilitation Act. This may call for a narrower interpretation of financial assistance as employed in the latter statute. See *Cook v. Budget Rent-A-Car Corporation*, 502 F.Supp. 494 (S.D.N.Y. 1980). Even accepting the broad reading, however, the "indirect assistance" cited by the DRC does not qualify as "Federal financial assistance." In congressional hearings and floor debates prior to the adoption of the Civil Rights Act, speakers interpreted that term as referring to "funds" expended by the Federal government (*Civil Rights:*

*Hearings before the House Judiciary Committee*), 88th Cong., 1st Sess. 2731 (1963) (statement of Attorney General Kennedy) and "public moneys out of the Federal Treasury," 110 Cong. Rec. 6430, March 26, 1964 (statement of Senator Humphrey) rather than to the type of indirect assistance cited by the DRC. A Justice Department study completed at the request of Congress in anticipation of the debate on Title VI listed the programs that would qualify as Federal financial assistance. The only CAB program listed was the section 406 subsidy program. See 110 Cong. Rec. 13380-13382, June 10, 1964. Section 419 was not listed because it was not enacted until 1978. While the Justice Department admitted that this list may not be exhaustive, it indicates that there are limits to the term "Federal financial assistance."

We also do not concur with the restrictive reading of our jurisdiction put forth by the airlines. Enactment of the Rehabilitation Act reflects a national policy to ensure that disabled people have a reasonable opportunity to participate in the activities that others take for granted. Accommodating this group of potential travelers is an important element of providing adequate service, as required by section 404(a) of the Act. Unnecessary or arbitrary distinctions among passengers on the basis of handicap constitute unjust discrimination in violation of section 404(b) of the Act. It is our position that the prohibition of section 404(b) encompasses discrimination against handicapped passengers, that the Rehabilitation Act is the best source of interpretative guidance as to what is allowed and not allowed in this area as a matter of national policy, and that therefore the principle of that Act should be considered incorporated into section 404(b). Although section 404(b) sunsets on January 1, 1983, the adequate-service provision in section 404(a) continues.

We are adopting an approach to the jurisdictional question that represents a compromise between applying the rule to all carriers and having no rule at all. Relying on section 504 of the Rehabilitation Act and the requirements of section 404 of the Federal Aviation Act, we find the requisite authority to apply general provisions in Subpart A of this rule prohibiting discrimination against handicapped passengers to all certificated air carriers and to those commuter carriers that receive a subsidy from the Board. The specific requirements in subparts B and C of this rule, however, will apply only to those carriers receiving subsidy from the Board under sections 406 or 419 of the

Act, in recognition of the limited jurisdictional basis of section 504. Those carriers subject only to the general provisions of Subpart A should look to the specific requirements of Subpart B as guidance for meeting their general obligation not to discriminate.

Having decided to limit Subparts B and C of this rule to carriers receiving subsidy from the Board, a question remains as to which carriers will be covered. Both the local service carriers (Frontier, Ozark, Piedmont, Republic and Republic West) as well as the other carriers receiving subsidy under section 406 of the Act (Air Midwest, Skywest, Alaska Airlines, Wien Air Alaska, and Kodiak Western) are covered. Any carrier receiving subsidy under section 419(a)(5) or (b)(6) of the Act for providing essential air service to a small community must comply with the specific provisions of this rule. Also, any carrier that receives assistance through one of these carriers is subject to Subparts B and C. See § 85.3(d) of the HEW guidelines.

Some carriers receive compensation for losses under section 419(a)(7) of the Act when the Board orders them to continue providing essential air service that they wish to terminate. These carriers must continue to provide that service until the Board finds another carrier to provide it and allows the incumbent carrier to terminate as planned. The question whether payments to these carriers constitutes Federal financial assistance has been the subject of several comments in Docket 39963. Motions to file late, to intervene, and to file otherwise unauthorized documents were submitted in that docket, all of which we are granting here.

Docket 39963 was initiated by a letter dated July 15, 1981, from the Board's General Counsel to all carriers that received payments under section 419. This letter was required by an order of the U.S. District Court of the Central District of California in *Paralyzed Veterans of America, et al., v. William French Smith, et al.*, No. 79-1979 WPG. The Court ordered the Board to inform all subsidized carriers within 10 days that they were obligated to comply with section 504 of the Rehabilitation Act even though the Board had not yet issued its final section 504 rules. Due to the short time in which to act, the General Counsel sent the letter to all carriers that had received any payments under section 419 without attempting to decide whether all those payments constituted financial assistance under the Rehabilitation Act.

After receiving this letter, Delta Air Lines petitioned for review. It argued

that the compensation for the losses it incurred after being required to continue service in the Boston-Preque Isle market did not constitute financial assistance such as to subject it to section 504. United filed an answer in support of Delta's petition. USAir filed a similar petition in connection with the forced service of one of its Allegheny commuters at six upstate New York and Vermont communities. The Air Transport Association of America, on behalf of 13 airlines, also filed a petition calling for a narrow reading of financial assistance. On the other side, Neil Jacobsen and the Paralyzed Veterans of America filed in support of a broad definition of financial assistance. They renewed the argument, disposed of above, that all airlines are recipients of indirect subsidies in addition to the direct subsidies under section 419.

Compensation for losses is typically paid to carriers only for the short time (about 6 months) that they are being required to continue the essential air service. It is often not clear whether the carrier has suffered any losses that would entitle it to compensation until it has been permitted to end that service. The short-term and after-the-fact nature of this compensation makes it impractical for these carriers to comply with the specific requirements of Subparts B and C of this rule. The Board has therefore decided not to apply these subparts to carriers receiving payments under section 419(a)(7).

In light of this decision, it is unnecessary to determine whether compensation for losses constitutes Federal financial assistance under section 504. Recipients of these payments will have to comply only with the general prohibition against discrimination in Subpart A of this rule. This is no more than would be required of them under section 404 of the Federal Aviation Act in any event.

The Commuter Airline Association of America (CAAA) now the Regional Airline Association of America, and Air Atlantic, a commuter carrier, argued that the rule should not apply to any commuters as they are already facing increasing regulatory burdens. CAAA stated that rules requiring provision of equipment at each airport or modification of aircraft would have a disproportionate effect on commuters. According to CAAA, surface transportation is a viable alternative to most commuter flights, which average 111 miles.

We do not agree that commuter airlines have no obligation to serve handicapped travelers, especially when they receive public money to provide service. Many of the rules adopted here

do not impose affirmative costs and burdens, but merely prohibit unreasonable limitations on travel by the handicapped. To the extent that costs are imposed, these can be taken into account in establishing the commuter's subsidy rate.

We recognize, however, that rules requiring the provision of special services and equipment may be proportionally more burdensome on commuter airlines than on larger carriers. These rules may impose costs on commuters that outweigh their benefits. For that reason we have decided to apply this rule only to commuters receiving subsidy from the Board. That is the minimum requirement of the Rehabilitation Act. This approach is consistent with the Regulatory Flexibility Act, Pub. L. 96-354, which requires agencies to consider flexible approaches to the regulation of small businesses.

We do not agree with the airlines that the authority of the FAA over travel by the disabled is exclusive. We of course recognize the FAA's jurisdiction over flight safety issues, and our rules defer to that agency's expertise in several respects. In any event, the Rehabilitation Act and Executive Orders 11914 and 12250 call for us to issue regulations governing carriage of the handicapped by carriers that we subsidize.

Our rules do not merely duplicate existing FAA regulations. While one purpose of the FAA rules (14 CFR Part 121) is to prevent arbitrary refusals of service to disabled passengers, their primary goal is to ensure that airline procedures for carrying the handicapped are safe. The aim of the Board's rule, on the other hand, is not simply to ensure that the disabled are carried safely, but to ensure that they face no unreasonable, nonsafety-related obstacles to travel. To that end, this rule covers issues, such as provision of services and boarding assistance and limits on the airline's right to require a passenger to be attended, that are not reached by the FAA rules.

Nor do our rules conflict with those of the FAA or the Department of Transportation (DOT) generally. Where the potential for conflict is greatest, we have explicitly deferred to the DOT or FAA rules. Where DOT, in its comments, suggested areas of potential overlap or conflict, we have made changes. DOT did not raise any objection to the Board's general exercise of jurisdiction in this area.

Finally, we agree with the DRC that these rules do not violate section 401(e)(4) of the Act. In our view, the

impact they will have on airlines' facilities or accommodations is clearly justified by the other statutory goals to be achieved, *Capital Airlines v. CAB*, supra.

#### Specific Provisions

The rule contains three subparts covering general provisions, specific requirements, and compliance. Each subpart is further broken down into several sections.

**Purpose.** Section 382.1 describes the purpose of the rule. Several commenters suggested that the purpose clause include an explicit reference to section 404 of the Act. An explicit reference is not necessary, but we have revised the provision slightly to make clear that the carriers' obligation to provide adequate service is among the jurisdictional bases of this rule.

DOT suggested deleting the word "unjust" from the phrase "unjust discrimination," since discrimination is unjust by law, and using the word "handicap" instead of "handicapping condition" for the sake of consistency. We have not adopted the first change. Usage differs on whether "discrimination" includes only improper practices; in the Federal Aviation Act the phrase "unjust discrimination" is used to distinguish from benign forms of discrimination. Because the phrase "unjust discrimination" in this section refers to the Federal Aviation Act, we will continue to use it here. We have made the second change suggested.

The National Federation of the Blind and the Paralyzed Veterans of America objected to the statement that transportation of handicapped persons should be integrated into the overall air transportation system "as much as possible." They argued that this phrase weakens the principle of section 504. We have deleted this phrase although the fact remains that it may be impossible to always ensure total integration and accessibility.

**Definitions.** Proposed § 382.3 defined five terms: Carrier, conditions for air transportation, facility, handicapped person, and qualified handicapped person. Some comments were received on each of these.

We have deleted the definition of "carrier." The purpose that was served by that definition is now met by the addition of new applicability sections in each of the three subparts.

Disabled groups and individuals contended that the proposed definition of "conditions for air transportation" was too vague and permitted too much carrier discretion. They expressed particular concern about what might "endanger flight safety" and what would

be "reasonable requests" of airline personnel. The Minnesota State Council on the Handicapped suggested that those requests the Board would not consider reasonable should include those "inconsistent with this part and beyond standard practices." The National Federation of the Blind proposed that the conditions for air transportation be considered met by a person who tenders payment and can be carried in accordance with FAA regulations. Several commenters also said the rule should state who may decide whether the conditions are met.

ATA also objected to the definition, contending that it omitted valid carrier-imposed conditions related to fleet, cabin configurations, and similar factors. ATA found "absence of any indication" of a danger to flight safety too subjective and, like the disabled groups, questioned who would make this determination.

We do not accept ATA's position that the "conditions for air transportation" should include conditions imposed for operational convenience. The phrase is intended to denote the criteria that make a passenger flightworthy as a general matter. Those restrictions a carrier may wish to impose on a passenger, such as seating assignments, will, if reasonable, be encompassed by the provision permitting "reasonable requests." Problems with carrying certain handicapped passengers on particular aircraft should be dealt with either by exemption or by supplemental rulemaking in response to detailed, specific carrier requests, not by creating broad gaps in the general coverage of the rules.

We agree, however, that the definition as proposed is imprecise and too subjective. A clearer, more efficient approach to setting forth the factors that qualify a person for air transportation is to do so in the definition of "qualified handicapped person," defined in the proposal as "a handicapped person who has satisfied all the conditions for receiving air transportation services ('conditions for air transportation') that are required of the nonhandicapped." The latter definition also elicited objections from disabled groups, who proposed deletion of the phrase "that are required of the nonhandicapped."

Accordingly, we have defined a "qualified handicapped person" as one who tenders payment for air transportation, whose carriage will not violate FAA rules and who will not, in the reasonable expectation of the designated carrier personnel, jeopardize the safe completion of the flight or the health or safety of other passengers, and who is willing and able to comply with

reasonable requests of airline personnel. This approach removes the subjective aspects of the standard to the maximum extent possible consistent with our need to defer in the first instance to the reasonable judgment of carrier personnel on safety questions. It incorporates the suggestion of the National Federation of the Blind, modified to reflect our view that there are some legitimate grounds for declining to carry a passenger, handicapped or otherwise, that are not explicitly covered by FAA rules. For example, FAA rules do not specifically require airlines to decline to carry passengers with conditions that may necessitate immediate treatment or an emergency landing, yet such action may sometimes be warranted.

We have added a phrase to the sentence concerning reasonable requests of airline personnel in the definition of "qualified handicapped person." This phrase adopts the suggestion that requests "beyond standard practices," as well as requests inconsistent with the regulations, be considered unreasonable. This does not mean that airline personnel could not make requests of handicapped passengers that they do not make of every passenger. It may, for example, be a standard practice, and a reasonable one, to ask some handicapped passengers, along with children and others who might have trouble opening an emergency exit, not to sit in exit rows, while permitting able-bodied passengers to sit there. Such requests must be based on reasonable company policies related to the provision of air transportation, rather than on an arbitrary or impulsive reaction of a particular employee to a particular passenger.

We have also added a phrase to clarify that some passengers who are unqualified for air transportation when traveling alone may become qualified by traveling with another person. Persons who are severely disabled by mental illness, extreme mental retardation or certain neurological disorders, for example, may themselves be unable or unwilling to comply with reasonable requests, but can travel without difficulty in the company of someone familiar with their condition who sees that the requests are complied with.

Both ATA and DOT argued that the proposed definition of "facility" is too broad. DOT observed that it overlapped with the requirements in its regulations implementing section 504 with respect to Federally assisted airports. Airlines, ATA stated, do not control roads and parking areas, and the rules should

cover only planes and attendant facilities.

We agree that the term can be more precisely defined. We are hesitant, however, to be too specific. The facilities used by airlines at various airports, and the amount of control exercised by the airlines over their design and construction, vary greatly. At some locations, an airline may have only a standard boarding gate and a single ticket position. The design of these facilities is unlikely to be controlled by the airline. At other locations, a single airline may have its own terminal building. In such cases, the design of most of the facilities, perhaps even including parking facilities, may well be under the airline's control, even if the property is leased from an airport authority. To avoid a definition that is either under- or over-inclusive, therefore, we have refrained from enumerating specific covered facilities. We have, however, clarified that "facilities" includes only carrier-owned facilities and non-owned facilities to the extent that the carrier exercises control over their selection, design, construction, or alteration.

The Airline Pilots Association suggested that the Board's definition of "handicapped person" explicitly include the elderly. We do not consider this necessary. Those elderly persons who are handicapped are covered by this rule regardless of whether their disabilities are caused by old age or other factors. Those elderly persons who are not handicapped should not be considered so on the basis of their age alone. Any non-handicapped elderly person is protected from unjust discrimination on account of age by section 404 of the Act and, in the case of Board-subsidized airlines, by the Age Discrimination Act of 1975. See SPDR-74, 44 FR 55383, September 26, 1979, for the Board's proposed rule governing age discrimination.

**General anti-discrimination provisions:** Proposed §§ 382.4 and 382.5 set forth the general anti-discriminatory principles of the rule. A few commenters favored strengthening these principles by stating that different treatment must be "absolutely necessary" to provide a handicapped person with service rather than "reasonably necessary." The IFFA considered the principles too strong and urged the Board to give more weight to the convenience of non-handicapped passengers.

Most of the comments on these provisions dealt with their applicability to carriers' seating policies. In SPDR-70, the Board stated that § 382.5 would prevent carriers from insisting that handicapped passengers sit in special

seats unless the carrier policy were reasonably designed to ensure safety or to provide access to air transportation, and were applied in a nondiscriminatory manner. Several groups of the disabled asserted that the rules should contain a specific provision on seating leaving the seating decision to the passenger or, at a minimum, requiring any seating rules to be based on functional limitations ("not strong enough to open window exit") rather than status as a handicapped passenger. Other commenters, however, filed comments supporting the retention of carrier discretion to assign seats.

We consider the rule to be acceptable as proposed, although §§ 382.4 and 382.5 has been redrafted for clarity. Airlines are responsible for the safety of all their passengers, and it may be reasonable for them to exercise some control over which passengers sit in exit rows or where accompanied nonambulatory passengers who will need emergency exit assistance should sit. As noted in SPDR-70, § 382.5 would limit such rules to nondiscriminatory ones, based on ability rather than status, with a reasonable basis. Thus, carriers could not restrict handicapped passengers to specific seating areas unless the restriction were reasonably designed to provide access to air transportation.

**Accessibility:** Several commenters, including groups of disabled people and the Architectural and Transportation Barriers Compliance Board, argued that the Board's proposed rule does not go far enough to discharge the Board's responsibilities under Section 504. These commenters objected to the use of the phrase "reasonably accessible" in §§ 382.1 and 382.11 of the proposal, citing HEW's guideline, 14 CFR 85.57(a), that provides that programs operated by recipients of Federal financial assistance shall be "readily accessible to and usable by" handicapped persons. They also contended that the Board must order structural modifications to both new and existing aircraft to achieve this standard of accessibility. Noting, for example, that boarding and aisle chairs are often uncomfortable, many recommended wider aircraft aisles. Others suggested installation of movable arm rests on aisle seats and grab bars in the lavatories. As an alternative, some suggested that the Board require airlines to seat nonambulatory passengers in first class for the price of a coach ticket.

Since the proposal was issued and comments received, the HEW guidelines have been suspended with respect to mass transportation, 46 FR 40667, August 11, 1981. We are therefore free to adopt the accessibility standard most appropriate to the airline industry. In

our view, the "reasonable accessibility" standard is sounder than one of "ready accessibility" as we understand the term. In *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), the Supreme Court ruled that section 504 does not require substantial program modification by recipients of Federal funds. In a more closely analogous case, the court remanded DOT rules that would have required extensive and expensive modifications of existing public transit systems, *American Public Transit Association v. Lewis*, No. 79-1697 (D.C. Cir. 1981). The court stated that burdensome modifications are "beyond the scope of section 504." Some of the structural modifications suggested to make airlines readily accessible present similar problems.

Unlike many other entities that are subject to section 504, Federally subsidized airlines are private, for-profit companies. Moreover, the Federal government's role as a backstop for airlines that are unprofitable systemwide is lessening as the Board's section 406 subsidy program, designed to promote air service by underwriting some airlines' overall operations, is phased out in favor of route-by-route section 419 subsidies for particular essential air services. In this economic environment, it is important that Federal regulatory requirements not be so burdensome that airlines will be discouraged from volunteering to provide essential air service to small communities or be forced out of business altogether. Yet the type of modifications that might make aircraft "readily accessible" in the sense that a building is readily accessible could, by substantially increasing carrier costs and reducing passenger capacity, have that effect.

The Board is therefore requiring aircraft to be reasonably accessible for those with mobility impairments. In all other respects, a carrier's aircraft, services, and facilities must be readily accessible, as this is the standard of the HEW (HHS) guidelines (§ 85.57).

The reasonable accessibility standard should not be taken to mean that, for example, airlines may refuse to transport disabled passengers because their aisles are too narrow to permit standard wheelchair traffic. Rather, it is an acknowledgement that disabled travelers may have to accept some inconveniences, such as transfer to an aisle chair, when using air transportation.

The final rule requires airlines to consider the accessibility of their existing facilities. It does not require airlines to make specific structural

changes. Among the suggestions for modification we received, there were several that airlines might well consider implementing on their own initiative in order to better accommodate their handicapped passengers.

*Information.* Section 382.11 of the proposal (now § 382.12) covered the provision of information to deaf passengers in emergencies and at other times, using written materials, flashing lights, or other means. It would also have required that Braille emergency cards be made available. The ATA objected to this section generally as an interference with carriers' discretion to decide how to get information to their disabled passengers and noted that the FAA's regulation on emergency pre-briefing already covers this topic.

Most airlines and the ATA objected to the Braille card requirement on the grounds that it would be expensive and that few blind people read Braille. Several commenters, however, including Frontier Airlines, the Association of Flight Attendants, the Architectural and Transportation Barriers Compliance Board (which noted that over half of the blind passengers surveyed by United Airlines did read Braille), and several groups of the disabled supported the requirement. DOT said blind passengers should have the choice of either Braille or oral information. Some disabled groups and individuals, however, including the National Federation of the Blind, said Braille cards were unnecessary. NFB went on to object to oral pre-briefing, describing them as humiliating. Other groups suggested cassettes for the blind and large-print cards for the visually impaired.

The ATA and Frontier also objected to the provision on information for the deaf, stating that flashing lights would be confusing. The Architectural and Transportation Barriers Compliance Board, on the other hand, said visual emergency signals more elaborate than the seat belt and smoking signs now used should be installed over seats and in lavatories. The Minnesota State Council for the Handicapped, as well as some individuals, stated that the rules should make specific provision for giving the deaf important non-emergency information, such as scheduling changes and other ground and inflight announcements. Finally, some disabled groups contended the rules should provide for the information needs of the illiterate deaf, non-Braille-reading blind, and nonverbal passengers (such as some with cerebral palsy).

We cannot agree with ATA that the information section is unnecessary, since it covers non-emergency information that is not covered by the

FAA rules, as well as any necessary communications during an emergency. Our list of methods for informing deaf passengers, moreover, was intended to be suggestive rather than exclusive. Airlines would have the option not to use flashing lights if they considered them impractical. While the Compliance Board recommended flashing lights specifically, we are not sure that less expensive alternatives would not be just as effective. Lavatories, moreover, already contain a light which, when appropriate, advises passengers to return to the cabin.

We have redrafted this provision in light of the comments received. The section now clearly states the airlines' obligation to provide both emergency and important non-emergency information to blind or deaf passengers, but allows more flexibility in choosing methods for providing it. The regulation, for example, no longer requires the provision of information specifically in Braille, though airlines may find that maintaining a few Braille cards is the easiest way of meeting their obligation to provide information to the vision-impaired. With respect to ground information, such as schedule delays or gate changes, the rule would require only that carrier personnel use common sense. If the primary means of communicating such information is oral, for example, the deaf passenger should be told whom to check with or where to find a visual monitor for information. Gate agents who have been informed of the presence of a deaf passenger can personally advise the passenger of a delay or other important information. Blind passengers, on the other hand, will probably need no extra assistance at all if the primary means of communication is oral, but may need to know where they can get information orally if the primary mode is visual.

One commenting airline stated that deaf passengers often do not identify themselves to airline personnel. In such a case, the airline would have no obligation to ascertain the handicap and provide extra information services. Similarly, the wishes of blind travelers should be respected to the extent possible. The pre-briefings to which the National Federation of the Blind objected are provided under FAA rules, and it is up to that agency, rather than the CAB, to determine whether blind travelers are among those who must be pre-briefed. The information rule adopted here, however, does not require the provision of "special" information services to passengers who do not need or want them.

The requirements described above concern the flow of information from

airline to passenger. For people with handicaps affecting speech, the problem may be with communications in the other direction. We do not consider it necessary to impose a specific requirement that airlines facilitate communications with these passengers because we assume they will do so as a matter of courtesy and common sense. A passenger may not be considered as unable to comply with carrier requests, and thus refused or required to be accompanied, solely because of an inability to respond orally to questions. Carriers will be expected to make reasonable efforts to accommodate communications handicaps.

Some commenters suggested that we require airlines to provide telecommunications equipment for the deaf, for use in making reservations, checking flight schedules by phone, etc. The reservations system is certainly among the services and facilities that must be readily accessible under § 382.11, and the provision of telecommunications equipment would be one way to achieve this. We have no information, however, on how many would be likely to use such equipment if it were installed, or the extent to which the lack of this equipment actually hinders deaf people in using air transportation. In view of the fact that most of the subsidized airlines to which this requirement will apply are relatively small, the Board would like to take a closer look at the actual and potential usage of this specialized equipment, its costs and its benefits, before deciding the extent to which the "readily accessible" standard will require its use.

DOT suggested that airlines be required to inform passengers of the availability and location of accessible facilities and services. We do not know exactly what form such information should take and do not consider such a requirement to be necessary. In the typical reservations transaction, the passenger who needs special assistance, such as boarding help, will ask whether it is available.

*Refusal To Transport, General.* Proposed § 382.12 (now § 382.13) proposed to limit the airlines' authority to refuse transportation to handicapped passengers or to require them to travel with attendants. The Board received extensive comments on both aspects of the provision.

The first part of the proposed rule listed those circumstances, such as contagious disease, intoxication, or disruptive behavior, that would justify an airline's refusal to carry a passenger. The passenger would be presumed

flightworthy unless an airline reasonably believed the contrary. The passenger's presentation of a medical certificate would overcome all but compelling evidence that the passenger should not fly.

Almost all commenters opposed this provision. Several objected to the listing of conditions for refusal in a regulation applying only to handicapped persons, because of the discriminatory implication that only the handicapped might be refused for these reasons. Some commenters argued that terms like "contagious disease" or "disruptive behavior" are too vague. In addition, some conditions, like cerebral palsy, may make a person seem intoxicated to an untrained observer. Both disabled groups and some airlines noted that the conditions listed in the rule are already grounds for refusal to carry, under either FAA rules or the common law, and need not be listed here at all.

Out intent was to set explicit limits on carriers' discretion to refuse service, not to imply that carriers may exclude only handicapped travelers for these reasons. We have therefore redrafted the rule to clarify that airlines may refuse service to disabled travelers only when they are not "qualified" to fly as defined in § 382.3. This does not require airlines to carry stretcher passengers.

Both airlines and disabled groups also strongly objected to the standards for deciding whether a passenger can fly, especially the medical certificate requirement. Commenters argued that terms like "reasonable belief" and "compelling evidence" are vague, and that the rules should state who has responsibility for making these determinations. Airlines contended that passengers' doctors are generally inexperienced in aerospace medicine and, therefore, unqualified to determine whether the passenger can fly. These decisions, they argued, should be left entirely to the discretion of the airlines. Disabled groups, on the other hand, considered the traveler to be the best judge of his/her own ability to fly and viewed the medical certificate requirement as a needless burden. They also doubted that the requirement will be effective in practice. Under the proposed rules, the request for a medical certificate would be triggered by an airline staff determination that the traveler may not be flightworthy. Thus, those most likely to be affected will be the visibly handicapped, who are usually in a stable, flightworthy condition. Those with invisible handicaps, like heart disease, may face greater health risks in flight, but are

likely to escape the attention of airline staff.

Where the risks involved are to the passenger's own health, travelers should generally be allowed to judge their own ability to fly. They have the greatest incentive to avoid risks to themselves and will be most familiar with their own conditions. If travelers have questions about their ability to fly, they can seek advice from their own doctors or from the airline. In these circumstances, the medical certificate requirement would serve no purpose.

Where risks to other passengers are involved, however, whether by a direct risk to their health (such as a highly contagious disease) or by the likelihood that aggravation of the passenger's condition will cause an in-flight emergency or unscheduled landing, the determination of flightworthiness becomes the responsibility of the airline. In these cases, the airline itself may decide that a medical certificate is useful. Accordingly, we have redrafted the rule to eliminate the reference to medical certificates, and to state that airlines must make determinations of flightworthiness on the basis of standards clearly related to flight safety, applied in a nondiscriminatory manner by personnel who are assigned specific responsibility for this task.

In sum, therefore, there are basically three situations where an airline may refuse service to a handicapped person. These are—when the handicapped person is unwilling or unable to comply with the reasonable requests of airline personnel (§§ 382.13(a) and 382.3(c)(3)), when carriage of that person would violate safety requirements (§§ 382.13(a) and 382.3(c)(2)), and when that person fails to comply with advance notice requirements (§ 382.13(d)). The third point is discussed further below.

*Refusal To Transport, Attendants.* Paragraphs (b) and (c) of proposed § 382.12 (now § 382.13) identified two situations where an airline may require passengers to travel with attendants. These were: (1) when a passenger will need nursing or other extensive personal care during flight, and (2) when a passenger would need assistance to exit in an emergency and the structure of the plane prevents seating the passenger so as not to block the exit of other passengers. The provision specifically provides that deaf, blind, or nonambulatory persons who could deplane using their arms in an emergency may not be required to travel attended, and that persons who would need feeding or toileting assistance but elect to forego meals or make their own arrangements for waste disposal may

not be required to travel attended for those reasons. An attendant requirement represents a substantial logistical and financial barrier to travel. The proposal's intent was to prohibit this barrier except when required for flight safety or for the most compelling considerations of airline needs.

Most commenters who discussed these provisions found the nursing or personal care provision acceptable. Some suggested, however, that the rules should make clear that minor assistance with meals, such as opening silverware packages or telling a blind passenger what is being served and where each item is located on the tray, should not be considered feeding assistance requiring a passenger to travel attended or forego food. We agree with this position and have redrafted the rule accordingly. AFA asked that we define nursing and personal care more precisely, to avoid disputes. With the exception just mentioned, however, we do not believe this is necessary. The normal range of flight attendant services, including the occasional modest extra efforts provided for some passengers—escorting them to seats, providing games for restless children, soothing first-flight anxieties—can be easily distinguished from the kind of time-consuming attention or specialized services (such as administering injections or assisting a passenger in the lavatory) that passengers would not expect as a matter of course. We have redrafted the section to make that clearer.

Commenters generally did not agree with the provisions permitting airlines to require attendants for passengers who will need substantial assistance in deplaning during an emergency. Some disabled groups and individuals contended that, given the physical structure of planes, all handicapped passengers would have to be attended. They also argued that in emergencies injured or panicked passengers would block others as much as or more than the disabled passengers. The decision whether to protect against the risk of emergency by traveling attended, they argued, should be the passenger's. The flight attendants' unions, on the other hand, argued that all nonambulatory passengers should be attended to ensure efficient emergency evacuation. Frontier contended that travelers should choose whether to travel with an attendant or sign a liability waiver. British Airways described its own elaborate rules for deciding who may fly alone. DOT, which through the FAA has jurisdiction to make a flight safety determination on this issue, had no comment on the proposal.

In our view, the rule as proposed does present a problem because the standard is not precise. Under a narrow interpretation, there is no aspect of the physical structure of the plane itself that prohibits the seating of disabled passengers so as not to block others. If the language is interpreted broadly, however, it could prohibit the seating of any unattended nonambulatory passenger in an aisle seat. Yet aisle seats are often the safest and most easily used for these passengers. According to an FAA study, disabled passengers seated in window seats use nearly 50 percent of their total evacuation time in moving from seat to aisle. *Emergency Escape of Handicapped Air Travelers*, FAA Civil Aeromedical Institute, FAA-AM-77-11, July, 1977.

Developing an alternate standard, however, is difficult. While we continue to believe that passengers should make their own decisions about risks to their own safety, the FAA, not the CAB, has primary responsibility for making regulatory decisions about flight safety generally. The Board does not have the expertise to determine when carriage of an unattended nonambulatory passenger becomes a potential danger to the safety of other passengers.

The FAA has not made a conclusive determination on this issue. In the 1977 study mentioned above, the Civil Aeromedical Institute (CAMI) ran simulated evacuation drills and reviewed aircraft accident reports to determine whether handicapped passengers had caused significant evacuation delays. Finding that 96 percent of the ambulatory handicapped subjects and 37 percent of the nonambulatory handicapped subjects could exit at an acceptable rate of speed (1 ft. per second), the study concluded that most nonambulatory passengers would need assistance from other passengers or the crew in an emergency. CAMI's review of aircraft accident reports revealed no concrete evidence, however, that evacuation of disabled passengers had been a significant problem. Based on this study, the FAA stated that "the potential for handicapped passengers delaying aircraft evacuations would appear minimal." 42 FR 18392, 18393, April 7, 1977. Nevertheless, the agency concluded it had insufficient information to make a definitive finding on this issue.

In adopting a rule here, the Board cannot ignore safety concerns that have not been resolved to the satisfaction of the FAA. Our rules must leave room for any future FAA efforts to develop more

specific standards for determining when airlines may reasonably require a passenger to be attended. Accordingly, we have revised the rule to permit airlines to require attendants when reasonably necessary for the safety of other passengers, in accordance with the regulations and policies of the FAA. See 14 CFR 121.586. As with decisions on refusing service, decisions requiring attendants must be made by designated personnel. The name of the designated person must be made known to any person that requests it. Additionally, we will expect airlines to be able to provide specific justifications for their determinations that safety requires a passenger to be attended.

Some commenters suggested that passengers who elect not to eat in order to travel unattended should get a discount. Most airlines, however, treat food service as a complementary item, charging no less for flights without food and offering no discounts to passengers who choose not to eat for other reasons. We will not require them to apply a different standard in this case.

In revising the rule on attendants, for consistency we have added those who need an attendant to satisfy the definition of "qualified handicapped person," as set forth in § 382.3, to the passengers who may be required to be attended in flight.

Airlines will thus be able to require attendants in basically three situations. These are—when an attendant is necessary for the safety of other passengers under the rules of the FAA (§ 382.13(b)), when the handicapped person needs extraordinary personal care during flight, (§ 382.13(b)), and when an attendant is needed to help the handicapped person comply with the reasonable requests of airline personnel (§§ 382.13(b) and 382.3(c)(3)).

*Refusal To Transport, Limit on Number of Disabled Passengers.* In SPDR-70, the Board asked for comments on whether it is reasonable for airlines to limit the number of handicapped passengers accommodated per flight. Disabled commenters objected to such limits, branding them discriminatory and purposeless. Flight crew unions urged broad limits for safety reasons. Considering that the goal of limits is to promote flight safety, there seems to be no reason to limit the numbers of attended passengers, who have effectively provided their own evacuation assistance, or of fully ambulatory disabled passengers, who have not significantly delayed simulated evacuation tests. But a large number of unattended nonambulatory passengers on a single flight might unduly hamper

an emergency evacuation if one were necessary. We view this situation as one which, like seating policies, can best be resolved by application of the general principles of nondiscrimination. An airline wishing to apply a per-flight limitation would have to be able to justify it, and the particular limit imposed would have to be reasonable, given the aircraft and the standard crew complement involved.

*Guide dogs and personal equipment.* Section 382.13 of the proposed rules (now § 382.14) would have prescribed the extent to which airlines must accommodate passengers' use of their own aids, including wheelchairs, canes, crutches, and guide dogs. The section would have required airlines to carry guide dogs with their owners, to keep passengers' canes and crutches near them, and to store passengers' folding wheelchairs on board to the extent permitted by FAA rules, and to carry as baggage battery-operated wheelchairs and personal oxygen equipment to the extent permitted by DOT regulations governing the transportation of hazardous materials.

With a couple of exceptions, commenters generally found the guide dog provision acceptable. Air Atlantic suggested that on small aircraft dogs should be kenneled or, if with the passenger, should be muzzled. While there may be occasional instances in which small aircraft size would make on-board carriage of a guide dog difficult, Air Atlantic has not provided us with any specific information. In view of the dog's importance to the passenger, we are reluctant to create any such exception unless it is absolutely necessary. Accordingly, we will not change the rule but will consider exceptions if a good case for one is made. As for muzzling, we see no need for a CAB rule on this subject. Whether muzzling is justified will depend on the circumstances of each case.

British Airways reported that it accepts no guide dogs on its flights, in accordance with British health laws. We acknowledge that applicable laws of other countries may sometimes bar U.S. carriers from accepting guide dogs on international flights, and we have modified the rule to reflect this.

The Board received a great deal of correspondence from blind travelers on the provision concerning canes. These letters, along with many formal comments, urged the Board to require airlines to allow passengers to keep their canes with them at all times. The FAA has the primary authority to make that determination, and that agency has considered the air safety implications of

such a policy. 45 FR 75138, November 13, 1980. It determined that the stowage of travel canes under passenger seats is consistent with its safety mandate provided that the cane is placed flat on the floor and does not protrude into an aisle or exit row. Based on that decision, § 382.14(b) now requires carriers to permit the on-board stowage of travel canes when the FAA's conditions for such stowage can be met. See Amendment No. 121-174, 46 FR 38048, July 23, 1981.

Section 382.13(d) of the proposal required airlines to carry battery-operated wheelchairs in the baggage compartment to the extent permitted by DOT rules on the carriage of hazardous materials (49 CFR Parts 172, 173, and 175). The ATA suggested as a further limitation that an airline should not be required to carry these wheelchairs in its baggage compartment if it would be contrary to its tariff rules on file with the Board. These tariff rules are often more restrictive than the DOT regulations. Although carriers have an obligation to ensure the safety of all their passengers, once the minimum hazardous materials requirements established by the government are met, there is a strong countervailing interest in the ready availability of transportation for passengers and their belongings—in this case, extremely important belongings. We will adopt this requirement as proposed. If carriers subject to this provision have more restrictive tariffs, they must file new ones conforming to this rule. It should be noted that DOT has proposed to simply and clarify its rules pertaining to the transportation of wet cell batteries, HM-173, 46 FR 29968, June 4, 1981.

The Board's proposal that airlines be required to carry folding wheelchairs in the passenger compartment if permissible under FAA and DOT regulations was praised by handicapped commenters and strongly criticized by the airlines, flight attendants' unions, and the Aerospace Industries Association. The DRC comments, for example, noted that passenger-compartment stowage would decrease passenger discomfort by permitting use of a personal chair for the longest possible time and would also reduce damage to the chairs. They suggested that the Board establish a specific chair collapsibility standard to identify the chairs that must be so carried. The objecting parties contended that wheelchair storage would take too much of the airlines' limited passenger-area storage space. Several airlines suggested that "doortagging procedures" (tagging the wheelchair for belly carriage near

the cargo door) would be sufficient. They would permit the passenger to obtain the wheelchair at the bottom of the stairs when leaving the plane.

As a general matter, passenger-compartment storage of hanging bags and items too large to be carried under the seat is not a guaranteed feature of air service. Depending on individual plane configuration and load, an airline may not be able to accommodate all the requests it receives for such storage. For some passengers, storing luggage in storage closets is an important convenience. Passenger-area storage of a folding wheelchair may prevent the carrier from being able to accommodate some of the bags of other travelers. For the wheelchair user, however, the ready availability of the chair provides mobility and independence, reduces the time spent deplaning, and reduces the risk that the chair will be damaged in the baggage compartment. Aisle chairs supplied by carriers are often uncomfortable and awkward for many wheelchair users. In view of the wheelchair users' strong interest in having their personal chairs readily available, it is not reasonable to give priority to other baggage.

We are not able to set standard dimensions of wheelchairs that must be accepted, since different aircraft sizes and configurations provide different amounts of storage space. The proposed rules would have required airlines to carry chairs in the passenger compartment whenever they could do so in conformance with FAA regulations. In light of the comments, we have decided that airlines need more flexibility than the proposed rules would have allowed. We have modified the rule to require carriers to make reasonable efforts to provide passenger-area storage, and otherwise to doortag, except where compliance with hazardous materials regulations makes this impracticable. We expect airlines to develop procedures that reflect good faith efforts to accommodate folding wheelchairs in the passenger compartment when possible.

*Provision of special services and equipment.* Section 382.14 of the proposal (now § 382.15) identified services and equipment airlines would have to make available to handicapped passengers on request, set limits on the extent to which airlines could require advance notice for the provision of these services and the carriage of passengers needing them, and provided that airlines might impose reasonable, nondiscriminatory charges for such services if they chose.

Each of these aspects of the provision prompted extensive comment. Airlines generally contended that they should retain discretion to decide whether to make various services and equipment available. Most objected to the requirements that medical oxygen and boarding lifts be made available and urged deletion of the reference to life-support systems other than oxygen. Several also objected to the inclusion of assistance with baggage or ground connections (on grounds that these responsibilities are the passenger's, or the airport's) and some to inclusion of assistance moving to restrooms. Transamerica Airlines noted that at its charter locations, it frequently has no permanent station from which to provide equipment. DOT urged close coordination of the rule's special assistance requirements with those of DOT's airport accessibility rules, and both DOT and the Architectural and Transportation Barriers Compliance Board asked the Board to specify that mechanical lifts be designed for passenger use, not freight use.

We agree that "life support systems such as oxygen" in paragraph (a)(1) is too vague. This phrase has been deleted from the rule. The requirement to make oxygen available, however, remains. FAA safety regulations prohibit passengers from using their own oxygen equipment in flight. Consequently, the passenger with even a slight chance of needing oxygen will be unable to travel if an airline does not provide the equipment.

PSA argued that provision and servicing of oxygen equipment will be burdensome for an airline whose operation is based on short turnaround times, and that assisting with the equipment and enforcing FAA rules concerning its use (such as prohibiting smoking within 10 feet of the equipment) will unduly burden flight attendants. The ATA contended that it would be difficult to comply with FAA oxygen requirements on some routes. Frontier accepted the oxygen requirement but asked that it not have to meet abnormal demand for such equipment. These problems are largely resolved by the advance notice provision in § 382.15(c). With sufficient notice, an airline should be able to obtain suitable equipment or borrow it from another airline.

Mechanical lifts drew even stronger objections than oxygen equipment. Airlines argued that the lifts are costly (around \$35,000, according to American Airlines) and that alternate methods, such as hand-carrying passengers, are adequate. Groups of the disabled, on the other hand, strongly supported the

mechanical lift requirement. They asserted that hand-carried-boarding procedures are uncomfortable and substantially increase the risk of injury.

In our view, airlines should make boarding and deplaning assistance available to passengers, and the method used should be safe and convenient for the passengers. Holding individual airlines responsible for the provision of expensive lift equipment, however, may well lead to needless purchase of lifts and to costs far in excess of the benefits to passengers. While airlines could enter sharing arrangements for lift equipment, these might be difficult to arrange, especially for the smaller operations that would most need them. Moreover, at least one airline (TWA) voluntarily provides boarding lift equipment.

A DOT rule (49 CFR 27.71(b)(4)) requires Federally-assisted airports to make boarding lifts or ramps available. Rather than require airlines to invest in expensive boarding assistance equipment, which will probably be used only occasionally, we consider it preferable to rely on DOT's rule. Airlines will therefore be required to employ the boarding lifts, ramps, or other suitable devices that airports make available under the DOT rule. That rule states that these lifts or devices may not be those normally used for movement of freight. Since, under § 382.15(c) of our rule, carriers may require advance notice of the need for boarding assistance, they should be able to ensure that the equipment is available when it is needed.

Carriers objected to the provisions governing baggage assistance and help in making ground connections. These objections may have been based on a misunderstanding of what was proposed. The rule requires little more than what is routinely provided at most airports by skycaps. Where skycaps are airline employees, the airline need only ensure that they are performing adequately and not, as some disabled groups charge, avoiding handicapped passengers. Where skycaps are not provided by individual airlines, the rule requires airline personnel to aid the passenger if necessary. Although some disabled groups have asked that we require that baggage assistance be provided by airline personnel other than skycaps, we find it sufficient to rely on airlines' general responsibility to ensure that services are available.

The DOT rule also addresses this problem. Section 27.71(b)(5) states that airports shall assure that there are provisions for assisting handicapped passengers in moving throughout the terminal and in handling their baggage. This responsibility is properly shared by

the airport and the airline. Primary responsibility rests on the party that controls the skycaps or other service personnel at the facility.

DOT's regulation refers to movement into and out of the terminal rather than "making ground connections." This is a clearer way to describe the services to be provided, and we have substituted similar language in § 382.15(a)(3). We did not intend to imply that airlines must help passengers purchase bus tickets, board subways, or otherwise arrange for ground transportation, but only that they ensure that a passenger who, because of handicap, needs help exiting the terminal or locating the taxi stand or bus stop receives that help. DOT's regulation also refers to movement "within the terminal." We do not consider all such movement to be an airline's responsibility, and we will leave this to the airports. Disabled groups, however, have urged us to assign to airlines responsibility for assistance in making connections to other flights. We agree that the airlines are in the best position to provide this service, and we have added it to § 382.15(a)(3). When connections involve more than one airline, the airlines may work out the division of responsibility as they choose. In the first instance, however, the airline deplaning the passenger at the connecting point will have the responsibility to see that suitable arrangements are made.

Airlines and flight attendants' unions also objected to the requirement that airlines provide assistance moving to restrooms on board. The AFA suggested that passengers who need this assistance be accompanied by attendants who will provide it, but that the airlines should provide aisle chairs to assist in this process. On longer flights, and especially on widebody aircraft with more than one aisle, it may be fairly easy for flight attendants to provide the needed assistance. Those passengers who are able to use the restroom by themselves once they reach it (under the rules, airlines need not provide assistance in the restroom) will presumably be able to move from seat to aisle chair reasonably expeditiously without a great deal of assistance. Airlines might reasonably ask those passengers to sit fairly near the restrooms if they plan to use them, so the aisle will be blocked and the flight attendant's attention required for only a short time. On short flights, however, the flight attendants are often very busy, and the aisle may be blocked with a refreshment cart for much of the flight. In these circumstances, assisting even a strong nonambulatory passenger to the restroom could be extremely

burdensome. Since aircraft, crew complement, flight length, and load factor will all influence the practicability of providing this assistance, we cannot set precise standards for when assistance must be provided. Instead, we will require airlines to make reasonable efforts to provide this assistance.

ATA asserted that the rule appears to require airlines to provide assistance even to attended passengers. To the extent that the assistance involves special equipment, such as boarding lifts, the rule does require this. With respect to personal services, however, the rule requires only that airlines assure their availability. Where the attendant can provide it the airline's responsibility is satisfied.

Neither airlines nor groups of disabled persons supported the proposal's provision permitting reasonable notice requirements of up to 48 hours for the provision of extensive special assistance, including the provision of oxygen, boarding and deplaning assistance, and ground wheelchairs. Airlines argued that all disabled passengers should give advance notice, and that 48 hours would frequently not be adequate to prepare for the passenger's needs. The disabled commenters, on the other hand, felt the advance notice limits should be substantially reduced or eliminated, and should not apply to ground wheelchairs or to boarding assistance.

Carriers cannot be expected to provide on demand extensive boarding assistance or equipment such as oxygen. This would require carriers to have available an oversupply of equipment and might significantly delay takeoff while necessary preparations were being made. We also consider the 48-hour maximum to be a reasonable one. While some carriers now provide such services on 24 hours' notice, many, especially smaller carriers, may not be able to do so. On the other hand, more than 48 hours' notice should seldom be necessary. Commenters suggested that obtaining necessary extra staff at small locations could take more than 48 hours. If so, carriers at these few locations might be eligible for an exemption from the maximum notice rules. But travelers in big cities where travel by the handicapped is a relatively common event should not have to meet lengthy notice requirements tailored to the problems of very small communities, where a traveler's request for special assistance may be a rare occurrence.

Disabled groups and individuals strongly opposed including ground wheelchairs in the category of

"extensive special assistance." Where wheelchairs are readily available, providing them does not require the kind of planning or preparation that providing boarding lifts or oxygen might. Since failure to provide advance notice may justify a refusal to carry a passenger, we agree that ground wheelchairs should not be considered "extensive special assistance" as a general rule. Passengers who will need wheelchairs should notify the carrier in advance, however, if they expect to be served promptly, and a carrier could certainly recommend this practice to its passengers.

Many commenters objected vehemently to the provision permitting airlines to impose reasonable, nondiscriminatory charges for special services. Under section 504, they contended, the cost of equipment and services necessary to ensure accessibility must be borne by the airlines, not the handicapped passengers. Moreover, they considered the Board's concept of "nondiscriminatory" charges to be illusory. They were concerned that airlines would charge for those services most often used by handicapped travelers, such as escort service to a connecting flight, while offering free services that may cost carriers just as much, such as special kosher or vegetarian meals. Many of these services are commonly provided free now, and commenters did not want the Board to invite airlines to begin charging for them.

Since airlines are not social programs supported largely by government funds but for-profit businesses offering services for purchase, the question is not properly whether airlines or the handicapped will pay the cost of accessibility. Rather, it is whether the cost will be paid by handicapped travelers or by all air travelers. Even many disabled commenters admit that it seems unreasonable to impose some particularly high or unusual costs, such as the cost of carrying passengers who must occupy more than one seat or of providing special medical oxygen equipment, on air travelers as a whole.

Even for more routine services, we are unwilling to prohibit airlines from imposing extra charges if they so choose. A particular extra charge that may be unreasonable and discriminatory for an airline that generally provides a wide range of complimentary services for the price of a standard ticket may be reasonable when imposed by an airline that provides low-cost, no-frills service with special charges for any extras (such as

meals). Any charges for services will be subject to review through the Board's tariff process as long as we retain authority over carrier tariffs, and we have revised the language of § 382.15(d) to clarify that the charges must be reasonable and nondiscriminatory. On the basis of our experience with this rule, we will determine whether there is a need for specific regulations governing review and approval of charges for special services after the Board's tariff authority expires.

The Board is, however, making one change. Airlines will be prohibited from charging mobility-impaired passengers for services that are necessary because their aircraft are not readily accessible. This is called for as compensation for adopting the lesser accessibility standard for such passengers as explained above.

*Carrier liability:* Proposed § 382.15 of the rules would have prohibited carriers from imposing on handicapped passengers stricter limits or waivers of liability for personal injury or damage to baggage, including wheelchairs, than are imposed on all passengers, with one exception. If a passenger's handicap makes traveling extraordinarily hazardous, a carrier would have been permitted to require a waiver of liability for injuries resulting from the handicap that occur despite the exercise of due care by the carrier. Several commenters suggested that the provision, especially the exception, was ambiguous. ATA stated that the Board should remain silent on the subject of liability, leaving passengers and carriers to their common law claims and defenses. Other commenters agreed. The common law, they asserted, may require more of airlines than "due care," and the airlines may apply the "extraordinary hazard" exception overbroadly. At a minimum, these commenters suggested that the conditions permitting waivers be specifically identified and the actual waiver forms be subject to Board review.

Our reason for including the exception permitting some waivers was to permit a passenger whose condition makes flying especially dangerous to choose whether or not to accept the risk. We were concerned that carriers' fear of liability might lead them to discourage or refuse the potential passenger.

As a general matter, however, the Board has left to the common law the question of personal injury liability. We need not set the exact substantive liability standard in this area. In addition, the process of obtaining these waivers would suffer from defects similar to those of the medical

certificate scheme. It encourages scrutiny of handicapped persons as a class and may lead to arbitrary and erroneous judgments about who can be required to sign a waiver. The waiver provision is unnecessary to ensure carriage of the passenger since no passenger may be refused transportation except in accordance with § 382.13, described above. We are therefore not adopting this provision.

With respect to baggage, the Board has historically taken a more active role in determining reasonable limits of liability. The Board has issued several orders establishing minimum levels for baggage liability in domestic travel and rules covering responsibility for fragile articles, the handling of claims, and other items. *E.G.*, Order 77-2-9 (February 2, 1977); Order 77-4-94 (April 20, 1977); Order 77-9-80 (September 20, 1977); EDR-436, 47 FR 5232, February 4, 1982.

As a general matter, of course, handicapped passengers' baggage should be subject to the same limits as that of other passengers. In our view, this is required by the section establishing general principles of nondiscrimination. The primary concern in this area involves wheelchairs. Under existing rules, airlines may deny responsibility for items they designate as fragile, with certain exceptions, and many airlines have included passengers' personal wheelchairs in this category. Because of the wheelchair's importance to the passenger, damage to it can be extremely burdensome. Much of this damage could be avoided by storing the chairs on board or using a little extra care in handling them with the baggage. To give the airlines an incentive to provide that extra care, they should be as liable for wheelchairs, and offer the same excess valuation coverage as for ordinary baggage. We have retained this provision, moving it to § 382.14(e).

*Compliance.* The compliance procedures of proposed Subpart C included assurances of compliance, Board review of airline employee manuals on carriage of handicapped passengers, carrier self-evaluations, designation of employees responsible for coordinating compliance efforts, and adoption of procedures for handling consumer grievances. Proposed § 382.25 provided that aggrieved persons may file complaints with the airline or the Board, and that the Board would inform the Secretary of Transportation of the complaints it receives. Proposed § 382.26 stated that the Board might respond to noncompliance by withdrawing financial assistance or use any other means authorized by law. That section

also ensured the carrier's right to a hearing before financial assistance was withdrawn.

The airlines considered these procedures superfluous and an unwarranted intrusion into day-to-day operations. They criticized the reporting requirements in particular as burdensome and purposeless. Frontier, however, acknowledged the possible value of Board review of employee manuals. ATA also objected to the evaluation provision, contending that it implied that carriers would not voluntarily comply with the rules.

While we do not agree with the carriers' overall assessment of the compliance subpart, the requirements can be simplified. Adoption of a complaint resolution plan, a procedure which is included in HEW's guidelines for agencies implementing section 504, seems unnecessary for airlines. As consumer service businesses, airlines generally already have customer relations departments that deal with passenger complaints. While these departments may vary in the extent and formality of the review and assistance they provide, they do serve the primary function of a complaint resolution plan. They permit the passenger to give the airline notice of the complaint and an opportunity to resolve it. A passenger who is dissatisfied with the airline's internal procedures or who declines to use them may seek relief at the Board in any event. We are therefore not requiring airlines to adopt a separate complaint resolution plan for the handicapped.

Similarly, we do not consider it necessary for airlines to file with the Board the name of an employee designated to coordinate compliance with these regulations. The Board's existing methods of contacting airlines when it receives complaints or has questions about regulatory compliance will serve for these regulations as well as for others.

Also, it is not necessary for airlines to maintain and file copies of their employee manuals with the Board as a general rule. Most airlines already have employee manuals that they submit to the FAA. It will be sufficient to require that these manuals be available to the Board upon request. They may be relevant to an investigation of a complaint from a handicapped passenger concerning the reasonableness of a carrier practice.

We are retaining, however, the requirements concerning assurances of compliance and a modified version of the self-evaluation requirement. The assurances are a useful means of reminding subsidized airlines of their

obligations. The self-evaluation is required by HHS's rule at 45 CFR 85.5(b). Board review of the manuals and carrier self-evaluation may be important because many of the regulations' provisions are, necessarily, very general.

This approach allows for Board oversight to ensure that carriers' efforts are reasonable and adequate, while retaining the flexibility necessary for carriers with different characteristics to comply with this rule and meet the needs of handicapped travelers. We have, however, simplified the self-evaluation section. Since carriers are to file a description of the evaluation with the Board, a separate requirement for forwarding the names of those responsible for the evaluation is unnecessary. Also, while the initial self-evaluation is important, it is not necessary to require that it be updated. This requirement has been deleted.

Other commenters suggested that the rule should state more clearly the procedures for handling complaints. We have revised the rule to make clear that individual complaints will be processed according to the Board's standard enforcement procedures, and that the Board may assess civil penalties or issue an order to cease and desist rather than withdraw financial assistance. These are substantially the same procedures as would be used in Title VI cases involving racial discrimination complaints. In withdrawing financial assistance, the Board is limited to a suspension or termination of financial assistance to the particular program or activity with respect to which there has been a finding of noncompliance. In the case of a carrier receiving separate subsidies under section 419 of the Act for serving several eligible points, we view this limitation as permitting us to withdraw the subsidy only for the route or routes where the violation occurred. Carriers receiving subsidy under section 406 of the Act would not benefit from this limitation to the same extent because the financial assistance they receive is intended to aid their entire system. Thus, a violation in any part of their subsidy-eligible system may justify the withdrawal of the section 406 subsidy.

In response to comments, we have required carriers to consult with handicapped persons, and to include a summary of those consultations in their self-evaluation description, but have eliminated the requirement that carriers consult with experts. We have also eliminated the statement that we will forward complaints to the Secretary of Transportation. This caused confusion about who has responsibility for

enforcing the rules. For similar reasons, we will not adopt a suggestion by the Architectural and Transportation Barriers Compliance Board that we refer all complaints to it. Informal arrangements can be made to meet the needs of interested agencies.

#### Employment

The Board did not propose provisions governing employment because it did not consider employment to be covered by section 504. This position was based on two circuit court decisions, *Trageser v. Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert denied*, 442 U.S. 947 (1979), *Carmi v. Metropolitan St. Louis Sewer District*, 620 F.2d 672 (8th Cir. 1980). A recent decision by the Supreme Court, *North Haven Board of Education v. Bell*, Docket 80-986 (decided May 17, 1982) has, however, caused the Board to reverse this view. Although it now appears that the Board's rule may have to contain provisions on employment, they cannot be included in the rule at this time because a notice of proposed rulemaking on the subject must first be issued. The Board will institute such a rulemaking proceeding, but in the meantime the employment practices of subsidized airlines will be governed by the Justice Department (formerly HEW) guidelines at 28 CFR 41.52 through 41.55.

#### Effective Dates

Finally, commenters have asked that the rules include an explicit timetable for compliance with their various provisions. Ordinarily, the Board issues rules with a single effective date 30 days after publication. Since a Federal judge of the Central District of California has ordered the CAB and other agencies to begin enforcing the provisions of the Rehabilitation Act immediately (No. CV 79-1979, May 26, 1981), we find good cause to make the general provisions of Subpart A effective upon publication in the *Federal Register*. Implementing the provisions regarding refusal of service, attendant requirements, handling of passenger aids, and nondiscrimination will take longer. These provisions will take effect 90 days after publication. This will allow carriers time to brief their personnel on the new regulations and make any necessary arrangements. The requirements in §§ 382.11, 382.12, and 382.15 may require more planning and preparation. These provisions will take effect 6 months after publication in the *Federal Register*.

#### Regulatory Impact Analysis

Executive Order 12291 requires agencies to prepare a Regulatory Impact

Analysis in connection with every major rule. We do not consider this to be a major rule because, particularly in light of the accessibility standard adopted, it will not have an annual effect on the economy of 100 million dollars, cause a major increase in costs for airlines or prices for passengers, or have a significant adverse impact on competition, investment, productivity or the other factors listed in section 1(b) of the Executive Order. In any event, the Office of Management and Budget has waived the Regulatory Impact analysis requirement but has requested some information to help it evaluate this rule. This information (the rationale for the rule and the alternatives considered) is discussed above.

This rule is being published in accordance with the order of the court in *Paralyzed Veterans of America v. Smith*, No. 79-1979 C.D. Cal. The HEW guidelines on which it is based are being reviewed by the Department of Justice in accordance with Executive Order 12250. If those guidelines are revised, we will revise this rule as necessary. If those revisions cause this rule to become a major rule as defined in Executive Order 12291, we will perform a Regulatory Impact Analysis at that time. In order to aid in any revisions or analysis that may be necessary, we are leaving this rulemaking docket open for further comments on possible changes and on the economic impacts of the regulation. Comments should be sent to the CAB's Docket Section and reference Docket 34030.

#### List of Subjects in 14 CFR Part 382

Air carriers, Civil Rights, Grant programs—transportation, Handicapped, Hazardous materials transportation.

Accordingly, the Civil Aeronautics Boards adds to Chapter II of Title 14 of the Code of Federal Regulations, a new Part 382, *Nondiscrimination on the Basis of Handicap*, as follows:

### PART 382—NONDISCRIMINATION ON THE BASIS OF HANDICAP

#### Subpart A—General Provisions

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382.1	Purpose.
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382.3	Definitions.
382.4	Prohibition against discrimination.
382.5	General discriminatory practices.

#### Subpart B—Specific Requirements

382.10	Applicability.
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Sec.	
382.15	Availability of service and equipment.

#### Subpart C—Compliance

382.20	Applicability.
382.21	Assurance of compliance.
382.22	Carrier manuals.
382.23	Evaluation of practices and facilities.
382.24	Complaints.
382.25	Procedures for noncompliance.

Authority: Section 504, Pub. L. 93-112, 87 Stat. 394, 29 U.S.C. 794; Secs. 204, 401, 404, 406, 407, 416, 419, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 760, 763, 766, 771, 92 Stat. 1732, 49 U.S.C. 1324, 1371, 1374, 1376, 1377, 1386, 1389; E.O. 11914, 41 FR 17871.

#### Subpart A—General Provisions

##### § 382.1 Purpose.

The purpose of this part is to ensure that handicapped persons receive adequate air transportation service, without unjust discrimination based on handicap, and to implement section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance. The part establishes regulations to prohibit discrimination in air transportation against qualified handicapped persons, and to ensure: (a) That handicapped persons receive reasonable access to commercial air transportation, (b) that certain specific practices are prohibited, and (c) that certain specific changes in service are made. The part is designed to ensure that transportation of handicapped persons is integrated into the overall air transportation system.

##### § 382.2 Applicability.

(a) This subpart applies to all certificated air carriers, and to all commuter air carriers that receive subsidy or compensation for losses directly or through another recipient from the Board under section 406 or section 419 (a)(5), (a)(7), or (b)(6) of the Federal Aviation Act of 1958, as amended.

(b) This subpart shall take effect on June 15, 1982.

##### § 382.3 Definitions.

As used in this part:

(a) "Facility" means all or any portion of a carrier's aircraft, buildings, structures, equipment, roads, walks, parking lots, and other real or personal property, normally used by passengers or prospective passengers, or any interest in such property to the extent the carrier exercises control over the selection, design, construction, or alteration of the property.

(b) "Handicapped person" means a person who (a) has a physical or mental impairment that substantially limits one

or more major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment.

(c) "Qualified handicapped person" means a handicapped person—

(1) Who tenders payment for air transportation;

(2) Whose carriage will not violate the requirements of the Federal Aviation Regulations (Chapter I of this title) or, in the reasonable expectation of carrier personnel designated under § 382.13(a), jeopardize the safe completion of the flight or the health or safety of other persons; and

(3) Who is willing and able to comply with reasonable requests of airline personnel or, if not, is accompanied by a responsible adult passenger who can ensure that the requests are complied with. Any request by airline personnel that is inconsistent with this part or beyond standard practices will not be considered reasonable for purposes of this part.

##### § 382.4 Prohibition against discrimination.

Carriers subject to this part shall not discriminate against any qualified handicapped person because of that person's handicap.

##### § 382.5 General discriminatory practices.

A carrier subject to this part shall not, directly or through contractual, licensing, or other arrangement, on the basis of handicap—

(a) Exclude a qualified handicapped person from or deny that person the benefit of any air transportation or related services that are available to other passengers, even if there is separate or different services available for handicapped persons; or

(b) Provide to a qualified handicapped person air transportation or related services that are separate or different from those provided to others, unless that action is reasonably necessary to provide the person with access to air transportation or related services or is requested by the person.

#### Subpart B—Specific Requirements

##### § 382.10 Applicability.

(a) This subpart applies to all air carriers that receive a subsidy directly or through another recipient from the Board under section 406 or section 419 (a)(5) or (b)(6) of the Act.

(b) Except as otherwise noted, the provisions of this subpart shall take effect on September 13, 1982.

##### § 382.11 Accessibility.

(a) Except as specified in paragraph (b) of this section, each carrier's facilities, services, and reservation

system, when viewed in their entirety, shall be readily accessible to and usable by handicapped persons. It is not required that every facility or every part of the facilities for each flight be made accessible to or usable by handicapped persons.

(b) Each carrier's aircraft shall be reasonably accessible to handicapped persons with mobility impairments.

(c) This section shall take effect on December 12, 1982.

#### § 382.12 Availability of information.

(a) Carriers shall ensure that deaf persons and blind persons have timely access to important information, including but not limited to, information on flight delays, schedule changes, or gate changes, information about emergency procedures, and necessary information during actual emergencies.

(b) This section shall take effect on December 12, 1982.

#### § 382.13 Refusal of service.

(a) A handicapped person shall be presumed to be a qualified handicapped person unless a carrier has a reasonable, specific basis for doubting those qualifications. A carrier shall not refuse transportation to the handicapped person unless an agent or employee designated by the carrier to make such determinations and familiar with the carrier's standards and procedures for such determinations reasonably believes on the basis of available information, including any presented by the handicapped person, that the person is not a qualified handicapped person.

(b) A carrier may require a handicapped person to be accompanied by an attendant if that person needs extraordinary personal care during flight (feeding, assistance in the lavatory, or nursing services), or if that person must be attended in order to meet the definition of a qualified handicapped person. Minor assistance with meals, such as opening silverware packages or describing the type and location of foods on a tray, is not "feeding" for the purpose of this section. A carrier shall not require an attendant for any other handicapped person, except when reasonably necessary for flight safety in accordance with the regulations or policies of the Federal Aviation Administration. All decisions to require a passenger to be accompanied by an attendant shall be made by an agent or employee designated by the carrier to make such determinations and familiar with the carrier's standards and procedures for such determinations.

(c) A carrier shall not refuse transportation to, or require attendants

for, persons because they are unable to feed themselves, if they elect not to eat during the flight. A carrier shall not refuse transportation to, or require attendants for, persons because they are incontinent or are unable to use the restrooms without assistance, if they have made adequate alternative arrangements for waste disposal.

(d) A carrier may refuse transportation to a person who will need extensive special assistance from the carrier if the person fails to comply with advance notice requirements established by the carrier in accordance with § 382.15(c), and the necessary equipment or personnel cannot, by reasonable efforts, be made available without delaying the flight.

(e) The name of the employee designated by the carrier to refuse service or require an attendant under this section shall be made known to ticket and reservation agents, who shall inform any person who requests that name.

#### § 382.14 Guide dogs and personal equipment.

(a) Carriers shall allow blind and deaf passengers to be accompanied on aircraft by guide dogs on all flights in interstate and overseas air transportation and on all flights in foreign air transportation where such carriage is not prohibited by the laws of the other country.

(b) Carriers shall allow passengers using canes or crutches to keep those aids near them at all times to the extent permitted by § 121.589(e) of this title.

(c) Carriers shall make reasonable efforts to permit handicapped persons to take folding wheelchairs aboard and to stow those wheelchairs in the passenger compartment if such carriage will not violate § 121.589 of this title or Department of Transportation regulations for the transportation of hazardous materials in 49 CFR 172, 173, and 175. When passenger compartment stowage is not provided, carriers shall provide for the checking and prompt return of passengers' wheelchairs at the door of the aircraft, so that passengers may use their own wheelchairs to the extent possible in boarding and deplaning, except when this practice would be inconsistent with Department of Transportation regulations governing the transportation of hazardous materials.

(d) Carriers shall accept as baggage battery-powered wheelchairs and personal oxygen supplies of handicapped passengers to the extent permitted by Department of Transportation regulations governing

the transportation of hazardous materials.

(e) In determining carrier liability for loss, delay, or damage to baggage and personal effects, passengers' personal wheelchairs shall not be treated as fragile articles. Carriers shall assume the same liability, and offer the same excess valuation coverage, for personal wheelchairs that they do for ordinary baggage.

#### § 382.15 Availability of service and equipment.

(a) Subject to the advance notice requirements of paragraph (c) of this section, carriers shall ensure the availability of:

- (1) Medical oxygen for on-board use;
- (2) Assistance in boarding and deplaning, using as necessary personnel, ground wheelchairs, aisle chairs, and, if available, the ramps or mechanical lifts required by 49 CFR 27.71; and
- (3) Personnel and equipment to assist in moving into and out of the airport terminal, in handling baggage, and in making flight connections.

(b) Carriers shall make reasonable efforts to assist passengers in moving to and from restrooms on board the aircraft.

(c) Carriers shall not establish advance notice requirements for the carriage of handicapped passengers who will not need extensive special assistance from the carrier. Carriers may establish reasonable advance notice requirements of up to 48 hours for the provision of extensive special assistance. For the purposes of this paragraph, extensive special assistance includes—

- (1) Medical oxygen for on-board use;
- (2) Boarding and deplaning assistance using mechanical boarding lifts, aisle chairs, other special equipment, or requiring the presence of more than the usual complement of personnel; and
- (3) Ground wheelchairs at facilities where they are not usually available.

(d) Carriers may impose reasonable, nondiscriminatory charges on individuals using special assistance. Carriers shall not charge handicapped passengers for any special assistance unless all other passengers using the assistance are also charged for it. Carriers shall not charge handicapped passengers for any assistance required because their aircraft are not readily accessible.

(e) Carriers shall not insist upon providing special assistance to a handicapped person who does not request it, unless the assistance is reasonably necessary for the passenger

to meet the definition of qualified handicapped person.

(f) This section shall take effect on December 12, 1982.

### Subpart C—Compliance

#### § 382.20 Applicability.

(a) This subpart applies to all air carriers that receive a subsidy directly or through another recipient from the Board under section 406 or section 419 (a)(5) or (b)(6) of the Act.

(b) The provisions of this subpart, except § 382.23, shall take effect on September 13, 1982.

#### § 382.21 Assurance of compliance.

Each carrier applying for Federal financial assistance from the Board shall, as a condition to approval of its application and payment of any claims, include in any application or claim an assurance that it will comply with this part.

#### § 382.22 Carrier manuals.

(a) Each carrier shall, upon request, submit to the Board any employees' manual that it maintains, containing company rules for accommodating handicapped passengers.

(b) If the Board finds that any company rule set forth in the manual is at variance with any provision of this part, the Board may by order modify that rule to the extent necessary to conform it to this part.

#### § 382.23 Evaluation of practices and facilities.

(a) Each carrier shall, within 1 year after the effective date of Subpart A, evaluate its current policies and practices, and their effects, for compliance with this part and review its services and facilities to determine whether they are reasonably accessible to and usable by handicapped persons.

(b) In conducting the evaluation and in making any necessary modifications of its policies, services, or facilities, each carrier shall consult with and obtain the views of handicapped persons.

(c) Each carrier shall provide to the Board a description of the evaluation required by paragraph (a) of this section, including areas examined, problems identified, remedial steps taken or planned, and a summary of its consultations with handicapped persons. Each carrier shall, for at least 3 years after completing the evaluation, maintain on file and make available for public inspection a copy of this description.

#### § 382.24 Complaints.

Any person who believes that he or she has been the victim of discriminatory action in violation of this part or applicable tariff rules may file a complaint with the Board under § 302.201 of this chapter. The complaint will be processed under the procedures set forth in Part 302 of this chapter.

#### § 382.25 Procedures for noncompliance.

(a) If a carrier fails to comply with this part, the Board may order suspension or termination of, or refuse to grant or continue, Federal financial assistance, or may use any other means authorized by law to ensure compliance, including assessment of civil penalties or the issuance of a cease and desist order pursuant to the enforcement procedures of Part 302 of this chapter.

(b) No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until the Board has:

(1) Informed the carrier of the failure to comply and determined that compliance cannot be accomplished by voluntary means,

(2) Granted the carrier an opportunity for a hearing, and

(3) Found a failure by the carrier to comply with a requirement of this part.

(c) The Deputy General Counsel is authorized to institute proceedings for the enforcement of this part.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16091 Filed 6-15-82; 8:45 am]

BILLING CODE 6320-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Part 193

[FAP 1H5314/T91; PH-FRL 2148-1]

#### Tolerances for Pesticides in Food; Metalaxyl

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a food additive regulation related to the experimental use of the fungicide metalaxyl in or on tomatoes. This regulation to permit the marketing of processed tomato products was requested by Ciba-Geigy Corp.

**EFFECTIVE DATE:** Effective on June 16, 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:

Henry M. Jacoby, Product Manager (PM-21), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice published in the Federal Register of May 26, 1982 (47 FR 23020) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had filed a food additive petition (FAP 1H5314) with the EPA. This petition proposed that 21 CFR 193 be amended by establishing a regulation permitting the residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6 dimethylaniline moiety, each expressed as metalaxyl resulting from application of metalaxyl to growing tomatoes in a proposed experimental use program with a tolerance limitation in processed tomato products at 3.0 parts per million (ppm).

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

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

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 (100 EUP-71) which is being established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The data submitted in support of the petition and other relevant material have been evaluated. The toxicological data considered in support of the regulation included a 3-month dietary study in rats with a no-observed-effect level (NOEL) of 250 ppm; a 90-day dietary study in dogs with a NOEL of 350 ppm; a teratology study in rats which was negative at doses up to 120 mg/kg/day; a rabbit teratology study which was negative at doses up to 20 mg/kg/day; a 3-generation rat reproduction study with a NOEL of 1,250 ppm; a 6-month dog study with a NOEL of 250 ppm; a *Salmonella*/mammalian microsome mutagenicity study that was negative for mutagenic effects, and a mouse dominant lethal mutagenicity study that was also negative for

mutagenic effects. Based on the 6-month dog feeding study with NOEL of 6.25 mg/kg/day and using a 1,000 fold safety factor the acceptable daily intake for humans is 0.00625 mg/kg/day.

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

The fungicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the fungicide 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, 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 July 16, 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 regulation 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: June 16, 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: June 4, 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 § 193.277 to read as follows:

##### § 193.277 Metalaxyl.

A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl in processed tomato products at 3.0 parts per million resulting from application of metalaxyl to growing tomatoes under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 82-16306 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

#### 21 CFR Part 193

[FAP 1H5324/R111; PH-FRL 2147-3]

#### Tolerances for Pesticides in Food; O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl)Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule establishes a food additive regulation in conjunction with the use of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate in microencapsulated formulations in spot and/or crack and crevice treatments in food handling establishments, including food service, manufacturing, and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries where food and food products are held, processed, and served. This regulation was requested by Pennwalt Corp.

**EFFECTIVE DATE:** Effective on June 16, 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:** George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs,

Environmental Protection Agency, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice in the *Federal Register* of December 16, 1981 (46 FR 61328) which announced that Pennwalt Corp., Agchem Division, Three Parkway, Philadelphia, PA 19102, had filed a food additive petition (FAP 1H5324) with the EPA proposing that 21 CFR 193.142(a)(1) be amended by adding the following sentence: "The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine."

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

The data submitted in the petition and other relevant material have been evaluated. Residue chemistry data from meal residue studies conducted in edible product areas indicate that no detectable residues are expected from this use. Establishment of this rule does not result in the utilization of any percentage of the average daily intake since food served in treated establishments is not expected to have detectable residues. Tolerances have previously been established (40 CFR 180.153) for this insecticide on a variety of raw agricultural commodities at levels ranging from 0.1 to 60 parts per million.

A related document (FAP 1H5324/R112) establishing a regulation for feed handling establishments appears elsewhere in this issue of the *Federal Register*.

No actions are pending against continued registration of the pesticide, nor are any other relevant considerations involved in establishing this regulation.

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 uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 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 July 16, 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: June 16, 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: June 4, 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 193.142(a)(1) is revised to read as follows:

##### § 193.142 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothiate.

(a) \* \* \*

(1) Spray and dust concentrations shall be limited to a maximum of 1 percent and 2 percent, respectively, of active ingredient by weight. The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine.

[FR Doc. 82-15202 Filed 6-15-82; 6:45 am]

BILLING CODE 6560-50-M

#### 21 CFR Part 561

[FAP 1H5314/T92; PH FRL 2147-8]

#### Tolerances for Pesticides in Animal Feeds; Metalaxyl

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a feed additive regulation related to the experimental use of the fungicide metalaxyl in or on soybeans and tomatoes. This regulation to permit the marketing of feed commodities was requested by Ciba-Geigy Corp.

**EFFECTIVE DATE:** Effective on June 16, 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:** Henry M. Jacoby, Product Manager (PM-21), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice published in the Federal Register of May 26, 1982 (46 FR 23020) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had filed a feed additive petition (FAP 1H5314) with the EPA. This petition proposed that 21 CFR 561 be amended by establishing a regulation permitting the residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl resulting from application of metalaxyl to growing tomatoes and soybeans in a proposed experimental use program with a tolerance limitation in or on wet tomato pomace at 5.0 parts per million (ppm); dry tomato pomace at 20.0 ppm; soybean hulls, meal and soapstock at 1.0 ppm.

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

This feed additive regulation is being established to permit the testing, obtain additional data, and permit the marketing of the 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 (100-EUP-71) which is being established under the

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The data submitted in support of the petition and other relevant material have been evaluated and discussed in a related document [FAP 1H5314/T91] establishing a food regulation for metalaxyl in or on processed tomato products appearing elsewhere in this issue of the Federal Register.

No actions are currently pending against the continued registration of metalaxyl nor are there any other relevant considerations involved in establishing the regulation.

The fungicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the fungicide 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, 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 July 16, 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 regulation 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: June 16, 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: June 4, 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 § 561.273 to read as follows:

**§ 561.273 Metalaxyl.**

A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine, methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety each expressed as metalaxyl in or on wet tomato pomace at 5.0 parts per million (ppm), dry tomato pomace at 20.0 ppm, soybean hulls at 1.0 ppm soybean meal at 1.0 ppm, and soybean soapstock at 1.0 ppm resulting from application of metalaxyl to growing tomatoes and soybeans under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 82-16205 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**21 CFR Part 561**

[FAP 1H5324/R112; PH-FRL 2147-2]

**Tolerances for Pesticides in Animal Feeds O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) Phosphorothioate**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a feed additive regulation in conjunction with the use of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in microencapsulated formulations in spot and/or crack and crevice treatments in animal feed handling establishments, including feed manufacturing and processing establishments, such as, stores, supermarkets, dairies, meat slaughtering and packing plants, and canneries where feed and feed products are held, processed, and sold. This regulation was requested by Pennwalt Corp.

**EFFECTIVE DATE:** Effective on June 16, 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:** George T. LaRocca, Product Manager

(PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice in the Federal Register of December 16, 1981 (46 FR 61328) which announced that Pennwalt Corp., Agchem Division, Three Parkway, Philadelphia, PA 19102, had filed a feed additive petition (FAP 1H5324) with the EPA proposing that 21 CFR 561.415(a)(1) be amended by adding the following sentence: "The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine."

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

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document (FAP 1H5324/R111) which establishes a food additive regulation in conjunction with the use of the insecticide in food handling, processing, and manufacturing establishments and appears elsewhere in this issue of the Federal Register.

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 uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 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 July 16, 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 regulation 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: June 16, 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: June 4, 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 561.415(a)(1) is revised to read as follows:

**§ 561.415 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.**

(a) \* \* \*

(1) Spray and dust concentrations shall be limited to a maximum of 1 percent and 2 percent, respectively, of active ingredient by weight. The spray concentration limit of 1 percent shall include, but not be limited to, encapsulated formulations of the additive utilizing the encapsulating polymer formed from the reaction of sebacoyl chloride, polymethylene polyphenylisocyanate, ethylenediamine and/or diethylenetriamine.

[FR Doc. 82-16203 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**21 CFR Part 561**

[FAP 1H5308/R109; PH-FRL 2143-4]

**Tolerances for Pesticides in Animal Feed Administered by the Environmental Protection Agency; Thidiazuron**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a feed additive regulation to permit the combined residues of the defoliant thidiazuron and its metabolites in or on the feed commodity cottonseed hulls.

This regulation to establish the maximum permissible level for residues of the defoliant in or on the feed commodity was requested by Nor-Am Agricultural Products, Inc.

**EFFECTIVE DATE:** Effective on June 16, 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 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 published in the *Federal Register* of August 5, 1981 (46 FR 39885) which announced that Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566, had submitted a feed additive petition (FAP 1H5308) proposing that 21 CFR 561.385 be amended by the establishment of a regulation permitting the combined residues of the defoliant thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in cottonseed hulls at 0.8 part per million (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 and discussed in a related document [PP 1F2527/R439] establishing tolerances on a variety of raw agricultural commodities which appears elsewhere in today's issue of the *Federal Register*.

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, U.S.C. 135(a) et seq.). Therefore, 21 CFR 561.385 is amended as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 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 regulation 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: June 16, 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: May 27, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

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

Therefore, 21 CFR 561.385 is revised to read as follows:

##### § 561.385 Thidiazuron.

A regulation is established for the combined residues of the defoliant thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in cottonseed hulls at 0.8 ppm when present therein as a result of the application of the pesticide to the growing crop.

[FR Doc. 82-15846 Filed 6-15-82; 9:45 am]

BILLING CODE 6560-50-M

#### 21 CFR Part 561

[PH-FRL 2148-2; FAP 2H5326/R110]

#### Chlorpyrifos; Tolerances for Pesticides in Animal Feeds

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a feed additive regulation to permit the combined residues of the insecticide chlorpyrifos and its metabolite in or on sunflower seed hulls. This regulation to permit the combined residues in or on sunflower seed hulls was requested by Dow Chemical Co.

**EFFECTIVE DATE:** Effective on June 16, 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 S. 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 in the *Federal Register* of December 16, 1981 (46 FR 61331) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted feed additive petition 2H5328 to the EPA proposing that 21 CFR 561.98 be amended by the establishment of a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on sunflower seed hulls at 0.5 part per million (ppm).

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

The scientific data and other relevant material considered in support of this regulation are contained and discussed in a related document (PP 2F2588/R440) which appears elsewhere in this issue of the *Federal Register*.

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 uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, 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 July 16, 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 regulation 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: June 16, 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: June 4, 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 561.98(a) is amended by adding and alphabetically inserting the feed item sunflower seed hulls to read as follows:

**§ 561.98 Chlorpyrifos.**

(a) \* \* \*

Feed	Parts per million
Sunflower seed hulls.....	0.5

[FR Doc. 82-16197 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 920**

**Approval of the State of Maryland Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977**

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

**ACTION:** Final rule.

**SUMMARY:** On March 8, 1982, the State of Maryland submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the

Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 FR 49932-49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Maryland Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Maryland Plan.

**EFFECTIVE DATE:** July 16, 1982.

**ADDRESSES:** Copies of the full text of the Maryland Plan are available for review during regular business hours at the following locations: State of Maryland, Bureau of Mines, 69 Hill St., Frostburg, Maryland 21532, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25311, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-7951.

**SUPPLEMENTARY INFORMATION:**

**General Background of the Abandoned Mine Land Program**

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purpose of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its

capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932-48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950.

Provisions relating to Maryland are found in 30 CFR Part 920.

**Background on the Maryland Reclamation Plan Submission**

Public meetings were held on the Maryland Plan as follows: Garrett Community College (February 21, March 21, May 16, and June 18, 1979); Frostburg State College (February 22, May 17, and June 19, 1979); and Allegany Community College (March 22, 1979). On March 8, 1982, the State of Maryland submitted its proposed Reclamation Plan to OSM. OSM published a notice of proposed rulemaking and requested public comment on April 1, 1982 (47 FR 13836).

On May 10, 1982, representatives of the Maryland Bureau of Mines and OSM met to discuss amendments and modifications to the proposed Plan. On

May 24, 1982, the Maryland Bureau of Mines submitted revised pages to the Maryland Reclamation Plan. These pages contained several amendments and modifications to the original Plan. The Department has determined that these additions and revisions were insignificant in nature and, accordingly, required no further public comment.

The necessary changes have been incorporated into the Plan. All of the documents mentioned above are available for public inspection at the offices of OSM and at the Maryland Bureau of Mines listed above under "Addresses." On June 1, 1982, OSM's State Office Director and on June 4, 1982, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Maryland Reclamation Plan.

The administrative record on the Maryland Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301.

#### *Assistant Secretary's Findings*

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that Maryland has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

- (a) the Maryland Bureau of Mines has the legal authority, policies and administrative structure necessary to carry out the Plan;
- (b) the Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;
- (c) the State has an approved regulatory program; and
- (d) the Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the plan as required by 30 CFR 884.14(a)(2). These agencies include the U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (FWS), the U.S. Bureau of Mines (USBOM), the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (COE).

#### *Disposition of Comments*

The following comments received on the Maryland Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Maryland Plan as indicated.

1. The FWS expressed concern that the Maryland Plan does not describe procedures to: (1) Identify the potential presence of listed or proposed endangered and threatened species in areas affected by proposed reclamation activities; (2) evaluate potential impacts (adverse or beneficial) of proposed abandoned mine reclamation projects on endangered and threatened species; and (3) when potential impacts are identified to modify projects or resolve problems so as to prevent significant adverse effects on endangered or threatened species. The FWS concluded that, in order for the abandoned mine reclamation program to operate smoothly, Maryland "needs a mechanism to carry out" the above listed functions including close coordination between the Maryland Bureau of Mines and the Maryland Wildlife and Fishery Administration. OSM's response is that Maryland has amended Chapter 9 of its Plan (Policy on Coordination) to provide coordination between Maryland's Bureau of Mines and the Maryland Wildlife and Fishery Administration on matters pertaining to endangered and threatened species on abandoned mine land reclamation sites. OSM is satisfied that this coordination will provide for protection of endangered and threatened species and their habitats on abandoned mine land reclamation sites.

2. The FWS commented that it is essential that Federally listed endangered and threatened species be distinguished from those which are listed by the State of Maryland because legal requirements under the Endangered Species Act of 1973 apply only to Federally listed species. The FWS suggested that this distinction could be made by the use of an asterisk in front of any species that is on the Federal list in the Maryland Plan's list of Rare and Endangered Flora and Fauna (Appendix G, p. 4). OSM's response is that Maryland has accepted this suggestion.

3. The USBOM commented that it did not understand why Maryland set burning or water-impounding gob piles as the third priority for abandoned mine reclamation above landslides and subsidence or underground mine fires but reported the problem did not exist in Maryland. OSM's response is that, while there are no known burning or water-impounding gob piles presently in Maryland, if such problems should occur in the future Maryland has the authority under Title IV to place such problems at a higher reclamation priority than existing identified abandoned mine land sites. Therefore, no modification of the Maryland Plan is necessary.

4. The USBOM questioned Maryland's low priority ranking for underground mine fires because such fires can:

- (1) induce subsidence and/or landslides;
- (2) can significantly contribute to acid mine drainage;
- (3) may result in a serious depletion of the natural resource; and
- (4) may prevent mining operations to continue or develop where an underground fire exists.

OSM's response is that if any particular abandoned mine land site deteriorates into a more serious problem than originally anticipated, Maryland has the authority under its program and Title IV of the Act to raise the project's priority ranking. Therefore, no modification of the Maryland Plan is necessary.

#### *Additional Findings*

The Office of Surface Mining has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have 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.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, or competitive effects on small entities.

The Assistant Secretary has determined that the Maryland Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Maryland Plan is

categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

#### List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 7, 1982.

J. R. Harris,  
Director, Office of Surface Mining.

Dated: June 10, 1982.

Daniel N. Miller, Jr.,  
Assistant Secretary for Energy and Minerals.

Therefore, Part 920 is amended by adding § 920.20 to read as follows:

#### PART 920—MARYLAND

##### § 920.20 Approval of Maryland Abandoned Mine Plan.

The Maryland Abandoned Mine Plan, as submitted on March 8, 1982, is approved.

Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301  
State of Maryland Bureau of Mines, 69 Hills Street, Frostburg, Maryland 21532

The Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

[FR Doc. 82-16257 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-05-M

#### POSTAL SERVICE

##### 39 CFR Part 111

##### Express Mail Next Day Service Acceptance Times

**AGENCY:** Postal Service.

**ACTION:** Final regulations.

**SUMMARY:** By notice published in the June 11, 1982, issue of the Federal Register (47 FR 25432), the Postal Service announced the amendment of the Domestic Mail Classification Schedule concerning the acceptance

time for Express Mail Next Day Service. Under this change, Express Mail Next Day Service articles can be accepted at the time or times prescribed by the Postal Service, instead of the former 5:00 p.m. acceptance time. The change became effective at 12:01 p.m. on June 8, 1982. In order to fully implement this revision to the Domestic Mail Classification Schedule, the Postal Service announces the adoption on a permanent basis of a revision of the Domestic Mail Manual, also effective June 8, 1982.

**EFFECTIVE DATE:** 12:01 p.m., June 8, 1982.

**FOR FURTHER INFORMATION CONTACT:** Buford L. Knowles, (202) 245-5624.

**SUPPLEMENTARY INFORMATION:** By notice published on March 4, 1982, (47 FR 9311), the Postal Service announced the establishment of a temporary change to the Domestic Mail Classification Schedule concerning Express Mail Next Day Service acceptance times under the authority of 39 U.S.C. 3641(e). Interim regulations amending 224.1 of the Domestic Mail Manual (DMM), which were published in the March 10, 1982 issue of the Federal Register (47 FR 10206), became effective on March 14, 1982. Written comments concerning the interim regulations were requested, but only two persons submitted comments, and their comments did not concern the substance of the regulations.

On June 4, 1982, the Postal Rate Commission issued a recommended decision which recommended that the Governors of the Postal Service adopt on a permanent basis the revision of the Domestic Mail Classification Schedule proposed by the Postal Service. On June 8, 1982, the Governors of the Postal Service, pursuant to 39 U.S.C. 3625, approved the Commission's recommended decision and ordered the change in the Domestic Mail Classification Schedule into effect on a permanent basis. Those changes, which are identical to the changes previously implemented on a temporary basis, became effective at 12:01 p.m., on June 8, 1982.

Since the change in the Domestic Mail Classification Schedule has been adopted on a permanent basis, the interim regulations adopted on a temporary basis as a revision of 224.1 of the DMM must also be made permanent. No changes in the interim regulations are being made. Accordingly, the Postal Service is adopting, effective 12:01 p.m. June 8, 1982, the changes to 224.1 of the DMM exactly as published in the Federal Register of March 10, 1982 (47 FR 10206).

##### List of Subjects in 39 CFR Part 111

Postal Service.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to transcribers automatically. Notice of these changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401, 403, 404, 3621, 3623)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-16255 Filed 6-15-82; 8:45 am]

BILLING CODE 7710-12-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 180

[PP 1F2527/R439; PH-FRL 2143-3]

##### Thidiazuron; Tolerances for Residues

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes tolerances for residues of the defoliant thidiazuron and its metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the defoliant in or on the commodities was requested by Nor-Am Agricultural Products, Inc.

**EFFECTIVE DATE:** Effective on June 16, 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 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 published in the Federal Register of August 5, 1981 (46 FR 39885) which announced that Nor-Am Agricultural Product, Inc., 350 West Shuman Blvd., Naperville, IL 60566, had submitted a pesticide petition (PP 1F2527) proposing that 40 CFR Part 180 be amended by the establishment of tolerances for the combined residues of the defoliant thidiazuron (*N*-phenyl-*N*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in or on the raw agricultural commodities cottonseed at 0.4 part per million (ppm); milk at 0.05 ppm; eggs at 0.1 ppm; and meat, fat, and

meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm.

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

The toxicity data considered in support of the proposed tolerances included: radiotracer metabolism studies in cotton plants, lactating goats and laying hens; rat and mouse acute oral toxicity studies with a median lethal dose (LD<sub>50</sub>) of >4 grams (g)/kilogram (kg) body weight (bw) and 5 g/kg bw respectively; a 90-day dog feeding study with a no-observed effect level (NOEL) of 300 parts per million ppm; a 90-day rat feeding study with a NOEL of 200 ppm; a 2-year rat chronic feeding/oncogenicity study considered supplementary because of inadequate histopathology examinations; a mouse oncogenicity study with no observed oncogenic potential at 1,000 ppm, the highest dose tested; a 3-generation rat reproduction study with a NOEL of 200 ppm; a rat teratology study with a NOEL of 100 mg/kg for fetotoxic effects and no teratogenic effects observed at the highest dose tested (300 mg/kg); a rabbit teratology study with a NOEL of 25 mg/kg for fetotoxic effects and no teratogenic effects observed at the highest dose tested (250 mg/kg); and Ames assay (negative); and a mouse micronucleus test (negative).

Data lacking and considered desirable are: a repeat of the 2-year rat oncogenicity/chronic feeding study; a subchronic non-rodent (dog) feeding study of at least 1 year duration; and an *in vitro* cytogenetic test conducted in a mammalian system.

Tolerances have not previously been established for thidiazuron. Based on a NOEL of 300 ppm in the 90-day dog feeding study, and a 2000 fold safety factor, the acceptable daily intake (ADI) has been set at 0.0038 mg/kg/day with a maximal permissible intake (MPI) of 0.228 mg/day for a 60-kg person. These tolerances utilize 30.25 percent of the ADI.

A related document establishing a feed additive regulation for thidiazuron in cottonseed hulls [FAP 1H5308/R109] appears elsewhere in today's issue of the *Federal Register*.

There are no regulatory actions pending against the registration of this chemical. The metabolism of thidiazuron in plants and animals is adequately understood and an analytical (gas-liquid chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances for residues in or on the commodities 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 July 16, 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 June 16, 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, Raw agricultural commodities, Pesticides and pests.

Dated: May 5, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

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

Therefore, 40 CFR Part 180 is amended by adding a new § 180.403 to read as follows:

##### § 180.403 Thidiazuron; tolerances for residues.

Tolerances are established for the combined residues of the defoliant thidiazuron (N-phenyl-N'-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat.....	0.2
Cattle, meat.....	0.2
Cattle, mby.....	0.2
Cottonseed.....	0.4
Eggs.....	0.1
Goat, fat.....	0.2
Goats, meat.....	0.2
Goat, mby.....	0.2
Hogs, fat.....	0.2
Hogs, meat.....	0.2
Hogs, mby.....	0.2
Horses, fat.....	0.2
Horses, meat.....	0.2
Horses, mby.....	0.2
Milk.....	0.05
Poultry, fat.....	0.2
Poultry, meat.....	0.2
Poultry, mby.....	0.2
Sheep, fat.....	0.2
Sheep, meat.....	0.2
Sheep, mby.....	0.2

[FR Doc. 82-15845 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 180

[PP 9E2140/R442; PH-FRL 2148-8]

#### Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-Chloro-N-Isopropylacetanilide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule establishes a tolerance for the combined residues of the herbicide 2-chloro-N-isopropylacetanilide and its metabolites (calculated as 2-chloro-N-isopropylacetanilide) in or on the raw agricultural commodity pumpkins. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

**EFFECTIVE DATE:** Effective on June 16, 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:** Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice of proposed rulemaking in the *Federal Register* of April 28, 1982 (47 FR 18154) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment

Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 9E2140 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Illinois.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide 2-chloro-N-isopropylacetanilide and its metabolites (calculated as 2-chloro-N-isopropylacetanilide) in or on the agricultural commodity pumpkins at 0.1 part 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 all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18154, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 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: June 16, 1982.

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

**List of Subjects in 40 CFR Part 180**

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

Dated: June 4, 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 180.211 is revised to read as follows:

**§ 180.211 2-Chloro-N-isopropylacetanilide; tolerances for residues.**

Tolerances are established for residues of the herbicide 2-chloro-N-isopropylacetanilide and its metabolites (calculated as 2-chloro-N-isopropylacetanilide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Beets, sugar, roots.....	0.2
Beets, sugar, tops.....	1.0
Cattle, fat.....	0.02(N)
Cattle, mbyop.....	0.02(N)
Cattle, meat.....	0.02(N)
Corn, forage.....	1.5
Corn, grain.....	0.1(N)
Corn, sweet (K + CWHR).....	0.1(N)
Cottonseed.....	0.1(N)
Eggs.....	0.02(N)
Goats, fat.....	0.02(N)
Goats, mbyop.....	0.02(N)
Goats, meat.....	0.02(N)
Hogs, fat.....	0.02(N)
Hogs, mbyop.....	0.02(N)
Hogs, meat.....	0.02(N)
Horses, fat.....	0.02(N)
Horses, mbyop.....	0.02(N)
Horses, meat.....	0.02(N)
Milk.....	0.02(N)
Peas (with pods, determined on peas after removing any pod present when marketed).....	0.2
Peas, forage.....	1.5
Poultry, fat.....	0.02(N)
Poultry, mbyop.....	0.02(N)
Poultry, meat.....	0.02(N)
Pumpkins.....	0.1
Sheep, fat.....	0.02(N)
Sheep, mbyop.....	0.02(N)
Sheep, meat.....	0.02(N)
Sorghum, forage.....	3.0
Sorghum, grain.....	0.25

[FR Doc. 82-16201 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 180**

[PH-FRL 2148-5; PP OE2388/R449]

**O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities wheat forage, grain and straw. This regulation

to establish a maximum permissible level for residues of the insecticide in or on these commodities was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 16, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 370B, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of May 5, 1982 (47 FR 19382) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2388 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Illinois, Kansas, Oklahoma, Texas, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities wheat forage, wheat grain, and wheat straw at 0.05 part 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 all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 19382, May 5, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 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 July 16, 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: June 16, 1982.

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

**List of Subjects in 40 CFR Part 180**

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

Dated: June 7, 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 180.153 is amended by adding and alphabetically inserting the raw agricultural commodities wheat forage, wheat grain, and wheat straw to read as follows:

§ 180.153 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Commodities	Parts per million
Wheat, forage	0.05
Wheat, grain	0.05
Wheat, straw	0.05

[FR Doc. 82-16195 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 180**

[PH-FRL 2148-4; PP 1E2497, 1E2498/R443]

**Carbaryl; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule establishes tolerances for the combined residues of the insecticide carbaryl and its hydrolysis product 1-naphthol, in or on certain raw agricultural commodities. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodities was requested by the Interregional Research Project No. 4 (IR-4).

**EFFECTIVE DATE:** Effective on June 16, 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:** Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice of proposed rulemaking in the Federal Register of April 28, 1982 (47 FR 18125) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions numbers 1E2497 and 1E2498 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of North Dakota.

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the insecticide carbaryl (1-naphthyl N-methylcarbamate), including its hydrolysis product 1-naphthol, calculated as 1-naphthyl N-methylcarbamate, in or on the agricultural commodities proso millet grain at 3 parts per million (ppm), proso millet straw at 100 ppm, flax seed at 5 ppm, and flax straw at 100 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 petitions and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 18152, April 28, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, it is concluded that the tolerances established by amending 40 CFR Part 180 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 July 16, 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: July 16, 1982.

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

**List of Subjects in 40 CFR Part 180**

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

Dated: June 4, 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 180.169(a) is amended by adding and alphabetically inserting the raw agricultural commodities proso millet grain and straw, flax seed, and flax straw to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) \* \* \*

Commodities	Parts per million
Flax, seed	5
Flax, straw	100
Millet, proso, grain	3
Millet, proso, straw	100

[FR Doc. 82-16196 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PH-FRL 2148-3; PP 2F2588/R440]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity sunflower seeds. This regulation to establish the maximum permissible level for the combined residues of the insecticide in or on the commodity was requested by Dow Chemical Co.

**EFFECTIVE DATE:** Effective on June 16, 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 S. 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 in the Federal Register of December 16, 1981 (46 FR 61331) which announced that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had filed pesticide petition 2F2588 with the EPA proposing that a tolerance be established for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity sunflower seeds at 0.2 part per million (ppm).

The petition was subsequently amended in the Federal Register of April 21, 1982 (47 FR 17112) to increase the proposed tolerance from 0.2 ppm to 0.25 ppm.

No comments were received in response to these notices of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a 2-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect level

(NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw) per day based on RBC cholinesterase activity; a mouse oncogenicity study which was negative at 15 ppm (highest dose); and a mouse teratology study which was negative at 25 mg/kg. Studies on delayed neurotoxicity and reproduction showed negative potential. Based on the 2-year chronic rat feeding study with a NOEL of 0.1 mg/kg of bw/day, and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.01 mg/kg of bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from this tolerance and previously established tolerances for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 3.0 ppm does not exceed the ADI.

The metabolism of chlorpyrifos is adequately understood for this use, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of chlorpyrifos, nor are there any other relevant considerations involved in establishing this tolerance.

The existing meat, milk, and egg tolerances are adequate to cover any secondary residues resulting in these commodities from the proposed use.

Desirable data which are considered lacking from this petition include a 2-generation rat reproduction study and a teratology study in a second species. In a letter dated February 11, 1982, the petitioner indicated that these studies would be submitted to the Agency by June 1983. The petitioner also agreed to voluntarily delete the use on sunflowers from the label should the criteria be found to exceed the risk criteria for unreasonable adverse effects.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the establishment of this tolerance will protect the public health; therefore, the tolerance is established as set forth below.

A related document (FAP 2H5326/R110) establishing a feed additive regulation for the combined residues of chlorpyrifos and its metabolite in or on sunflower seed hulls at 0.5 ppm appears elsewhere in this issue of the Federal Register.

Any person adversely affected by this regulation may, on or before July 16, 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: June 16, 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, Raw agricultural commodities, Pesticides and pests.

Dated: June 4, 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 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity sunflower seeds to read as follows:

**§ 180.342 Chlorpyrifos; tolerances for residues.**

Commodities	Parts per million
* * * * *	
Sunflower, seeds.....	0.25

## 40 CFR Part 180

[PH-FRL-2148-6; PP 2F2587/R446]

**Cyano(3-Phenoxyphenyl)methyl 4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities****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 these commodities was requested by Shell Oil Company.

**EFFECTIVE DATE:** Effective on June 16, 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 December 16, 1981 (46 FR 61330) which announced that Shell Oil Co., 1025 Connecticut Ave., NW., Suite 200, Washington, D.C. 20036, had filed a pesticide petition (PP 2F2587) 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 broccoli at 2.0 parts per million (ppm), cauliflower at 0.5 ppm, and peaches at 4.0 ppm.

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

The petition was subsequently amended to increase the tolerance level for peaches from 4.0 ppm to 10.0 ppm.

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<sub>50</sub>) 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 broccoli, cauliflower, and peaches would result in a theoretical maximum residue contribution (TMRC) of 0.8911 mg/day (1.5 kg) and utilize 11.88 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. Since no feed items are involved with this use there will be no problem of secondary residues in meat, milk, poultry, and eggs.

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.

Any person adversely affected by this regulation may, on or before July 16, 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: June 16, 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 procedures, Raw agricultural commodities, Pesticides and pests.

Dated: June 4, 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 commodities broccoli, cauliflower, and peaches to read as follows:

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

\* \* \* \* \*

Commodities	Parts per million
Broccoli	2.0
Cauliflower	0.5
Peaches	10.0

[FR Doc. 82-16199 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 180**

[PH-FRL 2148-7; PP 00000/R450]

**F.D. & C. Blue No. 1; Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for F.D. & C. Blue No. 1 when used as an aquatic plant control agent. This regulation to eliminate the need to establish a permissible level for residues of the chemical was requested by Aquashade Inc.

**EFFECTIVE DATE:** Effective on June 16, 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:** Peter Gray, Process Coordination Branch, Registration Division (TS-767C), Offices of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).**SUPPLEMENTARY INFORMATION:** EPA issued a notice of proposed rulemaking in the Federal Register of May 13, 1982 (47 FR 20328) which announced that at the request of Aquashade, Inc. PO Box 198, Eldred, NY 12732, the Administrator proposed to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of F.D. & C. Blue No. 1 when used as an aquatic plant control agent.

No comments or request 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 20328, May

13, 1982). The pesticide is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought.

Based on the information considered by the Agency, it is concluded that this amendment to 40 CFR Part 180 will protect the public health. Therefore, the exemption from the requirement of a tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before July 16, 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. In 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 the Executive Order 12291.

Effective on: June 16, 1982.

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

**List of Subjects in 40 CFR Part 180**

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

Dated: June 4, 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 Part 180 is amended by establishing a new § 180.1074 to read as follows:

**§ 180.1074 F.D. & C. Blue No. 1; exemption from the requirement of a tolerance.**

F.D. &amp; C. Blue No. 1 is exempted from the requirement of a tolerance when used as an aquatic plant control agent.

[FR Doc. 82-16200 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 125**

[WH-FRL 2150-3]

**Modification of Secondary Treatment Requirements for Discharges into Marine Waters; Public Meetings****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of public meetings.**SUMMARY:** This notice sets forth the time and locations for public meetings to be conducted by the Environmental Protection Agency (EPA) regarding section 301(h) of the Clean Water Act which provides for variances from secondary treatment requirements. Congress has amended section 301(h) and final and proposed amendments to the 301(h) regulations have recently been published in the Federal Register. The Public meetings will provide information on these statutory and regulatory changes.**DATES:** The dates for the public meetings are set forth in the supplementary information below.**ADDRESSES:** The addresses for the public meetings are set forth in the supplementary information below.**FOR FURTHER INFORMATION CONTACT:**

Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-548, U.S. Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460, (202) 755-9231.

**SUPPLEMENTARY INFORMATION:** Section 301(h) of the Clean Water Act, 33 U.S.C. 1311(h), authorizes the Administrator of EPA, with State concurrence, to issue National Pollutant Discharge Elimination System (NPDES) permits which modify the secondary treatment requirements of section 301(b)(1)(B), 33 U.S.C. 1311(b)(1)(B), for publicly owned treatment works. On December 29, 1981, section 301(h) was amended by Pub. L. 97-117, 95 Stat. 1623. As a result of this statutory amendment, publicly owned treatment works discharging or proposing to discharge to marine waters may not apply for a section 301(h) variance from the Act's secondary treatment requirements. The statutory amendment establishes a new deadline of December 29, 1982, for filing such applications.

EPA has recently published proposed and final amendments to the regulations implementing section 301(h), 40 CFR Part 125, Subpart G (47 FR 24918, June 8, 1982). The final amendments respond to the statutory changes and the results of a lawsuit involving the 301(h) regulations. The proposed amendments are intended to simplify and clarify the 301(h) regulations and include the proposed requirements for new and revised 301(h) applications. Copies of these regulatory amendments and accompanying draft revised Technical Support Document may be obtained by writing to the Office of Marine Discharge Evaluation at the address given above.

EPA will be conducting public meetings in order to explain the recent statutory changes and the proposed and final regulatory amendments. The meetings are open to all interested members of the public and will include a description of the statutory and regulatory amendments affecting section 301(h), together with an opportunity for questions seeking clarification of these changes. The public meetings will be held in accordance with the schedule below.

- (1) July 7, 1982, 1:00-4:00 pm; Conference Room 12A, EPA, Region X, 1200 6th Avenue, Seattle, WA 98101
- (2) July 8, 1982, 1:00-4:00 pm, American Samoa and Guam Room, EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105
- (3) July 13, 1982, 1:00-4:00 pm; Room 120, Mathematics & Science Bldg., Montclair State College, Upper Montclair, NJ 07043 (Contact Ed Santoro, EPA Region II (212) 264-3522 for directions and information on parking restrictions)
- (4) July 14, 1982, 1:00-4:00 pm; Room 208, J. W. McCormick Federal Courthouse & Post Office Bldg., Post Office Square, Boston, MA 02109
- (5) July 15, 1982, 1:00-4:00 pm; Room 221, Federal Bldg., 51 Southwest First Avenue, Miami, FL 33130

The authority citation for 40 CFR part 125, Subpart G, reads as follows:

Authority: Clean Water Act, Secs. 301, 304, 501, Pub. L. 92-500, 86 Stat. 816, as amended by Pub. L. 95-217, 91 Stat. 1566, as amended by Pub. L. 97-117, 95 Stat. 1623 (33 U.S.C. 1311, 1314, 1361).

Dated: June 13, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-16446 Filed 6-15-82; 8:56 am]

BILLING CODE 6560-50-M

## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Parts 7-1, 7-6, 7-7, and 7-30

(AIDPR Notice 82-4)

### Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: This AIDPR notice makes miscellaneous changes to the AID Procurement Regulations: to provide an additional five working days leadtime for review of proposed deviations; to

revise AID procedures for ratification of unauthorized contract awards to conform to FPR procedures, and to designate an AID official who may ratify such awards; to amend AID's contract clauses concerning source, origin, and nationality, and local cost financing to conform to current AID policy; to correct obsolete and incorrect cross-references in various contract clauses; to revise AID's contract clause concerning abortion related activities to conform with current requirements of the Foreign Assistance Act; to increase the amounts allowed for training of AID-sponsored participants, and for AID's contribution towards the cost of medical examinations for contractor employees or dependents serving overseas; to conform AID's procedures for Federal Reserve Letters of Credit with recommendations made by the Department of the Treasury; and to amend Appendix F to clarify the limitation on use of a personal services contractor to assist AID in making planning, budgeting, programming and policy decisions.

**EFFECTIVE DATE:** This AIDPR notice is effective June 7, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. M. Kelly, M/SER/CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone (703) 235-9107.

**SUPPLEMENTARY INFORMATION:** This AIDPR notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to section 8(b) of the order, by the Director, OMB, in a letter dated April 8, 1981, as amended December 2, 1981. The determination required by paragraph 4a of OFPP Policy Letter 80-5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR notice.

List of Subjects in 41 CFR Parts 7-1, 7-6, 7-7, 7-30

Government procurement.

## PART 7-1—GENERAL

### Subpart 7-1.1—Introduction

#### § 7-1.707-3 [Amended]

1. Section 7-1.107-3, *Procedure*, is amended by removing the reference to " \* \* \* five working days \* \* \* "; and by removing the reference to " \* \* \* ten working days \* \* \* " in paragraph (a)(2), in its place inserting " \* \* \* ten working days \* \* \* " in paragraph (b)(3)(i), in its place inserting " \* \* \* fifteen working days \* \* \* ".

## Subpart 7-1.4—Procurement Responsibility and Authority

2. Section 7-1.405 is revised as follows:

### § 7-1.405 Ratification of unauthorized contract awards.

The Director, Office of Contract Management (M/SER/CM) is the official within AID who may ratify unauthorized contract awards in accordance with FPR 1-1.405.

## PART 7-6—FOREIGN PURCHASES

### Subpart 7-6.51—Source, Origin and Nationality

3. Section 7-6.5103 is amended by changing the date which follows the title of the contract clause from "(May 1981)" to "(May 1982)", and by revising paragraph (d) of the contract clause as follows:

#### § 7-6.5103 Contract clause—source and nationality requirements.

Source and Nationality Requirements for Procurement of Goods and Services (May 1982).

(d) *Nationality.* Except as specified in paragraph (c) of this clause, in order to be eligible for AID financing under this contract suppliers or subcontractors must fit one of the following categories:

(1) *Suppliers of commodities.* A supplier providing goods under this contract must fit one of the following categories to be eligible for AID financing:

(i) An individual who is a citizen or, except as provided in paragraph (d)(7) of this clause, a legal resident of a country or area included in the authorized geographic code;

(ii) A corporation or partnership organized under the laws of a country or area included in the authorized geographic code;

(iii) A controlled foreign corporation, i.e., any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock is owned by United States shareholders within the meaning of Section 957 et seq. of the Internal Revenue Code, 26 U.S.C. 957; or

(iv) A joint venture or unincorporated association consisting entirely of individuals, corporations, or partnerships which are eligible under any of the foregoing categories.

(2) *Privately owned commercial suppliers of services.* An individual or a privately owned commercial firm is eligible for financing by AID under this contract as a subcontractor providing services only if the criteria in paragraphs (d)(2)(i), (ii), or (iii) of this clause are met and, in the case of the categories described in paragraphs (d)(2)(ii) and (iii), the certification requirements in paragraph (d)(2)(iv) are met.

(i) The supplier is an individual who is a citizen of and whose principal place of business is in a country or area included in the authorized geographic code or a non-U.S.

citizen lawfully admitted for permanent residence in the United States whose principal place of business is in the United States;

(ii) The supplier is a privately owned commercial (i.e., for profit) corporation or partnership that is incorporated or legally organized under the laws of a country or area included in the authorized geographic code, has its principal place of business in a country or area included in the authorized geographic code, and meets the criteria set forth in either subparagraph (A) or (B) below:

(A) The corporation or partnership is more than 50% beneficially owned by individuals who are citizens of a country or area included in the authorized geographic code. In the case of corporations, "more than 50% beneficially owned" means that more than 50% of each class of stock is owned by such individuals; in the case of partnerships, "more than 50% beneficially owned" means that more than 50% of each category of partnership interest (e.g., general, limited) is owned by such individuals. (With respect to stock or interest held by companies, funds or institutions, the ultimate beneficial ownership by individuals is controlling.)

(B) The corporation or partnership:

(1) Has been incorporated or legally organized in the United States for more than 3 years prior to the issuance date of the invitation for bids or request for proposals, and

(2) Has performed within the United States similar administrative and technical, professional, or construction services under a contract or contracts for services and derived revenue therefrom in each of the 3 years prior to the issuance date of the invitation for bids or request for proposals, and

(3) Employs United States citizens in more than half its permanent full-time positions in the United States, and

(4) Has the existing capability in the United States to perform the contract.

(iii) The supplier is a joint venture or unincorporated association consisting entirely of individuals, corporations, partnership, or nonprofit organizations which are eligible under paragraphs (d)(2)(i), (d)(2)(ii), or (d)(3) of this clause.

(iv) A duly authorized officer of a firm or nonprofit organization shall certify that the participating firm or non-profit organization meets either the requirements of paragraphs (d)(2)(ii) or (d)(3) of this clause. In the case of corporations, the certifying officer shall be the corporate secretary. With respect to the requirements of paragraph (d)(2)(ii)(A), the certifying officer may presume citizenship on the basis of the stockholder's record address, provided the certifying officer certifies, regarding any stockholder (including any corporate fund or institutional stockholder) whose holdings are material to the corporation's eligibility, that the certifying officer knows of no fact which might rebut that presumption.

(3) *Nonprofit organizations.* Nonprofit organizations, such as educational institutions, foundations, and associations, are eligible for financing by AID under this contract as subcontractors for services if they meet all of the criteria listed in paragraphs (d)(3)(i), (ii), and (iii) below, and the

certification requirement in paragraph (d)(2)(iv) of this clause is met. (International agricultural research centers and such other international research centers as may be, from time to time, formally listed as such by the Senior Assistant Administrator, Bureau for Science and Technology, are considered to be of U.S. nationality.) Any such organizations must:

(i) Be organized under the laws of a country or area included in the authorized geographic code; and

(ii) Be controlled and managed by a governing body, a majority of whose members are citizens of countries or areas included in the authorized geographic code; and

(iii) Have its principal facilities and offices in a country or area included in the authorized geographic code.

(4) *Government-owned organizations.* Firms operated as commercial companies or other organizations (including nonprofit organizations other than public educational institutions) which are wholly or partially owned by governments or agencies thereof are not eligible for financing by AID as subcontractors.

(5) *Joint ventures.* A joint venture or unincorporated association is eligible only if each of its members is eligible in accordance with paragraphs (d)(2), (3), or (4) of this clause.

(6) *Construction services from local firms.* When the host country is an authorized source for services, and the estimated cost of the construction services is \$5 million or less, a corporation or partnership which is determined by AID to be an integral part of the local economy is eligible. A corporation or partnership is an integral part of the local economy provided:

(i) It has done business in the host country on a continuing basis for not less than three years prior to the issuance date of invitations for bids or requests for proposals;

(ii) It has a demonstrated capability to undertake the proposed activity;

(iii) All, or substantially all, of its directors of local operations, senior staff and operating personnel are resident in the host country;

(iv) Most of its operating equipment and physical plant are in the host country.

(7) *Ineligible suppliers.* Citizens of any country or area, and firms and organizations located in or organized under the laws of any country or area, which is not included in Geographic Code 935 are ineligible for financing by AID as suppliers of services or as agents acting in connection with the supply of services, except that non-U.S. citizens lawfully admitted for permanent residence in the United States are eligible regardless of such citizenship.

(8) *Special restrictions on procurement of construction or engineering services.* Section 604(g) of the Foreign Assistance Act provides that AID funds may not be used for "procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services." In order to insure eligibility of a Code 941 subcontractor for construction or engineering services,

obtain the AID contracting officer's approval for any such subcontract.

4. Section 7-6.5104 is amended by revising paragraph (a) as follows:

**§ 7-6.5104 Contract clause—authorization of local cost financing.**

(a) Local cost financing requires specific authorization under paragraph 18A1c of Chapter 18, AID Handbook 1, Supplement B. Such authorization must specify the U.S. Dollar amount which may be used for local cost financing.

## PART 7-7—CONTRACT CLAUSES

### Subpart 7-7.1—Fixed-Price Supply Contracts

#### § 7-7.103-50 [Amended]

5. Section 7-7.103-50, *Mandatory use of visa eligibility Form DSP 66A by participants*, is amended by removing the reference to " \* \* \* AIDPR 7-7.5201-5 \* \* \*"; and inserting in its place " \* \* \* AIDPR 7-7.5301-5 \* \* \*".

### Subpart 7-7.6—Fixed-Price Construction Contracts

#### § 7-7.603-50 [Amended]

6. Section 7-7.603-50, *Mandatory use of visa eligibility Form DSP 66A by participants*, is amended by removing the reference to " \* \* \* AIDPR 7-7.5201-5 \* \* \*", and inserting in its place " \* \* \* AIDPR 7-7.5301-5 \* \* \*".

### Subpart 7-7.50—Clauses for Cost Reimbursement Contracts

#### § 7-7.5001-5 [Amended]

7. Section 7-7.5001-5, *Travel and transportation expenses*, is amended by changing the clause date from "(DECEMBER 1970)" to "(MAY 1982)"; and by deleting the reference to " \* \* \* the Standardized Government Travel Regulations \* \* \*" appearing in paragraphs (a) and (b), inserting in its place " \* \* \* the Federal Travel Regulations \* \* \*".

#### § 7-7.5001-26 [Amended]

8. Section 7-7.5001-26, *Disputes*, is amended by deleting the reference to " \* \* \* FPR Temporary Regulation 55 \* \* \*", and inserting in its place " \* \* \* FPR 1-7.102-12 \* \* \*".

9. Section 7-7.5003-3 is amended by adding a clause title and date, and by revising paragraph (b)(1) as follows:

#### § 7-7.5003-3 Family planning and population assistance activities.

\* \* \* \* \*

Family Planning and Population Assistance Activities (May 1982).

\* \* \* \* \*

(b) Prohibition on Abortion-related Activities. (1) No funds made available under this Contract shall be used to finance, support, or be attributed to the following activities: (i) Procurement or distribution of equipment intended to be used for the purposes of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; (v) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning (epidemiologic or descriptive research to assess the incidence, extent or consequences of abortion is not precluded); or (vi) lobbying for abortion.

§ 7-7.5003-6 [Amended]

10. Section 7-7.5003-6, Mandatory use of visa eligibility Form DSP 66A by participants, is amended by removing the reference to "AIDPR 7-7.5201-5" and inserting in its place "AIDPR 7-7.5301-5".

§ 7-7.5003-11 [Amended]

11. Section 7-7.5003-11 is amended by changing the clause date from "(AUGUST 1980)" to "(MAY 1982)", and by revising paragraph (c) as follows:

Participant Training (May 1982).

(c) Reporting requirement. Once each month the Contractor shall submit three copies of AID Form 1380-9, Monthly Report of Participants Under Grant, Loan, or Contract Programs to the Office of International Training, AID, Washington, D.C. 20523.

Subpart 7-7.53—Contracts for Participant Training

12. Section 7-7.5301-5 is revised as follows:

§ 7-7.5301-5 Mandatory use of visa eligibility Form DSP 66A by participants.

Mandatory Use of Visa Eligibility Form DSP 66A by Participants (MAY 1977). The Contractor shall insure that any foreign student brought to the United States for training under this contract uses Visa Eligibility Form DSP 66A (AID version) to obtain a visa.

§ 7-7.5301-14 [Amended]

13. Section 7-7.5301-14, Disputes, is amended by deleting the reference to "FPR Temporary Regulation 55" and inserting in its place "FPR 1-7.102-12".

Subpart 7-7.54—Clauses for Fixed Price Contracts for Technical Services

§ 7-7.5401-12 [Amended]

14. Section 7-7.5401-12, Disputes, is amended by removing the reference to "FPR Temporary Regulation 55" and inserting in its place "FPR 1-7.102-12".

§ 7-7.5403-7 [Amended]

15. Section 7-7.5403-7, Mandatory use of visa eligibility Form DSP 66A by participants, is amended by deleting the reference to "AIDPR 7-7.5003-6" and inserting in its place "AIDPR 7-7.5301-5".

Subpart 7-7.55—Clauses for Cost Reimbursement Contracts With Educational Institutions

16. Section 7-7.5501-15 is amended by changing the clause date from "(JULY 1977)" to "(MAY 1982)", and by revising paragraphs (b)(2) and (c) as follows:

§ 7-7.5501-15 Training of foreign country nationals.

(2) The Contractor shall prepare and submit to the Office of International Training, three copies of AID Form 1380-9, "Monthly Report of Participants Under Grant, Loan, or Contract Programs", on the last day of each month.

(c) For participants assigned to the contractor for whom specially designed courses not otherwise covered in paragraph (a)(1) of this clause are authorized, the contractor shall be paid the following in lieu of the costs authorized in paragraph (a)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: \$150 for the first day, and \$50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, \$150 for the first participant, and \$50 for each additional participant. For each additional day, up to 19 days, \$50 for each participant.

(2) For more than 20 instructional days, or more than 10 participants: The contractor shall submit a proposal including supporting cost and pricing data to the Contracting Officer for approval.

§ 7-7.5501-20 [Amended]

17. Section 7-7.5501-20, Disputes, is amended by removing the reference to "FPR Temporary Regulation 55" and inserting in its place "FPR 1-7.102-12".

§ 7-7.5502-3 [Amended]

18. Section 7-7.5502-3, Personnel, is amended to change the clause date from

"(SEPTEMBER 1975)" to "(MAY 1982)"; to remove the figure "\$85" in paragraph (d)(3)(i), inserting in its place "\$100"; and to remove the figure "\$25" in paragraph (d)(3)(i), inserting in its place "\$40".

§ 7-7.5502-3 [Amended]

19. Section 7-7.5503-3, Federal Reserve letter of credit, is amended by removing the reference to "AIDPR 7-30.4502" and inserting in its place "AIDPR 7-30.5002".

PART 7-30—CONTRACT FINANCING

Subpart 7-30.50—Federal Reserve Letter of Credit Method of Disbursing Advances to Non-profit Institutions

20. Section 7-30.5002 is amended by changing the contract clause date from "(MAY 1981)" to "(MAY 1982)", and by revising paragraphs (d)(4)(i) and (d)(5) of the contract clause as follows:

§ 7-30.502 Contract clause—Federal Reserve Letter of Credit.

Federal Reserve Letter of Credit for Advance Payment (May 1982).

(4) Periodically prepare payment vouchers (Form TFS 5401) in an original and three copies.

(5) Each drawdown should be initiated at approximately the same time that checks are issued by the organization in payment of program liabilities including those for allowable indirect costs, and in an amount approximately equal to the Federal share of such payments.

21. Appendix F is amended by revising Paragraph 4(b) as follows:

Appendix F—Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad

4. Policy

(b) Limitations on Personal Services Contracts—A personal services contract with an individual may be used when adequate supervision is available and for nearly any type of work except:

(1) Negotiating on behalf of the United States with AID recipient countries, organizations or entities.

(2) Making planning, budgeting, programming and policy decisions which determine the allocation of resources available to AID, or establish AID policy.

(3) Supervising the execution of functions performed by U.S. Government personnel of AID or other Government agencies.

(4) Performance of internal functions such as personnel selection and administration, agency management, and congressional presentation.

(5) Contracts entered into pursuant to this authority may not exceed 5 years.

#### Determination

As required by paragraph 4a of OFPP Policy Letter 80-5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93-400 as amended by Pub. L. 96-83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act.

Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of section 2 of the Act, and policy directives issued by OFPP under section 6(h) of the Act.

#### Certification

Pursuant to the Regulatory Flexibility Act, I hereby certify as head of the Agency, under AIDPR 7-1.204, that this regulation will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

**Authority:** This AIDPR Notice is issued under 41 CFR 7-1.104-4.

Dated: June 7, 1982.

John F. Owens,  
Deputy Assistant to the Administrator for  
Management.

[FR Doc. 82-16180 Filed 6-15-82; 8:45 am]

BILLING CODE 6116-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Circular No. 2505]

#### 43 CFR Part 3300

#### Outer Continental Shelf Minerals and Rights-of-Way Management, General; Amendments to Streamline and Clarify Existing Provisions

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rulemaking.

**SUMMARY:** This final rulemaking streamlines and clarifies provisions of the existing regulations on Outer Continental Shelf Minerals and Rights-of-Way Management, General, and makes them easier to understand. In

addition, it makes a few changes needed to update the existing provisions.

**EFFECTIVE DATE:** July 16, 1982.

**ADDRESS:** Any recommendations or suggestions should be sent to: Director (621), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Robert Samuels, (202) 343-5121.

**SUPPLEMENTARY INFORMATION:** The proposed rulemaking on streamlining and clarifying the Outer Continental Shelf Minerals and Rights-of-Way Management, General, regulations was published in the *Federal Register* on November 30, 1981 (46 FR 58264). It invited comments to be submitted until December 28, 1981. During that period, a total of 27 comments were received and considered, with 10 coming from companies with interest in Outer Continental Shelf leasing, 8 from State and local government, 4 from Federal agencies, 2 from environmental interest groups, 1 from an oil and gas industry interest group, 1 from a fishing industry interest group and 1 from a bank interested in the payments procedure.

Several comments objected on the basis that the proposed rulemaking did not follow the procedures prescribed for approval of the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule in section 18 of the Outer Continental Shelf Lands Act, as amended; or raised questions about the relation between the two processes and the negative determinations that accompanied the proposed rulemaking. This rulemaking is designed to accommodate policy options for streamlining the existing regulations. It is not intended to implement those policy options. The implementation of the policy options will be accomplished through the approval process for the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule. Indeed, one of the objects of this final rulemaking is to provide enough flexibility in Part 3300 to accommodate a wider variety of policy options. Consequently, the elaboration of and response to comments on the policy choices involved in streamlining the Outer Continental Shelf leasing procedures appear as part of the revision of the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule published in the *Federal Register* on March 19, 1982 (47 FR 11980), in compliance with section 18 of the Outer Continental Shelf Lands Act, as amended, and will not be repeated in this preamble. The negative determinations reflect the fact that revisions made to the existing regulations by this final rulemaking only accommodate the possible choice of policy options in connection with

streamlining, but do not effect such choices. This action is the same as that followed in connection with revisions to accommodate net profit share bidding, discussed below.

The effective date of this final rulemaking is designed to coincide with the issuance of an approved Final 5-year Outer Continental Shelf Oil and Gas Leasing Schedule in order to accommodate the policy choices incorporated in the 5-year Schedule.

The discussion of the comments is arranged under the following topics:

- I Streamlining
- II Payment
- III Requirements for Non-Energy Mineral Leasing
- IV The New Variable Net Profit Share Bidding System
- V Reduction of Filing Burdens
- VI Minor Technical Changes.

#### I. Streamlining

##### A. Call for Information on Areas Replaces Call for Nominations and Comments on Tracts

One comment expressed an interest in greater company control over release of indications of interest data. Since the final rulemaking makes no change in the existing regulations which provide that indications of interest be treated as privileged information, the issue of greater company control over release of indications of interest data is moot.

One comment suggested that the final rulemaking state whether Bureau of Land Management Resource Reports are to be retained or not and that specific information needs from each agency be detailed in the regulation. The Bureau of Land Management plans to retain Resource Reports, as set forth in the existing regulations. The content of specific Resource Reports is best left to the needs of each occasion and should not be set out in regulations, so that suggestion has not been adopted by the final rulemaking.

Several comments made suggestions concerning the format for responses to Calls for Information. These suggestions have not been adopted in the final rulemaking because determinations as to format are better left to individual Calls rather than being mandated in regulations.

One comment called for changing the word "may" to "shall" in reference to the responsibilities of the Director set forth in § 3313.1 (a) and (b). Section 3313.1(a) refers to minerals generally, rather than to oil and gas in particular. The provisions of § 3313.1(a) enable the Director to respond to indications of interest in leasing non-energy minerals as a way of administering the authority

granted by section 8(k) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(k)). Since this process is not governed by the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule, the issuance of a Call for Information is not required. Consequently, the final rulemaking retains the word "may", which is more appropriate to non-energy leasing. In § 3313.1(b), the existing regulations require that "the Director shall issue Calls \* \* \*" in connection with oil and gas leasing on the Outer Continental Shelf. However, it is not necessary to change the word "may" to "shall" with reference to what comments are to be requested in a Call because there should be sufficient flexibility to allow for the solicitation of the broadest possible scope of information in a Call. The final rulemaking does not adopt the suggested changes in § 3313.1 (a) and (b).

One comment expressed concern that a formal procedure be maintained for obtaining and considering State comments (including "negative nominations"). This concern is answered by the fact that the Call for Information provides a procedure for obtaining State comments and § 3314.1(a) requires the consideration of State comments. No change has been made in these sections by the final rulemaking.

One comment suggested that a series of changes be made in the existing regulations to distinguish the area of the Call from the areas treated in response to the Call. Since responses to a Call will, of course, specify a particular area, the suggested changes are not necessary and have not been adopted by the final rulemaking.

One comment suggested that language be added to § 3313.1 allowing the Director, Bureau of Land Management, to request the specification of relative levels of interest. Since the existing regulations currently permit such action by the Director, no change has been made in the final rulemaking.

One comment suggested that the area described in § 3313.2(a) be clarified by the addition of the word "seaward" after the phrase "3 geographical miles." This change has been adopted by the final rulemaking.

Several comments objected to replacing the phrase "nomination of tracts" in sections 3313 and 3314 with the phrase "information on areas" or "indications of interest in areas" citing the use of the term "nominations" in sections 8(g)(1) and (2) and 18(f)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(g)(1) and (2) and 1344(f)(1)). The latter section appears in section 18 of the Act, which

describes the process of issuing a 5-year Outer Continental Shelf Oil and Gas Leasing Schedule, rather than the sale-specific process covered in 43 CFR Parts 3313 and 3314. The specific language of the other sections of the Act, is not "nominations of tracts," but rather "nominations for the leasing of lands \* \* \*" (43 U.S.C. 1337(g)(1)) and "nominations for any area of the Outer Continental Shelf \* \* \*" (43 U.S.C. 1337(g)(2)). The tract-specific basis for nominations is not to be found in the Outer Continental Shelf Lands Act, as amended. The change in terminology from "nominations" to "information" or "indications of interest" in no way contravenes the statutory language and no change has been made in final rulemaking.

#### *B. Area Identification Replaces Tentative Tract Selection*

One comment suggested that in § 3314.1(a) the authority of the Director, Bureau of Land Management, to include in his/her Area Identification recommendations area in which interest has not been indicated, be restricted by the requirements that: (1) The Director justify such a recommendation in writing; and (2) such justification be sent to the States for review. The suggestion has not been adopted in the final rulemaking for two reasons: first, existing procedures make the suggested change unnecessary; and second, since States are afforded the opportunity to comment on the entire Call for Information area, a requirement for State(s) review at this point is unnecessary.

One comment suggested that the public hearings called for in § 3314.1(b) of the proposed rulemaking and the existing regulations be made mandatory. The flexibility in the existing regulations allows the Director, Bureau of Land Management, to hold a public hearing or not, as is deemed appropriate. No change has been made on this point by the final rulemaking.

Several comments objected to replacing the term "tentative tract selection" with the term "area identification" made by the proposed rulemaking on the basis that the change interfered with the process for formulation of mitigating measures, the assessment of cost-benefit trade-offs, environmental impact statement detail or the receipt of fair market value. The merits of streamlining policy choices, as noted earlier in this preamble, are considered in connection with the 5-year Outer Continental Shelf Oil and Gas Leasing Schedule revision process and there is no need to repeat them here.

The final rulemaking adopts the language of the proposed rulemaking.

#### *C. Notice of Sale May Contain or Reference Description of Areas, Terms and Stipulations*

The final rulemaking makes a change in §§ 3315.4 and 3315.1, redesignated § 3315.3 by the final rulemaking, that will enable the Department of the Interior to facilitate its program of offering larger numbers of tracts in each lease sale. Under the change, the blocks being offered could be depicted, along with their terms and stipulations, on maps referenced in the Notice of Sale. When this referencing procedure is used, the Final Notice of Sale would be published in the Federal Register earlier than 30 days prior to the sale date to allow sufficient time for bidders to obtain the referenced maps from the appropriate regional OCS office at least 30 days prior to the sale.

#### *D. Period for Acceptance/Rejection Decision Extended From 60 to 90 Days, and Request for Reconsideration Procedure Specified*

A large number of comments objected to the extension of the bid consideration period, particularly in the absence of any requirement to pay interest on bid money held by the United States. One comment also suggested that if Bureau of Land Management sales were to overlap within the 120 day period, then the bid acceptance process should be expedited. Under the phased streamlining bid acceptance procedures, all of the high bids should be processed within three weeks after a sale and the bonus moneys, if the bid is rejected, would be available for use in other sales. Only the 20 percent of the bonus submitted with a high bid might have to be held for a longer period, and then only in connection with tracts receiving relatively low bids. It is not anticipated that this will present a significant capital constraint. For the past ten sales, this amounted to an average of \$5.5 million per sale. The existing regulations provide flexibility on the payment of interest on bid money and the final rulemaking makes no change on this point, leaving the issue to a final policy determination. In order to ensure that the acceptance process progresses at an appropriate pace, the period of 120 days for acceptance/rejection of bids provided in the proposed rulemaking has been reduced to 90 days in the final rulemaking.

One comment suggested that language be added to the existing regulations specifying the procedural steps to be taken regarding the money submitted

with bids, other than that accompanying the apparent high bid. Section 3316.5(f) of the existing regulations provides that "Deposits \* \* \* shall be refunded on rejected bids." This provision assures the unsuccessful bidder of the return of a deposit. The specific procedure used in carrying out that mandate is not appropriately a part of the regulations and the final rulemaking makes no change in this provision.

One comment suggested that the regulations specify that when payments fall due on a weekend or other day when the Bureau Outer Continental Shelf offices are closed, the next business day should become the due day. This concern is addressed in § 1821.2-2(g) of Title 43 of the Code of Federal Regulations and no change is needed in the final rulemaking.

Additional changes have been made by the final rulemaking in § 3316.5(e) to provide a clarification as to the actions available to a bidder whose apparent high bid has been rejected by the authorized officer. To streamline the process, the change provides for a simplified process for reconsideration of a rejection by the Secretary of the Interior. The change goes on to negate specifically the applicability of the regulations in Part 4 of Title 43 of the Code of Federal Regulations with respect to acceptance/rejection of bids for Outer Continental Shelf leases.

#### *E. Appendix A Revised To Accommodate Bidding by Map and Block*

The revision of Appendix A made by the final rulemaking was determined necessary to facilitate the offering of large numbers of blocks and the reading of bids.

#### **II. Payment**

Numerous comments opposed the requirement of the proposed rulemaking that payments accompanying the executed lease be made by Federal Reserve Check alone, on the grounds that it would unduly burden bidders, certain banks and the United States. In recognition of these objections, while at the same time serving the objective of accelerating the availability of funds to the United States, the final rulemaking provides an alternative means of payment in addition to the use of Federal Reserve Checks. The final rulemaking allows payment by commercial check, provided that it is drawn on a commercial bank in the same city as the Federal Reserve Bank or Branch serving the city in which the Bureau of Land Management Outer Continental Shelf field office conducting the sale is located and provided that the

check is presented not later than the 14th day after receipt of the lease by the successful bidder. The change made concerning the presentation of a commercial check not later than the 14th day required a change be made in § 3316.5(f), in the final rulemaking. In response to a comment requesting announcement of the timing of the initiation of this new payment system, successful bidders are advised that they will be notified of the payment system to be used at the time that leases are transmitted for execution.

One comment requested clarification of the payment procedures used in connection with the submission of the one-fifth bonus that is submitted with cash bonus bids. This area is adequately covered by the provisions of § 3316.4(b) of the existing regulations.

#### **III. Requirements for Non-Energy Mineral Leasing**

One comment called stating the metric equivalent of 5,760 acres (i.e., 2331 hectares) in § 3314.2. The final rulemaking has not adopted this suggestion as not being an appropriate inclusion in the regulations.

A second comment called for larger tract size in Alaska frontier areas and in deep Outer Continental Shelf areas. The final rulemaking makes no change on this point because the existing regulations allow the selection of a larger lease size if a sufficient showing of need is made.

Finally, one comment suggested that the regulations specify the minerals, other than oil and gas, that are subject to lease. This recommendation has not been accepted because the definition in § 3300.0-5(k) of the existing regulations is sufficient for this purpose.

#### **IV. The New Net Profit Share Variable Bidding System**

One comment recommended that all references to segregated leases be deleted, since a proposed rulemaking of the Minerals Management Service published in the *Federal Register* on August 25, 1981 (46 FR 42287), provides for an end to the authority to require segregation of nonunitized portions of a lease. Since the existing regulations provide other methods by which leases can be segregated (See §§ 3319.2(c) and 3320.1), this recommendation cannot be adopted by the final rulemaking.

One comment proposed that language be added to the existing regulations providing that if rental or royalty payments fall due on a weekend or other day when the Bureau of Land Management Outer Continental Shelf field office is closed, then payment should not be due until the next

business day. As discussed earlier in this preamble, the provisions of § 1821.2-2 of Title 43 of the Code of Federal Regulations are applicable to this situation and no change has been made in the final rulemaking.

One comment objected to the provisions in the proposed rulemaking providing for use of the variable net profit share bidding system on the grounds it is not needed, and flies in the face of the recent court decision which held that the Secretary of the Interior is not required to implement the system (*Watt, et al. v. Energy Action Educational Foundation, et al.*, 102 Supreme Court 205(1981)). As was made clear earlier in this preamble with respect to changes made in order to accommodate policy options for streamlining leasing on the Outer Continental Shelf, this rulemaking is designed to provide the Department of the Interior with the appropriate regulatory framework for carrying out the broadest possible policy options. The rulemaking is not intended to affect the choice of options.

#### **V. Reduction of Filing Burdens**

One comment recommended the extension of the revision of corporate qualification requirements to associations (including partnerships). This suggestion has been adopted by the final rulemaking.

Section 3315.3 is being removed by the final rulemaking in order to bring the existing regulations in line with the Congressional action (Pub. L. 97-100) repealing section 303(c) of the Department of Energy Organization Act (42 U.S.C. 7153(c)) which required that all terms and conditions of Federal leases be submitted to the Department of Energy for review.

#### **VI. Minor Technical Changes**

One commenter suggested that "other persons" who wish to comment on the proposed 5-year Outer Continental Shelf Oil and Gas Leasing Schedule be required to justify their standing to comment. This suggestion has not been adopted by the final rulemaking because it goes beyond the authority granted the Secretary of the Interior by existing statutes.

The final rulemaking makes a minor administrative change in § 3316.3-2 which reflects the realignment of staff functions in the Bureau of Land Management's Washington office.

Where reference is made in this final rulemaking to U.S. Geological Survey, those references have been changed to "Minerals Management Service," where appropriate, to reflect the recent

reorganization within the Department of the Interior.

Editorial and grammatical changes, as needed, have been made.

The principal authors of this final rulemaking are Robert Samuels, Division of Offshore Resources and Robert C. Bruce, Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The revisions made by this final rulemaking are primarily concerned with providing greater administrative flexibility to the Department of the Interior in the selection of options in connection with the Outer Continental Shelf oil and gas leasing program and affect all participants in the program equally. There is no direct effect on small entities other than the same reduction in requirements that affects all participants.

The information collection requirements contained in 43 CFR Part 3300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned number 1004-0071.

#### Subject Listings for 43 CFR Part 3300

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting requirements, Surety bonds.

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), Part 3300, Group 3300, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

James G. Watt,  
Secretary of the Interior.  
May 21, 1982.

#### PART 3300—OUTER CONTINENTAL SHELF MINERALS AND RIGHTS-OF-WAY MANAGEMENT; GENERAL

**Note.**—The information collection requirements contained in Part 3300 of Group 3300 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004-0071. The information is being collected if the applicant filing for a lease or right-of-way on the Outer Continental Shelf is qualified to hold such lease or right-of-way. This information will be used in making this

determination. The obligation to respond is required to obtain a benefit.

1. Section 3300.2 is amended by:
  - (a) Revising paragraph (a) to read:

#### § 3300.2 Information to States.

(a) The information covered in this section is prepared by or directly obtained by the Director. Such information is typically not considered to be proprietary or privileged, with the primary exception of specific indications of interest in an area by industry received in response to a Call for Information issued by the Secretary. All other proprietary and privileged information is obtained by or under the control of the Geological Survey and Minerals Management Service which are responsible for its release in accordance with their regulations (See 30 CFR Parts 250, 251 and 252); and

- \* \* \* \* \*
- (b) Revising paragraph (d) to read:

(d) Upon request, the Director shall provide relative indications of interest in areas as well as any comments filed in response to a Call for Information for a proposed sale. However, no information transmitted shall identify any particular area with the name of any particular party so as not to compromise the competitive position of any participants in the process of indicating interest.

2. Section 3300.4 is revised to read:

#### § 3300.4 Payment.

(a) Payment of the balance of the bonuses, including deferred bonuses, and the first year's rental shall be by a payment instrument, payable to the Bureau of Land Management, that shall make funds immediately available to the Department of the Treasury. Instruments which may be used in providing immediate availability include:

(1) Federal Reserve Checks which are instruments that originate at Federal Reserve Bank member banks and represent a charge against their Federal Reserve Bank reserve account. These checks are to be drawn on the Federal Reserve Bank or Branch in or serving the city in which the Bureau OCS field office conducting the particular lease sale is located. Cut-off times for presentation of the Federal Reserve Checks to the Bureau OCS field office and the required Federal Reserve Bank or Branch against which they shall be drawn shall be detailed at the time leases are transmitted to successful bidders for execution.

(2) Commercial Checks which are instruments drawn on a commercial bank located in the same city as the Federal Reserve Bank or Branch serving

the city in which the Bureau OCS field office conducting the particular lease sale is situated. Cut-off times for presentation of commercial checks to the Bureau OCS field office shall be detailed as the leases are transmitted to successful bidders for execution. Presentation of commercial checks shall be made to the Bureau OCS field office not later than the 14th day after receipt of the lease by the successful bidder.

(b) Other payments, such as filing charges and fees, and annual rentals and costs for grants of pipeline rights-of-way shall be made to the Manager of the appropriate Bureau OCS field office by cash, check or bankdraft payable to the Bureau of Land Management unless otherwise directed by the Secretary.

(c) All other payments required by a lease or the regulations in this part shall be payable to the Minerals Management Service

3. The title of Subpart 3310 is revised to read:

#### Subpart 3310—Oil and Gas Leasing Program

##### § 3310.2 [Amended]

4. Section 3310.2 is amended by:
  - (a) Revising the title of the section to read:

##### § 3310.2 Review by State and local governments and other persons; and

(b) Amending paragraph (b) by inserting in the third sentence after the phrase "or local government" the phrase "or other persons".

5. Subpart 3313 is amended by revising the title to read:

#### Subpart 3313—Call for Information

6. Section 3313.1 is revised to read:

##### § 3313.1 Information on areas.

(a) The Director may receive and consider indications of interest in areas for mineral leasing.

(b) In accordance with an approved program and schedule for the leasing of OCS lands which may contain oil and gas, the Director shall issue Calls for Information on areas for leasing of such minerals in specified areas. The Call for Information shall be published in the Federal Register and may be published in other publications as desirable. Information on areas shall be addressed to the Manager of the appropriate OCS office, with a copy to the appropriate Regional Minerals Manager of the Minerals Management Service and to any other office which may be specified in the Call. The Director shall also request comments on areas which should receive special concern and

analysis. For an oil and gas lease sale Call area, the Director may request comments concerning geological conditions, including bottom hazards; archeological or cultural sites on the seabed or nearshore; multiple uses of the proposed leasing area, including navigation, recreation and fisheries; and other socioeconomic, biological and environmental information.

**§ 3313.2 [Amended]**

7. Section 3313.2 is amended by:

(a) Revising the title to read:

**§ 3313.2 Areas near Coastal States.**

(b) Revising paragraphs (a) and (b) to read:

(a) At the time information is solicited for leasing of areas within 3 geographical miles seaward of the seaward boundary of any coastal State, the Secretary shall provide the Governor of that State information required under section 8(g)(1) of the Act. The Director shall furnish information identifying the areas for leasing as well as all relevant available environmental data for such areas (See 30 CFR 251.14).

(b) After receipt of information on areas within the area described in paragraph (a) of this section, the Secretary shall inform the Governor of those areas that are to be given further consideration for leasing. The Secretary shall enter into consultation with the Governor to determine whether the area may contain oil or gas pools or fields underlying both the OCS and lands subject to the jurisdiction of the State.

8. The title of Subpart 3314 is revised to read:

**Subpart 3314—Area Identification and Tract Size.**

9. Section 3314.1 is revised to read:

**§ 3314.1 General.**

(a) The Director, in consultation with the Director, Minerals Management Service and other appropriate Federal agencies, shall recommend to the Secretary areas identified for environmental analysis and consideration for leasing. The Director, on his/her own motion, in consultation with the Minerals Management Service, may include in the recommendation areas in which interest has not been indicated in response to a Call. In making a recommendation, the Director shall consider all available environmental information, multiple-use conflicts, resource potential, industry interest and other relevant information.

Comments received from States and local governments and interested parties in response to Calls for Information shall be considered in making recommendations.

(b) The Director shall evaluate fully the potential effect of leasing on the human, marine and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations. The views and recommendations of Federal agencies, State agencies, local governments, organizations, industries and the general public shall be used as appropriate. The Director may hold public hearings on the environmental analysis after appropriate notice.

(c) In general, the Director shall seek to inform the public as soon as possible of additions or deletions that occur after the identification of areas.

10. Section 3314.2 is revised to read:

**§ 3314.2 Tract size.**

(a) A tract selected for oil and gas leasing shall consist of a compact area not exceeding 5,760 acres, unless the authorized officer finds that a larger area is necessary to comprise a reasonable economic production unit.

(b) The tract size for the leasing of other minerals shall be specified in the notice of sale.

**§ 3315.1 [Amended]**

11. Section 3315.1(a) is amended by inserting in the last sentence after the word "contained" the phrase "or referenced".

**§ 3315.3 [Removed]**

12. Section 3315.3 is removed in its entirety.

**§ 3315.4 Redesignated as § 3315.3**

13. Section 3315.4 is redesignated section 3315.3 and is amended by:

(a) Amending paragraph (a) by inserting in the last sentence after the word "contain" the phrase "or reference"; and

(b) Revising paragraph (b) to read:

(b) Tracts shall be offered for lease by competitive sealed bidding under conditions specified in the notice of lease sale and in accordance with all applicable laws and regulations. A suggested format for bidder submissions appears in Appendix A of this part.

**§ 3316.3-2 [Amended]**

14. Section 3316.3-2 is amended by:

(a) Amending paragraph (a) by removing the figure "541" and replacing it with the figure "621"; and

(b) Amending paragraphs (c) and (d) by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

**§ 3316.3-3 [Amended]**

15. Sections 3316.3-3(e) (1) and (2) are amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

**§ 3316.3-4 [Amended]**

16. Section 3316.3-4(b) is amended by removing the figure "3316.4(h)" and replacing it with the figure "3316.4(g)".

17. Section 3316.4 is amended by:

(a) Revising paragraphs (d) and (e) to read:

**§ 3316.4 Submission of bids.**

(d) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(e) If the bidder is a corporation, the following information shall be submitted with the bid:

(1) A statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of either a certified copy of the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so; or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate reference to statements or records previously submitted to a Bureau OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

(b) Removing paragraph (g) in its entirety.

(c) Redesignating paragraph (h) as paragraph (g) and amending it by removing the phrase "and paragraph (g) of this section"; and

(d) Redesignating paragraph (i) as paragraph (h).

18. Section 3316.5 is amended by:  
(a) Revising paragraph (e) to read:

**§ 3316.5 Award of leases.**

(e)(1) The decision of the authorized officer on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to a written request, of the rejection of the high bid. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases on the Outer Continental Shelf. If the authorized officer fails to accept the highest valid bid for a lease within 90 days after the date on which bids are opened, all bids shall be considered rejected.

(2) Any high bidder whose bid is rejected by the authorized officer may, within 15 days of such rejection, file with the Secretary, with a copy to the authorized officer, a written request for reconsideration accompanied by a statement of reasons. The Secretary shall respond in writing either affirming or reversing the decision of the authorized officer.

(b) Amending paragraph (f) by revising the third sentence to read "Except as provided in § 3300.4(a)(2) of this title, the bidder shall, not later than the 15th day after receipt of the lease, execute the lease, pay the first year's rental, pay the balance of the bonus bid, unless deferred, and file a bond as required in § 3318.1 of this title."

19. Section 3316.6 is revised to read:

**§ 3316.6 Lease form.**

Oil and gas leases and leases for sulphur shall be issued on forms approved by the Director. Other mineral leases shall be issued on such forms as may be prescribed by the Secretary.

**§ 3317.1 [Amended]**

20. Section 3317.1 is amended by:

(a) Amending paragraph (a) by removing the word "fixed";

(b) Amending paragraph (b) by removing from the first sentence the word "fixed"; and

(c) Amending paragraph (e) by removing the word "fixed" in the two places it appears.

21. Section 3317.2 is amended by adding a new paragraph (c) to read:

**§ 3317.2 Royalties.**

(c) Royalties on other minerals shall be at the rate specified in the notice of sale.

22. Appendix A is revised to read:

**Appendix A—Oil and Gas Cash Bonus Bid**

The following bid is submitted for an oil and gas lease on the area of the Outer Continental Shelf specified below:

Tract No.*	Total amount bid	Amount per acre (or per hectare)	Amount of cash submitted with bid

\*Or, if tract numbers are not used, Protraction Diagram or Leasing Map and block number.

Bidder qualification No.	Proportionate interest of company(s) submitting bid	Name and address of bidding company

Misc. No. ....

*Authorized Signatory's Name and Title.*

**Appendix B [Removed]**

23. Appendix B is removed in its entirety.

[FR Doc. 82-16277 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 13**

**Commercial Radio Operators; Removal of Outdated Notes and a Redundant Provision**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** Two outdated notes and one redundant rule section are being removed from 47 CFR Part 13 in order to contribute to the Commission's objective to eliminate unnecessary FCC rules, regulations and policies.

**EFFECTIVE DATE:** June 15, 1982.

**ADDRESS:** FCC, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** B. C. "Jay" Jackson, Jr., Regional Services Division, Field Operations Bureau, FCC, (202) 632-7240.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR Part 13**

Commercial radio operator licenses.

In the matter of amendment of Part 13 of the Commission's Rules to Remove Outdated Notes and a Redundant Section. Order.

Adopted: May 28, 1982.

Released: June 1, 1982.

1. We are amending Part 13 of the Commission's rules to remove two outdated notes and a section which is totally duplicated within Part 13. The two notes described interim Commission operator licensing procedures which were followed prior to the full implementation of the Fourth Report and Order in Docket No. 20817, which occurred on January 4, 1982. These notes have no further effect or informational value. We are also removing § 13.6, which is redundant with § 13.74.

2. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since the amendments are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

3. In view of the above, it is ordered, That §§ 13.2, 13.6, and 13.28 of the rules are amended in accordance with the appendix below, effective June 15, 1982.

4. Regarding questions on matters covered in this document contact B. C. "Jay" Jackson, Jr. (202) 632-7240.

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

Federal Communications Commission,  
Edward J. Minkel,  
Managing Director.

**Appendix**

**PART 13—COMMERCIAL RADIO OPERATORS**

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

**§ 13.2 [Amended]**

1. The note immediately following paragraph (a) of § 13.2 is removed.

**§ 13.6 [Removed]**

2. Section 13.6 is removed.

**§ 13.28 [Amended]**

3. The note immediately following paragraph (d) of § 13.28 is removed.

[FR Doc. 82-16271 Filed 6-15-82; 8:45 am]  
BILLING CODE 6712-01-M

**INTERSTATE COMMERCE  
COMMISSION**

49 CFR Part 1125

[Ex Parte No. 293 (Sub-2)]

**Standards for Determining Rail Service  
Continuation Subsidies in the  
Northeast-Midwest Region of the  
United States**

**AGENCY:** Rail Services Planning Office,  
Interstate Commerce Commission.

**ACTION:** Final rules.

**SUMMARY:** On February 24, 1982, the Rail Services Planning Office (RSPO) published a Notice of Proposed Rulemaking (NPR) seeking comments on a proposed method for apportioning locomotive fuel to branch lines under § 1125.8(c)(17)(ii) of the Standards for Determining Rail Services Continuation Subsidies (Standards). RSPO is now adopting the Standards as final to apportion locomotive fuel on the basis of fuel cost per locomotive unit hour. The fuel cost per hour figure, which is derived from the Repairs and Supplies portion of the rental rate for locomotives published by the General Manager's Association (GMA), is multiplied by the actual locomotive unit hours for the branch line.

**DATE:** The amendment is effective on July 16, 1982.

**FOR FURTHER INFORMATION CONTACT:**  
Winston Warner, 202-275-0841.

**SUPPLEMENTARY INFORMATION:** At 47 FR 8031, February 24, 1982, RSPO published a Notice of Proposed Rulemaking seeking comments on a proposed method for apportioning locomotive fuel. This notice was prompted by a petition filed by the New York Department of Transportation (NYDOT) seeking (1) inclusion of a methodology in the Standards which would calculate branch line locomotive unit hours on the basis of train mileage and (2) the assignment of fuel cost to the branch line on the basis of a fuel consumption rate per locomotive unit hour. Section 1125.8(c)(1)(ii) of the Standards currently assigns these costs on the "ratio of road diesel locomotive unit hours on the branch to the total system road diesel locomotive unit hours."

Comments on the Notice of Proposed Rulemaking published February 24, 1982 were received from NYDOT, Conrail, Burlington Northern Railroad (BN) and New Jersey Department of Transportation (NJDOT). Their principal areas of concern pertained to (1) the methodology for apportioning locomotive fuel based on a fuel cost per hour by locomotive horsepower class

adapted from GMA rental rates and (2) the retroactivity of the new allocation methodology.

**New Methodology for Apportioning  
Locomotive Fuel**

NYDOT supports the calculation of fuel cost per hour on the basis of the fuel portion of the Repairs and Supplies Expenses of the GMA rental rate per hour for different horsepower classes of locomotives (GMA Rate). NJDOT also concurs in the use of the GMA rate to determine branch line fuel costs.

Conrail supports RSPO in trying to apply variable rates for fuel consumption but they feel it falls short of the mark because locomotive operation has too many variables. The efficiency of high horsepower versus medium or low horsepower, the effects on fuel consumption by repetitive starting and stopping versus straight running of locomotives, varying trailing weight being pulled, and actual track conditions and existing grades are factors which offset fuel consumption.

Conrail believes that reliable data is available in various publications which might be used to modify the deficiencies in the GMA rate proposal. Conrail also states that the rulemaking could be amended to allow the carrier, at its option, to use the GMA rate methodology subject to correction for the deficiencies noted. Such a calculation would be established in accordance with the carrier's expenses as reported in the preceding year's R-1. They feel that it is improper to impose a fuel rate which is a composite of expenses submitted by many carriers because the rate will not result in making the carrier "whole" in subsidized operations.

The BN also expressed their disapproval of the proposed methodology for allocation of locomotive fuel. The BN notes that while GMA rates were formulated to establish uniform cost factors, they only reflect industry-wide averages designed to permit uniform billing for operating carriers. They also state that the use of GMA rates for the purpose of determining avoidable branch line fuel costs would be deficient for several reasons. First, the GMA rates are not timely nor reflective of current costs. The locomotive repair and supply rates are always one year behind. Second, the GMA locomotive repair and supply rates reflect industry-wide average costs. Third, GMA rates include costs for freight and passenger for both road and yard. Fourth, GMA rates are formulated to be used only for reciprocal billing and, therefore, contain some compromises which are

unacceptable for computing avoidable costs.

We will first address Conrail's concerns over the use of the GMA Rate. Their argument that this rate does not reflect the variables discussed above is a valid one. But Conrail's proposal of basing the calculation in accordance with the carrier's preceding year's R-1 will not reflect the variables listed above. First, the use of the branch locomotive unit hours times the system fuel cost per hour will not compensate for the variables of operating locomotives under various conditions. Second, this methodology is basically the same as the currently used allocation procedure, which fails to distinguish between classes of horsepower.

With respect to BN's position, we appreciate their concerns regarding the use of GMA rates to allocate locomotive fuel costs to branch line operations. However, RSPO believes that the new methodology is more equitable and accurate than the present methodology.

First, we believe that the present method is not timely or reflective of current costs because the use of the preceding year's R-1 to develop branch fuel costs reflects system costs which are 12 to 15 months old. Second, the GMA locomotive repair and supply rates do reflect industry-wide average costs, but are on a horsepower category basis which is more equitable than a system-average basis. Third, according to GMA, those rates include only repair and supply expenses for freight operations. The problem of the designation between yard and road locomotive fuel costs is alleviated by the use of horsepower classes of locomotives. The smaller horsepower units are used in yard operations while the larger horsepower units are used in road operations. Also, in the case of branch line operations, multipurpose units are used which are adaptable to both road and yard operations. Fourth, GMA rates are used for reciprocal billing of locomotive lease rentals. Since only the fuel portion of the rental rate is used, the avoidable portion of the locomotive cost is very attainable. Therefore, the case for the rates being unacceptable for avoidable costs is not relevant.

Specifically, RSPO will amend the regional standards to allocate locomotive fuel (accounts with xx-31-67 designation) based on a fuel cost per locomotive unit hour for each applicable GMA group multiplied by the branch locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification

group. The branch line costs for the year are calculated by simply multiplying the fuel cost per hour for the horsepower classification of the locomotive serving the branch line, as derived from the most recent GMA schedule, by the total number of branch line locomotive unit hours. The fuel cost per hour figure is determined by first identifying which GMA horsepower classification group applies to the locomotive serving the branch line. The amount for Repairs and Supplies expense per hour, contained in the applicable classification group, is then multiplied by the most recent percentage issued by the GMA for the fuel portion of the Repairs and Supplies expense.

#### Retroactivity of the New Allocation Methodology

In the NPR, we stated that any amendment to the method for calculating branch line fuel costs would not be retroactive to subsidy years prior to January 1, 1981. Conrail agrees with this position. NYDOT, however, still wants any change in the basis of apportionment to be retroactive to April 1, 1977.

NYDOT states that they contested the allocation of Locomotive Fuel to methodology relating the audit of the first subsidy year operations. They also state that they had considerable discussions and correspondence with Conrail over a two year period in an effort to agree on a modification that would resolve their difference over fuel cost calculations. Finally, they sought a resolution by RSPO. They feel that Conrail's past use of "inflated" engine hours, translated into inflated fuel costs and thereby resulted in improper use of taxpayer's money. This has been challenged by NYDOT since 1977.

RSPO sees no basis for changing our position on retroactivity. To permit retroactive application would be inconsistent with prior decisions in which amendments to the regional standards have not been made retroactive to prior subsidy years. Also, we do not want to establish a precedent whereby calculations on which parties

relied in prior subsidy years can be subject to challenge. The contracts entered into during prior subsidy periods were based on the then current methodology for calculating locomotive fuel costs. In the instant case, retroactive application would not only affect the parties involved in this proceeding, but also operators and State DOT's in all the Northeastern and Midwestern States. Therefore the allocation of locomotive fuel will not be retroactive to subsidy years beginning prior to January 1, 1981.

This is not a major Federal act significantly affecting the quality of the human environment or the conservation of energy resources.

Final Regulatory Flexibility Analysis as required by 5 U.S.C. 601.

This action will alter the basis for the assignment of locomotive fuel for all rail lines operated under a subsidy agreement pursuant to the regional standards. All shippers located on these subsidized lines will be affected. However, we certify that there will be no increase or changes to the present requirements of businesses located on these lines. We also certify that amending the basis for determining locomotive fuel could reduce the overall subsidy amount. However, any reduction would be minimal because this category of expense accounts for a very small portion of the total cost associated with the operation of a branch line. As a result, we find that this action will not have a significant economic impact on a substantial number of small entities.

Copies of our analysis of the impact of this action are available from the Section of Rail Services Planning, Room 4414, Interstate Commerce Commission, Washington, D.C. 20423.

This notice is issued under the authority of 49 U.S.C. 10362.

#### List of Subjects in 49 CFR Part 1125

Railroads.

Issued June 11, 1982 by William R. Southard, Director, Rail Services Planning Office.

By the Commission,  
James H. Bayne,  
Acting Secretary.

#### PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

1. Section 1125.8(c)(1)(ii) of 49 CFR Part 1125 is revised to read as follows:

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs.

\* \* \* \* \*

(c) *Transportation—(1) Train Operations:*

\* \* \* \* \*

(ii) *Locomotive Fuel.* All accounts designated xx-31-67 shall be assigned to the branch line in accordance with the following procedure. The dollar amounts used in the determination of locomotive fuel costs shall be based on data contained in the most recent publication issued by the General Managers Association (GMA) relating to the rental of locomotives. The total number of locomotive unit hours incurred by the locomotive(s) shall then be categorized according to the applicable GMA horsepower classification group. The fuel cost is derived from the Repairs and Supplies Expenses element of the locomotive rental rates published by the GMA. The fuel cost per locomotive unit hour shall be determined for each GMA horsepower classification group by multiplying the latest GMA fuel cost percentage by the Repairs and Supplies Expense per hour included in each group. The fuel cost per locomotive unit hour for each applicable GMA group shall be multiplied by the number of locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification group. The total cost developed under this procedure for each horsepower classification shall be the locomotive fuel cost assignable to the branch line.

\* \* \* \* \*

[FR Doc. 82-16242 Filed 6-15-82; 8:45 am]  
BILLING CODE 7035-01-M

# Proposed Rules

Federal Register

Vol. 47, No. 116

Wednesday, June 16, 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 THE TREASURY

### Customs Service

#### 19 CFR Part 177

#### Proposed Customs Regulations Amendments Relating To Country-of-Origin Determinations

**AGENCY:** Customs Service, Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document repropose, based on comments received, amendments to the Customs Regulations first published at 46 FR 21194, April 9, 1981. These regulations reflect the Government procurement provisions of the "Trade Agreements Act of 1979." the proposed amendments establish a procedure whereby any party-at-interest to a Government procurement may request the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement for the purpose of granting waivers of certain "Buy American" restrictions for products of eligible countries.

**DATES:** Comments must be received on or before August 16, 1982.

**ADDRESS:** Written comments should be addressed to the commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5778).

#### SUPPLEMENTARY INFORMATION:

##### Background

The "Trade Agreements Act of 1979," Pub. L. 96-39, 93 Stat. 144 (the "Act"), approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. The Act consists of 11 separate titles. This document relates only to those aspects

of Titles III of the Act, "Government Procurement," which affect Customs activities (section 301 *et seq.*, 93 Stat. 236 *et seq.*, 19 U.S.C. 2511 *et seq.*)

Title III of the Act, which implements the Agreement on Government Procurement, permits the President to waive those portions of U.S. law or practice, most notably the Buy American Act (41 U.S.C. 10a *et seq.*) which discriminate against the procurement of products of designated countries. Designated countries are those which are parties to the Agreement on Government Procurement, which provide reciprocal procurement benefits to the United States, or which are least developed countries. The Act permits the President to prohibit Federal Government procurement of products from non-designated countries. Furthermore, the Act authorizes the President to withdraw or to limit waivers or designations previously granted.

A waiver can only apply to goods which are the products of a country designated by the President under section 301(b) of the Act. In order to implement this provision, section 305(b) of the Act provides that the Secretary of the Treasury shall provide country-of-origin advisory rulings and final determinations on whether a product is or would be a product of a designated country. The rule of origin to be applied is specified in section 308(4)(B) of the Act. Judicial review of these final determinations is provided for in section 1001 of the Act (28 U.S.C. 1581 (e)).

On April 9, 1981, Customs published a notice in the Federal Register (46 FR 21194), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to implement Title III of the Act. In response to the notice Customs received only one comment from the embassy of a foreign government. During the course of the interagency evaluation of this comment, the United States Trade Representative (USTR) raised questions which necessitated significant changes to the proposed rule. Because of these substantial modifications, Customs has determined that the proposed rule should be republished thereby providing another opportunity for public comment. The comment received and the changes made as a result are discussed below.

## Discussion of Public Comment and Changes

### Who May Request Rulings and Determinations

The commenter objected to proposed § 177.24 which would have limited the parties who could file a ruling request to "a foreign manufacturer, producer, or exporter, or a United States importer of merchandise, or by a duly authorized attorney or agent on their behalf." The commenter believed that the proposed rule should be broadened to include interested parties so that a foreign embassy could intervene on behalf of one of its nationals.

It was Customs position that the phrase "duly authorized attorney or agent" used in proposed § 177.24 was broad enough in scope to include an embassy acting on behalf of one of its nationals and that no change was necessary.

The USTR was of the opinion that proposed §§ 177.23 and 177.24 were too narrow in their coverage and should be amended to include all "parties-at-interest" as defined in section 1001(b)(4)(B) of the Act. Section 1001(b)(4)(B) (codified at 28 U.S.C. 1581(e), 2631(e), and 2631(k)(2)) relates to the jurisdiction of the Court of International Trade to review final determinations made under the provisions of section 305(b)(1) of the Act. Section 1001(b)(4)(B) in pertinent part states that:

\* \* \* The Customs Court (the Court of International Trade was substituted by the "Customs Courts Act of 1980," Pub. L. 96-417) shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term "party-at-interest" means—

(1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979.

(2) A manufacturer, producer, or wholesaler in the United States of a like product.

(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

(4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

In drafting the first proposed rule, Customs reviewed the provisions of Title III of the Act, Senate Report 96-249, House Report 96-317, and the Statements of Administrative Action (House Document 96-153, Part II) in an effort to determine which parties could request a country-of-origin determination. None of the foregoing shed any light on the matter.

Since publication of the proposed rule, the USTR has advised Customs that section 1001 was intended to cover any party-at-interest. Although Customs was originally of the opinion that the limitation in subsection (1) of the definition of party-at-interest precluded the parties listed in subsections (2), (3), and (4) from requesting a final determination, Customs now believes that the better interpretation is that the limitation is subsection (1) of the definition merely bars a foreign manufacturer, producer, or exporter or a U.S. importer from seeking judicial review unless it was an actual foreign manufacturer, producer, or exporter, or a United States importer of merchandise which was the subject of the final determination. Customs does not believe the limitation on who can seek judicial review under subsection (1) of the definition bars other parties-at-interest from requesting a final determination. This interpretation is consistent with the language in section 1001(b)(4)(B) that any party-at-interest, not just those listed in subsection (1) of the definition, may seek judicial review of a final determination. Accordingly, the proposed rule has been modified to conform to USTR's position and the above interpretation. Before adopting the foregoing as a final rule, however, Customs specifically requests further public comment on this issue.

#### *Fraudulent Claims*

Traditionally, Customs has not gone beyond the facts presented in a ruling request to verify the truth of the claims presented therein. Customs does not intend to alter this procedure for country-of-origin final determinations. Although Customs recognizes that disputes may arise as a result of allegations or complaints that certain processing or manufacturing claimed to have been performed in a designated country is not, in fact, being done there, it will be Customs position that a party raising such a claim is not requesting a final determination within the meaning of the Act but is alleging a fraudulent practice. Customs authority under the Act relates only to issuing rulings and not to investigating complaints of a factual nature such as verifying that processing or manufacturing is or is not

being done in a designated foreign country. Accordingly, alleged claims of fraudulent practices will be referred to the procuring agency involved for appropriate processing.

#### *Issuance of Rulings—Time Period*

In addition, Customs will issue a final determination only when the requester has identified an actual (existing) product for importation.

The commenter also noted that proposed § 177.28, relating to advisory rulings, and proposed § 177.29, relating to appeals, provided that the failure of the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, to issue an advisory ruling within 25 days or to render a final determination on an appeal within 30 days, would automatically result in a decision that the article is not or would not be considered to be a product of the claimed country. The commenter concluded that such a procedure would leave the party requesting a ruling or appeal with no knowledge of why the request or appeal had been denied. The commenter believed that in some cases the requester could be subject to an adverse ruling as a result of delay or oversight on the part of Customs. The commenter felt that a written response outlining the specific reasons why Customs does not consider the merchandise to be a product of the foreign country would provide the requester with an opportunity to make adjustments in its process of manufacture so that a favorable ruling could be obtained. The USTR echoed the commenters views and suggested that the time frames set forth in the proposed rule be deleted.

Since international obligations of the U.S. do not require the time constraints Customs originally proposed, and current budgetary limitations would render them unrealistic in any event, Customs has deleted the time constraints in the revised proposed rule. However, public comments are solicited on both approaches.

#### *Oral Presentations*

The commenter noted that there was no provision for an oral presentation. Customs always is willing to discuss matters which are the subject of its ruling with the requesting party and will do so on country of origin matters. All rulings, however, will be based upon the written submissions made by the requesting party and not oral presentations. This being the case, Customs could see no reason for including a formal oral discussion provision in the initial proposed rule. However, to insure that the public is

aware that oral presentations can be made, Customs has included a section on oral presentations of issues in the revised proposed rule.

#### *Additional Revisions*

Commenters should be aware of certain additional matters relating to the proposed regulations. The original proposed rule provided for a sequential ruling process whereby the requested advisory ruling would become a final determination after certain events or the passage of a set period of time. Customs has abandoned this sequential process in favor of a nonsequential ruling process whereby a party can request either an advisory ruling or a final determination.

The important consequence of this nonsequential ruling process is that Customs will create a class of non-binding, non-appealable, non-judicially reviewable advisory rulings. The public is requested to comment on this procedure as opposed to that originally proposed or to suggest additional alternatives.

The proposed regulations have been further revised to provide that Customs has an affirmative duty to issue advisory rulings and final determinations in the specific area of procurement related country-of-origin determinations. Furthermore, a new proposed § 177.28 has been added to provide that Customs will promptly issue advisory rulings and final determinations on request unless there is insufficient information to issue a final determination. In the latter case, Customs will issue an advisory ruling or inform the requester that no final determination will be issued. Both a final determination and a Customs decision not to issue such a determination are appealable. In addition, proposed § 177.28 provides that Customs will consider, on a priority basis, those requests which indicate that the final determination is needed for a specific procurement.

#### *Advisory Rulings*

In the specific area of procurement related country-of-origin determinations, an advisory ruling is defined as a non-binding, non-reviewable written statement which calls attention to a well established interpretation or principle of law relating to the country-of-origin, without applying it to a particular set of facts. For purposes of judicial review such an advisory ruling is not the equivalent of a ruling granted prior to importation under 28 U.S.C. 1581(h). An advisory ruling is merely an attempt on Customs part to supply requesters with

relevant general information. Customs will issue an advisory ruling in response to a request for a final determination if:

- (1) The request suggests that general information, rather than a final determination is actually being sought,
- (2) the request is incomplete or otherwise fails to meet the requirements set forth in proposed § 177.25 or (3) the final determination cannot be issued for some other reason, and (4) it is believed by Customs that the advisory ruling may be of some benefit to the party making the request.

#### *Final Determinations*

In the specific area of procurement related country-of-origin determinations, a final determination is defined as a binding, judicially reviewable statement that interprets or applies the provisions of law and regulation relating to country-of-origin determinations to a specific set of facts. Customs will provide a final determination to a party-at-interest prior to actual entry of the merchandise. In this context, because it is required by this particular statute, a final determination differs from the normal use of the phrase in connection with the liquidation of an entry. A final determination as used herein is similar to a ruling issued by the Secretary of the Treasury prior to importation (see 19 CFR Part 177). Although judicial review of such rulings would normally be covered in 28 U.S.C. 1581(h), judicial review of determinations under section 305(b)(1) is exclusively provided for in 28 U.S.C. 2631(e)(k) and 2636(f), and not in 28 U.S.C. 1581.

In the normal sequence of events the party bidding on a government contract will self-certify that his product satisfies the country-of-origin requirements of law and regulations (see for example Defense Acquisition Regulations in 32 CFR 7.2003.5). The bidder will only have to request a country of origin final determination from Customs if he has a question regarding the country of origin of his product or if the government contracting officer requests the bidder to obtain such a ruling.

Finally, under the Act the period for initiating judicial review of a final determination is limited to 30 days after Customs has published a final determination in the *Federal Register*. Customs is concerned that foreign manufacturers will secure a number of final determinations well in advance of any procurement. Such final determinations may not come to the attention of potentially affected domestic sellers, thereby, as a practical matter, denying U.S. industry any opportunity to question the determinations. Customs has included a

procedure whereby it will expeditiously (within five working days of receipt of the request) reexamine a previous final determination. Customs will issue a new final determination only where the requester identifies the previous final determination, the facts are identical, the previous final determination has not been the subject of judicial review, and the merchandise at issue was not the subject of a competitive procurement for which a contract has been let. Judicial review of the new final determination may be sought within 30 days after publication of the new final determination in the *Federal Register*.

With the changes discussed above, it is proposed to redesignate the present provisions of Part 177, Customs Regulations (19 CFR Part 177), as Subpart A and to add a new Subpart B to provide a procedure whereby any party-at-interest may request and receive an advisory ruling or final determination as to the country or origin of imported merchandise.

#### **Authority**

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96-39, 93 Stat. 144.

#### **Comments**

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

#### **Drafting Information**

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices, the Treasury Department, and the USTR participated in its development.

#### **Executive Order 12291**

The proposed regulation is not a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

#### **Regulatory Flexibility Act**

The provisions of the Regulatory Flexibility Act relating to an initial and

final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Trade Agreement Act of 1979 and not the proposed implementation regulations. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise caused a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

#### **Paperwork Reduction Act**

The proposed regulation is not subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511.

#### **Federal Register Thesaurus**

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

#### **List of Subjects in 19 CFR Part 177**

Administrative practices and procedures, Country-of-origin rulings, Government procurement.

#### **Proposed Amendments**

It is proposed to amend Part 177, Customs Regulations (19 CFR Part 177), in the following manner:

#### **PART 177—ADMINISTRATIVE RULINGS**

1. It is proposed to amend Part 177 by adding a subpart designation before § 177.1 to read as follows:

#### **Subpart A—General Ruling Procedure**

2. It is proposed to add a new Subpart B to Part 177 to read as follows:

### Subpart B—Government Procurement; Country-of-Origin Determinations

Sec.

- 177.21 Applicability.
- 177.22 Definitions.
- 177.23 Who may request a country-of-origin advisory ruling of final determination.
- 177.24 By whom request is filed.
- 177.25 Form and content of request.
- 177.26 Where request filed.
- 177.27 Oral discussion of issues.
- 177.28 Issuance of advisory rulings and final determinations.
- 177.29 Publication of notice of final determinations.
- 177.30 Review of final determinations.
- 177.31 Reexamination of final determinations.

Authority: R.S. 251, as amended (19 U.S.C. 66), sec. 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96-39, 93 Stat. 144.

#### § 177.21 Applicability.

This subpart applies to the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement under Title III, "Trade Agreements Act of 1979," Pub. L. 96-39, 93 Stat. 144, for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products for eligible countries. This subpart is intended to be applied consistent with the Federal Procurement Regulations (41 CFR Part 1-6) and the Defense Acquisition Regulation (32 CFR Section VI).

#### § 177.22 Definitions.

(a) *Country of origin.* For the purpose of this subpart, an article is a product of a country or instrumentality only if (1) it is wholly the growth, product, or manufacture of that country or instrumentality, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term "instrumentality" shall not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(b) *Advisory ruling.* An advisory ruling is a non-binding, non-reviewable written statement issued by the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, which does no more than call attention to a well established interpretation or principal of law relating to the country of origin, without

applying it to a particular set of facts. Customs will issue an advisory ruling in response to a request for a final determination if:

- (1) The request suggests that general information, rather than a final determination, is actually being sought,
- (2) The request is incomplete or otherwise fails to meet the requirements set forth in § 177.25(a), or
- (3) The ruling requested cannot be issued for any other reason, and Customs believes that the general information supplied by an advisory ruling may be of some benefit to the party making the request. An advisory ruling is not a ruling issued prior to importation under 28 U.S.C. 1581(h).

(c) *Final determination.* A final determination is a binding judicially reviewable statement issued by the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, in response to a written request submitted under the provisions of this subpart that interprets and applies the provisions of law and regulation relating to the country of origin to a specific set of facts. A final determination may be issued to a party-at-interest prior to actual entry of the merchandise.

(d) *Party-at-interest.* For purposes of this subpart the term party-at-interest means—

- (1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under this subpart,
- (2) A manufacturer, producer, or wholesaler in the United States of a like product,
- (3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and
- (4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

#### § 177.23 Who may request a country-of-origin advisory ruling or final determination.

A country-of-origin advisory ruling or final determination may be requested by:

- (a) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise,
- (b) A manufacturer, producer, or wholesaler in the United States of a like product,
- (c) United States members of a labor organization or other association of workers whose members are employed

in the manufacture, production, or wholesale in the United States of a like product, or

(d) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

#### § 177.24 By whom request is filed.

A request may be filed by an individual or organization listed in § 177.23 or by a duly authorized attorney or agent on behalf of the individual or organization. A request filed by a corporation shall be signed by a corporate officer, and a request filed by a partnership shall be signed by a partner.

#### § 177.25 Form and content of request.

(a) A request for an advisory ruling shall be in writing and shall contain such information as will enable Customs to provide the requester with the applicable principle of law or well established interpretation relating to the particular country of origin.

(b) A request for a final determination shall be in writing and shall contain the following information:

- (1) The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request under the provisions of § 177.24;
- (2) A description of the existing article for which a country-of-origin determination is requested;
- (3) The country or instrumentality an article is claimed to be the product of;
- (4) Such further information as will enable Customs to determine if an article is a product of a specific country or instrumentality, and;
- (5) If applicable, the specific procurement for which the final determination is requested.

#### § 177.26 Where request filed.

The request shall be filed with the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

#### § 177.27 Oral discussion of issues.

Any party authorized to request a ruling under the provisions of § 177.23 may request an opportunity for oral discussion of the issues presented in the request. The oral discussion of issues will be governed by the provisions of § 177.4.

#### § 177.28 Issuance of advisory rulings and final determinations.

(a) Pursuant to a request for an advisory ruling which meets the

requirements of this subpart, Customs will issue an advisory ruling.

(b) Pursuant to a request for a final determination which meets the requirements of this subpart, Customs will issue a final determination. If the request does not meet the requirements of this subpart Customs may decline to issue a final determination or may issue instead an advisory ruling.

(c) Requests for final determinations which include the information set forth in § 177.25(b)(5) (relating to a specific procurement) will be considered by Customs before all other requests (advisory rulings and final determinations).

**§ 177.29 Publication of notice of final determinations.**

Notice of all final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued.

**§ 177.30 Review of final determinations.**

Any party-at-interest listed in § 177.22(d) may seek judicial review of a final determination within 30 days after publication of such determination in the **Federal Register**, and may seek judicial review of a refusal to issue a final determination within 30 days after such refusal. The Court of International Trade shall have exclusive jurisdiction to review a final determination or a refusal to issue a final determination made under this subpart.

**§ 177.31 Reexamination of final determinations.**

A party-at-interest, other than the party-at-interest which requested and received the initial final determination, may ask Customs to consider the matter anew and issue, on an expedited basis, a new final determination. Such a request shall specifically identify the previous final determination. Upon receipt of such a request, Customs will issue a new final determination within five working days of receipt of the request unless (a) the previous final determination was the subject of a contested lawsuit timely filed in the Court of International Trade under 28 U.S.C. 1581 (e) or, (b) the merchandise at issue in the initial final determination was tendered and deemed responsive to the request for proposals or an invitation for bids in a competitive procurement subject to the Buy American Act (41 U.S.C. 10a *et seq.*) and a contract under such procurement was let. Any new final determination issued under this section shall be published in

accordance with § 177.29 and is reviewable under § 177.30.

**William von Raab,**  
*Commissioner of Customs.*

Approved: May 28, 1982.

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

[FR Doc. 82-16166 Filed 6-15-82; 8:45 am]

BILLING CODE 4820-02-M

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 906**

**Reopening of Public Comment Period on Modified Portions of the Colorado Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Reopening of public comment period.

**SUMMARY:** OSM is reopening the period for review and comment on the substantive adequacy of certain program amendments submitted by Colorado as modifications to the Colorado program. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional amendments submitted by Colorado not considered in the February 25, 1982, **Federal Register** notice (47 FR 8207-8212).

**DATE:** Written comments must be received on or before 4:00 p.m., July 6, 1982 to be considered.

**ADDRESS:** Written comments should be mailed or hand delivered to: Robert H. Hagen, Director, New Mexico State Office, Office of Surface Mining, Suite 216, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

**FOR FURTHER INFORMATION CONTACT:** Robert H. Hagen, Director, New Mexico State Office, Suite 216, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

**SUPPLEMENTARY INFORMATION:** On February 25, 1982, at 47 FR 8207-8212, OSM published notice of the public hearing and the public comment period on the adequacy of program amendments submitted by Colorado (1) to satisfy conditions imposed by the Secretary of the Interior on the approval of the Colorado program, and (2) as further amendments to the Colorado program. The public hearing was scheduled for March 23, 1982, but was cancelled when no person contacted

OSM to express an interest in participating in the hearing. The public comment period ended March 29, 1982. Subsequent to the close of the public comment period, it became apparent that certain other proposed amendments to the Colorado program had been omitted from the February 25, 1982, notice.

OSM is reopening the public comment period to allow the public sufficient time to review and comment on the amendments described below. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

**A. Amendments Unrelated to Conditions**

On January 11 and February 25, 1982, OSM received from the State of Colorado 39 revisions, additions and deletions to the Colorado Regulations for Coal Mining (2CCR 407-2) not described in the February 25, 1982, **Federal Register** notice as follows:

1. Revision to rule 1.03.3(2) to clarify the procedures and contents of the published monthly agenda.
2. Revision to rule 1.03.4(2)(a) to delete the phrase, "any person in this state," and to replace it with the phrase, "any person contemplating opening a surface coal mining operation in this state."
3. Addition of rule 2.02.2(3) to include the following: "The determination of substantial disturbance shall be made with reference to 1.04(127)."
4. Revision to rule 2.03.4(3) to change the spelling of "principles" to "principals."
5. Addition to rule 2.05.3(6) to include the following: "Permanent excess spoil and underground development waste disposal structures shall comply with 2.05.3(6)(b). Temporary overburden and underground development disposal (storage) structures shall comply with the applicable performance standards of Rule 4; information to demonstrate such compliance shall include, if applicable, location, geometry, and method of material placement."
6. Revision to rule 2.05.4(2)(c) to require a plan for stream channel reconstruction in accordance with rule 4.05.4.
7. Revision to rule 2.05.6 clarifying the title of the section.
8. Revision to rule 2.05.6(3)(a) to change the word "plan" to the word "application."
9. Revision to rule 2.05.6(3)(c) to delete the phrase, "Each underground mine plan," and replace it with, "For underground mining activities, the

application \* \* \* " in its submission to OSM, Colorado mis-cited this rule as 2.05.3(3)(c).

10. Revision to rule 2.05.6(4) to change the phrases as follows:

(a) Delete the phrase, "each plan shall" and replace it with the phrase, "each application shall \* \* \*"

(b) Delete the reference to rule 2.07.4(2)(e)(ii) and replace it with a reference to rule 2.07.6(2)(e).

11. Revision to rule 2.05.6(6)(f)(iii) to delete "4.19.3" and replace it with "4.20.3."

12. Addition of rule 2.06.12 which provides the requirements of Surface Coal Mining and Reclamation operations involving the removal of coal from coal refuse piles.

13. Revision to rule 2.06.5(1) clarifying the title of the section and including the following phrase: "non-mountaintop removal, steep slope surface."

14. Revision to rule 2.06(2)(j) changing it to 2.06(2)(h).

15. Revision to rule 2.06.8(3)(b) to change the word "application" to "applicant" in the last sentence of the rule.

16. Revision to rule 2.06.8(5) to provide guidance for submission of applications for areas that include alluvial valley floors.

17. Deletion of rule 2.07.6(3).

18. Revision to rule 2.08.4(1)(f) to delete "1.04(72)" and to replace it with "1.04(73)."

19. Revisions to rule 2.08.4(5)(b)(ii) as follows:

(a) Replace the word "revised" with the word "raised" in the fourth sentence.

(b) Delete the phrase, "and state whether the requester desires to have the hearing conducted in the locality of the proposed surface coal mining operations," in the fourth sentence.

(c) Replace "2.08.4(3)" with the phrase, "under the provisions of this subsection," in the fifth sentence.

(d) Replace the phrase, "within 10 days of said request," with the phrase, "at the next regularly scheduled Board meeting," in the fifth sentence.

20. Revision to rule 2.08.4(5)(c)(i) relieving the Division of the requirement of publishing minor revisions in a local newspaper, and providing guidance for posting notice of minor revisions for public inspection.

21. Revision to rule 2.08.4(5)(c)(ii) to delete the phrase "30 days" and to replace it with the phrase "10 days." The revision also relieves the Division of the requirement of publishing minor revisions in a local newspaper, and provides guidance for posting notice of minor revisions for public inspection.

22. Deletion of rule 2.08.4(5)(c)(iii).

23. Revision to rule 3.02.1(5)(b) clarifying the procedures for bonding sequence, release and bond amount for the first bond increment.

24. Revision to rule 3.05.1(1)(a) to delete "1.04(21)" and to replace it with "1.04(22)."

25. Revision to rule 3.05.1(7) to delete "60 days" and replace it with "180 days."

26. Revision to rule 4.05.2(2) requiring that sedimentation ponds and treatment facilities for surface drainage be maintained until the herbaceous cover of the revegetated area is at least 90% of the cover of the reference area or other standard approved pursuant to 4.15.7(2), and the untreated drainage from the disturbed area ceases to contribute additional suspended solids above the natural conditions. The untreated drainage must meet applicable State and Federal water quality standards, if any, for receiving streams.

27. Revision to rule 4.05.2(7) to delete the table of effluent limitations and to replace it with the following: "Discharges of water from areas disturbed by surface coal mining and reclamation operations shall be made in compliance with all applicable Federal and State water quality standards."

28. Addition to rule 4.05.3(5) to include the following: "If the temporary diversion were for an ephemeral stream, the channel shall be reestablished to functionally blend with the undisturbed drainage above and below the area to be reclaimed."

29. Revision to rule 4.05.3(6)(a) to delete the design for channel riprapping and to include the following: "Channel linings, including channel riprap, shall be designed using standard engineering practices to pass safely the design velocities."

30. Revision to rule 4.05.4 clarifying the title and including the following phrase: "and stream channel reconstruction."

31. Addition to rule 4.05.6(3)(c) to include the word "maximum" in the sentence, "The dewatering device shall not be located at a lower elevation than the maximum sediment storage volume."

32. The addition of rule 4.05.6(9) explaining when the final pond can be removed in the reclamation process.

33. Revision to rule 4.06.5 deleting the word "redistributed" in the second sentence.

34. Revision to rule 4.15.7(2)(d) to delete the word "plan" and replace it with the word "plant."

35. Revision to rule 4.15.8(7) to replace the phrase, "U.S. Fish and Wildlife Service and Colorado Division of Wildlife," with the phrase, "Division in consultation with the U.S. Fish and

Wildlife Service and Colorado Division of Wildlife," in the fourth sentence.

36. Revision to rule 4.15.8(8) to delete the word "annual."

37. Revision to rule 4.16.2(1) to clarify the basis for determination of the post mining land use for land that has been previously mined.

38. Revision to rule 4.21.2(1) to delete the phrase: "250 tons or more," and to replace it with the phrase: "250 tons or less."

39. Revision to rule 4.21.2(2) to delete the phrase: "250 tons or more," and to replace it with the phrase: "more than 250 tons."

The Secretary seeks public comment on these additional proposed amendments to the Colorado program. If these amendments are approved, they will become part of the Colorado program.

#### B. Amendments to Satisfy Conditions

On January 11 and February 25, 1982, OSM received from the State of Colorado 2 revisions, additions and deletions to the Colorado Regulations for coal mining (2CCR 407-2) not described in the February 25, 1982, Federal Register notice as follows:

1. For condition (y), Colorado has adopted rule 3.03.1(2)(b).

2. For condition (ii), Colorado has adopted rule 5.04.3(5)(c), and has deleted rule 5.04.5(d).

The Secretary seeks public comment on whether the above provisions, together with the provisions described in the February 25, 1982, Federal Register notice for conditions (y) and (ii), correct the deficiencies for these 2 conditions. If the program amendments are approved, conditions (y) and (ii) in 30 CFR 906.11 will be removed.

#### Additional Information

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 30 CFR Part 906**

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 11, 1982.

J. Steven Griles,

*Acting Director, Office of Surface Mining.*

[FR Doc. 82-16256 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 910****Cancellation of Public Hearing on Surface Mining and Reclamation Operations Under a Federal Program for Georgia**

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

**ACTION:** Cancellation of Public hearing.

**SUMMARY:** The Office of Surface Mining (OSM) is announcing the cancellation of a public hearing because there had been no request received to testify at a public hearing by June 11, 1982. Therefore, the Director of the Office of Surface Mining has determined that no hearing is necessary, and is cancelling the hearing which was scheduled for June 18, 1982 in Atlanta, Georgia.

This notice cancels the public hearing but does not alter the time for location at which the Georgia program is available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program.

**DATE:** The following hearing is cancelled: The public hearing on the proposed Georgia Federal Program, June 18, 1982.

**ADDRESS:** Written comments should be mailed or hand delivered to: John T. Davis, State Office Director, Alabama State Office, Office of Surface Mining, Reclamation and Enforcement, 228 West Valley Avenue, Homewood, Alabama 35209.

Copies of the Georgia program, and all written comments are available for review at the OSM Offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.  
Alabama State Office, Office of Surface Mining, Reclamation and Enforcement, 228 West Valley Avenue, Homewood, Alabama 35209.

**FOR FURTHER INFORMATION CONTACT:**

John T. Davis, State Office Director, Alabama State Office, 228 West Valley Avenue, Office of Surface Mining, Homewood, Alabama 35209, Telephone: (205) 254-0890.

**SUPPLEMENTARY INFORMATION:** On April 21, 1982 the Office of Surface Mining published a proposed Georgia Federal program in the **Federal Register** which would revise the existing Federal Program. The revised program proposed to cross-reference the permanent regulation regulations. The use of this method reduces considerably the number of pages needed in the **Federal Register** to publish a Federal program for a State. Furthermore, when the permanent program regulations are changed, the Federal program for the State of Georgia will be similarly revised. No separate rulemaking would be undertaken or necessary for revision of this program, unless OSM determines that special conditions are necessary for Georgia.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m., on June 23, 1982, to be considered.

Dated: June 14, 1982.

Carl C. Close,

*Deputy Assistant Director, Program Operation and Inspection, Office of Surface Mining.*

[FR Doc. 82-16347 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 125**

[WH-FRL 2151-8]

**Modification of Secondary Treatment Requirements for Discharges into Marine Waters**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public meetings.

**SUMMARY:** See the Final Rules section of this issue of the **Federal Register** for the text of the document that announces public meetings on final and proposed amendments to the Environmental Protection Agency regulations regarding section 301(h) of the Clean Water Act. Section 301(h) provides for variances from secondary treatment requirements for municipal discharges to marine waters.

**FOR FURTHER INFORMATION CONTACT:**

Robert W. Zeller, PhD, Policy Advisor, Office of Marine Discharge Evaluation, WH-546, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9231.

Dated: June 15, 1982.

Robert W. Zeller,

*Policy Advisor, Office of Water.*

[FR Doc. 82-16488 Filed 6-15-82; 10:35 am]

BILLING CODE 6560-50-M

**40 CFR Part 180**

[PP 1E2566/P225; PH-FRL 2145-2]

**Oxamyl; Proposed Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes that a tolerance be established for residues of the insecticide oxamyl in or on the raw agricultural commodity eggplants. The proposed amendment to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

**DATE:** Comments must be received on or before July 16, 1982.

**ADDRESS:** Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Donald Stubbs (703-557-7700) at the above address.

**SUPPLEMENTARY INFORMATION:** The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2566 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida, Hawaii, Maryland, and New Jersey.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide oxamyl (methyl-N', N'-dimethyl-N-[(methylcarbamoyloxy)-1-thioxamimidate] in or on the raw agricultural commodity eggplants at 2 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 2-year rat feeding study with no-observed-effect-level (NOEL) of 50 ppm and negative oncogenic potential; a 2-year dog feeding study with a NOEL of 100 ppm; a

3-generation rat reproduction study with a NOEL of 50 ppm; a mouse oncogenic feeding study showing negative oncogenic potential; a rat teratology study negative at 300 ppm; a rabbit teratology study negative at 4 mg/kg/day; and mutagenicity studies (Ames assay, Recessive assay, Host-mediated assay), all negative.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from published and proposed tolerances for a 1.5 kg daily diet is calculated to be 0.5663 mg/day; the current action will increase the TMRC by 0.0009 mg/day (0.16 percent). Published and proposed tolerances utilize 37.75 percent of the AOI; the current action will utilize an additional 0.06 percent.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography utilizing a flame photometric detector with a sulfur filter) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.303 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before July 16, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number "[PP 1E2566/P225]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays.

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).

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

#### List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1982.

Douglas D. Camp, Jr.

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.303 be amended by adding and alphabetically inserting the raw agricultural commodity eggplants to read as follows:

##### § 180.303 Oxamyl; tolerances for residues.

	Commodities	Parts per million
Eggplants	.....	2.0

[FR Doc. 82-15937 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 2

[Docket No. 80-739; Report No. 16994]

#### Proposed Rule Revisions To Facilitate the Implementation of the 1979 WARC Final Acts

AGENCY: Federal Communications Commission.

**ACTION:** Public notice regarding advanced proposed rule (fifth notice of inquiry).

**SUMMARY:** The Commission is soliciting public comments, through a series of documents in this proceeding (Docket 80-739), on national implementation of the Final Acts of the 1979 World Administrative Radio Conference. This Fifth Notice of Inquiry considers the technical standards for transmitters authorized by the Commission. This action is taken to ensure the incorporation of the Final Acts into the Commission's Rules in a timely manner.

**DATES:** Comments on the Notice of Inquiry are due by July 7, 1982 and replies by July 22, 1982.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel Yates, Office of Science and Technology (202) 653-6288.

#### SUPPLEMENTARY INFORMATION:

Rules Revisions Proposed To Facilitate Implementation of 1979 WARC Final Acts

May 14, 1982.

The Commission has begun an inquiry looking toward amending its rules in preparation for national implementation of the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC).

The Commission said that by taking this action now, it would be able to incorporate the Final Acts into its rules in a timely manner if the WARC Treaty is ratified by the U.S. Senate.

This is the fifth notice of inquiry adopted in this docket. Its primary purpose is to obtain public comments concerning revisions to particular service rule sections regarding emission designators, frequency tolerance, emission limitations and other technical rules.

The Final Acts became effective internationally on January 1, 1982, for those administrations that have ratified the Treaty. The U.S. Senate has not acted on this matter yet. If and when it is ratified, however, the Commission noted, it will have the force of law in the U.S. and the FCC rules must reflect the Treaty requirements.

For more information contact Daniel Yates at (202) 653-6288.

Action by the Commission May 13, 1982, by Fifth Notice of Inquiry (FCC 82-213). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

**Note.**—Due to the continuing effort to minimize printing costs, the Fifth Notice of Inquiry will not be published herein. However, copies may be obtained from any of the various distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554, Tel. No. (202) 254-7674.

**William J. Tricarico,**  
*Secretary, Federal Communications  
Commission.*

[FR Doc. 82-15632 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

# Notices

Federal Register

Vol. 47, No. 116

Wednesday, June 16, 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

### Office of the Secretary

#### Forms Under Review by Office of Management and Budget

June 11, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447-6201.

#### New

• Statistical Reporting Service  
Production Input and Cropping Practice Survey  
Annually

Farms: 580 responses; 290 hours; not applicable under 3504(h)

Lee Sandberg (202) 447-6620

#### Revised

• Rural Electrification Administration  
Electric Loan Application Packet  
REA Form 740a, 740c, 740g, Bulletin 60-2  
On occasion

Businesses or other institutions: 3,165 responses; 7,800 hours; not applicable under 3504(h)

Charles Weaver (202) 382-1400

#### Extension

• Agricultural Stabilization and Conservation Service

Report of Acreage

ASCS-578

Annually

Farms: 2,000,000 responses; 1,500,000 hours; not applicable under 3504(h)

H. Woodrow Jones (202) 447-3472

• Forest Service

Application for Transportation and Utility Systems and Facilities of Federal Lands

SF-299

Nonrecurring

Individuals or households; State or local governments; farms; businesses or other institutions; 2,050 responses; 6,150 hours; not applicable under 3504(h)

James Dear (703) 235-2410

• Forest Service

Request for Termination of and Application for Special Use Permit

FS-2700-3A

Nonrecurring

Individuals or households; State or local governments; farms; businesses or other institutions; 1,000 responses; 250 hours; not applicable under 3504(h)

James Dear (703) 235-2410

#### Reinstatement

• Food and Nutrition Service  
Pilot Retailer/Bank Food Stamp Redemption Certificate

FNS-278

On occasion

Businesses or other institutions: 709,668 responses; 9,857 hours; not applicable under 3504(h)

Victor Riche (703) 756-3800

Richard J. Schrimper,  
Statistical Clearance Officer.

[FR Doc. 82-16222 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-01-M

## Forest Service

### Lomex Prospecting; Los Padres National Forest, San Luis Obispo County, California; Environmental Impact Statement Cancellation Notice

Dated: June 7, 1982.

Lomex Corporation, now the Caithness Corporation of New York, has withdrawn its proposal for mineral exploration for uranium and other minerals in the Navajo area of San Luis Obispo County.

Therefore, the Notice of Intent, published in the Federal Register of August 15, 1980 is hereby rescinded (45 FR 54386).

For further information contact: Christine A. Rose, Environmental Coordinator, Los Padres National Forest, 42 Aero Camino, Goleta, CA 93117; telephone 805-968-1578 or 8-960-7578.

Frederik G. deHoll,

Forest Supervisor.

[FR Doc. 82-16184 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-11-M

### Vegetation Management Program for Siuslaw National Forest in Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties, Oregon; Environmental Assessment

An environmental assessment that discusses the Siuslaw National Forest Vegetation Management Program for site preparation, conifer release, roadside vegetation management, and control of noxious weeds, on the Alsea, Hebo, Mapleton, and Waldport Ranger Districts has been prepared. The assessment is available for public review at the Forest Service District Offices in Alsea, Hebo, Mapleton, and Waldport, Oregon, and the Supervisor's Office in Corvallis, Oregon.

Due to substantial changes in the Forest's site preparation needs, the original Vegetation Management Program decision made on March 19, 1982 was rescinded on May 3, 1982. The environmental analysis re-assessed the public issues, management concerns, opportunities, and the current program needs. The evaluation criteria used to evaluate alternative treatments were: Potential for achieving treatment objectives; potential for exposing the public to herbicides; opportunity for

immediate employment; and effects on non-target plants and animals.

Seven alternative treatments were considered in the analysis. These alternatives were: (1) No treatment; (2) mechanical treatment by manual means; (3) mechanical treatment by machine; (4) biological treatment; (5) direct application of herbicides to individual plants; (6) broadcast application of herbicides from the ground; and (7) broadcast application of herbicides from helicopters.

Based on the analysis and evaluation described in the environmental assessment, it is my decision to implement the preferred alternative for each unit and/or project recommended by the Forest interdisciplinary team. This Forest Vegetation Management Program is considered environmentally preferable since each treatment area will insure optimum vegetation management with respect to environmental concerns, physiological effectiveness, and public concerns, while achieving the current Forest resource management objectives.

Under the implemented Forest program, the maximum acres to be treated by alternative and chemical(s) available for those relevant chemical alternatives are displayed below.

Alternative treatments	Purpose	Size	Chemicals
1.....	None.....	907 acres.....	N/A.
2.....	Release.....	1,041 acres.....	N/A.
3.....	Site Preparation.....	10 acres.....	N/A.
4.....	Noxious Weeds.....	0.....	N/A.
5.....	Release.....	1,570 acres.....	Tordon, 2,4-D.
6.....	Noxious Weeds.....	77 acres.....	Banvel, 2,4-D.
	Roadside Management.....	831 miles.....	2,4-D.
7.....	Site Preparation.....	789 acres.....	Roundup.
	Release.....	1,719 acres.....	Krenite, Roundup.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This determination was made considering the following: (1) Management requirements, constraints, mitigation measures, and monitoring insure against the potential of significant adverse effects; (2) there are no apparent adverse cumulative or secondary effects; (3) there is no irretrievable loss of timber production; (4) no known threatened or endangered plants or animals are within the affected area; (5) there will be no adverse effects, loss, or destruction of any cultural or historical resources; (6) all chemicals included are approved by EPA for the

proposed uses, and the application of these chemicals will comply with pertinent EPA labels, State and Federal laws, and Forest Service policies; and (7) the program is in accordance with the requirements and direction in the R-6 FEIS on the Methods of Managing Competing Vegetation, Forest 10-Year Timber Resource Plan, higher-order unit plans, and the Oregon Coastal Management Programs.

Project implementation will take place immediately. This decision is subject to administrative (Appeal) pursuant to 36 CFR 211.19. A notice of appeal must be filed with the Forest Supervisor within 45 days from the date of this decision.

Donald H. James,

Acting Forest Supervisor.

June 3, 1982.

[FR Doc. 82-16229 Filed 6-15-82; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Order No. 41-1, Amdt. 3; D.O.O. Reference 10-3, 40-1]

### International Trade Administration; Statement of Organization and Function and Delegation of Authority

Effective date: May 18, 1982.

This order further amends ITA Organization and Function Order 41-1 of February 15, 1982 (47 FR 14205) to reflect the transfer of export compliance functions relating to national security, foreign policy, and antiboycott programs from the Deputy Assistant Secretary for Export Administration to the newly established Deputy Assistant Secretary for Export Enforcement.

1. The first phrase of the introductory paragraph to section 2 of Part VI is amended to read:

"The Assistant Secretary for Trade Administration directs the activities of the Deputy Assistant Secretaries for Import Administration, Export Administration, and Export Enforcement;"

2. The lead paragraph of section 2.02 of Part VI is revised to read:

".02 The Deputy Assistant Secretary for Export Administration carries out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply, and ensuring industrial mobilization and resource administration for the national defense. The DAS directs the following offices:"

3. The second phrase of Part VI, section 2.02a, relating to enforcement of

the Export Administration Act of 1979, is removed.

4. Subparagraph c of section 2.02 of Part VI is relettered as "b" and the reference to "Office of Export Administration" in the last phrase is amended to read "Office of Export Compliance."

5. Section 2.03 is added to Part VI to read:

".03 The Deputy Assistant Secretary for Export Enforcement carries out, in consultation with the Office of General Counsel, a compliance program to enforce the Export Administration Regulations relating to foreign boycotts against countries friendly to the United States and to exports of U.S. goods and technology for purposes of national security and foreign policy, and administers programs for opposing such boycotts. The DAS directs the following offices:

a. The Office of Export Compliance, in consultation with the Office of General Counsel, enforces the Export Administration Regulations relating to exports of U.S. goods and technology for purposes of national security and foreign policy."

6. Subparagraph b of section 2.02 of Part VI is renumbered as "Section 2.03b."

7. The attached organization chart<sup>1</sup> supersedes the chart attached to Amendment 1 to ITA Organization and Function Order 41-1 of March 22, 1982.

Lionel H. Olmer,

Under Secretary for International Trade.

[FR Doc. 82-16226 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-25-M

## National Oceanic and Atmospheric Administration

### Public Hearing on the Hudson River Estuarine Sanctuary: Draft Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing notice.

SUMMARY: Notice is hereby given that the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Hudson River Estuarine Sanctuary.

<sup>1</sup> Filed as part of the original document.

The hearings will be held at the following times and places:

Monday, July 19, 1982 at 7:00 p.m.—Piermont Village Hall (comments on Piermont and Iona Island).

Tuesday, July 20, 1982 at 7:00 p.m.—Red Hook Town Hall (comments on Tivoli).

Wednesday, July 21, 1982 at 7:00 p.m.—Stockport Town Hall at Stottville (comments on Stockport).

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Hudson River Estuarine Sanctuary are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. The time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but the OCZM/NOAA hearing staff will record and summarize the comments for the Final Environmental Impact Statement (FEIS). All comments received at the hearing and those submitted in writing will be considered in the preparation of the FEIS.

The comment period for this draft environmental impact statement will end on Monday, August 2, 1982. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Copies of the DEIS may be obtained from the NEPA Compliance Coordinator Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (Telephone: 202/634-4120).

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

Dated: June 11, 1982.

**William Matuszeski,**  
*Acting Assistant Administrator for Coastal Zone Management.*

[FR Doc. 82-16244 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-08-M

### New York Coastal Management Program; Draft Environment Statement; Public Hearing

**AGENCY:** Office of Coastal Zone Management (OCZM), Commerce.

**ACTION:** Public Hearing Notice on the New York Coastal Management Program—Draft Environmental Impact Statement.

Notice is hereby given that the Office of Coastal Zone Management (OCZM),

National Oceanic and Atmospheric Administration (NOAA), U.S.

Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed New York Coastal Management Program.

The hearings will be held at the following times and places:

Monday, July 12, 1982 at 2:00 p.m.—Gen'l Donovan State Office Bldg., Hearing Room 1, 125 Main Street, Buffalo, NY

Tuesday, July 13, 1982 at 2:00 p.m.—Legislative Office Bldg., Hearing Room A, State Street, Albany, NY

Wednesday, July 14, 1982 at 5:30 p.m.—Hearing Room G, 6th Floor, 270 Broadway, New York, NY

The views of interested persons and organizations on the adequacy of the impact statement and the proposed New York Coastal Management Program are solicited, and may be expressed orally or in written statements. Presentations will be scheduled on a first-come, first-heard basis, and may be limited to a maximum of 5 minutes. This time allotment may be extended before the hearing when the number of speakers can be determined. No verbatim transcript of the hearing will be prepared, but the OCZM/NOAA hearing staff will record and summarize the comments for the Final Environmental Impact Statement (FEIS). All comments received at the hearing and those submitted in writing will be considered in the preparation of the FEIS.

The comment period for this DEIS will end on Monday, July 26, 1982. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Copies of the DEIS may be obtained from the NEPA Compliance Coordinator, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (Telephone: (202) 634-4120).

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: June 11, 1982.

**William Matuszeski,**  
*Acting Assistant Administrator for Coastal Zone Management.*

[FR Doc. 82-16243 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-08-M

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Announcing Additional Import Controls on Certain Cotton and Man-Made Fiber Textile Products from Thailand; Correction

June 11, 1982.

On June 3, 1982, there was published in the *Federal Register* (47 FR 24172) a letter dated May 28, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established import controls on cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1982. Paragraph 3 of the letter to the Commissioner of Customs should be corrected to read as follows:

Textile products in Categories 314, 336, and 647/648 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

The letter which follows this notice amends the letter of May 28, 1982 to include this change.

**Arthur Garel,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

June 11, 1982.

#### Committee for the Implementation of Textile Agreements

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

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of May 28, 1982 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 314, 336, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1982, in excess of designated levels of restraint.

Paragraph 3 of that letter should be corrected to read as follows: Textile products in Categories 314, 336, and 647/648 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

This letter will be published in the *Federal Register*.

Sincerely,

**Arthur Garel,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 82-16259 Filed 6-15-82; 8:45 am]

BILLING CODE 3510-25-M

**DEPARTMENT OF DEFENSE****Department of the Army****Privacy Act of 1974; Amendments to Systems of Records****AGENCY:** Department of the Army, DOD.**ACTION:** Proposed deletions of and amendments to notices concerning systems of records.

**SUMMARY:** The Department of the Army proposes to delete three and amend six system notices for systems of records subject to the Privacy Act. Following identification of changes proposed, notices being amended are printed in their entirety.

**DATE:** Actions shall be effective July 16, 1982 unless public comments are received which result in a contrary determination.

**ADDRESS:** Comments may be submitted to Headquarters, Department of the Army, Attn.: DAAG-AMR-R, Room 1146, Hoffman Building 1, Alexandria, VA 22331.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Dorothy Karkanen, Office of the Adjutant General, Department of the Army at the above address; telephone: (703) 325-6163.

**SUPPLEMENTARY INFORMATION:** The Department of the Army's inventory of systems of records subject to the Privacy Act of 1974 appears in the following editions of the *Federal Register*:

FR Doc 79-37052 (44 FR 73729), December 17, 1979

FR Doc 81-897 (46 FR 6460), January 21, 1981

FR Doc 82-674 (47 FR 2544), January 18, 1982

FR Doc 82-5277 (47 FR 8610), March 1, 1982

FR Doc 82-11002 (47 FR 17324), April 22, 1982

FR Doc 82-12993 (47 FR 20654), May 13, 1982

System notices being amended do not require a report of an altered system pursuant to 5 U.S.C. 552a(o), as implemented by Transmittal Memoranda 1 and 3 to OMB Circular A-108.

M. S. Healy,

OSD Federal Register Liaison Officer,  
Department of Defense.

June 11, 1982.

**DELETIONS****AO907.02DASG***System name:*

US Army Reserve Office Training Corps Medical Examination Files (44 FR 73923), December 17, 1979.

*Reason:*

Records are described in system notice AO903.07DASG being amended in this *Federal Register*.

**AO907.04DASG***System name:*

US Military Academy Medical Qualifications Files (44 FR 73924), December 17, 1979.

*Reason:*

Records are described in system notice AO903.07DASG being amended in this *Federal Register*.

**AO924.02DASG***System name:*

Family Index Files (44 FR 73941), December 17, 1979.

*Reason:*

Records are described in system notice AO924.01DASG being amended in this *Federal Register*.

**AMENDMENTS****AO508.17aDAPE***Changes:**System name:*

After "Police", insert "Law Enforcement".

*System location:*

Delete entries and substitute the following: "The Army installation which created the Military Police (MP) report retains a copy; original of special categories of MP investigations—determined by type of crime and identified in Army Regulation 190-45—is forwarded to the Crime Records Center, Ft Holabird, MD.

"A cross-reference index in either manual or automated media may exist at intermediate and higher command levels.

"Statistical data are derived from individual reports and stored in automated media at major Army commands and HQDA for the purposes of (1) developing crime trends by major categories (i.e., rape and sex, blackmarketing, drugs, crimes of violence, crimes against property, other crimes of misconduct), and (2) making comparative analyses within crime categories by rank, sex, race, and type offender (i.e., first-time, repeat), organizational or geographic determinant. Such statistics, however, are not used to make determinations about the rights, benefits, or entitlements of individuals."

*Categories of individuals covered by the system:*

Delete entries and add the following: "Any individual who is the subject, victim, complainant, witness, or suspect in a criminal, civil, or traffic offense."

*Categories of records in the system:*

Delete entry; substitute therefor: "Alleged or founded criminal information directed against or involving the Army, which may be related to local criminal investigative files, and comprising the following: MP reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, commanders reports of disciplinary action taken, and disposition of cases. Personal information includes individual's name, grade/rank, organization, affiliation, social security account number, category of offense, involvement, and case number."

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Delete entry and substitute the following: "Purpose of this system is to provide detailed information necessary for Army officials, commanders, and civil/criminal justice agencies to discharge their responsibilities for maintaining discipline, law and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order. Statistical information is compiled for determining crime trends and making comparative analyses.

"May be disclosed to criminal justice agencies for investigation and prosecution when cases are either within their jurisdiction or when concurrent jurisdiction applies. These include: Federal Bureau of Investigation, Drug Enforcement Administration, US Customs Service, Bureau of Alcohol, Tobacco, and Firearms, US District Courts, US Magistrates, State and local law enforcement agencies; local wildlife conservation agencies, and, in overseas areas, host government law enforcement agencies."

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**Retrievability:*

Delete entry; add the following: "By case number, individual's name, date of birth, Social Security Number."

*System manager(s) and address:*

Delete second entry.

*Notification procedure:*

Delete entry; add the following: "Individuals wishing to inquire whether this system contains information about

them should write to the commander of the installation where incident occurred; if more than five years have elapsed since occurrence of incident, inquiry may be made of the Crime Records Center, Ft Holabird, MD. Individual should provide full name, SSN, and details as to date and place of incident about which inquiry is made."

**Record access procedures:**

Delete entry; substitute the following: "Individual desiring access to his/her records should follow the requirements in "Notification procedure", sign the request and have it notarized."

**Contesting record procedures:**

Delete entry; substitute the following: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505)."

**Systems exempted from certain provisions of the act:**

Delete entry and substitute therefor: "All portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g)."

**A0706.06aUSAREC**

**System name:**

Armed Forces Examining and Entrance Station Reporting System (44 FR 73864), December 17, 1979.

**Changes:**

**System ID:**

Change to read: "A0704.04bMEPCOM".

**System name:**

Delete "706.06 Armed Forces Examining and Entrance Station"; insert "Military Entrance Processing \* \* \*".

**System location:**

After "Primary system", delete entry and insert: "US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088"

Delete "Decentralized Segments \* \* \* AFEES" and insert: "Secondary: 73 locations at MEPCOM sector headquarters and individual Military Entrance Processing Stations (MEPS) located in the United States. (Addresses can be obtained from MEPCOM.)"

**Categories of individuals covered by the system:**

Delete entry; substitute therefor: "All individuals who report to a Military Entrance Processing Station to be

aptitudinally tested and/or physically examined to determine their fitness for entry into one of the Armed Services."

**Categories of records in the system:**

Delete entry; substitute: "Individual's name, Social Security Number, date and place of birth, home address and telephone number; results of aptitude tests, physical examinations, and relevant documentation concerning individuals's acceptance/rejection for military service."

**Authority for maintenance of the system:**

Delete entry and substitute therefor: "10 U.S.C. 505, 511; 50 U.S.C. 451-473."

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Delete all information and insert the following: "By the US Military Enlistment Processing Command for determining qualifications of applicants for the Armed Forces through aptitude testing, medical examination, and administrative processing. Information is used also for statistical analyses within the Department of Defense to determine patterns and trends in the military population."

"Information from this system is disclosed to the Selective Service System to update the SSS registrant data base."

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:**

Before information now listed, insert: "Paper records;"

**Safeguards:**

Delete information; substitute the following: "All data are retained in locked rooms/compartments with access limited to designated personnel having an official need to know. Access to computerized data is by use of a valid site ID number assigned to the individual terminal and by a valid user ID and password code assigned to the individual user, changed periodically to avoid compromise. Data entry is on-line using a dial-up terminal. Physical access to computer files is controlled by keys known only to MEPCOM and MEPS personnel assigned to work on the data base."

**Retention and disposal:**

Delete entry and insert: "Each MEPS retains a copy of coding sheets for each applicant, plus a copy of the Application for Enlistment on accepted applicants for 6 months after which they are

destroyed. For applicants who are not accepted, each MEPS retains a copy of the Report of Medical Examination with supporting documents, the Report of Medical History, and the Coding Sheets for a period not to exceed 2 years after which they are destroyed. Original or copy of documents is filed permanently in the Official Military Personnel File for acceptable applicants and transferred to the gaining Armed Service. All information is transferred to magnetic tapes at the primary site and retained for 7 years, after which it is erased."

**System manager(s) and address:**

Delete entry and substitute therefor: "Commander, US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088."

**Notification procedure:**

Delete entry and substitute: "Individuals desiring to know whether this system of records contains information on them should write to the System Manager, furnishing their full name, Social Security Number, date and location of the Military Enlistment Processing Station (MEPS) (formerly named Armed Forces Examining and Entrance Stations (AFEES)) where the testing or examination occurred, and signature."

**Record access procedures:**

Delete entry; substitute: "Individuals desiring access to records concerning them should write to the system manager furnishing information identified under "Notification procedure". On personal visits, individual should provide acceptable identification such as valid driver's license, employer identification card, building pass, etc."

**Contesting record procedures:**

After "determinations", delete remainder; insert: "are contained in Army Regulation 340-21 (32 CFR Part 505)".

**Record source categories:**

Delete entry; substitute: "From the individual, physicians, results of tests, Federal/State/local law enforcement activities/agencies."

**A0708.02cDAPC**

**System name:**

Officer Personnel Management Information System (OPMIS) (44 FR 73871), December 17, 1979.

**Changes:**

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Add the following: "Smithsonian Institution (The National Museum of American History): Copy of the US Army Active Duty Register, for historical research purposes (not authorized for public display)."

**A0708.02dDAPC**

**System name:**

Enlisted Personnel Management Information System (EPMIS) (47 FR 2581), January 18, 1982.

**Changes:****System location:**

Add: "The Enlisted Evaluation System is maintained at US Army Enlisted Records Evaluation Center, Ft. Benjamin Harrison, IN 46249."

**Category of records in the system:**

Add the following paragraph: "Enlisted Evaluation System contains selected information from the EMF and the Soldiers' Primary and Career Progression Military Occupational Specialties, Skill Qualification Test data, enlisted evaluation scores used to create the Enlisted Evaluation Report Weighted Average, and other enlisted evaluation report data."

**Notification procedures:**

Change period to comma and add: " \* \* \* except that information regarding the enlisted evaluation system should be obtained from the Commander, US Army Enlisted Records Evaluation Center, Ft. Benjamin Harrison, IN 46249; (317) 542-3262."

**Record access procedures:**

After "Visits are limited to MILPERCEN \* \* \* 22332", change period to comma and add: " \* \* \* except that information from the enlisted evaluation system should be obtained from either the servicing military personnel office, the headquarters of the individual's organizational station, or US Army Enlisted Records Evaluation Center."

**AO903.07DASG**

**System name:**

Entrance Medical Examination Files (44 FR 73919), December 17, 1979.

**Changes:****System location:**

Delete entries; substitute therefor: "Primary: Army medical examining facilities or Military Enlistment Processing Stations (for enlistees);

**"Secondary location:**

Department of Defense Medical Review Board, US Academy, CO 80840 (except for reservists)."

**Categories of individuals covered by the system:**

Delete entry; substitute therefor: "Individuals who (a) enroll in the ROTC program, (b) enlist or are appointed in the US Army or US Army Reserves, or (c) are appointed as a cadet to the US Military Academy."

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

Delete information and substitute therefor: "Used by the Department of the Army to determine medical acceptance of applicant for military service and thereafter to properly assign and utilize individual. Management data are derived and used by Health Services Command to evaluate effectiveness of procurement medical standards."

"Used by the Department of Defense Medical Review Board to insure the application of uniform DOD medical standards."

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:****Storage:**

Change period to semicolon and add: "selected management data are stored on word processing or ADP disks to tapes."

**Retrievability:**

Delete entry; substitute therefor: "By individual's surname".

**Retention and disposal:**

Delete all information; substitute therefor: "Original SF 88 and 93 become permanent documents in individual's Health Record; 1 copy of these forms and supporting documentation is retained by the Army or Military Enlistment Processing Station examining facility for 1 year; 1 copy is forwarded to the DOD Medical Review Board where it is retained for 5 years."

"Records of individuals rejected for military service are retained for statistical analyses, but for no longer than 2 years, after which they are destroyed."

**Notification procedure:**

Change entry to read: "Individuals wishing to know whether or not this system contains information on them should write to the Commander of the medical examining facility where physical examination was given;

individual should furnish his/her full name, Social Security Number, home address, approximate date of the examination, and signature."

**Record access procedures:**

Change entry to read: "Individuals who desire access to records pertaining to them should furnish the information required under "Notification procedure" above."

**Contesting record procedures:**

After "determinations", delete remainder and add: "are contained in Army Regulation 340-21 (32 CFR Part 505)."

**Record source categories:**

Delete information; substitute therefor: "From the individual; from physicians and other medical personnel."

**AO924.01DASG**

**System name:**

Health Nursing Case Files (44 FR 73941), December 17, 1979.

**Changes:****System name:**

Delete present name; substitute therefor: "Army Community Health Nursing Records—Family Records".

**Authority:**

Delete reference to "Title 44 U.S.C. 3101".

**Contesting record procedures:**

After "determinations", delete remainder and substitute therefor: "are contained in Army Regulation 340-21 (32 CFR Part 505)."

**Record source categories:**

Change entry to read: "From the individual, family members, other persons having information relevant to health of family members; educational institutions; civilian health, welfare, and recreational agencies; civilian law enforcement agencies."

**AO508.17aDAPE**

**SYSTEM NAME:**

Military Police Law Enforcement Reporting System

**SYSTEM LOCATION:**

The Army installation which created the Military Police (MP) report retains a copy; original of special categories of MP investigations—determined by type of crime and identified in Army Regulation 190-45—is forwarded to the Crime Records Center, Ft. Holabird, Md.

A cross-reference index in either manual or automated media may exist at intermediate and higher command levels.

Statistical data are derived from individual reports and stored in automated media at major Army commands and HQDA for the purposes of (1) developing crime trends by major categories (i.e., rape and sex, blackmarketing, drugs, crimes of violence, crimes against property, other crimes of misconduct), and (2) making comparative analyses within crime categories by rank, sex, race, and type offender (i.e., first-time, repeat), organizational or geographical determinant. Such statistics, however, are not used to make determinations about the rights, benefits, or entitlements of individuals.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any individual who is the subject, victim, complainant, witness, or suspect in a criminal, civil, or traffic offense.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Alleged or founded criminal information directed against or involving the Army which may be related to local criminal investigative files and comprising the following: MP reports or similar reports containing investigative data, supporting or sworn statements, affidavits, provisional passes, receipts for prisoners or detained persons, commanders reports of disciplinary action taken, and disposition of cases. Personal information includes individual's name, grade/rank, organization, affiliation, social security account number, category of offense, involvement, and case number.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 3012(g).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Purpose of this system is to provide detailed information necessary for Army officials, commanders, and civil/criminal justice agencies to discharge their responsibilities for maintaining discipline, law and order through investigation of complaints and incidents and possible criminal prosecution, civil court action, or regulatory order. Statistical information is compiled for determining crime trends and making comparative analyses.

May be disclosed to criminal justice agencies for investigation and prosecution when cases are either within their jurisdiction or when

concurrent jurisdiction applies. These include: Federal Bureau of Investigation; Drug Enforcement Administration; US Customs Service; Bureau of Alcohol, Tobacco and Firearms; US District Courts; US Magistrates; State and local law enforcement agencies; local wildlife conservation agencies; and, in overseas areas, host government law enforcement agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders; microfiche; magnetic tapes and disc; punched cards; and computer printouts.

**RETRIEVABILITY:**

By case number; individual's name, date of birth, SSN.

**SAFEGUARDS:**

Distribution controls are specified by Army Regulation 190-45; only authorized personnel have access to information in this system. Physical security measures include locked containers/storage areas, controlled personnel access, and continuous presence of authorized personnel.

**RETENTION AND DISPOSAL:**

Information is destroyed after 5 years except for that required by Army Regulation 190-45 to be sent to the Crime Records Center which is retained 40 years following final action.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington DC 20310.

**NOTIFICATION PROCEDURE:**

Individuals wishing to inquire whether this system contains information about them should write to the commander of the installation where incident occurred; if more than five years have elapsed since occurrence of incident, inquiry may be made of the Crime Records Center, Ft. Holabird, MD. Individual should provide full name, SSN, and details as to date and place of incident about which inquiry is made.

**RECORD ACCESS PROCEDURES:**

Individual desiring access to his/her records should follow the requirements in "Notification procedures", sign the request and have it notarized.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual; witnesses; victims; subjects; Military Police; US Army Criminal Investigation Command special agents; informants; investigative and law enforcement persons of Federal, state, local, and foreign government agencies; any source which may supply pertinent information.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

All portions of this system which fall within 5 U.S.C. 552a(j)(2) are exempted from the following provisions of Title 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f), and (g).

**AO704.04bMEPCOM**

**SYSTEM:**

Military Entrance Processing Reporting System (MEPRS)

**SYSTEM LOCATION:**

Primary: US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088.

Secondary: 73 locations at Military Enlistment Processing Command sector headquarters and individual Military Entrance Processing Stations located in the United States. (Addresses can be obtained from MEPCOM.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals who report to a Military Entrance Processing Station to be aptitudinally tested and/or physically examined to determine their fitness for entry into one of the Armed Services.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name, Social Security Number, date and place of birth, home address and telephone number, date and place of birth, results of aptitude tests, physical examinations, and relevant documentation concerning individual's acceptance/rejection for military service.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 505, 511; 50 U.S.C. 451-473.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

By the US Military Enlistment Processing Command for determining qualifications of applicants for the Armed Forces through aptitude testing, medical examination, and administrative processing. Information is used also for statistical analyses within the Department of Defense to

determine patterns and trends in the military population.

Information from this system is disclosed to the Selective Service System to update the SSS registrant data base.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records, computer magnetic tape.

**RETRIEVABILITY:**

By Social Security Number.

**SAFEGUARDS:**

All data are retained in locked rooms/compartments with access limited to designated personnel having an official need to know. Access to computerized data is by use of a valid site ID number assigned to the individual terminal and by a valid user ID and password code assigned to the individual user, changed periodically to avoid compromise. Data entry is on-line using a dial-up terminal. Physical access to computer files is controlled by keys known only to MEPCOM and MEPS personnel assigned to work on the data base.

**RETENTION AND DISPOSAL:**

Each MEPS retains a copy of coding sheets for each applicant, plus a copy of the Application for Enlistment on accepted applicants for 6 months after which they are destroyed. For applicants who are not accepted, each MEPS retains a copy of the Report of Medical Examination with supporting documents, the Report of Medical History, and the Coding Sheets for a period not to exceed 2 years after which they are destroyed. Original or copy of documents is filed permanently in the Official Military Personnel File for acceptable applicants and transferred to the gaining Armed Service. All information is transferred to magnetic tapes at the primary site and retained for 7 years, after which it is erased.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Military Enlistment Processing Command, US Naval Training Center, Great Lakes, IL 60088.

**NOTIFICATION PROCEDURE:**

Individuals desiring to know whether this system of records contains information on them should write to the System Manager, furnishing their full name, Social Security Number, date and location of the Military Enlistment Processing Station (MES) (formerly named Armed Forces Examining and Entrance Stations (AFEESS)) where the

testing or examination occurred, and signature.

**RECORD ACCESS PROCEDURES:**

Individuals desiring access to records concerning them should write to the system manager furnishing information identified under "Notification procedure". On personal visits, individual should provide acceptable identification such as valid driver's license, employer identification card, building pass, etc.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual, physicians, results of tests, Federal/State/local law enforcement activities/agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**AO708.02cDAPC**

**SYSTEM NAME:**

Officer Personnel Management Information System (OPMIS)

**SYSTEM LOCATION:**

US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals projected for entrance into the Army officer corps; Army officer and warrant officer personnel projected to enter on active duty, on active duty, separated, or in retired status; individuals, civilian and military, who serve as senior rating officials on the officer evaluation reports (OERs) of Army officers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Officer Master File (OMF) contains name, social security number (SSN), grade and date of rank, appointment and service agreement, service data and date, promotion, assignment, qualifications, specialties, efficiency, education and training, occupation, language, career pattern, awards and badges, physical location, separation, retirement, date and place of birth, race, religion, ethnic group, dependents, sex, citizenship, marital status, and mailing address.

Officer Accession Suspense Information System (OASIS) contains selected information from the OMF, date of entry on active duty, temporary duty

data, and permanent change of station data.

Officer Evaluation Reporting System (OERS) contains selected information from the OMF; selection board status; OER suspense indicator for action being taken to obtain mission or erroneous OER; selected information for each of the last ten OERs; and the name, SSN, and rating history of each individual, military and civilian, who has served as the senior rating official for an active duty Army officer.

Assignments and Training Selection for ROTC graduates contains selected information from the OMF, the cadet's preference statement for specialty (branch), duty and initial training; Reserve Forces duty or delay selection, Regular Army selection, and branch selection.

Officer Personnel Utilization System (OPUS) contains selected information from the OMF, projected assignment information for accessions and officers or warrant officers who are being reassigned.

Reserve Officer Training Corps (ROTC) Instructor File contains selected information from the OMF and the following information pertaining to ROTC instructors; ROTC detachment, duty station, date assigned to ROTC detachment, date projected to be reassigned.

Officer Fully Funded Civil School File contains selected information from the OMF and the following information concerning officer and warrant officer personnel participating or who have participated in the Army sponsored degree completion program; school attended, start and completion dates, degree level and discipline, and Army Education Requirements Board (AERB) positions.

Officer Partially Funded Civil School File contains the same type information maintained in the Fully Funded Civil School File for officer and warrant officer personnel participating or who have participated in the Army partially sponsored degree completion program.

Army Education Requirements Board (AERB) File contains selected information from the OMF for officer and warrant officer personnel who are serving or are projected to serve in an AERB approved position requiring graduate level education.

Distribution Management File contains selected information from the OMF and summary manner of performance data for MILPERCEN managed officers.

USMA Potential Instructor File contains selected information from the OMF and the following information

pertaining to previous, current, and potential instructors for the US Military Academy teaching staff; academic department and projected availability for USMA instructor duty.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 10 U.S.C. 3012.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

By the Department of the Army: For personnel management, strength accounting, manpower management, accessioning and determining basic entry specialty (branch) and initial duty assignments; tracking OER; monitoring actions to obtain missing, late, erroneous OER; tracking the rating history of senior rating officials; posting of the senior rating official's rating history on individual OER; producing reports on active duty officers who have served as senior rating officials for inclusion in their Official Military Personnel File; managing instructor population at ROTC detachments and USMA; tracking information relating to the Army Degree Completion Civil School Program; transmitting necessary assignment instructions.

By the Department of Defense: for interdepartmental actions and personnel management.

By Social Security Administration: to verify SSNs.

By General Services Administration: to publish US Army Registers as authorized by 10 U.S.C. 122.

By the Smithsonian Institution (The National Museum of American History): Copy of the US Army Active Duty Register, for historical Research purposes (not authorized for public display).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer magnetic tapes and disks.

**RETRIEVABILITY:**

By SSN, name, or other individual identifying characteristics.

**SAFEGUARDS:**

Physical security devices, guards, computer hardware and software safeguard features, and personnel clearances. Magnetic tape is maintained in an area accessible only to authorized personnel. Automated media protected by authorized password for system, controlled access to operator rooms, and controlled output distribution.

**RETENTION AND DISPOSAL:**

Records are retained on the active OMF files for 4 months after separation. Historical OMF records are retained dating back to FY 1970. Accessions in OASIS are retained on active file until effective date of accession and are then placed on a history file for a period of 6 months. Records in the ROTC Graduate Assignment and Training Selection File are retained for approximately 400 days after the file is created (approximately December each year). Historic files for the OER system are retained for the life of the system. All other records are retained for active duty only until the individual is released from active duty and then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

**NOTIFICATION PROCEDURE:**

Information may be obtained from US Army Military Personnel Center (DAPC-MSO-S), 200 Stovall Street, Alexandria, VA 22332; telephone: (202) 325-9305.

**RECORD ACCESS PROCEDURES:**

Requests from individuals should be addressed to US Army Military Personnel Center (DAPC-MSO-S), 200 Stovall Street, Alexandria, VA 22332. Written requests should contain the individual's full name, social security number, whether awaiting active duty, active, retired, or separated; return address; and must identify the specific category of record involved. Blanket requests against this consolidated system will not be accepted. If separated, individual must state date of separation; if awaiting active duty, specify date thereof.

Visits are limited to US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA. Individual must provide acceptable identification and verbal information that can be verified with his/her record.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

Information is obtained in document and computer readable form from other DA Staff and commands, other Federal agencies and departments, and individuals.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**A0708.02dDAPC**

**SYSTEM NAME:**

Enlisted Personnel Management Information System (EPMIS).

**SYSTEM LOCATION:**

US Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332. (The Enlisted Evaluation System is maintained at US Army Enlisted Records Evaluation Center, Ft Benjamin Harrison, IN 46249.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Army enlisted personnel on active duty, non-prior service and prior service personnel who either have or indicate a desire to enlist in the US Army, US Army National Guard, or US Army Reserves, initial active duty training personnel undergoing basic training or advanced individual training, former military personnel who are applicants for enlistment in grades E-1 to -9.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Enlisted Master File (EMF) contains name, Social Security Number (SSN), sex, race, citizenship, religion, marital status, dependents, date and place of birth, residence, assignments, physical profile, ethnic group, grade/date of rank, enlistment and service promotion, qualifications, Military Occupational Skill code, education and training, aptitude, separation, retirement, and mailing address.

Recruit Quota System (REQUEST) contains selected information from the EMF and soldier's educational level achieved and school subjects, driver's license, color perception, aptitude battery scores, audio perception score, defense language aptitude battery score, motor vehicle battery test score, type of enlistment and date, term, and option; initial processing and training assignments, types, locations, and dates; unit of assignment identification, system identification of location that created accession record, recruiter identification and recruiting area credit code.

Enlisted Training Base contains selected information from EMF and the soldier's enlistment and service, assignment, enlistment commitments by MOS and type, college subjects, civilian acquired skills, advanced or basic individual training start and graduation date, location, and MOS, follow-on MOS, location training recommended versus preferred, aptitude area scores and categories.

Enlisted Year Group Management File (RETAIN) contains selected information from the EMF and control number, reclassification/enlistment action, type

of enlistment basic active service date, estimated termination of service, reenlistment date, civilian education, career management field, primary military occupational specialty code and date of award, source of new primary occupational specialty code, personnel charged to school code, status of application, assignment code, date of last status change, current location, year group, security investigation status, and term reenlisted.

Enlisted Linquist Data Base contains selected information from EMF and foreign language code, listening and reading proficiency, ratings and scores, dates of evaluation test or interview, how each language capability was acquired with the principal type, highest level and date of recency for each foreign language in which proficient.

Enlisted Evaluation System contains selected information from the EMF and the soldiers' primary and career progression military occupational specialties, skill qualification test data, enlisted evaluation scores used to create the Enlisted Evaluation Report Weighted Average, and other enlisted evaluation report data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. section 301.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

By the Department of the Army: for personnel management, strength accounting, and manpower management. Within the Department of Defense, information is used for interdepartmental actions and personnel management.

By Social Security Administration: to verify SSNs.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer magnetic tapes and disks; hard copy computer printouts.

**RETRIEVABILITY:**

SSN, name, or other individually identifying characteristics.

**SAFEGUARDS:**

Information is protected by physical security devices, guards, computer hardware and software safeguard features, personnel clearances and passwords.

**RETENTION AND DISPOSAL:**

Records are retained 5 years after separation except enlisted linguist data

base records which are retained 6 months after separation.

**SYSTEM MANAGER(S) AND ADDRESS:**

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

**NOTIFICATION PROCEDURE:**

Information may be obtained from Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332, except that information regarding the Enlisted Evaluation System should be obtained from the Commander, US Army Enlisted Records Evaluation Center, Ft Benjamin Harrison, IN 46249; (317) 542-3262.

**RECORD ACCESS PROCEDURES:**

Written requests for information should contain the name of the individual Social Security Number, whether awaiting active duty, active, or separated, return address, and must identify the specific category of records involved. Blanket requests against this consolidated system will not be accepted. Visits are limited to US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332, except that information from the Enlisted Evaluation System should be obtained from either the servicing military personnel office, the headquarters of the individual's organizational station, or US Army Enlisted Records Evaluation Center. For personal visits, the individual must be able to provide acceptable identification and give verbal information that can be verified with his/her record.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual, from documents and computer readable output, other DA Staff agencies and commands, other Federal agencies and departments.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**AO903.07DASG**

**SYSTEM NAME:**

Entrance Medical Examination Files

**SYSTEM LOCATION:**

Primary: Army medical examining facilities or Military Enlistment Processing Stations (for enlistees);  
Secondary location: Department of Defense Medical Review Board, US

Academy, CO 80840 (except for reservists.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who (a) enroll in the ROTC program, (b) enlist or are appointed in the US Army or US Army Reserves, or (c) are appointed as a cadet to the US Military Academy.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Entrance medical examination and resulting documentation such as SF 88, Report of Medical Examination, and SF 93, Report of Medical History, together with relevant and supporting documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

By the Department of the Army to determine medical acceptance of applicant for military service and thereafter to properly assign and utilize individual. Management data are derived and used by Health Services Command to evaluate effectiveness of procurement medical standards.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders; selected management data are stored on word processing or ADP disks and tapes.

**RETRIEVABILITY:**

By individual's surname.

**SAFEGUARDS:**

Records are maintained in buildings using security guards, accessible only to authorized personnel having official need for the information who are properly screened and trained.

**RETENTION AND DISPOSAL:**

Original SF 88 and 93 become permanent documents in individual's Health Record; 1 copy of these forms and supporting documentation is retained by the Army or Military Enlistment Processing Station examining facility for 1 year; 1 copy is forwarded to the DOD Medical Review Board where it is retained for 5 years.

Records of individuals rejected for military service are retained for statistical analyses, but for no longer than 2 years, after which they are destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Surgeon General, Headquarters,  
Department of the Army, The Pentagon,  
Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Individuals wishing to know whether or not this system contains information on them should write to the Commander of the medical examining facility where physical examination was given; individual should furnish his/her full name, Social Security Number, home address, approximate date of the examination, and signature.

**RECORD ACCESS PROCEDURES:**

Individuals who desire access to records pertaining to them should furnish the information required under "Notification procedure" above.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulations 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual; from physician and other medical personnel.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**AO924.01DASG****SYSTEM NAME:**

Army Community Health Nursing  
Records—Family Records.

**SYSTEM LOCATION:**

Army Medical Centers and hospitals, world-wide. (Official mailing addresses are in the appendix to the Army's inventory of system notices.)

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals eligible for Army medical care.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Family Record Form (DA Form 3762) and Case Referral Form (DA Form 3763).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301; 10 U.S.C. 1071.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

By the Department of the Army to identify family members who receive Army community health nursing care. Information includes the source of referral, medical diagnosis, observations, socio-economic data,

plans and goals for nursing care, and summarization of consultations.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Paper records in file folders retained in the Army Community Health Nursing Office; copy of DA Forms 3762 and 3763 filed in individual's outpatient medical record.

**RETRIEVABILITY:**

By surname of eligible military member or sponsor.

**SAFEGUARDS:**

Records are maintained in areas accessible only to authorized personnel having official need for the information. Facilities are locked during non-duty hours.

**RETENTION AND DISPOSAL:**

Records are destroyed 3 years after case is closed.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Surgeon General, Headquarters,  
Department of the Army, The Pentagon,  
Washington, DC 20310.

**NOTIFICATION PROCEDURE:**

Individuals wishing to know whether or not this system contains information on them should inquire of the Patient Administration Office of Army Medical Treatment Facilities which provided the health nursing care.

**RECORD ACCESS PROCEDURES:**

Individuals who desire access to records pertaining to them should write to the Army Medical Treatment Facility where the record is believed to exist and furnish their full name, Social Security Number; name and SSN of sponsor, if applicable; relationship to military member; current address and telephone number. Written requests must bear signature of the requester. For personal visits, individual must provide acceptable identification, i.e., military or dependent ID, driver's license, etc., and verbal information that can be verified with appropriate health nursing records.

**CONTESTING RECORD PROCEDURES:**

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21 (32 CFR Part 505).

**RECORD SOURCE CATEGORIES:**

From the individual, family members, other persons having information relevant to health of family members; educational institutions; civilian health,

welfare, and recreational agencies; civilian law enforcement agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 82-16228 Filed 6-15-82; 8:45 am]

BILLING CODE 3710-08-M

**National Board for the Promotion of Rifle Practice; Open Meeting**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, announcement is made of the following committee meeting:

Name of Committee: Executive Committee of the National Board for the Promotion of Rifle Practice (NBPRP)

Date of meeting: July 2, 1982.

Place: Secretary of the Army Conference Room, 2E687, The Pentagon

Time: 0900 Hours

Proposed Agenda:

1. Recommendations on Board appointments and terms.
2. Accuracy Improvement of 7.62mm Rifle Match Ammunition.
3. Appointment Procedures and Terms of Service for Board.
4. NBPRP Support for Development of Automatic Target System.
5. Proposed Smallbore Distinguished Award.
6. Junior Shooters Sponsored by DCM to US International Championships.
7. Change of Requirements for Purchase of M-1 Rifles from DCM.
8. Competitive Shooting Program for Carbines.
9. New Shooter Rule for Whistler Boy Matches.
10. Request from Mr. Krenzke to Address the Camp Perry Meeting of this Committee.
11. NBPRP/DCM Support for Biathlon.

This meeting is open to the public.

**Note.**—This is a two part meeting, the agenda items not covered in the 2 July 1982 meeting will be continued at a meeting set for 0900 hours, 8 August 1982, at Camp Perry, Ohio. Notice about the meeting at Camp Perry will be announced in the Federal Register at a later date.

Persons desiring to attend the meeting 2 July should contact the Director of Civilian Marksmanship (202) 272-0810, prior to 2 July 1982 to arrange admission to the Pentagon.

Persons unable to make prior arrangements should call ext. 54025 upon arrival at the Pentagon.

Lawrence E. Enterkin,  
LTC, USA (Ret.), Assistant Executive Officer.

[FR Doc. 82-16292 Filed 6-15-82; 8:45 am]

BILLING CODE 3710-08-M

**DEPARTMENT OF EDUCATION****National Advisory Council on Adult Education; Meeting**

**AGENCY:** National Advisory Council on Adult Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

**DATES:** July 7, 1982, 5:30 to 8:00 p.m.; July 8, 1982, 9:00 a.m. to 3:00 p.m., Committee Meetings 3:00 to 5:00 p.m. and 8:00 to 10:00 p.m.; July 9, 1982, 9:00 a.m. to 3:30 p.m.

**ADDRESS:** Council Offices, July 7, 1982; Hotel Washington, 15th & Pennsylvania Ave., NW., Washington, D.C., July 8-9, 1982; Council Offices, 8:00 to 10:00 p.m., July 8, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Ventura, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376-8892).

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Election of Council Officers  
Council Committee Structure  
Council Budget

Council Committee Meetings  
Department of Education Report on State Grant Appropriations; FY-83 Legislation

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on June 9, 1982.  
Rick Ventura,

*Executive Director, National Advisory Council on Adult Education.*

[FR Doc. 82-16170 Filed 6-15-82; 8:45 am]

**BILLING CODE 4000-01-M**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. CP82-315-000]

**Algonquin Gas Transmission Co.; Notice of Application**

June 10, 1982.

Take notice that on May 6, 1982, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP82-315-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the modification of its Taunton, Massachusetts, meter station so as to enable Applicant to increase the pressure at which deliveries of gas are made to Bay State Gas Company (Bay State), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Bay State has informed Applicant that it plans to serve natural gas to the Taunton Municipal Lighting Plant (TMLP) within its existing contract entitlements from Applicant. It is stated that in order to provide service to TMLP, however, Bay State must receive gas at a pressure higher than that now in effect at the Taunton meter station. Accordingly, Applicant proposes herein to modify its Taunton meter station by replacing the present regulator and meter runs with runs capable of receiving Applicant's line pressure, as available, from which runs Bay State would then be able to deliver to TMLP at the appropriate pressure. It is stated that Bay State would also further regulate the gas received at line pressure from Applicant for general use in Bay State's distribution system.

Applicant also states that all sales service to Bay State would be rendered within existing, authorized levels and that Bay State would regulate any gas receipts from line pressure.

The cost of modifying the Taunton meter station is estimated at \$145,500. It is stated that Applicant would undertake the modification but that Bay State would fully reimburse Applicant for all costs actually incurred.

It is stated that Applicant and Bay State would re-execute Bay State's F-1, WS-1, and SNG-1 service agreements to reflect the changes brought about by the modification of the Taunton meter station. Specifically, Applicant states that the precise point of delivery at Taunton would change from the outlet side of the meter station to the downstream header connected to the meter tubes which would recognize the reallocation to Bay State of all responsibilities for the regulation and any necessary heating of the gas stream.

Applicant states that with respect to the WS-1 service agreement the maximum daily delivery obligation would be restated to reflect an increment of 881 million Btu which was authorized in 1969 and which would be delivered *pro rata* among four of Bay State's delivery points so that the maximum daily delivery obligation would then agree with Bay State's authorized maximum daily quantity.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if

the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16135 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-132-000]

**Alternative Energy Decisions, Inc.—Stratton; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice**

*Correction*

June 9, 1982.

In Docket No. QF82-132-000 appearing in the Federal Register issue of May 19, 1982 on page 21578, make the following correction: On page 21578, in the first column, in the first paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Stratton, Maine 04401" is corrected to read "On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16136 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-133-000]

**Alternative Energy Decisions, Inc.—Greenville; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice**

*Correction*

June 9, 1982.

In Docket No. QF82-133-000 appearing in the Federal Register issue of May 19, 1982 on page 21577, make the following correction: On page 21577, in the second column, in the first complete paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Greenville, Maine 04401" is corrected to read "On April 29, 1982, Alternative

Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16137 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-134-000]

**Alternative Energy Decisions, Inc.—Pittston Farm; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice**

*Correction*

June 9, 1982.

In Docket No. QF82-134-000 appearing in the Federal Register issue of May 19, 1982 on page 21577, make the following correction: On page 21577, in the third column, in the first complete paragraph, lines one, two and three:

"On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Pittston Farm, Maine 04401" is corrected to read "On April 29, 1982, Alternative Energy Decisions, Inc., 84 Harlow Street, Bangor, Maine 04401".

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16138 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. GP82-27-000]

**Amoco Production Co.; Informal Public Conference**

June 9, 1982.

Pursuant to the request of Amoco Production Company (Amoco), an informal public conference with the Staff of the Federal Energy Regulatory Commission (Commission Staff will be held in this proceeding in Room No. 6200, 825 North Capitol Street, NE., Washington, D.C. 20426, at 10:00 a.m. June 24, 1982. Amoco states that the purpose of this conference is to permit it to clarify and explain its response to a data request made by Staff concerning Amoco's petition for waiver of certain portions of the Commission's regulations in 18 CFR 271.704. For further information, contact:

Scott E. Koves, Office of General Counsel, (202) 357-8569

or

Marilyn Rand, Office of Pipeline and Producer Regulation, (202) 357-8674

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16121 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 6207-000]

**Stephen E. and George S. Austin; Application for Preliminary Permit**

June 8, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on April 13, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6207 to be known as the Friend Hydroelectric Power Project located on the Moose River in Caledonia County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. and George S. Austin, Box 20, Concord, Vermont 05824.

*Project Description*—The proposed project would consist of: (1) A new 22-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 617 feet NGVD and a storage capacity of 84.6 acre-feet; (3) a new powerhouse containing one or more generating units with a total rated capacity of 346 kW; (4) a 100-foot long tailrace; (5) new 200-foot long transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,505,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The existing facilities are owned by Leonard, Robert, and Martin Friend of Fairfield, Connecticut. The owners of adjacent property are: (1) Peck Company, of St. Johnsbury Vermont; (2) Maple Grove, Inc., of St. Johnsbury, Vermont; (3) St. Johnsbury School District, St. Johnsbury, Vermont; (4) Maine Central Railroad Company, St. Johnsbury, Vermont.

*Purposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impact. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$28,198.

*Competing Applications*—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 16, 1982, the competing application itself, or

a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 6, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing 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).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

*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 August 6, 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. 82-16139 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C173-293-001 and C179-653-001]

**Belco Petroleum Corp., Agent; Petition to Amend Certificate of Public Convenience and Necessity**

June 10, 1982.

Take notice that June 1, 1982, Belco Petroleum Corporation, Agent (Belco), One Dag Hammarskjold Plaza, New York, New York 10017, filed a petition pursuant to § 1.7 of the Commission's Rules of Practice and Procedure requesting a modification of the certificate of public convenience and necessity issued in Opinion No. 659, as amended, Docket No. C173-293. Specifically, Belco requests that Ordering Paragraph (H) of that opinion be amended to permit Belco a period of 12 years rather than 10 years to fulfill its plowback obligation.

Any person desiring to be heard or to protest this petition should file a petition to intervene a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. All protests filed with the Commission will be considered but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 82-16123 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-411-000]

**Central Vermont Public Service Co.; Order Accepting for filing and Suspending Rates and Granting Motion to Collect Alternative Interim Settlement Rates**

Issued: May 28, 1982.

On March 30, 1982, Central Vermont Public Service Company (Central Vermont) tendered for filing revised rates applicable to five wholesale customers. The rates, for which Central Vermont requests a May 31, 1982 effective date, would increase jurisdictional revenues by approximately \$422,000 (19.3%) based on the calendar year 1982 test period. Notice of the filing was issued on April 7, 1982, with responses due on or before April 21, 1982. No protests or petitions were received in response to that notice.

Subsequently, on May 11, 1982, Central Vermont filed a settlement agreement executed by the affected customers, together with a motion to collect the settlement rates as of June 1, 1982, on an interim basis, pending Commission action on the proposed settlement. The motion is supported by Central Vermont's customers and the settlement reflects rates about \$67,000 lower than those originally proposed.

*Discussion*

The Commission has not yet had an opportunity to thoroughly review Central Vermont's recent offer of settlement and the final date for comments with respect to that offer is June 10, 1982, 18 CFR 1.18. Nonetheless, action is required on the company's original rate filing prior to May 31, 1982, in order to ensure that the Commission retains suspension and refund authority.

Our preliminary review indicates that Central Vermont's originally filed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. However, we further find that the rates may not produce substantially excessive revenues as defined in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). Accordingly, we shall suspend the originally filed rates for one day from the proposed effective date, to become effective subject to refund on June 1, 1982. However, given the unanimous customer concurrence to the interim settlement rate motion and the reduction in rate increase associated with the proposed settlement, we find that good cause exists to grant the motion and to permit Central Vermont to collect the proposed settlement rates in lieu of the filed rates from June 1, 1982, until such time as the Commission takes final action on the settlement agreement. While we shall initiate hearing procedures in this order, all procedural dates will be deferred pending consideration of the proposed settlement. In the event that the settlement is ultimately rejected by the

Commission, the originally filed rates may become effective prospectively only from the date of a final order disapproving the settlement. This order shall be without prejudice to the Commission's consideration of the merits of the filed settlement agreement.

The Commission orders:

(A) Central Vermont's originally filed rates in this docket are hereby accepted for filing and suspended for one day from the proposed effective date to become effective, subject to refund, on June 1, 1982.

(B) Good cause having been found, Central Vermont is hereby permitted to collect the proposed settlement rates contained in its May 11, 1982 filing as of June 1, 1982, subject to refund, pending a final Commission order on the settlement proposal. In the event that the settlement is ultimately rejected, the originally filed rates may become effective prospectively only and subject to the refund from the date of a final order rejecting the settlement.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Central Vermont's rates. Such hearing shall be deferred pending Commission disposition of the settlement agreement among the parties.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16122 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-563-000]

**Central Vermont Public Service Corp.;  
Notice of Filing**

June 10, 1982.

Take notice that on June 1, 1982, the Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a System Power Exchange-Agreement (The "Agreement") between The Connecticut Light and Power Company (CL&P), The Hartford Electric Company (HELCO), Western Massachusetts Electric Company (WMECO), (the NU Companies); and Central Vermont

Public Service Corporation. The Agreement, dated July 1, 1981, provides for CVPS to exchange capacity from its system for gas turbine capacity from the NU Companies.

The Agreement provides that the parties will determine prior to 12:01 AM on the day preceding a contemplated daily or weekly exchange cycle whether it is economically advantageous to the parties that an exchange, pursuant to the Agreement take place during that day or week.

During the hours of an exchange, CVPS will receive gas turbine capacity from the NU Companies and the NU Companies will receive an equal amount of system power capacity from CVPS. No charges for capacity exchanges are contemplated under the terms of this Agreement. CVPS will purchase energy from the NU units at average cost of providing such energy. The NU Companies will pay CVPS for its system power energy at a rate which shall be the average annual energy marginal cost as calculated and updated from time to time.

In order to permit the NU Companies and CVPS to achieve the mutual benefits of this Agreement, CVPS hereby requests that the Commission, pursuant to § 35.11 of its regulations, waive the sixty-day notice period and permit the rate schedule filed herewith to become effective on July 1, 1981. The waiver, if granted, will have no effect upon purchasers under any other rate schedule. If said waiver is not granted, the parties to the Agreement will have to defer receiving the benefits accruing from the Agreement, i.e. their respective systems will be compelled to operate at less than optimum economic efficiency.

This Agreement shall be beneficial to CVPS insofar as it permits the company to more effectively utilize its base load capacity during periods when it has excess base load type capacity. It shall be beneficial to the NU Companies insofar as it provides them with a source of power which when the exchange is in effect, is less expensive than the oil fired capacity on their system that they would otherwise be required to employ.

Copies of the filing were served upon the respective jurisdictional customers of the parties hereto, as well as their respective Public Service Boards. CVPS further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the said Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's

Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16140 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TA82-2-12-000]

**Distrigas Corp., Distrigas of  
Massachusetts Corp.; Rate Change  
Pursuant to Purchased Gas Cost  
Adjustment Provision**

June 10, 1982.

Take notice that Distrigas Corporation (Distrigas) on May 28, 1982 tendered for filing Eleventh Revised Sheet No. 1 to its FERC Gas Tariff and Distrigas of Massachusetts Corporation (DOMAC) on the above date tendered for filing Eleventh Revised Sheet No. 3A.

Eleventh Revised Sheet No. 1 and Eleventh Revised Sheet No. 3A are being filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs. The Distrigas rate change is being filed to reflect in its sales rate to DOMAC a redetermination (decrease) of the price paid for the purchase of LNG from its supplier SONATRACH in accordance with the Distrigas-SONATRACH Agreement for Sale and Purchase of Liquefied Natural Gas together with demurrage and amortization over the six-month period, July 1, 1982 through December 31, 1982 of the balance of the unrecovered purchased LNG cost account.

The DOMAC rate change is being filed to reflect the Distrigas rate change in DOMAC's rates for resale to its distribution customer companies and the amortization over the six-month period July 1, 1982 through December 31, 1982 of the balance in DOMAC's unrecovered purchased LNG cost account and the GRI Surcharge.

Distrigas and DOMAC request that the proposed tariff sheets become effective July 1, 1982 to coincide with the change in LNG costs from SONATRACH.

A copy of this filing is being served on all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16124 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. CP82-356-000 and ST82-322-000]

#### Dow Intrastate Gas Co.; Notice of Application

June 10, 1982.

Take notice that on June 1, 1982, Dow Intrastate Gas Company (Applicant), Route 1, Box 35, Plaquemine, Louisiana 70764, filed in Docket Nos. CP82-356-00 and ST82-322-000 an application pursuant to §§ 284.127 and 284.123(b)(2) of the Commission's Regulations for authorization to render transportation service on behalf of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate pipeline company operating within the State of Louisiana.

It is submitted that by order issued August 12, 1981, in Docket No. CP81-302-000, Natural was authorized to make an off system sale of up to 15,000,000 Mcf of natural gas to Dow Chemical Company (Dow) for a term ending July 31, 1982, which gas was to be delivered by Natural to Dow's chemical manufacturing plant in Plaquemine, Louisiana, utilizing the transportation services of Texas Gas Transmission Corporation and Applicant. Applicant states that by a companion order issued August 12, 1981, in Docket No. ST81-266-000, it was authorized to perform its leg of the overall transportation service pursuant to Section 311(a)(2) of the Natural Gas Policy Act (NGPA).

It is submitted that on March 12, 1982, Natural and Dow executed Amendment

No. 1 to their gas sales agreement of March 30, 1982, so as to provide for the sale by Natural to Dow of an additional 30,000,000 Mcf of natural gas over a 363-day period commencing with the later of the expiration of the term of service authorized in Docket No. CP81-302-000, or the receipt and acceptance by Natural (and, by implication, Natural's agents, including Applicant) of all necessary regulatory approval. Such amendment, it is submitted, also provided for an additional transportation agreement whereby the additional volumes of gas would be delivered by Natural to Dow.

Applicant asserts that in order to track the changes contained in Amendment No. 1 to the sales agreement between Natural and Dow, Applicant and Natural have executed Amendment No. 1 to their gas transportation agreement of April 23, 1981, under which Applicant has been rendering service for Natural. Such amendment, it is stated, incorporates the 30,000,000 Mcf sales level for the extended term, as well as the alternative delivery point to be established between Natural and Applicant in or near Section 45, T13S, R4E, Vermilion Parish, Louisiana.

Applicant states that it would assume specific responsibility for the construction, ownership, and operation of all pipeline and related facilities necessary to complete the proposed interconnection between its system and that of Natural (exclusive of the sidetap and valve which Natural would construct, own, and operate at its end of the interconnection). Applicant anticipates that such proposed interconnection would cost about \$250,000, which cost would be reimbursed to Applicant directly by Dow.

For such transportation service, Applicant proposes to charge Natural a rate of 15.0 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16141 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TA82-2-2-000 (PGA82-2, IPR82-2)]

#### East Tennessee Natural Gas Co.; Notice of Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 10, 1982.

Take notice that on May 28, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Third Revised Sheet Nos. 4, 5, and 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

East Tennessee states that the purpose of these tariff sheets is to reflect various rate adjustments pursuant to the General Terms and Conditions of its tariff as follows:

(1) A PGA Rate Adjustment pursuant to Section 22; and

(2) Estimated Incremental Pricing Surcharges pursuant to Section 26.

East Tennessee states that copies of this filing have been mailed to all affected customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16112 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP82-99-000]

#### East Tennessee Natural Gas Co.; Tariff Filing

June 10, 1982.

Take notice that on May 28, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Second

Revised Sheet No. 122 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

East Tennessee states that the revised tariff sheet reflects the proper treatment of exchange transactions in the accounting of unrecovered purchased gas costs and a clarification of the treatment of storage injections and withdrawals and gas costs capitalized in determining East Tennessee's actual purchased gas costs.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 82-16126 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-552-000]

**Eastern Edison Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that on May 10, 1982, the Eastern Edison Company (Eastern) tendered for filing a Notice stating that on August 1, 1979, the Crockett Edison Company and the Fall River Electric Light Company were merged, and the corporation was charged to Eastern Edison Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 8-16151 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TA82-2-33-010]

**El Paso Natural Gas Co.; Revised Purchased Gas Cost Adjustment Filing**

June 10, 1982.

Take notice that on May 28, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in compliance with ordering paragraphs (C)(1) and (C)(2) of the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions and Setting Matter for Hearing," issued March 31, 1982 at Docket No. TA82-2-33-000 (PGA82-2)(IPR82-2)(AP82-2) and (TT82-2) and the letter of the Director of the Office of Pipeline and Producer Regulation dated May 13, 1982 at Docket No. TA82-2-33-006, the following *primary* first and third substitute revised tariff sheets<sup>1</sup> to become effective April 1, 1982 and September 1, 1982 respectively, as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:

*Original Volume No. 1*

First Substitute Thirtieth Revised Sheet No. 3-B  
Third Substitute Thirtieth Revised Sheet No. 3-B

*Third Revised Volume No. 2*

First Substitute Twenty-first Revised Sheet No. 1-D  
Third Substitute Twenty-first Revised Sheet No. 1-D

*Original Volume No. 2A*

First Substitute Twenty-second Revised Sheet No. 1-C  
Third Substitute Twenty-second Revised Sheet No. 1-C

<sup>1</sup> El Paso will file Second Substitute Thirtieth Revised Sheet No. 3-B of its Original Volume No. 1 Tariff, Second Substitute Twenty-first Revised Sheet No. 1-D of its Third Revised Volume No. 2 Tariff and Second Substitute Twenty-second Revised Sheet No. 1-C of its Original Volume No. 2A Tariff on June 1, 1982 as part of its Restatement of Rates with said tariff sheets to be made effective as of June 1, 1982.

In addition, El Paso is tendering *alternative* first and third substitute revised tariff sheets. As more fully described below, the *primary* first and third substitute revised tariff sheets differ from their *alternative* counterparts to the extent that the *primary* sheets reflect an implementation of the very recent decision in *El Paso Natural Gas Co. v. FERC*, No. 81-4295 (5th Cir., May 24, 1982). The *alternative* first and third substitute revised tariff sheets do not reflect an implementation of that decision.

Within both the *primary* and *alternative* sets of tariff sheets are first and third substitute revised tariff sheets. The first and third substitute revised tariff sheets differ to the extent they reflect an implementation of the decision in *Mid-Louisiana Gas Co. v. FERC*, No. 80-3804 (5th Cir., December 23, 1981) hereinafter referred to as *Mid-Louisiana*. The first substitute tariff sheets are submitted in substitution for their respective counterparts, referred to in said March 31, 1982 order as the "alternative" or "lower proposed tariff sheets," tendered as a part of El Paso's notice of change in rates filed March 1, 1982, in the captioned proceeding. Such tariff sheets, like their counterparts, exclude the impact of the implementation of the decision in *Mid-Louisiana*. The third substitute tariff sheets tendered in substitution for their respective counterparts, referred to in the Commission's March 31, 1982 order as "higher proposed revised tariff sheets," include the impact of *Mid-Louisiana*.

The Commission's order issued March 31, 1982, among other things, conditionally accepted, effective April 1, 1982 and September 1, 1982, respectively, subject to refund, the lower and higher proposed revised tariff sheets tendered as a part of El Paso's March 1, 1982 notice of change in rates. In ordering paragraph (C) of the Commission's March 31, 1982 order, El Paso was directed, among other things, to file within thirty (30) days of the issuance of said order, revised tariff sheets to become effective April 1, 1982 and September 1, 1982, reflecting:

- (1) A correct Account 191 surcharge based on the appropriate subaccounts as required by the Commission's Regulations; and
- (2) A correct interperiod tax allocation for computing carrying charges on refunds included in Account 191."

On April 30, 1982 at Docket No. TA82-2-33-006 El Paso filed, as directed by the Commission, revised tariff sheets to become effective April 1, 1982 and September 1, 1982, respectively, and other data responsive to the

Commission's March 31, 1982 order. Subsequently, by letter dated May 13, 1982 at Docket No. TA82-2-33-006, the Director of the Office of Pipeline and Producer Regulation advised El Paso that its revised tariff sheets were rejected as not being in compliance with the Commission's March 31, 1982 order. The letter directed El Paso to file reduced rates within fifteen (15) days to be effective April 1, 1982 and September 1, 1982, respectively, which reflect a correct Account 191 surcharge adjustment based on the appropriate subaccounts and the correct carrying charges reflecting the correct interperiod tax effect of refunds included in Account 191. Said letter went on to state that the other data filed by El Paso on April 30, 1982 responsive to the Commission's March 31, 1982 order was still being reviewed by the Commission and would be the subject of another order to be issued by the Commission.

El Paso states that the *alternative* first and third substitute revised tariff sheets incorporate the aforementioned adjustments and result in an overall revised net adjustment of 45.75¢ and 58.01¢ per Mcf, respectively. The rates for jurisdictional gas service rendered to customers served from El Paso's interstate transmission system reflected on the *alternative* first and third substitute revised tariff sheets tendered herewith have been decreased by 4.38¢ as compared with the rates reflected on their counterparts tendered as part of El Paso's March 1, 1982 notice of change in rates.<sup>2</sup>

Again, the *primary* first and third substitute revised tariff sheets differ from the *alternative* set of sheets because the *primary* sheets reflect an implementation of the Fifth Circuit's very recent decision in *El Paso Natural Gas Co. v. FERC*. That decision reversed Commission orders directing El Paso to exclude accrued but unpaid purchased gas costs from Account 191. The case was remanded to the Commission with directions that the Commission amend its order to prohibit El Paso only the calculation and collection of carrying charges on the unpaid accrual balance in Account 191.

The *primary* tariff sheets tendered by El Paso propose to implement the Fifth Circuit's decision by continuing in effect the 52.01¢ per Mcf rate adjustment filed by El Paso on April 30, 1982, and reflected in El Paso's customer billings for April, 1982. By continuing in effect the 52.01¢ per Mcf rate adjustment, rather than reducing the rate adjustment

to 45.75¢ per Mcf as reflected on the *alternative* first substitute revised tariff sheets, El Paso will reflect in its rates for the six (6) months beginning April 1, 1982, a majority of the unpaid purchased gas costs accrued to El Paso's Account 191 as of the end of December, 1981.

El Paso respectfully requests that the *primary* first substitute revised tariff sheets reflecting implementation of the Fifth Circuit's decision regarding unpaid accruals be substituted for their respective counterparts tendered by El Paso on March 1, 1982, at Docket No. TA82-2-33-000 and be made effective on April 1, 1982 as directed by the Commission. Further, El Paso respectfully requests that the *primary* third substitute revised tariff sheets reflecting also the implementation of *Mid-Louisiana* be made effective on September 1, 1982, or an earlier date, as may be directed by the Commission, in lieu of their respective counterpart sheets.

El Paso further states that copies of the instant tender have been served upon all parties of record in Docket No. TA82-2-33-000, and, otherwise, upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before June 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16125 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6160-000]

**Energenics Systems Inc.; Application for Preliminary Permit**

June 10, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on April 2, 1982, an application for preliminary permit

[pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6160 to be known as the Monongahela Lock and Dam No. 2 located on the Monongahela River in Allegheny County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, II, Energenics Systems, Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

*Project Description*—The proposed project would utilize the existing existing Corps of Engineers' Monongahela Lock and Dam No. 2 and would consist of: (1) A new powerhouse containing six generating units with a total rated capacity of 18,480 kW; (2) 4 miles of 138-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 42.6 GWh. The most likely market for the energy derived at the proposed project would be the Duquesne Light Company.

*Purposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit is \$50,000.

*Competing Applications*—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 23, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing 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).

<sup>2</sup>The *alternative* first and third substitute tariff sheets reflect a 6.26¢ per Mcf reduction from their counterparts filed by El Paso on April 30, 1982.

**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 August 23, 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. 82-16142 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 6269-000]

**Energenics Systems Inc. Application for Preliminary Permit**

June 10, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on April 28, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6269 to be known as the Chatfield Lake Dam Project located on the South Platte River

in Douglas County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

**Project Description**—The proposed project would utilize the existing U.S. Army Corps of Engineers' Chatfield Lake Dam and Reservoir and would consist of: (1) A proposed 250-foot long, 10-foot diameter penstock; (2) a proposed powerhouse containing one turbine-generator unit with a rated capacity of 2170 kW; (3) a proposed 100-foot long tailrace; (4) a proposed 2-mile long, 230-kV transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual energy output would be 8,550 MWh and plans to sell the power to the Public Service Company of Colorado.

**Proposed Scope of Studies Under Permit**—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be \$35,000.

**Competing Applications**—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 13, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 16, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing 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 August 16, 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. 82-16143 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-152-000]

**Federal Paper Board Co., Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility**

June 10, 1982.

On May 26, 1982, Federal Paper Board Company, Inc., 75 Chestnut Ridge Road, Montvale, New Jersey 07645, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in the city of Commerce, California. The facility

will be a topping-cycle cogeneration unit, which will produce electricity to be sold to a local utility and will supply steam to Federal Paper Board Company, Inc.'s manufacturing plant. Some of the electricity will be repurchased by Federal. Installation of the facility will begin in June 1982. The facility's primary energy source will be natural gas, with oil as its primary back-up fuel. The power production capacity of the facility will be approximately 23,500 to 24,500 kilowatts. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16127 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-151-000]

**David Goodman and George Oliver;  
Application for Commission  
Certification of Qualifying Status of a  
Small Power Production Facility**

June 10, 1982.

On May 26, 1982, David Goodman and George Oliver, c/o 80 Eighth Avenue, New York, New York 10011, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric small power production facility will be located on the Fishkill Creek in Beacon, Dutchess County, New York. The electric power production capacity of the facility will be 750 kilowatts. There are no other facilities located within one mile of the facility which use the same energy source and are owned by the Applicant.

No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16128 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TA82-2-4-000 (PGA82-2,  
IPR82-2)]

**Granite State Gas Transmission, Inc.;  
Notice of Proposed Changes in Rates  
Pursuant to Purchase Gas Cost  
Adjustment Provisions**

June 10, 1982.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021, on May 28, 1982, tendered for filing First Revised Sheet Nos. 7 and 9 in its FERC Gas Tariff, First Revised Volume No. 1, containing proposed changes in rates for effectiveness on July 1, 1982.

According to Granite State, the instant rate adjustments reflect an increase in its cost of gas purchased from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) which Tennessee proposes to make effective July 1, 1982, and the amortization of Unrecovered Purchased Gas Costs. It is stated that Granite State's filing is made pursuant to the purchase gas cost adjustment provision in Section XIX of the General Terms and Conditions of its tariff.

Granite State further states that its rate adjustments are applicable to its wholesale sales to its two affiliated distribution company customers: Bay State Gas Company and Northern Utilities, Inc. According to Granite State, the effect of the proposed rates in its

filing is an increase of approximately \$13,771,730 annually, based on purchases and sales for the twelve months ended March 31, 1982.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16113 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-562-000]

**Illinois Power Co.; Notice of Filing**

June 10, 1982.

The filing Company submits the following:

Take notice that Illinois Power Company ("the Company") on June 1, 1982 tendered for filing proposed changes in the following rate schedules: Rate Schedule FPC No. 52, applicable to Clinton County Electric Cooperative, Inc. Rate Schedule FPC No. 53, applicable to Corn Belt Electric Cooperative, Inc. Rate Schedule FPC No. 54, applicable to Farmers Mutual Electric Company Rate Schedule FPC No. 55, applicable to Illinois Valley Electric Cooperative, Inc. Rate Schedule FPC No. 56, applicable to McDonough Power Cooperative Rate Schedule FPC No. 57, applicable to Monroe County Electric Cooperative, Inc. Rate Schedule FPC No. 58, applicable to Southwestern Electric Cooperative, Inc. Rate Schedule FPC No. 59, applicable to Tri-County Electric Cooperative, Inc. Rate Schedule FPC No. 60, applicable to Western Illinois Power Cooperative, Inc.

The proposed changes would increase revenues from jurisdictional sales and service by approximately \$2,206,429 based on the twelve month period ended December 31, 1981.

The Company states that with the present rates it earned an inadequate rate of return on electric sales to these customers during the twelve months ended December 31, 1981. Continuing increases in cost of capital, labor and materials and supplies are expected to further reduce the Company's earnings. The Company states that the electric rate changes made by this filing are necessary to more fully provide compensation for these increasing costs. The Company proposes the increased rates become effective on June 1, 1982 as agreed to by the Company and each of its nine electric cooperative customers.

Copies of the filing were served upon the Company's electric cooperative customers, the Association of Illinois Electric Cooperatives, and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16144 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-558-000]

#### Indiana & Michigan Electric Co.; Notice of Filing

June 10, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariffs MRS and WS For Municipal Resale Electric Service, Original Volumes No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately \$6,416,179 in the first step and an

additional increase in the amount of approximately \$8,069,105 in the second step or a total increase of approximately \$14,485,284 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon the affected municipal customers, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16152 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-555-000]

#### Indiana & Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff No. 25 for service to Michigan Power Company. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately \$2,923,965 in the first step and an additional increase in the amount of approximately \$3,729,124 in the second step or a total increase of approximately \$6,653,089 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and

charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon Michigan Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16153 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-556-000]

#### Indiana and Michigan Electric Co.; Notice of Filing

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff No. 22 for service to Northern Indiana Public Service Company. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately \$13,995,470 in the first step and an additional increase in the amount of approximately \$12,417,297 in the second step or a total increase of approximately \$26,412,767 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for five months or until December 28, 1982.

Copies of the filing were served upon Northern Indiana Public Service Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 82-16154 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-557-000]

**Indiana & Michigan Electric Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company (I&M), on May 28, 1982, tendered for filing proposed changes in Schedule A—Firm Power which is part of the Interconnection Agreement between I&M and the City of Richmond, Indiana. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately \$888,985 in the first step and an additional increase in the amount of approximately \$714,874 in the second step or a total increase of approximately \$1,603,859 based on the 12-month period ending December 31, 1982. Indiana & Michigan Electric Company proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for the five months or until December 28, 1982.

Copies of the filing were served upon Richmond and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 82-16155 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-559-000]

**Indiana & Michigan Electric Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company (I&M), on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff REC-1, applicable to service to rural electric cooperative wholesale for resale customers. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately \$3,063,162 in the first step and an additional increase in the amount of approximately \$4,017,301 in the second step or a total increase of approximately \$7,080,463 based on the 12-month period ending December 31, 1982. I&M proposes that the rates and charges and the terms and conditions of service revised by this filing become effective July 28, 1982 but requests that the Commission exercise its authority under the Federal Power Act and suspend the effective date of the proposed second step for the five months or until December 28, 1982.

Copies of the filing were served upon the affected cooperative customers, the Public Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 1982. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 82-16156 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 4198-001]

**Indiana Municipal Power Agency; Surrender of Preliminary Permit**

June 10, 1982.

Take notice that Indiana Municipal Power Agency, (IMPA) Permittee for the U.S. Army Corps of Engineers' Cagles Mill Dam and Reservoir, Project No. 4198 has requested that its preliminary permit be terminated. The preliminary permit was issued June 5, 1981 and would have expired on November 1, 1982. The project would have been located on the Mill Creek in Putnam County, Indiana. IMPA cites that after extensive investigations, "the Cagles Mill Dam and Reservoir is not economically attractive to the Indiana Municipal Power Agency".

IMPA filed its request on May 19, 1982, and the surrender of its permit for Project No. 4198 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 82-16157 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-560-000]

**Kanawha Valley Power Co.; Notice of Filing**

June 10, 1982.

The filing company submits the following:

Take notice that Kanawha Valley Power Company (Kanawha) on May 28, 1982, tendered for filing modifications to its 1935 and 1937 Agreements with Appalachian Power Company (Appalachian) providing for the supply of power and energy from Kanawha's Marmet in London (Project No. 1175) and Winfield (Project No. 1290) hydroelectric plants, respectively, to be effective August 1, 1982.

The modifications would increase annual revenues to Kanawha for sales to Appalachian by \$226,496 based on the 12-month period ending July 31, 1982.

The proposed changes are required due to increases in the cost of providing

service under the 1935 and 1937 Agreements since the last rate modification in 1980. Kanawha states that its calendar 1981 operations for sales of power and energy to Appalachian resulted in a rate of return of 2.31%. The rates under the proposed modification are designed to provide Kanawha with the opportunity to earn a 11.82% overall return. Both Kanawha and Appalachian are affiliates of the American Electric Power System. The proposed rate increase is also requested in order for the Company to achieve sufficient revenues to meet the normalization requirements of the Economic Recovery Tax Act of 1981.

Kanawha states that a copy of the filing has been provided to the West Virginia Public Service Commission, the State Corporation Commission of Virginia and Appalachian Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure [18 CFR 1.8, 1.10]. All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16158 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-551-000]

**Kentucky Power Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that on May 27, 1982, Kentucky Power Company (Kentucky) tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to the City of Vanceburg, Kentucky and the City of Olive Hill, Kentucky. Based on test period 12 months endings September 30, 1981 conditions, Kentucky estimates that the proposed changes in resale rates will increase annual revenues from the City of Vanceburg by \$84,622, or 13.1%, and

from the City of Olive Hill by \$104,644, or 24.2%.

Kentucky states that the increase in wholesale rates is needed to compensate the Company for increased costs of doing business and to achieve a reasonable rate of return of 13.18%.

Kentucky requests an effective date of July 27, 1982.

Copies of the filing were served upon the City of Vanceburg, the City of Olive Hill and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure [18 CFR 1.8, 1.10]. All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16159 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP82-100-000]

**Midwestern Gas Transmission Co.;  
Tariff Filing**

June 10, 1982.

Take notice that on May 27, 1982, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Third Revised Sheet No. 6  
First Revised Sheet No. 163  
Second Revised Sheet No. 168

Midwestern states that the purpose of the revised tariff sheets is (1) to correct the base gas tariff rate for Midwestern's Northern System and (2) to reflect the proper treatment of exchange transactions in the accounting of unrecovered purchased gas costs and a clarification of the treatment of storage injections and withdrawals and gas costs capitalized in determining Midwestern's actual purchased gas costs.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure [18 CFR 1.8, 1.10]. All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16129 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CS69-4-000]

**Moran Exploration Inc. (Hytech Energy Corp.); Applications for "Small Producer" Certificates<sup>1</sup>**

June 9, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure [18 CFR 1.8, or 1.10]. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will duly be given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

Docket No.	Date filed	Applicant
CS69-4-000	5/21/82	Moran Exploration Inc. (Hytech Energy Corporation), Three Greenspoint Plaza P.O. Box 4502, 233 Benmar Drive, Houston, Texas 77210.
CS71-697-000	3/16/82	Burk Royalty Co. (Burk Gas Corp.), P.O. Box BRC, 1000 Petroleum Bldg, Wichita Falls, Texas 76307.
CS72-208-001	5/24/82	Darrow Family Partnership (Ann W. Darrow), P.O. Box 4145, Albuquerque, New Mexico 87106.
CS82-63-000	5/10/82	Swift Energy Company, Two Greenbriar Place, 652 E. North Belt, Suite 200, Houston, Texas 77060.
CS82-64-000	5/10/82	High Plains Exploration, Inc., 3100 North "A" Bldg., B-200, Midland, Texas 79701.
CS82-65-000	5/12/82	John C. Court, 2205 Park Ave., Cincinnati, Ohio 45206.

<sup>1</sup>Effective March 7, 1979 Hytech Energy Corporation changed its name to Moran Exploration Inc.

<sup>2</sup>Effective January 1, 1982 Burk Gas Corp. changed its name to Burk Royalty Co.

<sup>3</sup>Effective March 1, 1982 The Darrow Family Partnership was legally formed, and changed its name from Ann W. Darrow.

[FR Doc. 82-16145 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ER82-553-000]**

**Ohio Power Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that Ohio Power Company, on May 28, 1982, tendered for filing proposed changes in its FERC Electric Tariff MRS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional

sales and service by \$1,599,000 based on the 12-month period ending December 31, 1982. Ohio Power Company proposed that the rates and charges and terms and conditions of service revised by this filing become effective July 28, 1982.

Copies of the filing were served upon the affected municipal customers and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16160 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ER82-554-000]**

**Ohio Power Co.; Notice of Filing**

June 9, 1982.

The filing Company submits the following:

Take notice that on May 28, 1982, Ohio Power Company (Ohio) tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 18, Applicable to service to Wheeling Electric Company. The proposed changes would increase revenues from jurisdictional sales and service by \$9,962,000 based on the 12-month period ending December 31, 1982.

Ohio requests an effective date of July 28, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Wheeling Electric Company and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22,

1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16161 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. ER82-565-000]**

**Orange and Rockland Utilities Inc.; Notice of Filing**

June 10, 1982.

The filing Company submits the following:

Take notice that Orange and Rockland Utilities, Inc. (Orange and Rockland) on June 1, 1982, tendered for filing proposed changes to its FPC Rate Schedule No. 21, Supplement No. 6. The proposed changes would decrease revenues from Rockland Electric Company by \$903,073 based on the 12 month period ending December 31, 1981.

Orange and Rockland is also proposing the following changes in the tariff:

- (1) To allocate the capital expended on coal conversion facilities and the property taxes and insurance costs associated with these facilities on an energy rather than demand basis and to charge AFUDC on a net of tax basis for such capital expenditures;
  - (2) To allocate distribution expenses and associated payroll costs;
  - (3) To modify the formula for determining the cash working fund requirement by using a lead/lag study for fuel and purchased power costs;
  - (4) To increase the return on equity to 16 percent and to eliminate the ceiling on the equity component of capitalization;
  - (5) To allocate fuel inventory on an energy rather than demand basis;
  - (6) To allocate deferred taxes attributable to investment tax credit;
  - (7) To include specified amortization expenses in the monthly bills;
  - (8) To modify the rate at which interest will be accrued on unpaid bills; and
  - (9) To modify the effective date of the tariff and the address of Orange and Rockland as appropriate.
- The above changes have been proposed to provide Orange and Rockland with a reasonable return on equity from sales to jurisdictional customers and to allow for the proper

allocation of costs among jurisdictional customers.

Orange and Rockland proposes an effective date of August 1, 1982.

Copies of the filing were served upon the public utility's jurisdictional customers, the Public Service Commission of the State of New York, and the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16146 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TC82-39-000]

**Panhandle Eastern Pipe Line Co.;  
Notice of Tariff Filing**

June 10, 1982.

Take notice that on June 1, 1982, Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. TC82-39-000, Fifth Revised Sheet Nos. 2 through 38 to its FERC Gas Tariff, Original Volume No. 1-A, to reflect adjustments in monthly base period volumes of Priority 1 gas requirements of certain Small Customers, all as more fully set forth in the revised tariff sheets.

The revised tariff sheets are proposed to be effective July 1, 1982.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16114 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-149-001]

**The Pond Lily Great Falls Co.;  
Application for Commission  
Certification of Qualifying Status of a  
Cogeneration Facility**

June 10, 1982.

On May 21, 1982, The Pond Lily Great Falls Co., c/o Michael Corn, Energy Engineer, 200 Main Street, Sommersworth, New Hampshire 03878, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Sommersworth, New Hampshire. The primary energy source of the facility is Fuel Oil #6. The electric power production capacity of the facility is 900 kilowatts. Waste steam is available for use in textile processes at a rate of 7,200 to 18,500 lbs/hr. Installation of the facility was completed in 1949. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 16, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16162 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF82-143-000]

**Rockfish Corp. Woolen Mills  
Hydroelectric Facility; Application for  
Commission Certification of Qualifying  
Status of a Small Power Production  
Facility**

June 10, 1982.

On May 13, 1982, Rockfish Corporation located at Rt. 1, Box 413, Afton, Va. 22920, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 525 kilowatt hydroelectric installation located on the Rivanna River in Charlottesville, Virginia. There are no other such facilities located at the same site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16163 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 3807-000]

**City of Rocky Mount; Surrender of  
Preliminary Permit**

June 10, 1982.

Take notice that the City of Rocky Mount (Rocky Mount), Permittee for the Rocky Mount Tar River Dam and Reservoir Project No. 3807, has requested that its preliminary permit be terminated. The preliminary permit was issued April 9, 1981 and would have

expired on October 1, 1982. The project would have been located on the Tar River in Nash County, North Carolina. Rocky Mount cites that it cannot satisfy the requirements of the preliminary permit due to a lack of funding.

Rocky Mount filed its request on May 17, 1982, and the surrender of its permit for Project No. 3807 has been deemed accepted as of the date of this notice.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 82-16150 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-561-000]

**San Diego Gas & Electric Co.; Filing**

June 10, 1982.

The filing Company submits the following:

Take notice that San Diego Gas & Electric Company (SDG&E) on May 28, 1982, tendered for filing a FERC Electric Tariff under which SDG&E will sell and deliver nonfirm energy to any electric utility for resale in accordance with SDG&E's Service Schedule, SDG&E-2.

SDG&E requests that the filing be made effective on July 25, 1982. Due to the nature of this rate for nonfirm energy, it cannot be predicted when sales will be initiated.

Copies of the filing were served on potential resale customers of SDG&E, and on the State Regulatory Commissions of California and New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 82-16164 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5728-001]

**Sandy Hollow Hydro Associates;  
Application for License Less Than 5  
MW**

June 10, 1982.

Take notice that Sandy Hollow Hydro Associates (Applicant) filed on March 1, 1982, and supplemented on May 17, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for construction and operation of a water power project to be known as the Sandy Hollow Hydroelectric Project No. 5728. The project would be located on the Indian River in Jefferson County, New York. Correspondence with the Applicant should be directed to: Brooke J. Pennypacker, c/o Ware River Power, Inc., P.O. Box 275, Valley Road, South Barre, Massachusetts 01074.

**Project Description**—The proposed run-of-the-river project would consist of existing project works including: (1) a main concrete dam, about 106 feet long and 14 feet high; (2) three small upstream diversion dams about 3 feet high and having lengths of 18 feet, 22 feet and 28 feet, respectively; (3) a reservoir of negligible storage capacity at an average surface elevation of 411.5 feet m.s.l.; (4) intake structures; (5) a 6-foot diameter and 15-foot long penstock; (6) a powerhouse containing a turbine to be rehabilitated and connected to a new 125 kW alternator. In addition, the Applicant will install three turbine-generator units for a total installed capacity of 515 kW; (7) a transmission line, 300 feet long, and (8) other appurtenances. Applicant estimates an annual average generation of 2,611,254 kWh. Applicant leases the existing facilities from John and Julia Kazak.

**Purpose of Project**—Project energy would be sold to Niagara Mohawk Power Corporation.

**Agency Comments**—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly

from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

**Competing Applications**—Anyone desiring to file a competing application must submit to the Commission, on or before August 6, 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) or § 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 Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 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, 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. 82-16147 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-6-001]

**Sea Robin Pipeline Co.; Notice of Filing of Revised Tariff Sheets**

June 10, 1982.

Take notice that on May 28, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing Thirtieth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1. This tariff sheet and supporting information is being filed pursuant to the Purchased Gas Cost Adjustment provisions set out in Sections 1 and 3 of Sea Robin's Tariff with a proposed effective date of July 1, 1982. In addition, Sea Robin submits Eleventh Revised Sheet No. 4-A to become effective July 1, 1982, in compliance with Federal Energy Regulatory Commission (Commission) orders issued May 11, 1978, and July 12, 1978, at Docket No. RP77-6; and Original Sheet No. 4-B which reflects the estimated incremental pricing surcharges for the period July 1, 1982 through December 31, 1982.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 82-16115 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-6-000]

**Sea Robin Pipeline Co.; (Vermilion Block 22 System); Notice of Filing of Revised Tariff Sheets.**

June 10, 1982.

Take notice that on May 28, 1982, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 2, Fourteenth Revised Sheet Nos. 127-D

and 135-C to become effect July 1, 1982. These revised tariff sheets are being filed pursuant to Section 4 of Sea Robin's Tariff and reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning July 1, 1982.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 82-16116 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-101-000]

**Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Tariff Filing**

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Third Revised Sheet No. 201 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Tennessee states that the revised tariff sheet reflects the proper treatment of exchange transaction in the accounting of unrecovered purchased gas costs and a clarification of the treatment of storage injections and withdrawals and gas costs capitalized in determining Tennessee's actual purchased gas costs.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8

and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 82-16117 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-96-000]

**Southwest Gas Corp.; Proposed Changes in FERC Gas Tariff**

June 10, 1982.

Take notice that Southwest Gas Corporation ("Southwest") on May 28, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by \$16,055,866 based on the twelve-month period ending March 31, 1982, as adjusted.

The reason for the proposed increase in rates is to compensate Southwest for increases in various items of cost, such as capital, labor, materials and supplies, taxes, and including a claimed rate of return of 15.81 percent.

Copies of the filing were served upon Southwest's jurisdictional customers, Sierra Pacific Power Company and CP National, including the California Public Utilities Commission and the Public Service Commission of Nevada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16130 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-98-000]

**Texas Gas Transmission Corp.;  
Petition for Waiver of Regulations and  
Tariff Provisions**

June 10, 1982.

Take notice that on May 28, 1982, Texas Gas Transmission Corporation (Texas Gas) filed a petition for waiver of Section 154.38(d)(4) of the Commission's regulations (18 CFR 154.38(d)(4)) and section 23 of the General Terms and Conditions of Texas Gas' currently effective FERC Gas Tariff. The waivers are sought in order to enable Texas Gas to recover, on a reasonably concurrent basis, an estimated \$40 million in retroactive payments to be made by Texas Gas to independent producers pursuant to Order Nos. 93 and 93-A, issued in Docket No. RM80-33.

Texas Gas states that pursuant to Order Nos. 93 and 93-A, it is now obligated to make retroactive payments to producers which, under normal circumstances, would be recorded in Account 191 and recovered in the PGA filing to be made effective February 1, 1983. Due to the magnitude of these payments, deferral on these amounts until Texas Gas' February 1, 1983, PGA filing will have serious detrimental effects on Texas Gas' cash flow, it is stated. Texas Gas therefore requests authority to establish a separate surcharge, to be effective August 1, 1982, through July 31, 1983 in order to recover the retroactive Order No. 93 payments on a basis reasonably concurrent with payment to the producers.

Texas Gas proposes accounting for the payments actually made and amounts collected through a separate subaccount of Account 191. The details concerning the estimated level of

payments will be provided, in conjunction with Texas Gas' August 1, 1982 PGA filing. Texas Gas proposes to file a report on or about September 1, 1983, detailing all information concerning the application of the surcharge, including the actual retroactive payments made to producers and the actual amounts recovered through the surcharge. Texas Gas further proposes to apply any overcollections or undercollections to its September 30, 1983, balance in Account 191.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16131 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C163-1196-000, et al.]

**Texaco Inc., et al.; Applications for  
Certificates, Abandonment of Service  
and Petitions to Amend Certificates<sup>1</sup>**

June 9, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. <sup>3</sup>	Pressure base
C163-1196-000, May 24, 1982	Texaco Inc., P.O. Box 2100, Denver, Colorado 80201.	Colorado Interstate Gas Company, Table Rock Field, Sweetwater County, Wyoming.	(?)	14.65
C178-180-002, May 24, 1982	.....do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(?)	14.65
C178-181-005, May 24, 1982	.....do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(?)	14.65
C178-182-005, May 24, 1982	.....do	Colorado Interstate Gas Company, Delaney Rim Field, Sweetwater County, Wyoming.	(?)	14.65
C178-1203-001, D, June 1, 1982	Sun Exploration and Production Company, formerly Sun Oil Company P.O. Box 20, Dallas Texas 75221.	Colorado Interstate Gas Company, Great Divide Creek Field, Moffat County, Colorado.	(?)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. <sup>3</sup>	Pressure base
CI82-257-000, May 14, 1982 <sup>19</sup>	Northern Gas Products Company, 2223 Dodge Street, Omaha, Nebraska 68102.	Northern Natural Gas Company, Fran Glass; LaCaff; Sale Ranch; Spraberry; and Hutex Fields, Martin County, Texas.	(?)	14.73
CI82-264-000, A, May 21, 1982	Pogo Producing Company, Post Office Box 2504, Houston, Texas 77001.	United Gas Pipe Line Company, Block A-499, High Island Area, Offshore Texas.	(?)	14.73
CI82-265-000, A, May 24, 1982	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 238, Offshore Louisiana.	(?)	14.73
CI82-266-000 (G-9224), B, May 24, 1982.	Texaco Inc., P.O. Box 3109, Midland, Texas 79702.	Phillips Petroleum Company-Northern Natural Gas Company, certain acreage in Midway Abo Field, Lea County, New Mexico.	(?)	
CI82-267-000, B, May 24, 1982	MGF Oil Corporation, 1126 Vaughn Building, Midland, Texas 79701.	Pyro Energy Corporation, (originally R. L. Burns), certain acreage in Nolan County, Texas.	(?)	
CI82-268-000 (CI88-1191), B, May 24, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Cities Service Gas Company, Northeast Waynoka Field, Woodward County, Oklahoma.	(?)	
CI82-269-000 (CI71-875), B, May 24, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Mississippi River Transmission Corporation, Woodlawn Field, Harrison County, Texas.	(?)	
CI82-270-000, A, May 25, 1982	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Panhandle Eastern Pipe Line Company, Block 220, East Cameron Area, Offshore (Federal) Louisiana.	(?)	14.73
CI82-271-000, A, May 25, 1982	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Transco Gas Supply Company, High Island Area, Blocks 545, 546, 547, and 548 OCS, Offshore Texas.	(?)	14.73
CI82-272-000, A, May 26, 1982	Pogo Producing Company, Post Office Box 2504, Houston, Texas 77001.	United Gas Pipe Line Company, Blocks A-545, A-546, A-547, A-548, High Island Area, Offshore Texas.	(?)	14.73
CI82-273-000, E, May 25, 1982 <sup>12</sup>	Pennzoil Company (Successor In Interest To W. E. Burchett et al), P.O. Box 1588, Parkersburg, West Virginia 26101.	Columbia Gas Transmission Corporation, Mingo and McDowell Counties, West Virginia.	(?)	14.65
CI82-274-000, E, May 25, 1982 <sup>13</sup>	Pennzoil Company (Successor In Interest To R. H. Adkins doing business as Kroil Gas Company), P.O. Box 1588, Parkersburg, West Virginia 26101.	Columbia Gas Transmission Corporation, Huff Creek District, Wyoming County, West Virginia.	(?)	14.65
CI82-275-000, B, May 21, 1982	An-Son Corporation, 3814 N. Santa Fe, Oklahoma City, Oklahoma 73118.	Amincoil, North Okarche Field, Kingfisher County, Oklahoma.	(?)	14.65
CI82-276-000, F, May 27, 1982	Oneok Exploration Company (Par. Successor In Interest To Shell Oil Company), Post Office Box 871, Tulsa, Oklahoma 74102.	Panhandle Eastern Pipeline Company, Southeast Keenan Field, Woodward County, Oklahoma.	(?)	14.65
CI82-277-000, B, May 28, 1982	Phillips Petroleum Company, 336 Home Saving and Loan Bldg., Bartlesville, Oklahoma 74004.	Warren Petroleum Company, Section 7, T4N, R3W, Garvin County, Oklahoma.	(?)	
CI82-278-000, A, June 1, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Transwestern Pipeline Company, Bell Lake Field, Lea County, New Mexico.	(?)	14.65

<sup>1</sup> Applicants is filing to change delivery point.

<sup>2</sup> Gas reserves were depleted and the wells were plugged and abandoned.

<sup>3</sup> Applicant is willing to render the proposed service and to conform to the provisions of the Natural Gas Act, the Natural Gas Policy Act and the Commission's Rules and Regulations thereunder.

<sup>4</sup> Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Policy Act of 1978.

<sup>5</sup> Applicant is filing under Gas Purchase Contract dated May 21, 1982.

<sup>6</sup> Reserves depleted, lease released.

<sup>7</sup> Present purchaser is unable to pay at least the minimum rate prescribed by Opinion No. 749, or such higher prices as may be authorized under the NGPA. Therefore, abandonment is necessary because it is not in the public interest to require the continuation of an uneconomic sale.

<sup>8</sup> Lease dedicated to contract expired when production ceased.

<sup>9</sup> All acreage surrendered and economical recoverable reserves depleted.

<sup>10</sup> Applicant is filing under Gas Purchase and Sales Agreement dated April 18, 1982.

<sup>11</sup> Applicant is filing under Gas Purchase Contract dated May 19, 1982.

<sup>12</sup> On March 29, 1982 Pennzoil acquired certain assets and property rights of Burchett et al.

<sup>13</sup> On March 29, 1982 Pennzoil acquired certain assets and property rights of Kroil Gas Company.

<sup>14</sup> Well is no longer capable of producing and continuation of service is unwarranted and unfeasible.

<sup>15</sup> Applicant acquired this acreage from Shell Oil Company by Farmout Agreement dated December 15, 1980.

<sup>16</sup> Formations dedicated to contract have been plugged.

<sup>17</sup> Applicant is filing under Gas Purchase Agreement dated October 12, 1960 as amended.

<sup>18</sup> Residue Gas Purchase Contract dated November 9, 1970 has been assigned by Alphine Oil Company to Applicant and the same service and sale authorized by the Commission under Alphine's small producer authorization in Docket No. CS71-165 shall be continued without change in amendment effective April 1, 1982.

Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 82-16148 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. TA82-2-9-000 (PGA82-2, IPR82-2, DCA82-2 and R&D82-2)]**

**Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Rate Change Under Tariff Rate Adjustment Provisions**

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Third Revised Sheet Nos. 23 through 30, Fourth Revised Sheet No. 21, and Fifth Revised Sheet Nos. 20 and 22 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1982.

Tennessee states that the purpose of

the revised tariff sheets is to adjust Tennessee's rates pursuant to Article XXIII, XXIV, XXV, XXVII and XXIX of the General Terms and Conditions of its FERC Gas Tariff, consisting of a PGA rate adjustment, rate adjustments to reflect curtailment credits, an R&D rate adjustment, and Estimated Incremental Pricing Surcharges. The revised tariff sheets also reflect a special surcharge to recover, over a twelve-month period, estimated retroactive payments to producers pursuant to Commission Order Nos. 93 and 93-A.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16116 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-10-000]

**Tennessee Natural Gas Lines, Inc.;  
Notice of PGA Tariff Filing**

June 10, 1982.

Take notice that on May 28, 1982, Tennessee Natural Gas Lines, Inc. ("TNGL"), tendered for filing a rate change, pursuant to the purchased gas cost adjustment ("PGA") provisions of its F.E.R.C. Gas Tariff, First Revised Volume No. 1, and pursuant to §282.602 of the Commission's regulations under the Natural Gas Policy Act of 1978 ("NGPA"), consisting of the following tariff sheets:

Thirty-Ninth Revised Sheet No. PGA-1  
Fifth Revised Sheet No. PGA-1-A

TNGL requests that such tariff sheets be allowed to become effective on July 1, 1982.

TNGL states that the purposes of its filing are: to reflect in its rates the changed rates of its sole supplier Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TGP"), which will become effective on July 1, 1982; and, to set forth the estimated Maximum Absorption Capabilities ("MSAC") of its customers as required by § 282.602 of the Commission's regulations under the NGPA.

TNGL states that copies of the filing were served upon its jurisdictional customer, the interested state regulatory commission, its non-jurisdictional customers estimated to be billed for NGPA incremental pricing surcharges, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16119 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5925-000]

**Town of Lyons, Colorado; Application  
for Preliminary Permit**

June 10, 1982.

Take notice that the Town of Lyons, Colorado (Applicant) filed on January 29, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5925 to be known as the Coffintop Project located on South St. Vrain Creek in Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Hon. L. C. Roberts, Mayor, Town of Lyons, Town Hall, P.O. Box 49, Lyons, Colorado 80540.

*Project Description.*—The proposed project would consist of: (1) a proposed 235-foot long and 365-foot high zoned earth/rockfill dam to be constructed by the St. Vrain and Left Hand Water Conservancy District as part of their Coffintop Reservoir Pumped Storage Project, FERC Project No. 5076-000; (2) a proposed 800-acre reservoir with a storage capacity of 115,000 acre-feet at a maximum surface elevation of 5,740 M.S.L.; (3) a proposed penstock; (4) a proposed powerhouse containing one 1.36 MW turbine-generator unit operating under a head of 270 feet; (5) a proposed tailrace; (6) a proposed 2-mile long, 115-kV transmission line; and (7) appurtenant facilities. Estimated annual generation would be 3,510,000 kWh, and project energy is proposed to be utilized by the Applicant.

*Purposed 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 time the Applicant, as a joint effort the St. Vrain and Left Hand Water Conservancy District, would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and projected power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with the application for FERC license. Applicant estimates that the cost of the studies under permit would be \$115,000.

*Competing Applications.*—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 6, 1982, the competing application itself, or a notice of intent to file a such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 6, 1982, and should specify the type of application forthcoming. Any applications for license or exemption from licensing 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).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 15, 1982.

*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 August 6, 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 208RB, 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. 82-16149 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TC82-38-000]

**Trunkline Gas Co.; Notice of Tariff Filing**

June 10, 1982.

Take notice that on June 1, 1982, Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. TC 82-38-000, Fifth Revised Sheet No. 21 C.8 to its FERC Gas Tariff, Original Volume No. 1, to reflect adjustments in monthly base period volumes of Priority 1 gas requirements of certain Small Customers, all as more fully set forth in the revised tariff sheet.

The revised tariff sheet is proposed to be effective July 1, 1982.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16120 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER82-564-000]

**Tucson Electric Power Co.; Cancellation**

June 10, 1982.

The filing Company submits the following:

Take notice that on June 1, 1982, Tucson Electric Power Company ("Tucson" tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 37, which became effective on July 1, 1980.

Tucson states that the aforementioned Rate Schedule is identified as the "Tucson-Community Public Service Company 1980 Nonfirm Energy Agreement" between Texas-New Mexico Power Company (formerly Community Public Service Company) and Tucson. Tucson requests an effective date of May 31, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 82-16132 Filed 6-15-82; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP82-97-000]

**United Gas Pipe Line Company; Filing of Revised Tariff Sheets**

June 10, 1982.

Take notice that on May 28, 1982, United Gas Pipe Line Company tendered for filing with the Federal Energy Regulatory Commission (Commission) the tariff sheets listed below to its FERC Gas Tariff, Original Volume No. 2:

*Tariff Sheet and Proposed Effective Date*

Second Revised Sheet No. 923—July 1, 1982  
Third Revised Sheet No. 954—July 1, 1982  
Second Revised Sheet No. 1051—July 1, 1982  
Third Revised Sheet No. 1069—July 1, 1982  
Second Revised Sheet No. 1087—July 1, 1982  
Second Revised Sheet No. 1153—July 1, 1982  
Second Revised Sheet No. 1170—July 1, 1982

Second Revised Sheet No. 1193—July 1, 1982  
First Revised Sheet No. 1232—July 1, 1982  
First Revised Sheet No. 1254—July 1, 1982  
First Revised Sheet No. 1271—July 1, 1982  
First Revised Sheet No. 1293—July 1, 1982  
First Revised Sheet No. 1316—July 1, 1982  
First Revised Sheet No. 1338—July 1, 1982  
First Revised Sheet No. 1356—July 1, 1982  
First Revised Sheet No. 1410—July 1, 1982  
First Revised Sheet No. 1428—July 1, 1982  
First Revised Sheet No. 1477—July 1, 1982  
First Revised Sheet No. 1539—July 1, 1982  
First Revised Sheet No. 1569—July 1, 1982  
First Revised Sheet No. 1604—July 1, 1982  
First Revised Sheet No. 1620—July 1, 1982  
First Revised Sheet No. 1656—July 1, 1982  
First Revised Sheet No. 1672—July 1, 1982  
First Revised Sheet No. 1688—July 1, 1982  
First Revised Sheet No. 1711—July 1, 1982  
First Revised Sheet No. 1755—July 1, 1982  
First Revised Sheet No. 1805—July 1, 1982  
First Revised Sheet No. 1842—July 1, 1982  
First Revised Sheet No. 1864—July 1, 1982  
First Revised Sheet No. 1884—July 1, 1982

The purpose of this filing is to show increased volume for fuel and unaccounted for gas as provided in Article II of certain of United's transportation agreements.

United states that copies of these tariff sheets have been mailed to Amoco Production Company, Arkansas Louisiana Gas Company, Chevron Chemical Company, Columbia Gas Transmission Corporation, First Energy Corporation, Florida Gas Transmission Company, Michigan Wisconsin Pipe Line Company, Mid Louisiana Gas Company, Mississippi River Transmission Corporation, Mississippi Valley Gas Company, Natural Gas Pipeline Company of America, Shell Oil Company, Southern Natural Gas Company, Tenneco Oil

Company, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16133 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-330-000]

**Valero Transmission Co.; Application for Waiver**

June 10, 1982.

Take notice that on June 10, 1982, Valero Transmission Company ("Valero") tendered for filing a request that the Commission or its Staff waive certain requirements found in §§ 284.124 and 284.126 of the regulations implementing Section 311(a)(2) of the Natural Gas Policy Act of 1978.

Valero's request for waiver concerns seven transportation arrangements conducted under Section 311(a)(2) on behalf of Texas Eastern Pipeline Company (ST82-331) and Tennessee Gas Pipe Line Company (ST82-332 and 333), United Gas Pipe Line Company (ST82-334 through 337). Valero seeks a waiver to permit reports of these transactions after the time specified in the regulations.

Any person desiring to be heard or to protest the affiliation should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16165 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-105-000]

**Victoria Hospital; Application for Commission Certification of Qualifying Status of a Cogeneration Facility**

June 10, 1982.

On April 2, 1982, Victoria Hospital, Inc., 955 N.W., 3rd Street, Miami, Florida 33128, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Miami, Florida. The primary energy source of the facility will be natural gas. The electric power production capacity of the facility will be 2500 kilowatts and exhaust gas from the turbine will drive a 450 ton absorption chiller. Installation of the facility will begin in October 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 82-16134 Filed 6-15-82; 8:45 am]

BILLING CODE 6717-01-M

**Office of Hearings and Appeals**

**Issuance of Decisions and Orders; Week of March 29 through April 2, 1982**

During the week of March 29 through April 2, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*  
June 10, 1982.

**Appeals**

*Bracewell & Patterson, 4/1/82, HFA-0038, HFA-0039*

Bracewell and Patterson filed a consolidated Appeal from determinations issued to it by the Acting Assistant Director for Petroleum Analysis of the Office of Program Operations of the Economic Regulatory Administration (ERA) and the Director of the ERA Office of Fuels Regulations (the Director). These determinations were in response to requests for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that the matter should be remanded to the Director for an adequate description and justification of the subject matter of each document withheld pursuant to Exemption 4 alone, and that the remaining documents were properly withheld under Exemption 5. Accordingly, the Bracewell and Patterson Appeal was granted in part.

*Lake Shore, Inc., 3/30/82, HFA-0042*

Lake Shore, Inc. filed an Appeal from a denial by the Assistant Manager for Administration of the Oak Ridge Operations Office of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that information which the Assistance Manager had deleted from technical proposals submitted in response to a DOE Request for Proposals was properly withheld pursuant to Exemption 4. In addition, the DOE released certain previously deleted portions of one proposal sought by Lake Shore on the basis that the submitter

had no objections to their disclosure. Accordingly, the Lake Shore Appeal was granted in part.

#### Requests for Exception

##### *Commonwealth Oil & Refining Company, 4/1/82, BXE-1575, naphtha*

Commonwealth Oil and Refining Co. filed an Application for exception from the provisions of 10 CFR § 211.67(d)(5) (the Naphtha Entitlements Program) in which the firm sought an extension of relief which the DOE has previously granted. In considering the request, the DOE found that the firm had failed to demonstrate that it was continuing to suffer a gross inequity from the provisions of the Naphtha Entitlements Program, as modified by regulatory amendments issued in January 1981. Accordingly, exception relief was denied.

##### *Hatcher & Arthur Production Co., 4/2/82, BEE-1687, crude oil*

Hatcher & Arthur Production Company filed an Application for Exception from the provisions of 10 C.F.R. § 212.131 in which the firm sought to recertify retroactively certain volumes of crude oil as "newly discovered crude oil." In considering the request, the DOE found that the firm failed to certify its production in a timely manner. Furthermore, the firm never demonstrated that any external circumstances frustrated its attempt to comply with the certification requirements. Accordingly, exception relief was denied.

##### *ICG Vista Petroleum, Inc. (Thunderbird Resources, Inc.), 3/30/82, BEE-0638, crude oil*

ICG Vista Petroleum, Inc. (ICG) filed an Application for Exception from the provisions of 10 C.F.R. § 211.65 (the Entitlements Program) or alternatively, 10 C.F.R. § 211.67 (the Buy/Sell Program). The firm requested relief designed to equalize its cost of crude oil with the costs of its principal competitors. This Application was tentatively denied in a proposed Decision and Order issued to ICG. In the final Decision and Order, the DOE considered the Statement of Objections filed by Thunderbird Resources, Inc. (Thunderbird), a division of Flying J, Inc. (Flying J). Thunderbird comprises the domestic refining and marketing operations that previously were operated by ICG but which were acquired by Flying J during the pendency of ICG's Application for Exception. In considering the ICG request and Thunderbird Statement of Objections the DOE found that exception relief was not warranted. With respect to Thunderbird's request for relief beginning with Flying J's acquisition of the ICG operations, the DOE found that exception relief would be inappropriate since any financial difficulties experienced by Flying J would be the result of its discretionary business decision to acquire the ICG operations in full knowledge of the regulatory and operating posture of those operations. With respect to Thunderbird's request for relief for earlier periods, the DOE determined that the firm had failed to show that the DOE regulations, and not the firm's slate of refined products, were responsible for any financial difficulties the firm might have encountered. Accordingly, exception relief was denied.

#### Remedial Orders

Barbaria Shell Service, BRO-1478  
Chip's Chevron Service, BRO-1474  
Frank's Airport Chevron, BRO-1472  
Half Moon Bay Exxon, BRO-1477  
Kent Brooks Chevron, BRO-1473  
Lee Kreger's Chevron, BRO-1470  
Lombard Chevron Service, BRO-1471  
San Bruno Shell, BRO-1475  
Steve's Exxon, 3/29/82, BRO-1476, Motor Gasoline

Nine retailers objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the retailers should be required to make restitution by payment to the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(d)(1).

##### *Hassie Hunt Exploration Co., 3/31/82, BRO-1240, crude oil*

Hassie Hunt Exploration Co. objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration of the Department of Energy (DOE) issued to the firm on May 23, 1980. After considering the firm's objections, which concerned only the remedial provisions of the PRO, the DOE concluded that the PRO should be issued in final form.

The important issues discussed in this Decision and Order include: (i) the PRO recipient's right to contest proposed alternative remedial provisions in the PRO proceeding; and (ii) the DOE's authority to charge interest on overcharges refunded pursuant to a Remedial Order proceeding.

#### Motions for Discovery and Evidentiary Hearing

##### *Crown Central Petroleum Corporation, 3/31/82, BRD-0108, petroleum products*

Crown Central Petroleum Corporation (Crown) filed a Motion for Supplemental Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the Office of Special Counsel for Compliance of August 31, 1978. In considering Crown's motion, the DOE determined that the majority of Crown's interrogatories and admission requests sought information that Crown could have requested in its initial discovery motion. Such requests were denied. A small number of Crown's requests were granted because they sought to follow up, particularize, or refine information Crown obtained in response to the initial discovery motion. Accordingly, Crown's Motion for Supplemental Discovery was granted in part.

##### *General Petroleum Products, Inc., 4/1/82, BRD-1319; BRH-1319, motor gasoline, heating oil*

General Petroleum Products filed a Motion for Discovery and a Motion for an Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm on September 12, 1980. In its Motion for Discovery the firm sought discovery of (1) all records of any written or oral communications between ERA personnel and non-agency persons regarding General; (2) all computational material contained in the ERA's audit file; and (3) all documents reflecting the basis for the class of purchaser determinations set forth in the PRO. With respect to item 1 above, the DOE found that General had failed to demonstrate that discovery was warranted. However, the DOE ruled that the firm was entitled to obtain copies of audit workpapers and class of purchaser documents that reflect the factual basis for the findings set forth in the PRO. Accordingly, the Motion for Discovery was granted in part.

In its Motion for an Evidentiary Hearing, General sought to present testimony disputing the class of purchaser structure and maximum lawful selling prices set forth in the PRO. General also requested that it be permitted to present testimony regarding equitable and procedural defenses raised in the firm's Statements of Objections. In considering the Motion, the DOE found that an evidentiary hearing would not be the proper forum in which to address the equitable and procedural issues. The DOE further concluded that it should defer consideration of whether an evidentiary hearing should be convened with respect to the class of purchaser and price issues until after the firm has examined the workpapers that the ERA produces as a result of the discovery decision. Accordingly, portions of General's Motion for Evidentiary Hearing were denied and other portions were dismissed without prejudice.

##### *Davis & Forbes, 3/30/82, BRH-0004, BRD-0004, crude oil*

Davis & Forbes filed Motions for Evidentiary Hearing and Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the Economic Regulatory Administration on August 27, 1979. The PRO alleges that the firm improperly treated two contiguous leased premises as one "property" and improperly sold the crude oil produced therefrom pursuant to the stripper well lease exemption. Davis & Forbes claimed that an evidentiary hearing would assist the Office of Hearings and Appeals in determining (1) whether certain water wells produced any crude oil and whether they could therefore be counted in determining the applicability of the stripper well lease exemption; (2) whether the economic characteristics of the two premises constitute a "bona fide reason" for aggregation under Ruling 1977-1; and (3) whether the state production reports accurately reflect the volumes of crude oil produced from the individual properties. In considering the Motion for Evidentiary

Hearing the DOE found that the question of oil production from the water wells could be a material issue only if the two premises were treated as one property; however, the DOE ruled that they were in fact two "properties" irrespective of the firm's intent to treat them as one. The DOE also found that, according to *Sauder v. DOE*, 648 F.2d 1341 (Temp. Emer. Ct. App. 1978), the two properties were not aggregated. Finally, the DOE determined that the firm did not proffer sufficient evidence to raise any doubt over the accuracy of the state production records. Accordingly, the DOE denied the Davis & Forbes Motion for Evidentiary Hearing. Since the firm had received the information it requested in its Motion for Discovery, that Motion was dismissed.

#### Interlocutory Order

Office of Enforcement, 3/30/82, BRZ-0057, crude oil

The Office of Enforcement of the Economic Regulatory Administration (ERA) filed a Motion to Join Gulf Oil Corporation as a party to an enforcement proceeding. The motion related to a Proposed Remedial Order (PRO) issued by the ERA Southeast District Office on November 2, 1979, to William P. Johnson, trustee for former shareholders of the Ancora-Citronelle Corporation (Ancora). ERA sought Gulf's joinder so it could compel Gulf, the present operator of the East Citronelle Unit, to serve as an agent for the collection of \$519,121.26 in alleged overcharges received during the PRO audit period by unit working interest owners other than Ancora, the operator of and substantial working interest owner in the unit during the audit period. In considering the ERA motion, the DOE first determined that Gulf's joinder would not be permitted under the Federal Rules of Civil Procedure. The DOE also determined that Gulf's joinder would not promote the efficient conduct of the enforcement proceeding. In this regard, the DOE observed that ERA could have held Ancora itself liable for the \$1.1 million in alleged overcharges received by all working interest owners on the East Citronelle Unit during the audit period had ERA officials not reduced Ancora's contingent liability in the proceeding from \$1.2 million to \$692,000. Additionally, the DOE found that it was uncertain whether the refund scheme ERA sought to have Gulf administer would serve its intended purpose of disgorging any unjust gains received by working interest owners other than Ancora during the audit period. Accordingly, the ERA Motion to Join Gulf was denied.

#### Protective Order

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

Gulf Oil Corp., HRJ-0008

#### Dismissals

The following submissions were dismissed without prejudice:

##### Name and Case No.

Newsday, HFA-0047  
Sierra Club Legal Defense Fund, Inc., HFA-0048.

[FR Doc. 82-16235 Filed 6-15-82; 8:45 am]

BILLING CODE 6450-01-M

#### Issuance of Decisions and Orders; Week of April 26 Through April 30, 1982

During the week of April 26 through April 30, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 10, 1982.

#### Appeals

Charles V. Gorse, 4/29/82, HFA-0050

Charles V. Gorse filed an Appeal from a response issued by the Director of the Division of FOI and Privacy Acts Activities to a request for access to records under the Privacy Act of 1974. In his Appeal, Mr. Gorse contended that the Director's response failed to identify and release a responsive document. In considering the Appeal, the DOE found that the right of access under the Privacy Act is limited to records within a "system of records." The DOE further found that the document was not within a system of records and, therefore, the document sought by Mr. Gorse was not responsive to a Privacy Act request. Accordingly, the Appeal was denied.

Terry F. Lenzner, 4-28-82, BFA-0511

Terry F. Lenzner filed an Appeal from a partial denial by the Deputy Assistant Secretary for International Resources of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under Exemptions 1 and 5 should be released to the public. Accordingly, the Appeal was granted in part.

#### Remedial Orders

##### Name and Number

Alameda Chevron Service, BRO-1480  
Alemany Chevron Service, BRO-1481  
Grapevine Shell, BRO-1460  
Peninsula Avenue Shell, BRO-1479  
Ron's Shell, BRO-1515  
Terry McGovern's Shell, BRO-1512  
4-27-82

Alameda Chevron *et al.* objected to Proposed Remedial Orders that were issued to the firms by the DOE Office of Enforcement. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms has charged prices higher than those permitted by 10 CFR 212.93(a)(2). After considering the firms' objections, the DOE determined that the Proposed Remedial Orders should be issued as final Remedial Orders. The DOE also determined that the Proposed Remedial Orders should be modified to require that payment of the overcharges be deposited into the U.S. Treasury. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR 212.93(a)(2), and (ii) the procedural and substantive validity of 10 CFR 210.62(a)(1).

#### Requests for Exception

Raypak, Inc., Teledyne Laars, 4-26-82, HXE-0012, HXE-0013

Raypak, Inc. and Teledyne Laars filed an Application for Exception from the provisions of 10 CFR Part 430 (the Energy Conservation Program for Consumer Appliances) in which the firms requested that they be relieved of their obligations to test the energy efficiency and fuel utilization of the finned copper tube type boilers (FCT boilers) they manufacture, extending the exception granted to the firms in *Raypak, Inc.*, 7 DOE 81,098 (1980). The firms also requested an order directing DOE officials responsible for amending the applicable test procedures to commence a rulemaking proceeding within the specified period of time. In considering the requests, the DOE found that the current test procedures did not accurately measure the efficiency of the FCT boilers manufactured by the firm. The DOE further determined that requiring the firms to test their FCT boilers in accordance with the current test procedures would contravene national energy policy objectives and result in a gross inequity to the firms. Accordingly, exception relief was granted that would relieve the firms of their obligations to test the efficiency of the FCT boilers they manufacture. However, the DOE rejected the firms' request for an order that would influence the rulemaking agenda.

Tosco Corporation, 4-28-82, BEE-1640

Tosco Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the entitlements program) in which the firm sought additional entitlements to reduce the post entitlements cost of the crude oil the firm purchased. In considering the request, the DOE found that the firm did not meet the standards for retroactive exception

relief, and failed to show that it suffered a gross inequity as a result of the operation of the entitlements program. Accordingly, exception relief was denied.

#### Supplemental Order

*Vickers Energy Corp./Riess Ford Sales, Inc., Vickers Energy Corp./Smith Service Center, Vickers Energy Corp./Paul Palmer, 4-29-82, HFX-0023*

On July 17, 1981, the DOE issued a Decision and Order implementing special refund procedures with respect to a \$2,850,000 fund obtained by the DOE through a consent order with Vickers Energy Corporation. See *Office of Enforcement (Vickers)*, 8 DOE ¶ 82,597 (1981). The July 17 Decision stated that the DOE would accept applications for refund filed by purchasers of Vickers motor gasoline from other than company-operated retail outlets. The April 29 Decision addresses 3 applications for refund filed in connection with the Vickers proceeding. Each of the applications was denied because it failed to meet one of the requirements set forth in previous proceedings with respect to the Vickers escrow fund. One application stated that the applicant purchased motor gasoline that was refined by a firm other than Vickers. The second application was filed by the operator of a company-operated outlet. The third application claimed a refund for an amount less than the \$15 minimum amount necessary for a claim to be paid. Accordingly, the applications were denied.

#### Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Orders submitted by the firms. The DOE granted the following applications and issued the requested Protective Orders as Orders of the Department of Energy:

##### Name and Case No.

Marathon Oil Company, HRJ-0017  
Growthmark, Inc., HRJ-0018

##### Dismissals

The following submissions were dismissed without prejudice:

##### Name and Case No.

Demunno/Kerdonn, BEA-0180, BEA-0181  
Gene's Chevron (McGrady), BRO-1491  
Joc Oil, Inc., DRO-0404

[FR Doc. 82-16236 Filed 6-15-82; 8:45 am]

BILLING CODE 6450-01-M

#### Objection to Proposed Remedial Orders Filed; Week of April 26 through April 30, 1982

During the week April 26 through April 30, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the

proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before July 6, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 10, 1982.

George B. Breznay,

*Director, Office of Hearings and Appeals,  
Western Avenue Properties, Los Angeles,  
California, HRO-0047, Crude Oil*

On April 29, 1982, Western Avenue Properties located in Los Angeles, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Los Angeles District Office of Enforcement issued to the firm on March 26, 1982. In the PRO, the Los Angeles District found that during the period April 1, 1975 to January 27, 1981, Western Avenue misclassified crude oil that it produced to an improper tier category.

According to the PRO, the Western Avenue violation resulted in \$151,114.20 of overcharges.

*Crystal USA Oil, Inc., Mountain Brook,  
Alabama, HRO-0046, Motor Gasoline*

On April 29, 1982, Crystal USA Oil, Inc., 3928 Montclair Rd., Suite 218, Mountain Brook, Alabama 35213, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 23, 1982. In the PRO, the Southeast District found that during the period January 1979 to April 1980, Crystal USA Oil Inc. sold motor gasoline to its customers at prices in excess of those permitted by 10 CFR 122.93.

According to the PRO, the Crystal USA Oil Co. violation resulted in \$301,057.12 of overcharges.

[FR Doc. 82-16239 Filed 6-15-82; 8:45 am]

BILLING CODE 6450-01-M

#### Issuance of Proposed Decisions and Orders; Period of May 24 Through June 4, 1982

During the period of May 24 through June 4, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final

form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

June 10, 1982.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

*Golden Eagle Refining Co., Washington, D.C.,  
BEE-1313 Crude Oil*

Golden Eagle Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in Golden Eagle being issued additional entitlements to sell in order to reduce the firm's monthly per barrel post-entitlements crude oil costs to a level approximating the costs of the average domestic refiner. The firm requested such relief for all Entitlements Notices starting with the Notice issued in October 1979. On June 3, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

*Southwest Petrorefining Co., Donna, Texas,  
BEE-1513, Crude Oil*

On October 23, 1980, Southwest Petrorefining Company (SWP) filed an Application for Exception from the provisions of 10 CFR 212.94, as modified by Special Rule No. 2. The exception request, if granted, would designate a selected refiner-seller to sell SWP the volumes of crude oil allocated to the firm under the Buy/Sell program for the October 1980 through March 1981 allocation period. This allocated crude oil would be sold at the weighted average cost incurred by that refiner-seller for all of its crude oil, rather than at the seller's weighted average cost for its imported low sulfur crude oil. On June 2,

1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82-16240 Filed 6-15-82; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[PF-277; PH-FRL 2144-4]

### Certain Companies; Pesticide Petitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received pesticide petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities.

**ADDRESS:** Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-277]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

#### FOR FURTHER INFORMATION CONTACT:

The product manager cited in each petition at the telephone number provided.

#### SUPPLEMENTARY INFORMATION:

EPA gives notice that the Agency has received the following pesticide petitions (PP) relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

**PP-1F2500.** In the Federal Register of June 9, 1981 (46 FR 30563), EPA announced that Ciba Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had submitted PP 1F2500 proposing to amend 40 CFR 180 by establishing tolerances for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety each expressed as metalaxyl in or on the following

commodities: spinach at 10.0 parts per million (ppm); soybean forage and fodder at 7.0 ppm; green onions at 5.0 ppm; wheat forage and straw at 2.0 ppm; tomatoes at 1.0 ppm; dry bulb onions at 1.0 ppm; kidney of cattle, goats, hogs, horses, poultry and sheep at 1.0 ppm; broccoli, cabbage, and cauliflower at .6 ppm; cucumbers, head lettuce, potatoes and soybean grain at .5 ppm; melons at .3 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep at .3 ppm; wheat grain at .2 ppm; cottonseed at .1 ppm; eggs and meat of poultry (excluding liver and kidney) at .05 ppm; fat, meat, and meat by-products (excluding liver and kidney) at .05 ppm; and milk at .02 ppm.

Ciba Geigy Co. has amended the petition as follows:

a. Increase the tolerance levels for the raw commodities cucumbers from .5 ppm, to 1.0 ppm; green onions from 5.0 ppm to 10.0 ppm; and melons from .3 ppm, to 1.0 ppm.

b. Delete spinach, soybean forage and fodder, wheat forage and straw, broccoli, cabbage, cauliflower, head lettuce, soybean grain, and wheat grain. The proposed analytical method for determining residues is by gas chromatography with flame ionization detector or mass spectrometry. (Henry Jacoby, PM 21, 703-557-1900).

**PP 2F2673.** Nor-Am Agricultural Product Inc., 350 West Shuman Boulevard, Naperville, IL 60566. Proposes amending 40 CFR 180.353 by establishing tolerances for residues of herbicide desmedipham (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the raw agricultural commodity sunflower seeds at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography with a Ni63 electron capture detector. (Robert Taylor, PM 25, 703-557-1800).

**FAP 2H5345.** Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Proposes amending 21 CFR 561.289 by establishing a regulation permitting residues of herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium-ion) derived from application of either the dichloride or bis (methyl sulfate) salt, (both calculated as the cation) in or on the commodity soybean hulls at 1.0 ppm. (Robert Taylor, PM 25, 703-557-1800).

**PP 2F2672.** Chevron Chemical Co. Proposes amending 40 CFR 180.205 by increasing the tolerance for the residues of the herbicide paraquat in or on soybeans from 0.05(N) ppm to 0.2 ppm. The proposed analytical method for determining residues is freeing of the paraquat cation with ammonium chloride, reduction by sodium dithionite and determination by

spectrophotometry. (Robert Taylor, PM 25, 703-557-1800).

**PP 2F2670.** BASF Wyandotte Corp., P.O. Box 181, Parsippany, NJ 07054. Proposes amending 40 CFR 180 by establishing tolerances for residues of herbicide 2-(1-ethoxyimino)butyl-5-(2-(ethylthio)propyl)-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 5-(2-(ethylthio)propyl)-3-hydroxy-2-cyclohexen-1-one moiety and the 5-(2-(ethylthio)propyl)-3,5-dihydroxy-2-cyclohexen-1-one moiety and their several thiooxidation products (calculated as the herbicide) in or on the raw commodities soybeans at 20 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 20 ppm; eggs and milk at 0.05(N) ppm. The proposed analytical method for determining residues is gas chromatography using sulfur-specific FDP detector. (Robert Taylor, PM 25, 703-557-1800).

**PP 2F2666.** PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203. Proposes amending 40 CFR 180 by establishing an exemption from the requirement of tolerance for residues of the herbicide PPG-1292 [2,2-dichloro-*N*-(1,3-dioxolan-2-ylmethyl)-*N*-2-propenyl-acetamide] when used in formulations of the herbicides butylate (*S*-ethyl diisobutylthiocarbamate); EPTC (*S*-ethyl dipropylthiocarbamate) and vernolate (*S*-propyl dipropylthiocarbamate) when applied to corn fields before the corn plants emerge from the soil and according to the following restrictions: the inert ingredient PPG-1292, is used as a crop injury protectant and is limited to 7.25 percent of the herbicide formulation with a maximum application rate of 0.5 lb PPG-1292 per acre. The proposed analytical method for determining residues is gas chromatography equipped with an electron capture detector. (Robert Taylor, PM 25, 703-557-1800).

**PP 2F2679.** Union Carbide Corporation, T.W. Alexander Dr., Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.269 by establishing tolerances for the residues of insecticide/nematocide aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl)oxime and its cholinesterase-inhibiting metabolites 2-methyl 2-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl)oxime in or on the commodities field corn, fodder and forage at 0.6 ppm and field corn grain at 0.05 ppm. The proposed analytical method for determining residues is by gas chromatography using a flame

photometric detector. (Jay Ellenberger, PM 12, 703-557-2386).

**FAP 2H5347.** Union Carbide Corp. Proposes amending 21 CFR 561.30 by establishing a regulation permitting residues of insecticide/nematocide aldicarb in or on the commodity tomato pomace at 0.4 ppm. (Jay Ellenberger, PM 12, 703-557-2386).

**PP 2F2675.** Proposes amending 40 CFR 180.378 by establishing tolerances for the residues of permethrin ((3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw commodities almonds at 0.05 ppm and almond hulls at 19.0 ppm. The proposed analytical method for determining residues is gas chromatography with a Ni63 electron capture. (Franklin D.R. Gee, PM 17, 703-557-2690).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))  
(Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: June 4, 1982.

**Douglas D. Camp,**  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 82-15838 Filed 6-15-82; 8:45 am]  
BILLING CODE 6560-50-M

[OPP-00157; pH-FRL 2144-3]

#### State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** There will be a two-day meeting of the State FIFRA Issues Research and Evaluation Group (SFIREG). The meeting will be open to the public.

**DATES:** Wednesday, July 14, and Thursday, July 15, 1982, beginning at 8:30 a.m. on July 14 and ending prior to 12 noon on July 15.

**ADDRESS:** The meeting will be held at: Environmental Protection Agency, Waterside Mall, Rm. 3906-3908, 401 M St. SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** P.H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7096).

**SUPPLEMENTARY INFORMATION:** This will be the twelfth meeting of the full Group. The tentative agenda thus far includes the following topics:

1. Action items from the March 1982 meeting of the SFIREG.
2. Regional reports.
3. Working Committee reports.

4. Other topics which may arise.

Dated: June 4, 1982.

**Edwin L. Johnson,**  
Director, Office of Pesticide Programs.

[FR Doc. 82-15840 Filed 6-15-82; 8:45 am]  
BILLING CODE 6560-50-M

[PP 1G2441/T379; PH-FRL 2145-1]

#### American Hoechst Corp.; Extension of Temporary Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has extended a temporary tolerance for the combined residues of the insecticide [1R[1(S\*)3(RS\*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester, and its metabolite in or on the raw agricultural commodity cottonseed.

**DATE:** This temporary tolerance expires July 1, 1983.

**FOR FURTHER INFORMATION CONTACT:** Franklin 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, that was published in the Federal Register of December 16, 1981, (46 FR 61319), announcing the establishment of a temporary tolerance for the combined residues of the insecticide [1R[1(S\*)3(RS\*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester, and its metabolite (1R, 3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (S) alpha-cyano-(3-phenoxyphenyl)methyl ester in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). This temporary tolerance was issued in response to pesticide petition (PP 1G2441), submitted by American Hoechst Corporation, Agricultural Division, Route 202-206 North, Sommerville, NJ 08876.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 8340-EUP-6, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, 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.

This tolerance expires July 1, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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)

(Sec. 40(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

**Douglas D. Camp,**  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 82-15947 Filed 6-15-82; 8:45 am]  
BILLING CODE 6560-50-M

[PP 9G2230/T376; PH-FRL 2144-8]

**Ciba-Geigy Corp.; Extension of Temporary Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.**SUMMARY:** EPA has extended temporary tolerances for residues of the insecticide N-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on certain raw agricultural commodities.**DATE:** These temporary tolerances expire May 16, 1984.**FOR FURTHER INFORMATION CONTACT:** Franklin 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, that was published in the Federal Register of June 13, 1980 (45 FR 46221), announcing the renewal of temporary tolerances for residues of the insecticide N-cyclopropyl-1,3,5-triazine-2,4,6-triamine in or on the raw agricultural commodities eggs, meat, fat, and meat byproducts of poultry at 0.2 part per million (ppm); and meat, fat, and meat byproducts of beef cattle, sheep, and hogs at 0.1 ppm. These tolerances were issued in response to pesticide petition PP 9G2230, submitted by Ciba-Geigy Corporation, Agricultural Division, Greensboro, NC 27409.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permits (100-EUP-66) and (100-EUP-65), which are being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, 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.

These tolerances expire May 16, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

**Douglas D. Campt,***Director Registration Division, Office of Pesticide Programs.*

[FR Doc. 82-15945 Filed 6-15-82; 8:45 am]

**BILLING CODE 6560-50-M**

[PP 1G2520/T377; (PH-FRL 2144-7)]

**Zoecon Corp.; Establishment of Temporary Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.**SUMMARY:** EPA has established temporary tolerances for residues of the insecticide N-[2-chloro-4-(trifluoromethyl)phenyl]-D-Valine ( $\pm$ )-alpha-cyano(3-phenoxylphenyl)methyl ester in or on certain raw agricultural commodities. These temporary tolerances were requested by Zoecon Corporation.**DATE:** These temporary tolerances expire May 15, 1984.**FOR FURTHER INFORMATION CONTACT:** Franklin 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:** Zoecon Corporation, P.O. Box 10975, 975 California Ave., Palo Alto, CA 94304, has requested, in pesticide petition PP 1G2520, the establishment of temporary tolerances for residues of the insecticide N-[2-chloro-4-(trifluoromethyl)phenyl]-D-Valine ( $\pm$ )-alpha-cyano(3-phenoxylphenyl) methyl ester in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm); milk at 0.01 ppm; and meat, fat and meat byproducts of cattle, goats, hogs, horses and sheep at 0.01 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 20954-EUP-19 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, 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.

These tolerances expire May 15, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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. 610-612), 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).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 4, 1982.

Douglas D. Camp,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-15946 Filed 6-15-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP 00158; PH-FRL 2150-8]

### Pesticide Registration Guidelines; Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of a public meeting.

**SUMMARY:** There will be a two-day meeting, open to the public, to discuss the draft pesticide registration guidelines. The availability of the guidelines and procedures for providing written and oral comments were described in the *Federal Register* of May 24, 1982 (47 FR 22405). The Agency requests that comments be limited to substantive technical topics, such as the data needed to conduct pesticide hazards assessments and adequacy of recommended protocols.

**DATES:** The meeting will be held on Wednesday, July 7, and Thursday, July 8, 1982, from 8:30 a.m. to 5:00 p.m. each day. Written comments must be submitted by July 5, 1982.

**ADDRESS:** The meeting will be held at: Twin Bridges Marriott Hotel, 333 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Rm. 1115B, Crystal Mall, Building No. 2, Arlington, VA 22202, (703-557-7096).

#### SUPPLEMENTARY INFORMATION:

Interested persons wishing to file written statements or present oral statements at the public meeting, to the extent that time permits, must contact Philip H. Gray, Jr. at the address or phone listed above and submit comments on or before July 5, 1982. Comments, identified by the control number OPP 30064, in triplicate, should

be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460.

All statements will be made a part of the record and will be taken into consideration by EPA before publication of the guidelines by the National Technical Information Service (NTIS).

Dated: June 9, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-16494 Filed 6-15-82; 11:11 am]

BILLING CODE 6560-50-M

### FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-351; Transmittal No. 13663]

#### American Telephone & Telegraph Co.; Order

Adopted June 2, 1982.

Released: June 8, 1982.

In the matter of American Telephone & Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services; (May 5, 1982, 47 FR 19447).

By the Deputy Chief, Common Carrier Bureau:

1. Before the Bureau is a joint motion filed by many of the parties participating in the investigation of American Telephone & Telegraph Company's ("AT&T") rates and rate structure for Series 7000 television transmission service.<sup>1</sup> The movants ask that we require AT&T to clarify certain aspects of its comments prior to the submission of comments by other parties.

2. Earlier this year the Commission concluded, following investigation in

<sup>1</sup> The parties jointly filing are Hughes Television Network ("Hughes"); American Broadcasting Companies, Inc. ("ABC"), CBS, Inc. ("CBS"), and National Broadcasting Company, Inc. ("NBC"); Cable News Network, Inc.; Entertainment and Sports Programming Network, Inc.; Association of Independent Television Stations, Inc.; Storer Broadcasting Company; The Commissioner of Baseball; and Midwestern Relay Company. ABC, CBS and NBC had jointly filed two earlier information requests and a motion to compel but withdrew the motion to compel without prejudice by letter attached to the present motion. Hughes had submitted a counterproposal to the Networks' requests (see Order Mimeo No. 3958, released May 11, 1982, n. 1) and the present motion is stated to be in furtherance of Hughes' counterproposal. We assume that the present motion supersedes Hughes' counterproposal.

this proceeding, that major elements of the new rate structure which AT&T proposed in its recent Series 7000 tariff filing were unreasonable, or at least not properly justified. *American Telephone and Telegraph Company*, 88 FCC 2d 1656 (1982). Nevertheless, the Commission believed that much information had been gathered in the proceeding which could aid in developing a lawful rate structure for AT&T's terrestrial television transmission service. It therefore proposed revised rate structures for comment and possible interim prescription.

3. On April 9, 1982, AT&T commented on the Commission's interim Series 7000 proposal and raised certain new issues. In general, AT&T stated that it did not object, in principle, to the interim rates proposed by the Commission, but that if more recent cost and market studies were used, the rates proposed by the Commission would have to be revised upward to some extent. It further proposed several additions or changes to the existing tariff which it believed would minimize "anticipated adverse consequences" of the rate changes. These include revised cancellation and special construction charges.

4. The parties filing the joint motion are users of Series 7000 service. They contend that meaningful comment on AT&T's filing can only be had if AT&T is required to elaborate its proposal in several critical areas. For that purpose they have presented a set of questions for submission to AT&T. They request that AT&T be given 45 days to respond to these questions and that interested parties be allowed a like period to file comments thereafter.

5. We have examined the proposed questions and believe that many of them may well help to clarify AT&T's comments so that parties will be in a better position to comment on how the interim tariff would work on practice. These questions are listed in the Appendix. On the other hand, some of the questions are either not relevant to the current stage of this proceeding or are unnecessary. The request for details of work functions covered by the IXC service charge (Question 1-l) involves rate questions which we have deferred until further studies are completed under an interim tariff. The requests for studies of special construction arrangements in the past and associated costs (Question 3-a) as well as projections of future demand (Question 3-a) as well as projections of future demand (Question 3-d) would seem to be of little value to the present inquiry

since special construction is carried out and tariffed on a case-by-case basis; it could also unnecessarily delay this proceeding. The detailed information on local channel facilities and common equipment pooling arrangements (Question 3-f-(i-v)) may be useful for purposes of developing final local channel rates, but are not relevant to the current interim proposals. The AT&T Tariff Filing Reference Package (TFRP) requested in Question 4-a is on file with the Common Carrier Bureau and available to the public; it is also voluminous and we think it unnecessary that AT&T be required to provide copies to the parties. We will ask AT&T to explain the reported increases in investments as requested in Question 4-b, but for the present we do not believe that studies are necessary. We may request the submission of relevant studies if AT&T's explanation of the worksheets is inadequate. With these exceptions, we will direct AT&T to answer the questions in the Appendix, as requested in the joint motion.

7. As an additional aid to clarifying AT&T's proposal and avoiding further delays and disputes, we also request that AT&T submit an illustrative tariff which would implement the proposals in its comments. AT&T should answer the questions by reference to the provisions in its illustrative tariff. Finally, we request that AT&T submit a customer impact statement so that the public and the Commission will be better able to assess the effects of AT&T's proposal as compared with the present rate structure.

8. We will allow 45 days for AT&T's response and 45 days thereafter for comments, as requested in the joint motion.

9. Accordingly, it is ordered, That the joint motion is granted to the extent indicated herein, but is otherwise denied.

10. It is further ordered, That the American Telephone and Telegraph Company submit answers to the questions in the Appendix, and illustrative tariff and a customer impact statement within 45 days of the adoption of this Order.

11. It is further ordered, That the date for the filing of replies by interested parties in this proceeding is extended until 45 days thereafter.

12. It is further ordered, That the Secretary shall cause this Order to be published in the Federal Register.

13. It is further ordered, That this Order is effective upon adoption.

Federal Communications Commission.

Leon M. Kestenbaum,  
Deputy Bureau Chief, Policy Common Carrier Bureau.

[FR Doc. 82-16172 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-209; BC Docket No. 82-245, File No. BR 810601C9; BC Docket No. 82-246, File No. BP-810724AI]

**Montgomery County Broadcast Co., Inc. and Community Airwaves, Inc.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues**

In re Applications of Montgomery County Broadcast Company, Inc., Has: 1600 KHz, 500 W, 1 Kw-LS, DA-N, U, For Renewal of License of Station WINX, Rockville, Maryland, (BC Docket No. 82-245, File No. BR 810601C9); Community Airwaves, Inc., Rockville, Maryland, Req: 1600 KHz, 500 W, 1 Kw-LS, DA-N, U, (BC Docket No. 82-246, File No. BP-810724AI) For Construction Permit; Memorandum Opinion and Order designating applications for consolidated hearing on stated issues.

Adopted: April 29, 1982.

Released: May 17, 1982.

By the Commission: Chairman Fowler not participating.

1. The Commission has under consideration the license renewal application of Montgomery County Broadcast Company, Inc. (Montgomery) for AM radio Station WINX in Rockville, Maryland, and a timely file construction permit application by Community Airwaves, Inc. (Community). Because the application are mutually exclusive, they must be designated for a comparative hearing.

2. *Montgomery*. According to its 1981 renewal application for Station WINX, Montgomery is wholly owned by United Broadcasting Company (United). Until recently, United was wholly owned by Richard Eaton.<sup>1</sup>

<sup>1</sup> On April 16, 1981, the Circuit Court for Montgomery County, Maryland, appointed Suburban Trust Company to act as temporary guardian of the property of Richard Eaton. As a result of this appointment, applications were filed with the Commission on May 18, 1981, for consent to the involuntary transfer of control of United and its various licensee subsidiaries. On June 1, 1981, Richard Eaton died, and his property was transferred, pursuant to the terms of his will, to his Personal Representatives, Suburban Trust Company and Dennison L. Mitchell. As a result of this transfer, and prior to any Commission action on the May 18, 1981, applications, new applications for consent to the involuntary transfer of control of United and its various licensee subsidiaries to Richard Eaton's Personal Representatives were filed on July 1, 1981. On August 24, 1981, the Commission granted simultaneously both the May 18 and July 1, 1981, applications, with the result that control of

3. Over the past several years, the Commission has denied or revoked four of United's Licenses.<sup>2</sup> Recently, in *United Broadcasting Co. (Wook(FM))*, 86 FCC 2d 452 (1981), the Commission held that these prior adverse determination reflected a pattern of serious misbehavior by United and thereby raised a *prima facie* question about its qualifications to operate WOOK (FM). In designating a qualifications issue, we noted that, although we lacked sufficient evidence to determine whether Richard Eaton was personally responsible for United's misconduct, even if Eaton were removed from United's ownership, a serious question would still remain regarding the soundness and reliability of the licensee's operations. *Id.* at 458 n.24.

4. In designating these applications for hearing, we are again confronted with the question whether United's past misconduct should reflect adversely on its qualifications to remain the licensee of WINX. Our decision is that it is unnecessary to add a basic qualifications issue to this proceeding at this time.<sup>3</sup> The question of which individuals were responsible for United's prior misconduct is being explored fully in the WOOK(FM) proceeding. After the Administrative Law Judge issues an initial decision in WOOK(FM), the parties to this proceeding may then argue to the Administrative Law Judge whether issues should be added to consider the significance that the findings there have on Montgomery's qualifications. A final determination as to WINX's qualifications will therefore be conditioned on the outcome of the WOOK(FM) proceeding. Whether Richard Eaton's death has any effect on the resolution of any qualification issue, or the addition of any issues, is a matter,

United and its various licensee subsidiaries has been transferred to Suburban Trust Company and Dennison L. Mitchell, Personal Representatives.

<sup>2</sup> *United Television Co.*, 46 FCC 2d 698 (1974) (WFAN-TV) and *United Television of New Hampshire*, 46 FCC 2d 702 (1974) (WMET), *aff'd*, 514 F. 2d 279 (D.C. Cir. 1975); *United Broadcasting of Florida*, 55 FCC 2d 832 (1975), *recon. denied* 60 FCC 2d 816 (1976) (WFAB); *United Television Co.*, 55 FCC 2d 416 (1975), *recon. denied* 59 FCC 2d 663 (1976), *aff'd sub nom. United Broadcasting Co. v. FCC*, 569 F. 2d 699 (D.C. Cir. 1977), *cert. denied* 434 U.S. 1076 (1978) (*Wook (AM)*). In the first two decisions, we revoked two of United's television stations because they had been dark for more than two years, thereby depriving viewers of service over those frequencies. In the latter two, we denied two radio station renewals, finding that United was unfit to operate those broadcast facilities.

<sup>3</sup> See Our similar decisions in *Intercontinental Radio, Inc.*, 86 FCC 2d 819 (1981), and *Tele-Broadcasters of California, Inc.*, FCC 82-18, released February 1, 1982.

of course, for the Administrative Law Judge to decide initially.

5. Except as limited by our discussion above, a review of Montgomery's license renewal application indicates that it is qualified to be a Commission licensee. In the interest of administrative efficiency, we believe that the Chief Administrative Law Judge should assign this matter to the same judge currently presiding in the WOOK(FM) proceedings.

6. *Community*. Applicant estimates that it will require \$390,840 to construct its proposed station and operate it for three months. In order to meet that requirement, each of its four principals is to loan the corporation a *pro rata* share of the funds. Their agreement, however, states that the "terms and conditions of these loans will be determined when the FCC grants or denies the company's application." Since the agreement fails to state the terms of repayment and the security required, or otherwise indicate that none will be required, it cannot be accepted. In addition, the financial statements of two of the principals, Neil D. Cohen and Laurance Levitan, do not show sufficient liquid assets to meet their share of the commitment.<sup>4</sup> An appropriate financial issue will be specified. Otherwise, a review of Community's application indicates that it is qualified to be a licensee.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Montgomery Broadcast Company, Inc. and Community Airwaves, Inc. are designated for consolidated hearing, at a time and place to be specified in a subsequent Order, upon the following issues:<sup>5</sup>

1. To determine, with respect to Community Airwaves, Inc.:
  - (a) The source and availability of sufficient funds to meet anticipated costs; and
  - (b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.
2. To determine which of the proposals would, on a comparative basis, better serve the public interest.
3. To determine in light of the evidence adduced pursuant to the

<sup>4</sup> Both have failed to demonstrate that their real and personal property can be relied upon to provide a readily available source of funds. In addition, Levitan has not properly described or shown the ready marketability of his other non-cash assets.

<sup>5</sup> Our determination that Montgomery possesses the basic qualifications to remain a Commission licensee is conditioned upon the outcome of the WOOK(FM) proceeding. See paragraphs 2-4, *supra*.

foregoing issues, which of the applications, if either, should be granted.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants 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.

9. 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 local notice of the hearing (either individually, or if feasible and consistent with the Rules, jointly) 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.

10. It is further ordered, That this case be assigned to the same Administrative Law Judge presently presiding in the United Broadcasting Co. (WOOK(FM)) proceeding.

11. It is further ordered, That this Secretary of the Commission shall send, by Certified Mail—Return Receipt Requested, a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.  
William J. Tricarico,  
Secretary.

[FR Doc. 82-16173 Filed 6-15-82; 8:45 am]  
BILLING CODE 6712-01-M

#### [Report No. 1357]

#### Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 10, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR § 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before July 1, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921, RM's 1197, 1218 and 1330)

Filed by: Robert M. Johnson, Manager, Government Agency Liaison for General Electric Co., on 6-2-82. Daniel J. Rooks, President for General Electric on 6-3-82.

Subject: An Inquiry into the Future Role of Low-Power Television Broadcasting and Television Transmitters in the National Telecommunications System. (BC Docket No. 78-253)

Filed by: Marianne McDermott, Attorney for American Women In Radio and Television, Inc., on 5-26-82.

Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82-122)

Filed by: Steven A. Levy, Attorney for International Relay, Inc., on 6-2-82. Stanford B. Weinstein, Attorney for Graphnet, Inc., on 6-2-82. Lloyd D. Young, Attorney for TRT Telecommunications Corporation on 6-2-82. Robert Michelson & Gary M. Feren, Attorneys for Western Union International, Inc., on 6-2-82. Martin W. Bercovici, Attorney for Mobile Marine Radio, Inc., on 6-2-82. Alexander P. Humphrey, for RCA Global Communications, Inc., on 6-2-82. H. Richard Juhnke, Attorney for Western Union Telegraph Company on 6-3-82.

Federal Communications Commission  
William J. Tricarico,  
Secretary,

Federal Communications Commission.

[FR Doc. 82-16171 Filed 6-15-82; 8:45 am]

BILLING CODE 6712-01-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-5-IL-2]

#### Illinois Plan for Radiological Accidents Site-Specific for the LaSalle Nuclear Power Station; Certification of FEMA Findings and Determination

In accordance with FEMA Rule 44 CFR 350 (proposed) on March 31, 1981, the State of Illinois submitted its plans relating to the LaSalle Nuclear Power Station to the Director of FEMA Region V for review and approval. The Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the proposed rule. Included in this evaluation were a review of the State and local plans around the LaSalle facility; a critique of the exercise conducted on December 4, 1980, in accordance with § 350.9; and a report of the public meeting held on December 5, 1980, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed rule. In the latest LaSalle joint exercise conducted on April 14, 1982, it was demonstrated that the remaining outstanding deficiencies were corrected with the exception of the prompt alerting and notification systems.

Based on the evaluation by the Regional Director and the review by the

FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the LaSalle Nuclear Power Station are adequate to protect the health and safety of the public living in the vicinity of the station. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken off-site in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alerting and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA Criteria of NUREG-0654/FEMA-REP-1, Revision 1.

FEMA will continue to review the status of plans and preparedness of the State and localities associated with the LaSalle Nuclear Power Station in accordance with § 350.13 of the proposed rule.

For further details with respect to this action, refer to Docket File FEMA-REP-5-IL-2 maintained by the Regional Director, FEMA Region V at the Federal Center, Battle Creek, Michigan 49016.

Dated: June 4, 1982.

Lee M. Thomas,

*Associate Director, State and Local Programs and Support.*

[FR Doc. 82-16216 Filed 6-15-82; 8:45 am]

BILLING CODE 6718-01-M

#### [FEMA-600-DR]

#### Illinois; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA-660-DR), dated June 5, 1982, and related determinations.

**DATED:** June 5, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of

Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of June 5, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Illinois resulting from severe storms and tornadoes beginning on May 29, 1982, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Illinois.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area except for technical assistance which will be funded at 100 percent.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Ronald Buddecke of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Illinois to have been affected adversely by this declared major disaster:

Williamson County and the Townships of Road Districts 4 and 5-3 in Perry County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02.)

Lee M. Thomas,

*Associate Director, State and Local Programs and Support.*

[FR Doc. 82-16218 Filed 6-15-82; 8:45 am]

BILLING CODE 6718-02-M

#### National Emergency Training Center; Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy

Dates of Meeting: June 24-25, 1982

Place: National Fire Academy, Emmitsburg, Maryland

Time: 9:00 a.m. to 5:00 p.m.

#### Proposed Agenda:

June 24, 1982: Introductory remarks; Introduction of Guests; Approval of Minutes from previous meeting; Subcommittee Reports; Report of Associate Director for Training and Education; Open Learning Briefing; Certification Briefing; Possible Committee Considerations; Five-Year Plan; Facilities; Miscellaneous Considerations; Establishment of Proposed Future Meeting Dates.

June 25, 1982: Uncompleted Agenda Items; Tour of Facilities; Administrative Details.

The meeting will be open to the public with approximately 20 seats available on a first-come, first-serve basis.

Members of the general public who plan to attend the meeting should contact Mr. Joseph L. Donovan, Superintendent, National Fire Academy, 16825 S. Seton Avenue, Emmitsburg, Maryland 21727 (telephone 301/447-6771) on or before June 18, 1982.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, Maryland. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: June 7, 1982.

Fred J. Vilella

*Associate Director for Training and Education, National Emergency Training Center.*

[FR Doc. 82-16217 Filed 6-15-82; 8:45 am]

BILLING CODE 6718-01-M

#### FEDERAL MARITIME COMMISSION

#### Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons or Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Alaska Tour & Marketing Services, Inc., Great Rivers Boat Company, Robert

Giersdorf, Jack D. Ott, Orion C. Shockley, David Hartman and Joseph Schocken c/o Exploration Holidays and Cruises, 1500 Metropolitan Park Building, Olive Way & Boren Ave., Seattle, Washington 98101.

Dated: June 11, 1982.

Francis C. Hurney,  
Secretary.

[FR Doc. 82-16175 Filed 6-15-82; 8:45 am]

BILLING CODE 6730-01-M

## GENERAL SERVICES ADMINISTRATION

### Performance Review Board

AGENCY: General Services Administration.

ACTION: Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the GSA Performance Review Board.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Knott, Director, Executive Resources Division, General Services Administration, Office of Organization and Personnel, Executive Resources Division, Office of Personnel, 18th and F Streets, NW., Washington, D.C., 20405 (202) 566-1207.

**SUPPLEMENTARY INFORMATION:** Sec. 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The members of the Performance Review Board are:

1. Charles Davis, III, Associate Administrator for Policy and Management Systems
2. Bond Faulwell, Director of Organization and Personnel<sup>1</sup>
3. Jerald Fox, Associate Administrator for Administration
4. Steven Hammer, Associate Administrator for Operations
5. Carroll Jones, Acting Commissioner, Federal Property Resources Service
6. Saul Katz, Special Counsel to the Administrator for Ethics
7. Arlene Schley, Deputy Administrator, National Capital Region

<sup>1</sup> Non-voting Executive Secretary.

Dated: June 10, 1982.

Gerald P. Carmen,  
Administrator of General Services.

[FR Doc. 82-16230 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-34-M

### Report of Employment Under Commercial Activities (CA) Contracts

AGENCY: General Services Administration.

ACTION: Notice of information collection.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration proposes to request the Office of Management and Budget to review and approve a new information collection requirement.

**DATE:** Comments on the proposed information collection must be submitted on before June 30, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Anthony Artigliere, Acting Chief, Directives, Reports, and Publications Branch (202-566-0666).

**ADDRESSES:** Send comments to Franklin S. Reeder, OMB Desk Officer, Room 3208, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

**SUPPLEMENTARY INFORMATION:** The purpose of this information collection is to provide Government agencies with necessary information on former Federal employees hired by contractors to ensure the proper distribution of severance pay by the Government under 5 CFR 550.701(b)(6). A copy of the information collection proposal may be obtained from the Directives, Reports, and Publications Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566-1164.

Dated: June 7, 1982.

Clarence A. Lee, Jr.,  
Director of Administrative Services.

[FR Doc. 82-16224 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-34-M

### General Services Administration Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on June 29, 1982 from 8:00 a.m. to 3:30 p.m., in Room 6120, 18th and F Streets, N.W., Washington, DC 20405. This session will be open to the public and will include meetings of the Board's subcommittees on Supply and Distribution, Contracting, and Computer Systems and Information Management. Specific locations for

these sessions will be posted outside of Room 6120.

For further information, contact Roger C. Dierman, Deputy Associate Administrator on (202) 523-1141.

Charles S. Davis, III,  
Associate Administrator.

[FR Doc. 82-16234 Filed 6-15-82; 8:45 am]

BILLING CODE 6820-26-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Office of Health Research, Statistics, and Technology; Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of Thermography for the Diagnosis of Breast Lesions. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than September 14, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics, and Technology, Room 17A55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Dennis J. Cotter, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: June 10, 1982.

**Harold Margulies,**  
*Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.*

[FR Doc. 82-16211 Filed 6-15-82; 8:45 am]

BILLING CODE 4160-17-M

### **President's Committee on Mental Retardation; Meeting**

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on June 24-25, 1982, at the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Room 800 (Penthouse), Washington, D.C. 20201, from 9:00 a.m. to 5:00 p.m. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness and prevention of mental retardation.

These meetings are open to the public. A translator for the Deaf will be available upon advance request. The Penthouse is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 4025, ROB 3, 7th & D Streets, S.W., Washington, D.C. telephone (202) 245-7634.

Dated: June 14, 1982.

**Mr. Fred J. Krause,**  
*Executive Director, President's Committee on Mental Retardation*

[FR Doc. 82-16107 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

### **Discriminating Against the Handicapped by Withholding Treatment or Nourishment; Notice of Health Care Providers**

May 18, 1982.

There has recently been heightened public concern about the adequacy of medical treatment of newborn infants with birth defects. Reports suggest that operable defects have sometimes not been treated, and instead infants have been allowed to die, because of the existence of a concurrent handicap, such as Down's syndrome.

This notice is intended to remind affected parties of the applicability of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 provides that "No otherwise qualified handicapped individual \* \* \* shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance \* \* \*". Implementing regulations issued by the Department of Health and Human Services make clear that this statutory prohibition applies in the provision of health services (45 CFR 84.52) and that conditions such as Down's syndrome are handicaps within the meaning of section 504 (45 CFR 84.3(j)).

Under section 504 it is unlawful for a recipient of Federal financial assistance to withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life-threatening condition, if:

- (1) The withholding is based on the fact that the infant is handicapped; and
- (2) The handicap does not render the treatment or nutritional sustenance medically contraindicated.

For example, a recipient may not lawfully decline to treat an operable life-threatening condition in an infant, or refrain from feeding the infant, simply because the infant is believed to be mentally retarded.

We recognize that recipients of Federal financial assistance may not have full control over the treatment of handicapped patients when, for instance, parental consent has been refused. Nevertheless, a recipient may not aid or perpetuate discrimination by significantly assisting the discriminatory actions of another person or organization. 45 CFR 84.4(b)(1)(v). Recipients must accordingly insure that they do not violate section 504 by facilitating discriminatory conduct.

In fulfilling its responsibilities, a Federally assisted health care provider should review its conduct in the following areas to insure that it is not engaging in or facilitating discriminatory practices:

- Counseling of parents should not discriminate by encouraging parents to make decisions which, if made by the health care provider, would be discriminatory under section 504.
- Health care providers should not aid a decision by the infant's parents or guardian to withhold treatment or nourishment discriminatorily by allowing the infant to remain in the institution.

- Health care providers are responsible for the conduct of physicians with respect to cases administered through their facilities.

The failure of a recipient of Federal financial assistance to comply with the requirements of section 504 subjects that recipient to possible termination of Federal assistance. Moreover, section 504 does not limit the continued enforcement of State laws prohibiting the neglect of children, requiring medical treatment, or imposing similar responsibilities.

**Betty Lou Dotson,**

*Director, Office for Civil Rights.*

[FR Doc. 82-16258 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

### **Health Services Administration**

#### **Health Resources Administration**

#### **Health Professions and Nursing Student Loans; "Low Income Levels" for Loan Repayment, Health Careers Opportunity Grants and Nursing Special Project Grants**

This Notice updates the income levels that are used to define a "low income family" for purposes of repayment of educational loans and for the support of training for individuals from disadvantaged backgrounds as provided for under sections 787 and 798, Health Careers Opportunity Grants; and section 820, Nursing Special Project Grants of the Public Health Service Act.

Under sections 741(1) and 836(j) and the applicable program regulations, the Secretary of Health and Human Services may repay all or part of an individual's educational loan made after November 17, 1971, to meet the costs of attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or nursing if the Secretary determines that the individual meets all of the following:

- (1) Failed, after November 17, 1971, to complete the health professions studies leading to the individual's first professional degree or to complete the specified nursing studies for which the loan(s) was made;
- (2) Is in exceptionally needy circumstances;
- (3) Is from a low income or disadvantaged family; and
- (4) Has not resumed or cannot reasonably be expected to resume the course of study within 2 years following the date the individual ended the studies.

Sections 57.214(c) and 57.317(c) of the applicable program regulations (42 CFR Part 57, Subparts C and D) require the Secretary to publish annually in the Federal Register the low income levels which will be used in determining an applicant's eligibility for this repayment program. Aside from their use in determining whether an individual comes from a "low income family," these income levels, together with other relevant factors such as value of assets, unusual expenses, income available to the individual, etc., are also considered in determining whether an individual is "in exceptionally needy circumstances" or is from a "disadvantaged family".

The income figures below were taken from low income levels, published by the U.S. Bureau of Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal Programs, then multiplied by a factor of 1.3 for adaptation to the Health Professions and Nursing Student Loan Programs and other designated grant programs for which training for individuals from disadvantaged backgrounds is supported. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1981.

Size of parents' family (includes only dependents listed on Federal income tax forms):	Income Level <sup>1</sup>
1	\$6,100
2	7,900
3	9,400
4	12,100
5	14,300
6	16,000

<sup>1</sup> Adjusted gross income for calendar year 1981, rounded to \$100.

Dated: May 26, 1982.

John H. Kelso,  
Acting Administrator, Health Services Administration.

Dated: June 3, 1982.

Robert Graham,  
Acting Administrator, Health Resources Administration.

[FR Doc. 82-16179 Filed 6-15-82; 8:45 am]

BILLING CODE 4160-16-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Flathead Irrigation Project, Montana

This notice of operation and

maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3, and by authority delegated to the project Engineer and to the Superintendents by the Area Director in 10 BIAM 7.0, Sections 2.70-2.75. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

Pursuant to final rule published on June 14, 1977, in 42 FR 30361, this notice sets forth changes to the operation and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914, and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 210, 25 U.S.C. 387).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provision. No comments were received during the 30 day period.

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1982 and 1983 and subsequent years until further notice are hereby fixed as follows:

For the season of 1982 for lands not included in an Irrigation District but including lands held in trust for Indians, the rate per acre for the various divisions are as follows:

Jocko.....	\$8.86
Mission Valley.....	8.28
Camas.....	6.77

For the season of 1983 for lands included in an Irrigation District, the Project charge per acre is as follows:

Jocko Valley Irrigation District.....	\$9.08
Mission Irrigation District.....	5.17
Flathead Irrigation District.....	5.59

E. M. Axtell,  
Project Engineer, Flathead Irrigation Project.

[FR Doc. 82-16178 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

## Bureau of Land Management

[Serial Nos. A-17865; A-17866]

### Arizona; Realty Action— Noncompetitive Leases—Public Land in Yavapai County, Arizona

The following described land has been determined to be suitable for residential and commercial lease by non-competitive means under section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

Township 8 North, Range 2 West, C&SRM,  
Section 28, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
Containing 5 acres.

Purpose of the lease is to legalize a residential and commercial use on public land. The lessee will be Mr. and Mrs. Walter M. Sterne.

The lands involved are an integral part of a long-established ranching operation and will serve as the ranch headquarters. A secondary use will be for a guest ranch operation. The analysis required by 43 CFR Part 1600 has been done in reports prepared specifically for this action.

Provisions in 43 CFR 2920.5-4(b) provide where prior use of the land exists that land use authorizations may be offered on a non-competitive basis. An appraisal will be completed and a fair-market rental will be charged for use of the land.

Detailed information concerning this lease is available for review at the Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona.

For a period of 45 days, interested parties may submit comments to the Phoenix District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department of the Interior, and the required payment plus the cost of publishing this notice will be requested of Mr. and Mrs. Walter M. Sterne.

Dated: June 8, 1982.

William K. Barker,  
District Manager.

[FR Doc. 82-16185 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

**Carson City District Grazing Advisory Board; Meeting**

The Board will meet July 22, 1982, at 10:00 a.m. in the Carson City district BLM Office. The agenda will include discussion of the Draft Reno Grazing Environmental Impact Statement, grazing applications, State water policy, Lahonta Resource Area allotment classifications, range improvement, and other matters pertaining to the District range management program.

The Board is composed of five members elected to represent grazing permittees in the Carson City District in advising the District Manager on the rangeland management program. Any person is welcome to attend the meeting and appear before the Board at 11:00 a.m.

**FOR FURTHER INFORMATION CONTACT:** Stephen A. Weiss, Public Affairs Officer, Bureau of Land Management, Carson City District Office, 1050 E. William St., Suite 335, Carson City, Nevada 89701 (702) 882-1631.

Dated: June 8, 1982.

Thomas J. Owen,  
District Manager.

[FR Doc. 82-16182 Filed 6-15-82; 8:45 am]  
BILLING CODE 4310-84-M

**Uinta-Southwestern Utah Coal Region Coal Leasing; Change in Regional Coal Team Meeting**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Change in the date of the previously announced regional coal team meeting (second change).

**SUMMARY:** Federal Register notices on May 12 and June 1, 1982 announced a Regional Coal Team (RCT) meeting in the Uinta-Southwestern Utah Coal Region. It has become necessary to again change the date of the scheduled RCT meeting. Notice of intent to rank an additional coal tract is provided.

**DATES:** The Regional Coal Team will now meet on July 22-23, 1982, starting at 9:00 a.m.

**ADDRESS:** The Regional Coal Team meeting will be in the Hotel Utah, Bonneville III Room, Main at South Temple, Salt Lake City, Utah.

**FOR FURTHER INFORMATION CONTACT:** Max Nielson, Coal Project Manager, Uinta-Southwestern Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524-5326.

**SUPPLEMENTARY INFORMATION:** The Regional Coal Team will meet on July 22-23, 1982, at 9:00 a.m. in the Hotel Utah, Salt Lake City, Utah. The Regional

Coal Team will discuss, rank, and select the coal lease tracts that will be considered for Round II of potential leasing in the Uinta-Southwestern Utah Coal Production Region. Opportunity will be provided for public comment during the course of the meetings.

Due to the fact the North Horn Mountain tract received no bids on May 27, 1982, this tract will again be ranked and reconsidered for potential leasing in Round II. The tract is located 7 miles west of Castle Dale, Utah in T. 18 and 19 S., R. 6 and 7 E. SLM. The approximate acreage is 11,000 and the estimated in-place reserves are 249 million tons. All other data in the May 12 and June 1 announcements pertaining to the RCT meeting still apply.

Dated: June 9, 1982.

Dean Stepanek,  
Associate State Director.

[FR Doc. 82-16183 Filed 6-15-82; 8:45 am]  
BILLING CODE 4310-84-M

[M 044785, et. al.]

**Montana and North Dakota; Partial and Total Terminations of Classifications for Multiple Use Management**

June 4, 1982.

1. Pursuant to authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, the Bureau of Land Management Multiple Use Classification Orders described below are hereby terminated except for those orders which continue to be partially or totally segregated from the public land laws, generally, and from location and entry under the general mining laws. (Asterisk denotes classifications that contain lands which remain

segregated—Serial Nos. M 1361, M 1598, M 7991, M 8905, M 11512, and M 12770.)

M 044785, 35 FR 18985 (December 15, 1970), containing 82.11 acres in Richland County, Montana;

M 073705, 31 FR 11239 (August 25, 1966), aggregating 614,700 acres in Valley County, Montana;

M 1353, 32 FR 12856 (September 8, 1967), aggregating 396,432.99 acres in Garfield County, Montana;

\*M 1361, 32 FR 8625 (June 15, 1967), aggregating 121,546 acres in Powell, Granite, Missoula, and Lewis and Clark Counties, Montana, except for the land described in Paragraph Two (706.83 acres) which will remain segregated;

\*M 1598, 32 FR 8623-8625 (June 15, 1967), aggregating 664,420 acres in Beaverhead County, Montana, except for Amendment, 34 FR 1970 (February 11, 1969), containing 5 acres, known as Road Agents Rock, which will remain segregated;

M 1626, 32 FR 11577 (August 10, 1967),

aggregating 490,588 acres in Carter County, Montana;

M 1688, 32 FR 12857-12858 (September 8, 1967), aggregating 236,552 acres in Madison and Gallatin Counties, Montana;

M 1689, 32 FR 12858 (September 8, 1967), aggregating 81,160 acres in Jefferson County, Montana;

M 2146, 32 FR 12858-12859 (September 8, 1967), aggregating 57,311.09 acres in Prairie County, Montana;

M 2147, 33 FR 8354 (June 5, 1968), aggregating 22,600 acres in Granite County, Montana;

M 2309, 32 FR 12859-12860 (September 8, 1967), aggregating 267,000 acres in Chouteau, Blaine and Phillips Counties, Montana;

M 5887, 33 FR 6747-6748 (May 2, 1968), aggregating approximately 204,763 acres in Powder River County, Montana;

\*M 7991, 33 FR 9714-9715 (July 4, 1968), aggregating 205,719.95 acres in Carbon County, Montana, except for the 14,271.81 acres described in Paragraph Five of this order and Amendment 35 FR 19527-19528 (December 23, 1970), aggregating 11,634.05 acres, known as the Pryor Mountain Wild Horse Range, which will remain segregated;

\*M 8905, 33 FR 12387-12388 (September 4, 1968), aggregating 252,990 acres in Fergus, Chouteau, and Judith Basin Counties, Montana, except for Amendment, 35 FR 19132 (December 17, 1970), aggregating 1,946.53 acres in Chouteau County, known as Square Butte Natural Area, which will remain segregated;

M 10468, 34 FR 14742 (September 24, 1969), containing 120 acres in Carbon County, Montana;

M 10484, 35 FR 5126-5128 (March 26, 1970), aggregating 12,881.41 acres in Richland and Roosevelt Counties, Montana and Mountrail and Williams Counties, North Dakota;

M 10577, 34 FR 873 (January 18, 1969), aggregating 520 acres in Carter County, Montana;

\*M 11512, 35 FR 10040 (June 18, 1970), aggregating 8,361.54 acres in Gallatin County, Montana, except for lots 2, 3, 7, 10, and 13, section 6, T. 2 S., R. 2 E., P.M.M., containing 157.18 acres, which will remain segregated;

M 12079, 35 FR 10733 (July 2, 1970), aggregating 181,089 acres in Garfield and McCone Counties, Montana;

M 12081, 35 FR 10785 (July 2, 1970), aggregating 225,887 acres in Custer County, Montana;

M 12764, 35 FR 13322 (August 20, 1970), aggregating 26,553.51 acres in Garfield and Golden Valley Counties, Montana;

- M 12769, 35 FR 10466 (June 26, 1970), aggregating 48,353 acres in Broadwater County, Montana;
- \*M 12770, 35 FR 11062 (July 9, 1970), aggregating 48,440 acres in Silver Bow and Deer Lodge Counties, Montana, except Amendment, 35 FR 19133 (December 17, 1970), containing 7041.23 acres, designated as Humbug Spires, which will remain segregated; and
- M 12993, 35 FR 10385-10387 (June 25, 1970), aggregating 707,672 acres in Phillips and Blaine Counties, Montana.

The lands above aggregate approximately 4,875,742.60 acres of which approximately 35,762.63 acres remain segregated from the public land laws generally, and from location and entry under the general mining laws.

2. The lands listed in Paragraph One will be open to the Public Land Laws generally and to location and entry under the general mining laws except for the following described lands which remain segregated: M 1361—Land described as follows:

**Principal Meridian**

- T. 11 N., R. 8 W.,  
Sec. 25, lots 1, 2, 20, and 21.
- T. 14 N., R. 9 W.,  
Sec. 30, lot 2, N $\frac{1}{2}$  lot 3, and lots 5 thru 15, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ .
- T. 14 N., R. 11 W.,  
Sec. 18, lots 1 and 2, NE $\frac{1}{4}$ NW $\frac{1}{4}$ , and SE $\frac{1}{4}$ NW $\frac{1}{4}$  (incorrectly described in original publication as SW $\frac{1}{4}$ NW $\frac{1}{4}$ );  
Sec. 23, lots 7, 8, and 9;  
Sec. 26, lot 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$  (incorrectly described in original publication as SW $\frac{1}{4}$ NE $\frac{1}{4}$ ), and NE $\frac{1}{4}$ SE $\frac{1}{4}$ .
- T. 11 N., R. 14 W.,  
Sec. 14, Lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$ .
- T. 13 N., R. 14 W.,  
Sec. 33, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
Aggregating 706.83 acres.

- M 1598—Land known as Road Agents Rock, described in Amendment 34 FR 1970 (February 11, 1969):

**Principal Meridian**

- T. 7 S., R. 11 W.,  
Sec. 29, W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
Containing 5 acres.

- M 7991—Land described in Paragraph Five of Notice of Classification, 33 FR 9714-9715 (July 4, 1968), aggregating 14,271.81 acres, and all lands described in Amendment 35 FR 19527-19528 (December 23, 1970), known as the Pryor Mountain Wild Horse Range, containing 11,634.05 acres for a total of 25,905.86 acres;

- M 8905—Land known as Square Butte Natural Area, described in Amendment 35 FR 19132 (December 17, 1970), aggregating approximately 1,946.53 acres;

- M 11512—Land in Notice of Classification, 35 FR 10040 (June 18, 1970), described as:

**Principal Meridian**

- T. 2 S., R. 2 E.,  
Sec. 6, lots 2, 3, 7, 10, and 13.  
Containing 157.18 acres.

- M 12770—Land designated as Humbug Spires Primitive Area, described in Amendment 35 FR 19133 (December 17, 1970), aggregating 7,041.23 acres. The above areas, aggregating 35,762.63 acres, will be reviewed separately.

3. At 8 a.m. on July 9, 1982, the lands of Paragraph One, except for those described in Paragraph Two, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on July 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Except for the lands described in Paragraph Two, all lands in Paragraph One which were segregated from the mining laws will be open to location and entry under the general mining laws at 8 a.m. on July 9, 1982.

The lands described in Paragraph One have been and continue to be open to application and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,  
*Acting State Director.*

[FR Doc. 82-16181 Filed 6-15-82; 8:45 am]  
BILLING CODE 4310-84-M

[CA 12028]

**Notice of Geothermal Resources Lease Sale, Geysers, Knoxville, and Witter Springs KGRA's**

Notice is hereby given that approximately 64,443.19 acres of land in 41 parcels in Lake, Mendocino, Napa Sonoma, and Yolo Counties, California, will be offered competitively for lease under the Geothermal Steam Act of 1970 through sealed bids to the qualified responsible bidder of the highest cash amount per parcel. Bids will be received until 10:00 a.m. on July 20, 1982.

For further information contact the California State Office, Division of Operations, Room E-2605, 2800 Cottage Way, Sacramento, California 95825, (916) 484-4492.

Dated: June 9, 1982.

Walter F. Holmes,  
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 82-16225 Filed 6-15-82; 8:45 am]  
BILLING CODE 4310-84-M

**Rawlins District Grazing Advisory Board; Meeting**

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Rawlins District Grazing Advisory Board will be held on July 21, 1982.

The meeting will begin at 9:00 a.m., in the conference room of the Bureau of Land Management Office at 1300 Third Street, Rawlins, Wyoming 82301.

The agenda items will be: (1) Election of Officers; (2) District Implementation of the Range Improvement Policy; (3) FY 83 Range Improvement Project Proposals; (4) Divide Allotment Categorization and Consultations; (5) Green Mountain EIS Status Report; (6) Rawlins District Rangeland Monitoring Program; (7) Proposed FY 83 Wild Horse Roundups.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make an oral statement may do so at 1:30 p.m., but must notify the District Manager, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301 by July 21st, 1982.

Summary minutes of the Board meeting will be maintained in the district office and be available during regular business hours for public inspection. Copies may be obtained for the cost of duplication.

David J. Walter,  
*District Manager.*

[FR Doc. 82-16227 Filed 6-15-82; 8:45 am]  
BILLING CODE 4310-84-M

**Minerals Management Service**

**Hearings on Determining for Royalty Purposes the Fair Market Value of OCS Gas**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Hearings.

**SUMMARY:** The Minerals Management Service hereby announces the schedule and location for the forthcoming hearings on determining for royalty purposes the fair market value of gas on the Outer Continental Shelf (OCS) lands.

**DATE:** June 24, 1982, from 8:00 a.m. to 4:30 p.m.

**ADDRESS:** Department of the Interior, Auditorium, 18th and C Streets, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Mr. Donald L. Roedl, (703) 860-7311 (FTS 928-7311).

**SUPPLEMENTARY INFORMATION:** The Minerals Management Service (MMS) published in the *Federal Register* of April 16, 1982 (47 FR 16423), a notice of opportunity for hearings on the subject of determining for royalty purposes the fair market value of OCS gas. Several interested parties have indicated in writing to MMS their interest in presenting orally their comments, evidence, and legal arguments. Therefore, MMS will conduct hearings on this subject on June 24, 1982, from 8:00 a.m. to 4:30 p.m. in the Department of the Interior's Auditorium, 18th and C Streets, NW., Washington, D.C. 20240. These hearings are open to the public.

In order for interested parties to attend these hearings and then prepare or add to their written comments, an extension to the original comment period is being published in the *Federal Register*.

The period for written comments will now close on July 12, 1982.

Dated: June 11, 1982.

Robert E. Boldt,

*Acting Associate Director for Royalty Management.*

[FR Doc. 82-16193 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-MR-M

#### Notice on Administration of Regulations at 43 CFR Part 3300

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice on Administration of Regulations at 43 CFR Part 3300.

The revision of regulations at 43 CFR Part 3300, as published in today's *Federal Register*, was prepared prior to the issuance on May 10, 1982, of Secretarial Order No. 3071, Amendment No. 1, which incorporated Outer Continental Shelf (OCS) functions into the Minerals Management Service (MMS). Pursuant to Secretarial Order No. 3071, as amended, the regulations at 43 CFR 3300 will be revised to reflect the consolidation of OCS functions under MMS. In the interim, the regulations which appear at 43 CFR 3300 will be administered in accordance with the provisions of Secretarial Order No. 3071, Amendment No. 1, which states that "The Minerals Management Service shall exercise all of the functions of the

Conservation Division [of the U.S. Geological Survey, and] \* \* \* all functions related to the management of offshore energy and minerals administered by the Bureau of Land Management \* \* \*." Since the Minerals Management Service still relies for certain administrative support on the Bureau of Land Management, including financial services, payments which were previously due payable to the Bureau of Land Management should still be submitted payable to the Bureau of Land Management, until further notice.

David C. Russell,

*Deputy Director, Minerals Management Service.*

June 11, 1982.

[FR Doc. 82-16278 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

#### Hearings on Determining for Royalty Purposes the Fair Market Value of OCS Gas; Extension of Comment Period

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Extension of comment period.

**SUMMARY:** In response to requests for an extension of time to comment on determining for royalty purposes the fair market value of gas from Outer Continental Shelf Lands (OCS) lands as published in the *Federal Register* on April 16, 1982 (47 FR 16423), a 15-day extension is hereby granted. This extension will give interested lessees more time to comment on the above subject.

**DATE:** Comments must be received by July 12, 1982.

**ADDRESS:** Written comments may be mailed or delivered to Mr. Robert E. Boldt, Associate Director for Royalty Management, Minerals Management Service—MS660, 12203 Sunrise Valley Drive, Room 6A216, Reston, VA. 22091.

**FOR FURTHER INFORMATION CONTACT:** Mr. Raymond A. Hicks, (703) 860-7311 (FTS 928-7311).

Dated: June 11, 1982.

Robert E. Boldt,

*Acting Associate Director for Royalty Management.*

[FR Doc. 82-16194 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-MR-M

#### INTERSTATE COMMERCE COMMISSION

##### 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-177

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 125547 (Sub-1-1TA), filed June 3, 1982. Applicant: C.R.B. MOTOR LINES, INC., P.O. Box 1397, 50 Executive Avenue, Edison, NJ 08817. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Such merchandise as is dealt in by wholesale and retail grocery houses*, between Edison, NJ, on the one hand, and, on the other, points in NY. Supporting shipper(s): Ultimate Distribution, Inc., 50 Executive Avenue, Edison, NJ 08817; Confectionery Consolidators, Inc., P.O. Box 708, 32 Mae Bell Drive, Clark, NJ 07066.

MC 133858 (Sub-1-2TA), filed May 28, 1982. Applicant: THE COTTER GARAGE CORPORATION, 86 Granby

Street; Bloomfield, CT 06002. Representative: James T. Graham, One Constitution Plaza, 18th Floor, Hartford, CT 06103. *Contract carrier: Irregular routes: Passengers and their baggage and newspapers in eight (8) passenger vehicles of Connecticut General Corporation* from Bloomfield and Hartford, CT to New York City, NY and return under continuing contract(s) with Connecticut General Corporation, Bloomfield, CT. Supporting shipper: Connecticut General Corporation, Cottage Grove Road, Bloomfield, CT 06002.

MC 162336 (Sub-1-1TA), filed June 4, 1982. Applicant: BARBARA W. DE LUE, d.b.a. DE LUE HAULERS, 384 N. Creek, Palmyra, NY 14522. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Motorcycles and related commodities* from Newark, Edison, Camden and Pennsauken, NJ to Spencerport, Canandaigua and West Bloomfield, NY. Supporting shippers: Ontario Cycle Center, 30 Muar Street, Canandaigua, NY 14424; Cycle Enterprises, West Bloomfield, NY 14585; Hart-Taylor Lincoln Mercury, 386 So. Union, Spencerport, NY 14559; Robinson Cycles, 5570 Ridge Road W., Spencerport, NY 14559.

MC 161801 (Sub-1-1TA), filed June 2, 1982. Applicant: EASTERN BUS COMPANY, INC., 1808 Kennedy Blvd., Jersey City, NJ 07305. Representative: Harold Sacks, Esq., 19 West 44th Street, New York, NY 10036. *Passengers and their baggage in roundtrip charter operations* beginning and ending at New York, NY and Jersey City, NY and extending to points in ME, MA, CT, VT, RI, NY, NJ, NH, PA, DE, MD, VA, NC, SC, GA, FL, DC, KY, WV, & TN. Supporting shippers: Pentecostal Church Ark of Salvation of E.N.Y. Inc., Marvin Road, Bayshore, NY 11706; 3rd Alpha Omega Church, 4 Fleming Avenue, Newark NJ 07105; Balle DeCedron, 661 Blake Avenue, New York, NY 11207; Medina Temple #19 (A.E.A.O.N.M.S.), 454 West 155th Street, New York City, NY 10032.

MC 124905 (Sub-1-5TA), filed May 28, 1982. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07823. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract carrier: Irregular routes: Petroleum and petroleum products, (1) between Linden, Elizabeth, Newark Piscataway, and Bayonne, NJ on the one hand, and, on the other, Monroe County, PA; (2) between Macungie and Fullerton, PA, on the one hand and, on the other, Bloomsbury, NJ, under continuing contract(s) with Union Oil Company of*

California, Schaumburg, IL. Supporting shipper: Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196.

MC 124905 (Sub-1-6TA), filed June, 1982. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07833. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Contract carrier: Irregular routes: Cement, between Northampton and Lehigh Counties, PA on the one hand, and, on the other, points in NJ, under continuing contract(s) with Best Block Co., Inc., Metuchen, NJ. Supporting shipper: Best Block Co, Inc., 1025 U.S. Rt. #1, Metuchen, NJ 08840.*

MC 162245 (Sub-1-1TA), filed May 28, 1982. Applicant: GROFF TRUCKING, INC., R.D. #1, Box 112A, Troy, NY 12180. Representative: Earl F. Groff (same as applicant). *Contract carrier: Irregular routes: Soft drink products* from Scotia, NY to points in NJ, NH, ME, PA, VT, CT and Boston, MA, under continuing contract(s) with Bev Pak Incorporated, Scotia, NY. Supporting shipper: Bev Pak Incorporated, 701 Patent Parkway, Scotia, NY 12302.

MC 123274 (Sub-1-3TA), filed June 3, 1982. Applicant: MARSHALL SERVICE, INC., Pearl Street, Newfield, NJ 08344. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier: Irregular routes: Petroleum products, between Philadelphia, PA, on the one hand, and, on the other, points in ME, NH, VT, RI, MA, CT, NJ, NY, PA, DE, MD, VA, OH, GA, NC, SC, and DC under continuing contract(s) with Pennsylvania Petroleum Products, Philadelphia, PA. Supporting shipper(s): Pennsylvania Petroleum Products, Front and Shunk Streets, Philadelphia, PA 19100.*

MC 162337 (Sub-1-1TA), filed June 4, 1982. Applicant: MILES TRUCKING & HAULING COMPANY, 17 Price Lane, Sicklerville, NJ 08081. Representative: James L. Miles (same as applicant). *Contract carrier: Irregular routes: (1) Commodities used in the manufacture and sale of hardware, plumbing and houseware articles* from points in PA, CT, NY, MD and OH to Windsor, NJ under continuing contract(s) with Hancock-Gross (subsidiary of Stanley Tools), at Windsor, NJ. (2) *Hardware, plumbing and houseware articles* from the facilities of Hancock-Gross at Windsor, NJ to points in PA, CT, NY, MD and OH under continuing contract(s) with Hancock-Gross (subsidiary of Stanley Tools), Windsor, NJ. Supporting shipper: Hancock-Gross (subsidiary of Stanley Tools), P.O. Box 1089, Main Street, Windsor, NJ 08561.

MC 3647 (Sub-1-3TA), filed June 4, 1982. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Avenue, Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Attorney General of New Jersey by John F. Ward, Deputy Attorney General; McCarter Highway and Market Street, P.O. Box 10009, Newark, NJ 07101. *Common Carrier: Regular Route: Passengers and their baggage, and express, in the same vehicle with passengers, (1) Between Somerville, NJ, and Newark, NJ, serving all intermediate points: From junction East Main Street and Grove Street, then over Grove Street, to junction East High Street, then over East High Street, to junction North Gaston Avenue, then over North Gaston Avenue to junction Union Avenue, (NJ Highway 28) via Bridgewater and Bound Brook, to junction Bound Brook Road, Middlesex, then over Bound Brook Road to North Avenue, Dunellen, then over Bound Brook Road to junction Madison Avenue, then over Madison Avenue to junction Grove Street, then over Grove Street to junction New Market Road, then over New Market Road to junction Vail Avenue, Piscataway, then over Vail Avenue to junction West Seventh Street, then over West Seventh Street, South Plainfield, to junction Park Avenue, Plainfield, then over Park Avenue to junction West Front Street, then over West Front Street to junction East Front Street, then over East Front Street to junction Terrill Road, then over Terrill Road to junction Midway Avenue, Fanwood, then over Midway Avenue to junction North Avenue, (NJ Highway 28), then over North Avenue, Scotch Plains, Westfield, Garwood, Cranford, to junction Westfield Avenue, Roselle Park, then over Westfield Avenue to junction Chestnut Street, then over Chestnut Street to junction Salem Road, Union, then over Salem Road to junction Liberty Avenue, Hillside, then over Liberty Avenue to junction Bloy Street, then over Bloy Street to junction U.S. Highway #22, then over U.S. Highway #22, Hillside, to junction U.S. Highway #1, Newark. Return from U.S. Highway #1, Newark to junction U.S. Highway #1 and U.S. Highway #22, then over U.S. Highway #22 to junction Bloy Street, Hillside, then over Bloy Street to junction Leo Street, then over Leo Street to junction U.S. Highway #22 overpass, then over U.S. Highway #22 overpass to junction Bloy Street, then over Bloy Street to junction Liberty Avenue, then over Liberty Avenue to junction Salem Road, Union, then over Salem Road to junction Chestnut Street, then over Chestnut Street to junction Westfield Avenue, then over Westfield Avenue to*

junction North Avenue (NJ Highway 28) then over North Avenue to junction Midway Avenue, Fanwood, then over Midway Avenue to junction Terrill Road, then over Terrill Road to junction East Front Street, then over East Front Street to junction Watchung Avenue, then over Watchung Avenue to junction West Seventh Street, Plainfield then over West Seventh Street to junction Vail Avenue, then over Vail Avenue to junction New Market Road, then over New Market Road to junction Grove Street, then over Grove Street to junction Madison Avenue then over Madison Avenue to junction North Avenue, then over North Avenue to junction Bound Brook Road, then over Bound Brook Road to junction Union Avenue, then over Union Avenue to junction North Gaston Avenue, then over North Gaston Avenue to junction East Main Street, then over East Main Street to Grove Street, Somerville.

(2) Between Plainfield, N.J. and Carteret, N.J. serving all intermediate points: From junction West Seventh Street and Park Avenue, Plainfield, then over Park Avenue to junction Oak Tree Road, then over Oak Tree Road to junction Wood Avenue, then over Wood Avenue to junction New Dover Road, then over New Dover Road to junction Chain-O-Hills Road, then over Chain-O-Hills Road to junction Avenel Street, then over Avenel Street to junction Rahway Avenue, then over Rahway Avenue to junction Homestead Avenue, then over Homestead Avenue to junction Blair Road, then over Blair Road to junction Randolph Avenue and Roosevelt Avenue at the Woodbridge-Carteret boundary line and return over the same route. (3) Between Dunellen, N.J. and Plainfield, N.J. serving all intermediate points: From junction Madison Avenue and North Avenue, Dunellen, then over North Avenue to junction W. Front Street, Plainfield, then over W. Front Street to junction Watchung Avenue, Plainfield and return over the same route. (4) Between Plainfield, N.J. and Hillside, N.J. serving all intermediate points: From junction Park Avenue and West Seventh Street, Plainfield, then over West Seventh Street to junction East Seventh Street, then over East Seventh Street to junction Watchung Avenue, Plainfield, then over Watchung Avenue to junction Mountain Avenue, North Plainfield, then over Mountain Avenue to junction U.S. Highway #22 (Mountain Avenue) then over U.S. Highway #22 to junction Terrill Road, then over Terrill Road to junction Front Street, then over Front Street to junction Park Avenue, then over Park Avenue to junction Mountain Avenue, then over

Mountain Avenue to junction U.S. Highway #22, then over U.S. Highway #22 to junction Bloy Street, Hillside, and return over the same route. (5) Between Plainfield, N.J. and Westfield, N.J. serving all intermediate points: From junction West Seventh Street and Watchung Avenue, then over Watchung Avenue to junction West Fifth Street, then over West Fifth Street, to junction South Avenue, then over South Avenue to junction West Broad Street, then over West Broad Street to junction North Avenue, Westfield, and return over the same route. (6) Between Westfield, N.J. and Mountainside, N.J. serving all intermediate points: From junction North Avenue and Elm Street, Westfield, then over Elm Street to junction Quimby Street, then over Quimby Street to junction Central Avenue, then over Central Avenue to junction Mountain Avenue, then over Mountain Avenue to junction U.S. Highway #22, Mountainside. Return from junction U.S. Highway #22 to junction Mountain Avenue, then over Mountain Avenue to junction East Broad Street, Westfield, then over East Broad Street to junction Elm Street, and then over Elm Street to junction North Avenue in Westfield. (7) Between Mountainside, N.J. and Union, N.J. serving all intermediate points: From junction U.S. Highway #22 and Mountain Avenue, Mountainside, then over Mountain Avenue to junction Morris Avenue, (N.J. Highway 82), Springfield, then over Morris Avenue, (N.J. Highway #82) to junction North Avenue, Union, and return over the same route. (8) Between points in Elizabeth, N.J., serving all intermediate points: From junction U.S. Highway #1 (Spring Street) and North Avenue, then over North Avenue to junction Elmora Avenue, then over Elmora Avenue to junction U.S. Highway #1, (Spring Street) at the Bayway Circle and return over the same route. From junction Elmora Avenue and Rahway Avenue, then over Rahway Avenue to junction Pearl Street, then over Pearl Street to junction Broad Street, then over Broad Street to junction West Jersey Street. Return from junction West Jersey Street and Broad Street then over Broad Street to junction Rahway Avenue then over Rahway Avenue to junction Elmora Avenue. (9) Between Roselle Park, N.J. and Elizabeth, N.J. serving all intermediate points: From junction Chestnut Street and Westfield Avenue, Roselle Park, then over Westfield Avenue to junction Broad Street, then over Broad Street, to junction Newark Avenue, then over Newark Avenue to junction North Avenue, Elizabeth, and

return over the same route. (10) Between Fanwood, N.J. and Newark, N.J. serving all intermediate points: From junction Midway Avenue and Martine Avenue, (Park Avenue, then over Martine Avenue to junction Lake Avenue, then over Lake Avenue to junction Raritan Road, then over Raritan Road to junction Drapkin Avenue, then over Drapkin Avenue, to junction Wood Avenue, Linden, then over Wood Avenue to junction Amsterdam Avenue, then over Amsterdam Avenue to junction First Avenue, Roselle, then over First Avenue to junction Laurel Street, then over Laurel Street to junction Second Avenue, then over Second Avenue to junction Sheridan Avenue, then over Sheridan Avenue to junction Third Avenue, then over Third Avenue to junction Jersey Avenue, then over Jersey Avenue to junction West Jersey Street, then over West Jersey Street to junction Broad Street, Elizabeth, then over Broad Street to junction Elizabeth Avenue, then over Elizabeth Avenue to junction Meeker Avenue, then over Meeker Avenue to junction Empire Street, then over Empire Street to junction Victoria Street, then over Victoria Street, to junction Frelinghuysen Avenue, then over Frelinghuysen Avenue to junction U.S. Highway #22, then over U.S. Highway #22 to junction U.S. Highway #1, Newark, and return over the same route. Applicant proposes to join the above described authority with its present operations to and from New York, NY. Application is based on termination of service by present carrier.

MC 151193 (Sub-1-32TA), filed June 3, 1982. Applicant: PAULS TRUCKING CORPORATION, P.O. Drawer D, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam, (same as applicant) *Contract carrier*: Irregular routes: Toys, between points in NJ, NV, CA, OR, UT, TX, IL, OH, WI, GA, KY, FL, MA and CO under continuing contract(s) with Knickerbocker Toy Co., Inc., Edison, NJ. Supporting shipper: Knickerbocker Toy Co., Inc., 10 Clearveiw Road, Edison, NJ 08837.

MC 142114 (Sub-1-12TA), filed June 3, 1982. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01826. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier*: Irregular routes: *General commodities, restricted to freight being transported on behalf of the customers of Harbor Warehouse Company, Inc. (except classes A and B explosives, hazardous waste, household goods as defined by the Commission, commodities in bulk and those requiring*

*special equipment*) between all points in the U.S. (excluding AK and HI), under continuing contract(s) with Harbor Bay Warehouse Company, Inc., Jersey City, NJ 07305. Supporting shipper: Harbor Bay Warehouse Company, Inc., 104 Harbor Drive, Jersey City, NJ 07305.

MC 148387 (Sub-1-9TA), filed June 3, 1982. Applicant: S.M.P., INC., 166 Sitgreaves Street, Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (1) *Paper and paper products, and (2) materials, equipment, and supplies used in the manufacture and sale of (1) above, between Riegelsville, PA, on the one hand, and, on the other, points in CT, NJ, NY and PA. Supporting shipper(s): Durham Mills, Inc., Routes 611 and 12, Riegelsville, PA 18077.*

MC 162247 (Sub-1-1TA), filed May 28, 1982. Applicant: SABER TRANSPORT, INC., Travelers Plaza, Borelli, Boulevard, P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier: Irregular routes: (1) Lighting fixtures and equipment, including materials and supplies used in the manufacture, sale and distribution thereof; between points in the U.S. (excluding AK and HI), under continuing contract(s) with Keystone Lighting Corporation of Bristol, PA, and (2) Cleaning and scouring compounds and chemicals, including materials, equipment and supplies between Cinnaminson, NJ, and its commercial zone, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, under continuing contract(s) with Certified Brands, Inc., A Division of Certified Chemical, Inc., of Cinnaminson, NJ. Supporting shipper: Keystone Lighting Corporation, Route 13 and Beaver Street, Bristol, PA 19007; Certified Brands, A Division of Certified Chemical, Inc., 2200 Garry Road, Cinnaminson, NJ 08077.*

MC 145288 (Sub-1-1TA), filed June 1, 1982. Applicant: SPECIALIZED HAULING CORPORATION, Box 488, Barre, VT 05641. Representative: John P. Monte, Box 686, Barre, VT 05641. *Treated utility poles, cross-arms and railroad ties, From points in the States of FL, GA, MD, NC and SC to points in the states of CT, MA, MD, ME, NH, PA, RI and VT. Supporting shipper: Southern Wood Piedmont Company, P.O. Box 5447, Spartanburg, SC 29304.*

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 162194 (Sub-3-1TA), filed June 7, 1982. Applicant: VERLON E. DRAINE, 2001 Bedford Street, Scottsboro, AL 35768. Representative: Verlon E. Draine, (same as above). *Passengers, no baggage, in special and charter operations, from Scottsboro, AL to Knoxville, TN; Nashville, TN and Atlanta, GA and return, Supporting shipper: Scottsboro Christian Broadcasting, Inc., P.O. Box 759, Scottsboro, AL 35768.*

MC 119917 (Sub-3-10TA), filed June 7, 1982. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive S.E., Atlantic, GA 30316. Representative: Tom Gramling (same as above). *Printed matter and related items, between Gainsville GA, (including commercial zone) and all points in the US, except AK and HI. Supporting shipper: Moreno Press, 470 Woodsmill Rd., Gainesville, GA 30501.*

MC 157371 (Sub-3-1TA), filed June 8, 1982. Applicant: CHEM-WASTE INCORPORATED, 4435 Washington Road, Post Office Box 250, Evans, GA 30809. Representative: Robert M. Haynie, (same address as applicant). *Hazardous waste from points in Union and Davidson Counties, NC to points in Sumter County, AL and Sumter County, SC. Supporting shippers: Duracell, U.S.A., 305 New Highway 64 East, Lexington, NC 27292; Teledyne Allvac, 2020 Ashcraft Avenue, Monroe, NC 28110.*

Note.—Applicant intends to tack with existing authority held under docket MC-157371.

MC 143183 (Sub-3-2 TA), filed June 8, 1982. Applicant: D&L TRUCKING, INC., P.O. Box 1741, Wilmington, NC. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415. *Contract, irregular: transporting (1) shredded scrap metal from Elizabeth, NJ and Baltimore, MD, to the facilities of Hercules, Inc., located at or near Pulaski, VA, and (2) ferrous sulphate form Sayreville, NJ and York, PA, to the facilities of Hercules, Inc., located at or near Pulaski, VA, under account with Hercules, Inc. of Wilmington, DE. Supporting shipper: Hercules, Inc. 910 Market St., Wilmington, DE 19899.*

MC 162372 (Sub-3-1TA), filed June 7, 1982. Applicant: LUSK TRANSPORTATION SERVICE, P.O. Box 3567, 306 Bell Crest Drive, Cleveland, TN 37311. Representative: Charles R. Lusk, Jr., (Same address as applicant). *Such commodities as are used, dealt in, or distributed by a manufacturer and distributor of paper and paper products between the facilities of Bowater Southern Paper Company, and points in the US in and*

*east of ND, SD, NB, KS, OK, and TX. Supporting shipper: Bowater Southern Paper Company, US Hwy 11, Calhoun, TN 37309.*

MC 157204 (Sub-3-2TA), filed June 7, 1982. Applicant: SUR-WAY TRANSPORT, INC., 1506 Radium Springs Road, Albany, GA 31705. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract, irregular; General Commodities (except classes A & B explosives, household goods as defined by the Commission, commodities in bulk and hazardous commodities) between points in the U.S. (except AK and HI) under a continuing contract with Metalux Corporation of Americus, GA. Supporting shipper: Metalux Corporation, P.O. Box 1227, Americus, GA 31709.*

MC 138184 (Sub-3-3TA), June 8, 1982. Applicant: WALLACE TRUCKING COMPANY, Route 4, Box A-71, Laurinburg, NC 28352. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602. *Medical and health care products and all materials and supplies necessary for the manufacture, distribution and sale thereof between all points in the US. Supporting shipper: Abbott Laboratories, Inc., 1400 Sheridan Road, North Chicago, IL. 60064.*

The following applications were filed in Region 4. Send Protest to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 2844 (Sub-4-1TA), filed June 4, 1982. Applicant: ROBINSON BUS SERVICE, INC., 1528 Emerson, Evanston, IL 60201. Representative: Allan C. Zuckerman, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Passengers and their baggage, in special and charter operations, beginning and ending at points in Cook County, IL, and extending to points in the U.S. (except AK and HI). There are 15 supporting shippers.*

MC 128409 (Sub-4-4TA), filed June 3, 1982. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223. *Contract, Irregular: food and related products, between the facilities of General Nutrition Corporation at Fargo, ND on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with General Nutrition Corporation of Pittsburg, PA. Supporting shipper: General Nutrition Corporation, 1301 Fargo, ND 58102.*

MC 140276 (Sub-4-7TA), filed June 4, 1982. Applicant: LARRY SCHEFUS

TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Contract irregular: Lumber and wood products, from Bonner County, ID; Stevens County, WA; Clatsop County, OR and Humboldt County, CA, to Lake County, SD and the MN counties of Becker, Douglas, Hennepin and Ramsey, under contract with Midwest Pacific Corporation, Minneapolis, MN. Supporting shipper: Midwest Pacific Corporation, 6950 France Ave. S., Minneapolis, MN 55435.*

MC 159040 (Sub-4-1TA), filed June 3, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Avenue, Chicago, IL 60641. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Washington, DC 20006. *Contract; irregular: General commodities, (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), under continuing contract(s) with Schnadig Corporation, of Chicago, IL, Cole Sewell Corporation, of St. Paul, MN, Genie Toys, of St. Louis, MO, Pettibone-Chicago, Inc., of Chicago, IL, St. Charles Manufacturing Company, of St. Charles, IL, Adams Foam Rubber Company, Inc. of Chicago, IL, and Lee Rowan Company, of St. Louis, MO, for 270 days. Supporting shippers: There are 7 supporting shippers.*

MC 161266 (Sub-4-2TA), filed June 4, 1982. Applicant: IRISH & LaCOUNT TRUCKING, INC., Route 2, Box 19A, Krakow, WI 54137. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract; irregular: meat and packinghouse products and materials, equipment and supplies used in the manufacture, sale or distribution of such commodities between Brown County, WI on the one hand, and, on the other, points in IA, IL, IN, LA, MA, MI, MN, NJ, NY and PA. Restriction: restricted to transportation performed under continuing contract(s) with Fox Valley Beef, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fox Valley Beef, Inc., Box 3520, Green Bay, WI 54303.*

MC 161615 (Sub-4-4TA), filed June 3, 1982. Applicant: SONN LINE TRANSPORT CO., INC., 4320 North 126th Street, Brookfield, WI 53005. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Machinery and metal products between the facilities of Telsmith Division-Barber-Greene Co., at Milwaukee, WI, on the one hand, and, on the other, Baltimore, MD. An*

underlying ETA seeks 120 days authority. Supporting shipper: Telsmith Division-Barber-Greene Co., 532 East Capitol Drive, Milwaukee, WI, 53213.

MC 162329 (Sub-4-1TA), filed June 3, 1982. Applicant: RICHARD D. HANSON d.b.a. D & A TRUCKING, P.O. Box 97, Karlstad, MN 56732. Representative: Richard D. Hanson (same as above). *Common; Regular: Dry fertilizer, (potash) from the international boundary line at the Noise port of entry to points in ND (Park River) and points in MN (Brooks, Karlstad, Lake Bronson, Gully, Grygla) Supporting shipper: Farmer's Union Oil Co., Brooks, MN 56715.*

MC 162331 (Sub-4-1TA), filed June 3, 1982. Applicant: MARIANA CORPORATION, P.O. Box 726, New Albany, IN 47150. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract irregular: Industrial sand, in bulk, in pneumatic tank vehicles, between Bridgman, MI and Troy Grove and Wedron, IL, on the one hand, and, on the other, Montgomery, Clark, and Greene Counties, OH and Cincinnati, OH, Cleveland, OH, and Louisville, KY and their commercial zones. Supporting shipper: Keener Sand & Clay Company, 330 Dering Avenue, Columbus, OH.*

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105

MC 162349 (Sub-6-1TA), filed June 4, 1982. Applicant: AFFORDABLE TOURS, INC., Rt. 1, Box 189-A Portland, OR 97231. Representative: Dona L. Huson (Same address as applicant). *Passengers and day luggage in round trip charter and special operations between Vancouver, WA, and points in OR, for 180 days. Supporting shipper: Leisure Travel Group, 1418-D Brandt Road, Vancouver, WA 98661.*

MC 162346 (Sub-6-1TA), filed June 3, 1982. Applicant: BREAK BULK SERVICE, INC. d.b.a. BBST, 2211 Wood St., Oakland, CA 94607. Representative: Albert Lau (same as applicant). *General Commodities (except household goods as defined by the Commission, those of unusual value, class A and B explosives, commodities in bulk, those requiring special equipment, automobiles, and hazardous waste materials), between Alameda County and San Francisco, CA, on the one hand, and, on the other, points in Butte, Colusa, Fresno, Kings, Lake, Madera, Mendocino, Merced, Napa, Placer, San Benito, Santa Clara, Shasta, Solano, Sonoma, Suter, Tehama, Tulare, Glenn, Yolo, Yuba, Marin,*

Monterey, Sacramento, San Mateo, Santa Cruz, Amador, Contra Costa, Kern, San Joaquin, and Stanislaus Counties, VA, restricted to the transportation of traffic having a prior or subsequent movement by rail, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Golden State Shippers Association, Inc., 1345C Doolittle Drive, San Leandro, CA 94577.

MC 155793 (Sub-6-2TA), filed June 3, 1982. Applicant: CALIFORNIA/NEVADA BIG VALLEY EXPRESS, INC., A California Corporation d.b.a. BIG VALLEY EXPRESS, 2201 Branstetter Lane, Redding, CA 96001. Representative: M. D. Burrows (same as applicant). *General Commodities (except Class A and B explosives, households goods, hazardous waste, and commodities in bulk) 1. Between points and places in Sacramento and Placer Counties, CA on the one hand, and points and places in Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties, CA on the other. 2. Between points in Washoe County, NV on the one hand and on the other points in Siskiyou County, CA, for 270 days. There are eight (8) shippers. Their statements may be examined at the Regional office listed above.*

MC 150917 (Sub-6-1TA), filed June 4, 1982. Applicant: FOOD EXPRESS INC., 4325 Fruitland Ave., Los Angeles, CA 90058. Representative: Michael L. Springer (same as applicant). *Contract carrier, irregular routes, Food products, between points in AZ, CA, ID, NV, and UT, under a continuing contract with Yoplait USA, for 270 days. Supporting shipper(s): Yoplait USA, Inc., P.O.B. 9329, Minneapolis, MN 55440.*

MC 150756 (Sub-6-9TA), filed June 4, 1982. Applicant: GUTHMILLER, TRUCKING, INC., P.O. Box 206 Union City, CA 94587. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, Video games, cartridges, storage consoles, and related products, from Santa Clara County, CA, to points in WA, OR, ID, MT, WY, NV, UT, CO, AZ, NM, and TX, for 270 days. Supporting shipper: IMagic, 20665 Fourth Street, Saratoga, CA.

MC 162370 (Sub-6-1zTA), filed June 7, 1982. Applicant: INTERNATIONAL FUNWAY, CLUB, 2025 Caspian Ave., Long Beach, CA 90810. Representative: D. Michael Trainotti, 555 E. Ocean Blvd., Ste. 716, Long Beach, CA 90802. *Passengers and their baggage in special or charter between points in Los Angeles County, CA, on the one hand, and, on the other, to Las Vegas, Lake Tahoe, and Reno, NV; Salt Lake City, UT; and Grans Canyon, AZ, for 180*

days. Supporting shippers: There are 14 shippers. Their statements may be examined at the regional office listed above.

MC 150787 (Sub-6-2TA), filed June 3, 1982. Applicant: LAKE TAHOE TRANSPORTATION SYSTEMS, INC., 1000 Emerald Bay Road, South Lake Tahoe, CA 95731. Representative: Raymond J. LeBlanc (same as applicant). *Passengers and their baggage, and express, between points and places in El Dorado, Placer, Nevada, Alpine and Calaveras Counties, CA, and Douglas, Washoe, Storey and Carson City Counties, NV, for 180 days. Supporting shipper: "There are 19 shippers. Their statements may be examined at the Regional Office listed."*

MC 162236 (Sub-6-1TA), filed June 7, 1982. Applicant: LITTLE DONKEY ENTERPRISES, INC., P.O. Box 822, Estacada, Oregon 97023. Representative: Philip G. Skofstad, 529 S.E. Grand Avenue, Portland, Oregon 97214. *Contract Carrier, Irregular routes: (1) Lumber, fabricated wooden "T" beams, wooden blocking panels, web stiffeners and end-joined chord stock, pre-cut plywood panels, plywood edge blocking and metal joist hangers and "X" bridging between Tualatin, OR and Cucamonga, CA on the one hand, and, on the other, points in OR, WA, CA, MT, ID, WY, NV, UT, CO, AZ, NM and TX for the account of Timjoist, Inc.; (2) Steel bar and tubing and aluminum bar and tubing, between Portland, OR on the one hand, and, on the other, Cerritos, Santa Clara, Fresno, National City, San Diego, Irwindale, Santa Fe Springs, Pico Rivera, Milpitas, Hayward, Los Angeles, and Cucamonga, CA, Phoenix, AZ, Dallas, San Antonio and Houston, TX and Salt Lake City, UT, for the account of Foucar Steel and Aluminum, Inc. For 270 days. Supporting shipper: Timjoist, Inc., 21235 S.W. 108th, Tualatin, OR 97062. Foucar Steel and Aluminum, Inc., 2224 N.E. Argyle, Portland, OR 97211.*

MC 8457 (Sub-6-1TA), filed June 7, 1982. Applicant: MILWAUKIE TRANSFER & FUEL CO., P.O.B. 522, Clackamas, OR 97015. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210. *Farm supplies, between points in OR and WA, on the one hand, and, on the other, points in OR, WA, ID, UT, NV, CA, WY, TX, AZ and NM, for 270 days. Supporting shippers: Webfoot Fertilizer Company, Inc., 201 SE Washington St., Portland, OR 97214; H. J. Stoll & Sons, Inc., 2320 SE Grand Ave., Portland, OR 97214; Full Circle, Inc., 185 SW Main, Hillsboro, OR 97123; Farmcraft, Inc., 8900 S W Commerical, Tigard, OR 97223.*

MC 162354 (Sub-6-1TA), filed June 3, 1982. Applicant: ORRISON TRANSPORTATION CO., INC., P.O. Box 3282, Cheyenne, WY 82001. Representative: Richard C. Orrison (same as applicant). *Contract Carrier; Irregular Routes: Beer, not in bulk, between points in TX, WY and CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Orrison Distributing, Inc., P.O. Box 3282, Cheyenne, WY 82001.*

MC 151471 (Sub-6-18TA), filed June 4, 1982. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *(1) Malt beverages and related advertising materials, from Seattle, WA and St. Louis, MO and points in their commercial zones, to points in Fremont and Natrona Counties, WY, and (2) empty malt beverage containers, from points in Fremont and Natrona Counties, WY to points in Seattle, WA and St. Louis, MO and points in their commercial zone, for 270 days. Supporting shippers: Casper Beverage, Inc., P.O. Box 897, Casper, WY 82601, and Fremont Distributors, 425 North Broadway, Riverton, WY 82501.*

MC 162299 (Sub-6-1TA), filed June 1, 1982. Applicant: SYMONS TIRE, INC., 1264 N. Main St., Bishop, CA 93514. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Contract Carrier; Irregular Routes: Pneumatic Tires, Tubes and Related articles, between points in Washoe County, NV and Inyo County, CA for the account of BF Goodrich, for 270 days. Supporting shipper: BF Goodrich Co., 500 S. Main St., Akron, OH 44318.*

MC 159725 (Sub-6-1TA), filed June 4, 1982. Applicant: TESKEY TRANSPORTATION CO., 501 S. Stimson Ave., City of Industry, CA 91745. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017. *Contract, irregular, Printed matter and materials, supplies and equipment used in the distribution and sale of printed matter between all points in the U.S. under continuing contract from Waldenbooks, for 270 days. Supporting shipper: Waldenbooks, 201 Highridge Rd., Stamford, CT 06904.*

James H. Bayne,  
Acting Secretary.

[FR Doc. 82-16191 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 346 (Sub-11)]

### Chicago & North Western Transportation Co.; Petition for Exemption; Tariff Notice and Posting Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption from regulation.

**SUMMARY:** In response to a petition filed by Chicago and North Western Transportation Company (CNW), the Commission has decided to exercise its authority under 49 U.S.C. 10505 and exempt the commuter service CNW provides to and from Kenosha, WI, from certain notice and posting requirements. **DATES:** Effective date: July 16, 1982; Comment date: July 6, 1982.

**ADDRESS:** An original and, if possible, 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

**FOR FURTHER INFORMATION CONTACT:** Donald J. Shaw, Jr., (202) 275-7656.

**SUPPLEMENTARY INFORMATION:** On February 5, 1982, Chicago and North Western Transportation Company (CNW) requested relief from the 49 U.S.C. 10762 statutory notice and the posting requirements (49 CFR 1303.34(j)) for changes in its suburban commuter passenger fares between Kenosha, WI, and stations in Illinois. CNW argues that this relief is appropriate under the standards of 49 U.S.C. 10505 and 10762(d)(1). The Regional Transportation Authority for Northern Illinois (RTA) supports CNW's request.

CNW provides suburban (commuter) rail passenger service in the greater Chicago metropolitan area. All of the 62 stations involved, except Kenosha, are located in Illinois. The Illinois RTA prescribes fares, rules, and regulations governing transportation between all the Illinois stations.

CNW notes that, in the past, after the RTA has granted various fare increases and reductions, implementation of fare changes applicable to Kenosha have been delayed because an interstate fare is involved. Accordingly, changes for Kenosha must be authorized by this Commission. Revenues are lost by CNW and ultimately by RTA, as commuters from Kenosha and nearby Illinois stations but the less expensive Kenosha tickets until the interstate rate change is effective. CNW also points out that the delay obstructs RTA's uniform implementation of its zone fare structure. CNW further argues that our posting regulation, which requires the posting of proposed fare changes for

Kenosha at all stations on the line, is unnecessary. It proposes to post fare changes for Kenosha only at that station.

CNW contends that the prerequisites of § 10505 are met because the exemption is of limited scope (applying only to Kenosha passenger fares some 56 miles from Chicago and a daily ridership of approximately 209 persons), and is intended solely to enable CNW to implement Kenosha fare changes simultaneously with all other Chicago area stations. CNW further argues that the posting and notice requirements are not necessary to carry out the transportation policy of 49 U.S.C. 10101a and that the resulting time lag causes unnecessary accounting and administrative confusion and expense.

The partial exemption pursuant to section 10505 is warranted. First, we find that the limited scope criterion is met. Second, we are of the opinion that regulation in the areas discussed by CNW is not necessary to carry out the goals of 49 U.S.C. 10101a. Illinois fares are regulated by the RTA, which balances the carrier's and the users' interests in determining the appropriate fare changes. The interstate fare to Kenosha is constructed on the same formula but is subject to our jurisdiction. We have previously changes in the Kenosha fare, and have consistently declined to investigate or suspend them despite the filing, in certain cases, of protests by Kenosha commuters. Moreover, to our knowledge, no complaint has been filed subsequent to an adjustment in the fare.

Finally, we conclude that the exemption from the notice and posting requirements will not cause an abuse of market power. As stated, RTA established a formula for fare application throughout the Illinois area, and the Kenosha fares are based on it. Furthermore, although the exemption would diminish the ability to file a protest, it would not affect the right of Kenosha commuters to reasonable fares, since the complaint provisions of 49 U.S.C. 11701 remain available.

In light of these factors, we will approve the exemption subject to the following conditions: (1) CNW must continue to base Kenosha fares on the Illinois RTA's zone ratemaking system; and (2) CNW must inform Kenosha commuters of this action and the conditions attached. We conclude that these conditions will protect the Kenosha commuters from any possible abuse of market power by CNW, and also avoid unnecessary loss of revenues to CNW. Accordingly, as long as the

conditions imposed above are met, we conclude that CNW should be authorized to adjust the Kenosha interstate fare upon less than statutory notice (i.e., one day's notice), and CNW should not be required to be subject to the full range of posting requirements contained in 49 CFR 1303.34(j).

The Staggers Act amended 49 U.S.C. 10505 to eliminate the requirements for a proceeding prior to granting exemptions in appropriate cases. This proposal affecting an insignificant amount of rail traffic, is such a case and we are exercising our authority to make this exemption effective without further proceedings. However, we will review any problems that may develop, and reconsider the exemption. This procedure comports with Congress' intention in the legislative history of the Staggers Act that particular abuses of market power under an exemption will be reviewed by us and, if necessary, corrected after the fact.

This action does not significantly affect either the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505, 5 U.S.C. 553)

Dated: June 9, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre and Simmons.

James H. Bayne,  
Acting Secretary.

[FR Doc. 82-16215 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 362N)]

#### Conrail Abandonment of the Carlisle Secondary Track

**AGENCY:** Interstate Commerce Commission

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission has exempted Germantown Rail Siding Company, a wholly-owned subsidiary of the Dupps Company, from 49 U.S.C. Subtitle IV in connection with a line it proposes to purchase in the above-title abandonment proceeding.

**DATES:** This exemption became effective on June 11, 1982. Petitions to reopen must be filed no later than July 6, 1982.

**ADDRESSES:** This exemption became effective on June 11, 1982. Petitions to reopen must be filed no later than July 6, 1982.

**ADDRESSES:** Send petitions to:  
(1) Interstate Commerce Commission,  
Section of Finance, Room 5417,  
Washington, DC 20423

(2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Louise E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Commission's decision in Docket No. AB-167 (Sub-No. 362N). To purchase copies of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Avenue NW., Washington, DC 20423, or call toll free 800-424-5403 outside the D.C. area, or call (202) 289-4357 D.C. Metropolitan Area.

Dated: June 9, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich  
Secretary.

[FR Doc. 82-16213 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-147)]

#### Denver & Rio Grande Western Railroad Co.; Exemption for Contract Tariffs ICC-DRGW-C-0018, 0020, and 0021

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of provisional exemption.

**SUMMARY:** Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Tom Smerdon, (202) 275-7277.

**SUPPLEMENTARY INFORMATION:** The Denver and Rio Grande Western Railroad Company (DRGW) filed a petition on May 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit contracts ICC-DRGW-C-0018, 0020, and 0021 filed on May 13, 1982, to become effective on one day's notice. The contract involve the movement of canned goods.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our

section 10505 exemption authority in exceptional situations.

The petition shall be granted. By reducing the shippers' transportation costs, short notice effectiveness of the contracts will give the shipper an opportunity to increase its position in the marketplace as well as to keep down the consumer's cost of canned goods. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners contracts ICC-DRGW-C-0018, 0020, and 0021 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(e) if protests are filed within 15 days of publication in the *Federal Register*.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 10, 1982.

By the Commission, Division 1,  
Commissioners Sterrett, Gilliam, and Andre.

James H. Bayne,  
*Acting Secretary.*

[FR Doc. 82-16214 Filed 6-15-82; 8:45 am]

BILLING CODE 7035-01-M

### Motor Carriers; Permanent Authority Decisions; Decision-Notice

#### Correction

In FR Doc. 82-13370 appearing in the issue for Tuesday, May 18, 1982, make the following correction:

On page 21316, column one, paragraph four line 9, the word "except" should be inserted before the word "household" to read "(except household goods) \* \* \*".

BILLING CODE 1505-01-M

### INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-155 through 163 (Preliminary)]

#### Certain Steel Products From Spain

##### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Government of Spain:

Hot-rolled carbon steel plate<sup>2</sup>  
(investigation No. 701-TA-155 (Preliminary));<sup>3</sup>

Cold-rolled carbon steel sheet<sup>4</sup>  
(investigation No. 701-TA-157 (Preliminary));<sup>5</sup>

Galvanized carbon steel sheet<sup>6</sup>  
investigation No. 701-TA-158 (Preliminary));<sup>7, 8</sup>

Carbon steel structural shapes<sup>9</sup>  
(investigation No. 701-TA-159 (Preliminary));<sup>10</sup>

<sup>1</sup>The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

<sup>2</sup>For purposes of these investigations, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

<sup>3</sup>Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

<sup>4</sup>For purposes of these investigations, cold-rolled carbon steel sheet is provided for in items 607.8320 and 607.8344 of the TSUSA.

<sup>5</sup>Chairman Alberger and Commissioner Eckes and Haggart determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports. Commissioner Frank determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

<sup>6</sup>For purposes of these investigations, galvanized carbon steel sheet is provided for in items 608.0730 and 608.1300 of the TSUSA.

<sup>7</sup>Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern dissenting.

<sup>8</sup>Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

<sup>9</sup>For purposes of these investigations, carbon steel structural shapes are provided for in items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the TSUSA.

<sup>10</sup>Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

Hot-rolled carbon steel bar<sup>11</sup>  
(investigation No. 701-TA-160 (Preliminary));<sup>12</sup> and  
Cold-formed carbon steel bar<sup>13</sup>  
(investigation No. 701-TA-162 (Preliminary)).<sup>10</sup>

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be subsidized by the Government of Spain:

Hot-rolled carbon steel sheet<sup>14</sup>  
(investigation No. 701-TA-156 (Preliminary));

Hot-rolled alloy steel bar<sup>15</sup>  
(investigation No. 701-TA-161 (Preliminary));<sup>16</sup> and

Cold-formed alloy steel bar<sup>17</sup>  
(investigation No. 701-TA-162 (Preliminary)).<sup>16</sup>

#### Background

On January 11, 1982, petitions were filed with the Department of Commerce by the United States Steel Corp. and by counsel for Republic Steel Corp., Inland Steel Co., Jones & Loughlin Steel, Inc., National Steel Corp., and Cyclops Corp. alleging that producers, manufacturers, or exporters in Spain of certain steel products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Although Commerce subsequently initiated countervailing duty investigations on such merchandise under section 303, Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), and there was no requirement for the Commission

<sup>11</sup>For purposes of these investigations, hot-rolled carbon steel bar is provided for in items 606.8310, 606.8330, and 606.8350 of the TSUSA.

<sup>12</sup>Chairman Alberger and Commissioners Eckes and Haggart determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports. Commissioner Frank determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

<sup>13</sup>For purposes of these investigations, cold-formed carbon steel bar is provided for in items 606.8805 and 606.8815 of the TSUSA.

<sup>14</sup>For purposes of these investigations, hot-rolled carbon steel sheet is provided for in items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 of the TSUSA.

<sup>15</sup>For purposes of these investigations, hot-rolled alloy steel bar is provided for in item 606.9700 of the TSUSA.

<sup>16</sup>Commissioner Frank dissenting.

<sup>17</sup>For purposes of these investigations, cold-formed alloy steel bar is provided for in item 606.9900 of the TSUSA.

to conduct preliminary injury investigations pursuant to section 703(a).

On April 14, 1982, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 FR 16697). On April 26, 1982, Commerce notified the Commission that it was terminating its investigations under section 303 and commencing investigations under section 702. Accordingly, effective April 26, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), instituted preliminary countervailing duty investigations to determine whether there is a reasonable indication that 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 from Spain of the merchandise which is the subject of the investigations by the Department of Commerce.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was 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* of May 5, 1982 (47 FR 19486). The conference was held in Washington, D.C., on May 24, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## Views of the Commission

### I. Introduction

The following constitute our views on the nine countervailing duty investigations involving certain carbon and alloy steel products from Spain. First, we summarize the standards for our determinations, and then we define the domestic industries against which the impact of the imports under investigation is to be assessed. Finally, in each investigation, we examine the conditions of the industry and then evaluate the causal relationship between the allegedly subsidized imports and this condition.

### Standards for Determinations

In preliminary countervailing duty investigations the Commission must determine whether there is a reasonable indication that 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,<sup>18</sup>

<sup>18</sup> Material retardation of an industry is not an issue in these investigations.

by reason of imports of the merchandise that is the subject of the investigation.<sup>19</sup> "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."<sup>20</sup> In making determinations, the Commission must 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 that 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.<sup>21</sup>

In making a determination as to whether there is a threat of material injury the Commission considers, among other factors, (1) the rate of increases of subsidized imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.<sup>22</sup> Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.<sup>23</sup>

### Definition of the Domestic Industries

The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 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."<sup>24</sup> "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation \* \* \*."<sup>25</sup>

These investigations concern allegedly subsidized imports from Spain of nine different types of steel products. These nine types are: (1) Hot-rolled carbon steel plate; (2) hot-rolled carbon steel sheet; (3) cold-rolled carbon steel sheet; (4) galvanized carbon steel sheet; (5) carbon steel structural shapes (angles, shapes and sections); (6) hot-rolled carbon steel bar; (7) hot-rolled alloy steel bar; (8) cold-formed carbon steel bar; and (9) cold-formed alloy steel bar.

These same products were the subject of the recent preliminary investigations involving certain steel products from

<sup>19</sup> 19 U.S.C. 1671b, 1673b.

<sup>20</sup> 19 U.S.C. 1677(7)(A).

<sup>21</sup> 19 U.S.C. 1677(7)(B).

<sup>22</sup> 19 CFR 207.26(d).

<sup>23</sup> S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); *Alberta Gas Chemicals, Inc. v. United States*, 515 F. Supp. 760, 790 (Ct. Int'l Trade 1981).

<sup>24</sup> 19 U.S.C. 1677(4)(A).

<sup>25</sup> 19 U.S.C. 1677(10).

Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany.<sup>26</sup> In those cases, the Commission found that each of the nine product categories constituted a separate like product and noted:

Each [product category] has physical characteristics of size, shape, or composition that are unlike those of the others. Moreover, they have varying uses, and products of one type generally do not compete with products of another type. As noted in the Commission determination in the 1980 steel products antidumping investigations, "Although raw steel constitutes much of the value of each of the \* \* \* product groups under investigation, competition in the U.S. market between domestically produced steel products and the alleged LTFV [and subsidized] imports occurs in each of the \* \* \* separate and distinct product groups." In these investigations the domestic producers have been able to identify production and profitability data in terms of each of the nine groups, allowing the Commission to examine the impact of imports on each group separately.<sup>27</sup>

The Commission recognized that within each of the nine product categories there may have been somewhat different characteristics and uses for articles having different specifications, but it lacked sufficient information to make any meaningful distinctions among them. In the absence of "clear dividing lines among the products in each group", each was treated in its entirety as a separate like product.<sup>28</sup> Thus, the Commission determined that there were nine industries corresponding to the nine product groups.

The record developed in these investigations contains no new information that would suggest a revision of the definitions. Additionally, no party has argued for a significant revision. We, therefore, find it appropriate to use the same industry definitions for purposes of the present preliminary investigations.<sup>29</sup>

<sup>26</sup> Investigations Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Investigations Nos. 731-TA-53 to 86 (Preliminary), USITC Pub. 1221 and 1226 (1982). Specific descriptions of the products, their characteristics and uses, and methods of manufacture may be obtained by reference to the Commission's Views and the Report in those investigations.

<sup>27</sup> *Id.* at 14-15 (footnote omitted).

<sup>28</sup> *Id.* at 15-16.

<sup>29</sup> Commissioners Stern and Haggart emphasize that the definitions of the industries at this preliminary stage are based on information now available; they do not preclude the possibility of defining the domestic industries differently in any final investigation if the record developed supports a revision of the definitions of the industries.

### Cumulation

Our determinations in these investigations have been made on a case-by-case basis, without aggregation of import data for each product category with the import data derived in earlier investigations regarding the same products imported from other countries.<sup>30-31</sup> In the event that final investigations are conducted in these cases, however, we do not rule out cumulation if the record developed demonstrates it is appropriate.<sup>32</sup>

### II. Hot-Rolled Carbon Steel Plate

With respect to hot-rolled carbon steel plate from Spain, we find that there is a reasonable indication of material injury or threat of material injury to the affected domestic industry by the subject imports.<sup>33</sup> We have made this determination in part on the basis of the substantial levels of Spanish imports that have entered during a period of decline in the domestic industry as well as indications that these imports may have caused price suppression or depression in the U.S. market and resulted in significant lost sales.

#### Condition of the Domestic Industry

The domestic industry producing hot-rolled carbon steel plate has suffered a

<sup>30</sup> See additional views of Vice Chairman Calhoun.

<sup>31</sup> Commissioner Frank has cumulated in certain cases. See his additional views and his discussion on cumulation in certain Carbon Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany. Invs. Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Invs. Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 127-129.

<sup>32</sup> Chairman Alberger and Commissioner Stern refer readers to their respective discussions of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Invs. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (1980), at 14-15 and 64-67, respectively.

See also our joint views in Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, Invs. Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Invs. Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982). The record developed in those investigations has been incorporated into the records of the present investigations. See Notice of Investigation, 47 FR 19486 (May 5, 1982).

Finally, see our views in Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Invs. Nos. 701-TA-152 and 153 (Preliminary), and Inv. No. 731-TA-89, USITC Pub. 1240 (1982), at 3; Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela, Invs. Nos. 701-TA-148 to 150 (Preliminary), and Inv. No. 731-TA-88 (Preliminary), USITC Pub. 1230 (1982).

<sup>33</sup> Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

serious decline in recent years. Domestic production has declined steadily from 5,897,000 tons in 1979 to 5,564,000 tons in 1980 and 5,161,000 tons in 1981.<sup>34</sup> Production again turned sharply downward in the first quarter of 1982, amounting to only 971,000 tons as compared to 1,542,000 tons in the same period of 1981.<sup>35</sup> Total domestic shipments of the product have similarly fallen.<sup>36</sup>

Annual production capacity in this steel sector has dropped from 9,713,000 tons in 1979 to 9,051,000 tons in 1981.<sup>37</sup> Utilization of this capacity, though, has fallen at a much sharper pace. Capacity utilization in 1978 stood at 62 percent and declined steadily to 57 percent in 1981. The first quarter of 1982 recorded a precipitous decline to 41.8 percent from 66.3 percent in the corresponding period of 1981.<sup>38</sup> Employment trends have followed the trends in production and shipments, declining steadily from 1979 to 1981, then falling drastically in January-March 1982 from the already depressed level of January-March 1981.<sup>39</sup>

Information on the profitability of this industry provides the most striking picture of its condition. The ratio of operating profit to net sales has decreased from 4 percent in 1978 to 3.9 percent in 1979, 1.4 percent in 1980, and 2.3 percent in 1981. The industry suffered losses in the first quarter of 1982, with an operating loss of \$40 million and a ratio of operating losses to net sales of 7.8 percent.<sup>40</sup>

#### Reasonable Indication of Material Injury by Reason of Spanish Imports<sup>41</sup>

While declining domestic demand has surely had an adverse effect on the industry,<sup>42</sup> there is a reasonable indication that imports from Spain have caused material injury. Although absolute imports and imports as a percentage of apparent domestic consumption have generally declined over the period of investigation, they have remained at significant levels.<sup>43</sup>

<sup>34</sup> Report at A-12. All references to tonnage are to short tons.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at A-9 and A-12.

<sup>37</sup> *Id.* at A-12.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at A-14.

<sup>40</sup> *Id.* at A-21.

<sup>41</sup> Commissioner Frank has cumulated. See his separate views.

<sup>42</sup> Consumption fell from 8,452,000 tons in 1978 to 7,444,000 tons in 1981, and dropped 32 percent in the first quarter of 1982 compared to the same period in 1981. *Id.* at A-8 to A-9.

<sup>43</sup> Chairman Alberger and Commissioner Stern note that imports, although declining, are still a presence in the market at lower prices at a difficult time for the domestic industry, and appear to be a contributing factor to the injury. These imports

Two instances indicative of possible price suppression or depression were confirmed, involving price reductions necessary to meet competition from lower-priced Spanish products. There are also ample indications that sales of domestic products have been lost to imports from Spain. Six instances of lost sales have been confirmed.<sup>44</sup> In all these cases, the principal reason cited was the lower price of the imports, which may have been as much as \$40 to \$140 below comparable domestic products. The latter figure corresponds to an underselling margin of 27 percent.<sup>45</sup>

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as on the following information. The United States is an increasingly major target for Spanish exports of plate, with exports to the United States rising from 20 percent of total exports in 1979 to 32.8 percent in 1981.<sup>46</sup> Data on Spanish capacity for the production of plate is available only for 1981, but that data suggests that some additional capacity may be devoted to producing exports for the U.S. market. Additionally, although U.S. importers' inventories of Spanish plate are down from the peak levels of 1980 and early 1981, they remain substantial.<sup>47</sup>

### III. Hot-Rolled Carbon Steel Sheet

We determine that there is no reasonable indication that imports of hot-rolled carbon steel sheet from Spain have resulted in material injury or threat of material injury to the domestic industry. Among other factors, we have relied in our determination on the consistently low import penetration and the lack of substantial evidence of price suppression, price depression or lost sales caused by Spanish imports.

#### Condition of the Domestic Industry

The industry producing hot-carbon steel sheet, like other sectors of the overall steel industry, has suffered reverses in recent years. Production fell from 12,623,000 tons in 1979 to 9,855,000 tons in 1980, rebounded to 11,438,000 tons in 1981, then slumped to 1,916,000 tons in the first quarter of 1982 as compared to 2,975,000 tons in the first quarter of 1981.<sup>48</sup> Data on shipments are

might be appropriately cumulated with those from other countries in a final determination.

<sup>44</sup> Report at A-50. Another purchaser was alleged to have bought an additional quantity of Spanish plate, but the origin of the products purchased could not be verified.

<sup>45</sup> *Id.* at A-53.

<sup>46</sup> *Id.* at A-27.

<sup>47</sup> *Id.* at A-24.

<sup>48</sup> *Id.* at A-12.

similar.<sup>49</sup> While domestic capacity for manufacture of these products fluctuated, utilization of capacity fell from 65.7 percent in 1978 to 65 percent in 1979, 52.5 percent in 1980, and rose to 59 percent in 1981. In the first quarter of 1982, it dropped sharply to 40.5 percent as production fell.<sup>50</sup>

Employment of production and related workers declined from 25,400 in 1979 to 20,432 in 1980 and increased to 22,404 in 1981. With the drop in production in early 1982, employment fell sharply to 17,456.<sup>51</sup>

This industry has experienced substantial recent losses. Operating profits fell from \$162 million in 1978 to \$95 million in 1979. The industry then suffered operating losses totalling \$232 million in 1980, \$139 million in 1981, and a further \$136 million in the first quarter of 1982. The ratio of operating losses to net sales went from 7.5 percent in 1980 to 3.5 percent in 1981, then jumped to 18.3 percent in the first quarter of 1982.<sup>52</sup>

#### *No Reasonable Indication of Material Injury by Reason of Spanish Imports*<sup>53</sup>

The record developed in this investigation demonstrates no reasonable indication that the depressed condition of the domestic industry is attributable to imports from Spain. Imports are presently at insignificant levels, having fallen from 33,000 tons in 1978 to 5,000 tons in 1979, 1,000 tons in 1980, and 5,000 tons in 1981. Imports in January-March 1982 were only 2,000 tons.<sup>54</sup> As a percentage of domestic consumption these imports were only 0.2 percent in the peak year of 1978, falling to less than 0.05 percent in the three years 1979-81. Imports in the first quarter of 1982 reached a market penetration level of only 0.1 percent.<sup>55</sup>

One purchaser of hot-rolled carbon steel sheet confirmed that it had obtained a price discount on the domestically produced product in order to meet price competition from Spanish imports.<sup>56</sup> No instances of sales lost to Spanish imports, however, could be confirmed.<sup>57</sup>

#### *No Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*

We find that there is no reasonable indication of a threat of material injury to the domestic industry by reason of

Spanish imports. As noted above, imports have consistently remained at low levels since 1979. Moreover, total Spanish exports to all countries have accounted for only a small percentage of Spanish production of this product, almost all production being devoted to domestic Spanish consumption.<sup>58</sup>

#### IV. Cold-Rolled Carbon Steel Sheet

We find a reasonable indication of threat of material injury to the domestic industry due to imports of cold-rolled carbon steel sheet.<sup>59</sup> This conclusion is based primarily on the rapidly rising level of Spanish imports of this product.

#### *Condition of the Domestic Industry*

As is true of other segments of the steel industry, the portion producing cold-rolled carbon steel sheet is in a severely weakened condition.

Production fell to 11,195,000 tons in 1981 from 13,225,000 tons in 1979. The first quarter of 1982 showed an even greater decline to 1,931,000 tons from 3,039,000 tons in the same quarter of 1981.<sup>60</sup> Shipments exhibited similar trends.<sup>61</sup> While production capacity fluctuated slightly between 1978 and 1981, utilization of that capacity declined irregularly from 84.7 percent in 1978 to 70.4 percent in 1981. It then plunged to 45.1 percent in January-March 1982, compared to 71 percent in the corresponding period in 1981.<sup>62</sup>

The decline in production negatively affected employment levels. Employment fell from a high of 39,223 workers in 1979 to 32,050 in 1980, but increased to 35,303 in 1981. It then dropped precipitously in the first quarter of 1982 to 23,859 workers.<sup>63</sup>

Financial losses in this industry have been severe. Operating profits declined from \$114 million in 1978 to \$53 million in 1979, then turned to losses of \$383 million in 1980 and \$293 million in 1981. Further losses of \$170 million were recorded in the first quarter of 1982. As a ratio of net sales, these losses amounted to 9.2 percent in 1980, 5.9 percent in 1981, and 18.4 percent in the first quarter of 1982.<sup>64</sup>

<sup>49</sup> *Id.* at A-27.

<sup>50</sup> The vote language of Vice Chairman Calhoun and Commissioner Stern reflects a determination of material injury or threat of material injury. Section 703(a) of the Tariff Act of 1930, 19 U.S.C. 1673(a). Commissioner Frank determined that there is a reasonable indication of present material injury to the domestic industry with respect to the investigation on cold-rolled carbon steel sheet and did not reach the issue of threat. See his separate views.

<sup>51</sup> Report at A-12.

<sup>52</sup> *Id.* at A-9 and A-12.

<sup>53</sup> *Id.* at A-12.

<sup>54</sup> *Id.* at A-14.

<sup>55</sup> *Id.* at A-21.

#### *Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*<sup>65</sup>

During 1978, 1979, and 1980, imports from Spain have steadily decreased in both absolute terms and in relation to apparent U.S. consumption. Imports of cold-rolled carbon steel sheet from Spain declined from 90,000 tons in 1978 to 48,000 tons in 1979 and to 8,000 tons in 1980.<sup>66</sup> Import penetration exhibited a similar trend dropping from 0.4 percent in 1978 to 0.3 percent in 1979 and to 0.1 percent in 1980.<sup>67</sup> There is thus no visible relationship between these imports and the past problems associated with the domestic industry.

The period of 1981 and the first quarter of 1982, however, stands out in sharp contrast to the years 1978-80. Imports increased nearly eightfold in 1981 compared to the previous year and nearly fourfold in the first quarter of 1982 over the first quarter of 1981. In absolute terms imports jumped from 8,000 tons in 1980 to 62,000 tons in 1981 and from 7,000 tons in the first quarter of 1981 to 26,000 tons in the first quarter of 1982.<sup>68</sup> The import penetration figures from 1981 to the present show a similar upsurge in imports. The 1981 figure of 0.4 percent matched the prior peak set in 1978 and penetration in the first quarter of 1982 climbed to 0.9 percent in contrast to a figure of 0.2 percent in the first quarter of 1981.<sup>69</sup> There are indications that these recent sharp increases in the levels of imports are contributing to the accelerating downturn in the industry's performance and thus threaten material injury.

#### V. Galvanized Carbon Steel Sheet

#### *Views of Commissioners Alfred Eckes, Eugene Frank, and Veronica Haggart*

We determine that there is a reasonable indication that imports of galvanized carbon steel sheet from Spain are causing material injury to the domestic industry.<sup>70</sup>

The galvanized carbon steel sheet industry has experienced a downturn since 1979. Production fell from 4,698,000 tons in 1979 to 3,749,000 tons in 1980. Although production rose to 4,400,000

<sup>65</sup> Commissioner Frank found a reasonable indication of present material injury and cumulated. See his separate views.

<sup>66</sup> *Id.* at A-30.

<sup>67</sup> *Id.* at A-32.

<sup>68</sup> *Id.* at A-30.

<sup>69</sup> *Id.* at A-32.

<sup>70</sup> Commissioner Eckes finds a reasonable indication of material injury or threat of material injury. Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern, as discussed in their separate views, find no reasonable indication of material injury or threat of material injury.

<sup>49</sup> *Id.* at A-9 and A-12.

<sup>50</sup> *Id.* at A-12.

<sup>51</sup> *Id.* at A-14.

<sup>52</sup> *Id.* at A-21.

<sup>53</sup> See Commissioner Frank's separate views.

<sup>54</sup> *Id.* at A-30.

<sup>55</sup> *Id.* at A-32.

<sup>56</sup> *Id.* at A-56.

<sup>57</sup> *Id.* at A-53.

tons in 1981, a sharp drop in production occurred in the first 3 months of 1982, with only 865,000 tons being produced, in contrast to the 1,289,000 tons produced in the same period in 1981.<sup>71</sup> Shipments have similarly decreased.<sup>72</sup> While capacity for producing galvanized sheet has remained roughly constant since 1978, capacity utilization fell from 72.7 percent in 1978 to 59.4 percent in 1980. After rebounding to 70.7 percent in 1981, it fell to its lowest point, 55.4 percent, in the first quarter of 1982.<sup>73</sup> Employment of production and related workers, which had peaked at 13,919 in 1981, fell to 11,266 by the first quarter of 1982 as production declined.<sup>74</sup>

From operating profits of \$135 million in 1979, the industry declined to losses of \$91 million in 1980, \$29 million in 1981, and \$66 million in the first quarter of 1982 (compared to a loss of only \$6 million in the same period in 1981). The first quarter 1981 loss was more than double that for the entire previous year. The ratio of operating losses to net sales was 4.8 percent in 1980, 1.2 percent in 1981, and 14.5 percent in the first quarter of 1982.<sup>75</sup>

#### *Reasonable Indication of Material Injury by Reason of Spanish Imports*<sup>76</sup>

We find a reasonable indication that imports from Spain have contributed to the decline in the health of the domestic industry. Although they fell steadily from their peak level of 82,000 tons in 1978 to 19,000 tons in 1981, Spanish imports increased significantly to 25,000 tons in the first quarter of 1982 alone, an influx that was substantially in excess of that in the entire year 1981.<sup>77</sup> The import penetration level for the first quarter of 1982 of 1.8 percent of total domestic consumption was the highest level during the period of investigation.<sup>78</sup>

The significant increase in Spanish imports coincided with the serious downturn in domestic production, capacity utilization, and profitability in early 1982. This link is sufficient to indicate causation of injury to the industry.

Other information also strongly supports our conclusion of a reasonable indication of injury. Of four allegations of sales lost to domestic firms to imports of galvanized sheet, two were

confirmed.<sup>79</sup> In addition, five transactions were confirmed in which a domestic firm lost revenues by lowering its prices in order to meet price competition by Spanish imports.<sup>80</sup> Thus, there is a reasonable indication that imports from Spain are a factor in causing the problems the industry is experiencing.

#### **V. Galvanized Carbon Steel Sheet**

*Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern*

We find no reasonable indication of material injury or threat of material injury to the domestic industry producing galvanized carbon steel sheet. Although we agree with our colleagues that the domestic industry is experiencing severe problems, we are not convinced that those problems are causally related to imports for Spain or any other country previously investigated by the Commission.<sup>81</sup> As noted in our views regarding galvanized carbon steel sheet in the recent steel investigations,<sup>82</sup> it is our judgment, based upon the best information available to the Commission, that factors other than imports are responsible for the present condition of the domestic galvanized carbon steel industry. Among the causes of the decline in the domestic industry were a sharp decline in domestic consumption, low labor productivity, and high labor costs.

Although domestic production, shipments, employment, and profitability have declined during the period under investigation, imports have also declined. There is no evidence of excessive inventories of Spanish imports during the entire period. Except for the first quarter in 1982 when imports of galvanized carbon steel sheet from Spain reached their highest market penetration level of 1.8 percent, they have maintained a consistently low level and have been insignificant as a share of overall imports during the period of this investigation. From 1979 to 1981, imports from Spain declined as a ratio of imports to consumption from 0.5 percent to 0.3 percent. During this period, overall imports declined sharply at the same time that domestic profitability fell. A first quarter increase in imports coinciding with a further drop in profits during a major recession

hardly seems to us to call for a continuation of an investigation.

Even during the first quarter of 1982 when Spanish imports reached their highest level, as a share of overall imports, they represented less than 10 percent of the 21 percent market share for all imports of galvanized carbon steel sheet. We do not find this increase in imports sufficient to establish a pattern of imports which warrants a finding of a reasonable indication of threat of material injury.

#### **VI. Carbon Steel Structural Shapes**

We determine that there is a reasonable indication of material injury or threat of material injury to the domestic industry producing carbon steel structural shapes by reason of imports from Spain.<sup>83</sup> This determination is based primarily on the substantial levels of Spanish imports and multiple confirmed instances of sales lost to Spanish imports during a period of decline in the domestic industry.

#### *Condition of the Domestic Industry*

Production in this industry has declined since 1979, falling from 4.1 million tons to 3.8 million tons in 1980 and 3.6 million tons in 1981. A further decline was registered in the first quarter of 1982, as production fell to 590,000 tons from 827,000 tons in the same period in 1981.<sup>84</sup> Data on shipments fell similarly.<sup>85</sup> Although total capacity for the production of structural shapes changed little over the period studied, capacity utilization fell in the latter part of the period, from 60.8 percent in 1980 to 58.2 percent in 1981 and then to 43.8 percent in the first quarter of 1982.<sup>86</sup> Employment matched the downward trend in production, falling from 13,058 workers in 1979 to 12,269 in 1980, 11,667 in 1981, and 7,125 in the first quarter of 1982.<sup>87</sup>

Most significantly, the industry has suffered losses in every year covered by this investigation, with the losses accelerating toward the end of the period. Operating losses were 2.2 percent and 0.3 percent of net sales in 1978 and 1979, respectively, then increased to 4.7 percent in 1980 and 4.9 percent in 1981. The losses grew again in the first quarter of 1982 to 12.7 percent,

<sup>83</sup> Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

<sup>84</sup> Report at A-12.

<sup>85</sup> *Id.* at A-9 and A-12.

<sup>86</sup> *Id.* at A-12.

<sup>87</sup> *Id.* at A-14.

<sup>71</sup> Report at A-12.

<sup>72</sup> *Id.* at A-9 and A-12.

<sup>73</sup> *Id.* at A-12.

<sup>74</sup> *Id.* at A-14.

<sup>75</sup> *Id.* at A-21.

<sup>76</sup> Commissioner Frank cumulated. See his separate views.

<sup>77</sup> Report at A-30.

<sup>78</sup> *Id.* at A-32.

<sup>79</sup> *Id.* at A-53.

<sup>80</sup> *Id.* at A-56.

<sup>81</sup> Investigations Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Investigations No. 751-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 54-57.

<sup>82</sup> *Id.*

compared to 4.9 percent in the same period of 1981.<sup>88</sup>

*Reasonable Indication of Material Injury by Reason of Imports From Spain*<sup>89</sup>

There is ample information in the record to support a reasonable indication that the industry's troubles are causally connected to Spanish imports. Imports from Spain have steadily increased as the fortunes of the industry have turned downward. Imports grew from 56,000 tons in 1978 to 238,000 tons in 1981, accounting for an increased share of the U.S. market from 1 percent in 1978 to 4.1 percent in 1981. Although imports dropped somewhat in the first quarter of 1982, they still amounted to 3.7 percent of total consumption during the quarter.<sup>90</sup>

Information shows that the industry has lost sales to Spanish imports on the basis of price. A number of purchasers stated that they had bought Spanish steel and had done so primarily because of its lower price. Only one company stated that it would continue to purchase Spanish steel even if the prices of domestic products were competitive.<sup>91</sup>

*Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as on the following information. There are indications that imports of structural shapes from Spain will continue to cause material injury to the U.S. industry. As noted above, these imports account for a significant portion of domestic consumption of the products. Additionally, U.S. importers were reported as holding a very substantial level of inventories of the imported products in the first quarter of this year.<sup>92</sup> Moreover, Spanish production of structural shapes is highly dependent on export sales, with about half of production in the years 1979-81 being exported to other countries.<sup>93</sup>

**VII. Hot-Rolled Carbon Steel Bar**

With respect to the investigation on hot-rolled carbon steel bar, we find that there is a reasonable indication of threat of material injury<sup>94</sup> by reason of

allegedly subsidized imports from Spain. We base this determination on a finding of increases in the ratio of imports from Spain to apparent U.S. consumption, the deteriorating condition of the domestic industry, and the percentage of total Spanish exports to the United States.

*Condition of Domestic Industry*

The domestic hot-rolled carbon steel bar industry's production, capacity utilization, employment, and profitability have all declined in the last two years. The most dramatic decreases have been in the figures for the first quarter of 1982.

During this quarter, production dropped to 759,000 tons from 1,088,000 tons in the comparable 1981 period.<sup>95</sup> This decrease was a continuation of the irregular annual production decline from 5,493,000 tons in 1978 to 4,089,000 tons in 1981. Shipment data show similar trends.<sup>96</sup> Although capacity remained relatively constant since 1980, capacity utilization decreased from 56.5 percent in January-March 1981 to 39.6 percent in January-March 1982.<sup>97</sup>

Employment statistics reflect a parallel pattern. Workers engaged in production of hot-rolled carbon steel bar went from 20,272 in 1978 to 14,579 in 1981. The most decisive drop again was in the January-March quarter when the number of workers went from 12,983 in 1981 to 9,788 in 1982.<sup>98</sup>

Profit-and-loss records have consistently shown an operating loss since 1980. In that year, the loss was \$114 million. Although the loss was less substantial in 1981 at \$35 million, it grew radically in the first quarter of 1982. In the 1982 January-March period the operating loss was \$71 million compared to \$8 million in the 1981 January-March period.<sup>99</sup> This almost eightfold increase has resulted in a ratio of operating loss to net sales of 21 percent for the first quarter of 1982 compared to 1.6 percent for the first quarter of 1981.<sup>100</sup>

*Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*<sup>101</sup>

Imports of hot-rolled carbon steel bar from Spain increased from 24,000 tons in

1980 to 34,000 tons in 1981, and have continued to rise during the first quarter of 1982.<sup>102</sup> The ratio of Spanish imports to apparent U.S. consumption has increased from 0.5 percent in 1978 to 0.7 percent in 1981.<sup>103</sup> This increase was more dramatic in the first quarter of 1982 when the imports more than doubled from 5,000 tons in January-March 1981 to 11,000 tons in the comparable 1982 period.<sup>104</sup> The same ratio for the quarterly period tripled from 0.4 percent for the first quarter of 1981 to 1.2 percent for 1982.<sup>105</sup>

Although total Spanish exports of hot-rolled carbon steel bar decreased from 1980 to 1981, exports to the United States more than doubled. The percentage of exports to the U.S. went from 2.3 percent of total exports in 1980 to 6.7 percent in 1981.<sup>106</sup>

Very little information on lost sales or price reductions to meet competition is available at this time. However, an instance of a lost sale because of lower priced imports from Spain was confirmed,<sup>107</sup> as was a price concession because of a purchaser's threat to buy a less expensive Spanish import.<sup>108</sup>

Imports from Spain have become particularly significant in the first quarter of 1982. The recent upsurge in imports coincides with the dramatic decreases in the industry's production, capacity utilization, employment and profitability in the first quarter of 1982. U.S. importers' 1981 year-end inventories of hot-rolled carbon steel bar were 11,549 tons. Although end of March inventories have declined slightly, they still remain near peak levels.<sup>109</sup> Therefore, we find sufficient information to conclude that there is a reasonable indication of threat of material injury to the domestic industry due to Spanish imports.

**VIII. Hot-Rolled Alloy Steel Bar**

We determine that there is no reasonable indication of material injury or threat thereof to a domestic industry by reason of imports from Spain.<sup>110</sup> This finding is primarily based on the healthy condition of the domestic industry and on the decline in Spanish imports of this product.

703(a) of the Tariff Act of 1930, 19 U.S.C. § 1673b(a). Commissioner Frank finds a reasonable indication of present material injury and did not reach the issue of threat.

<sup>88</sup> Report at A-13.

<sup>89</sup> *Id.* at A-10 and A-13.

<sup>90</sup> *Id.* at A-13.

<sup>91</sup> *Id.* at A-15.

<sup>92</sup> *Id.* at A-22.

<sup>93</sup> *Id.*

<sup>94</sup> Commissioner Frank cumulated. See his separate views.

<sup>102</sup> Report at A-31.

<sup>103</sup> *Id.* at A-33.

<sup>104</sup> *Id.* at A-31.

<sup>105</sup> *Id.* at A-33.

<sup>106</sup> *Id.* at A-27.

<sup>107</sup> *Id.* at A-54.

<sup>108</sup> *Id.* at A-57.

<sup>109</sup> *Id.* at A-24.

<sup>110</sup> Commissioner Frank dissents. See his separate views.

<sup>88</sup> *Id.* at A-21.

<sup>89</sup> Commissioner Frank cumulated. See his separate views.

<sup>90</sup> Report at A-30, A-32.

<sup>91</sup> *Id.* at A-54.

<sup>92</sup> *Id.* at A-24.

<sup>93</sup> *Id.* at A-27, A-28.

<sup>94</sup> The vote language of Vice Chairman Calhoun and Commissioner Stern reflects a determination of material injury or threat of material injury. Section

*Condition of the Domestic Industry*

Production, capacity utilization, shipments, employment, and profit-and-loss ratios all rose in 1981 after a decline in the three preceding years.

In 1981, domestic production of hot-rolled alloy steel bar rose to 1,412,000 tons from the previous year's level of 1,151,000 tons.<sup>111</sup> Because production increased and capacity remained constant, capacity utilization also rose from 53.1 percent in 1980 to 65.1 percent in 1981.<sup>112</sup> Shipments grew from 1,179,000 tons in 1980 to 1,402,000 tons in 1981.<sup>113</sup> Employment also increased, rising from 5,761 in 1980 to 6,250 in 1981.<sup>114</sup>

The most dramatic jump, however, was in the profit-and-loss experience of the domestic producers. The ratio of operating profit to net sales almost doubled from 4.8 percent in 1980 to 8.6 percent in 1981, while the operating profit went from \$37 million in 1980 to \$87 million in 1981.<sup>115</sup>

*No Reasonable Indication of Material Injury by Reason of Spanish Imports*

During the same period of time when this U.S. industry was growing, Spanish imports were declining. These Spanish imports increased in the first quarter of 1982. Although domestic production, capacity utilization, employment, and profits declined in the first quarter of 1982 compared with the first quarter of 1981, there is no reasonable indication that these declines are related to imports from Spain.

Imports of this product from Spain have not followed a consistent pattern. The volume of imports was 11,000 tons in 1978; less than 500 tons in 1979; 1,000 tons in 1980; 5,000 tons in 1981; 1,000 tons in the first quarter of 1981 and 4,000 tons in the first quarter of 1982.<sup>116</sup> The penetration level was 0.4 percent in 1978; less than 0.05 percent in 1979; less than 0.05 percent in 1980; 0.2 percent in 1981; 0.1 percent in the first quarter of 1981; and 0.7 percent in the first quarter of 1982.<sup>117</sup>

Further, the Commission was not able to confirm any lost sales. The purchasers involved in the allegations stated that they had bought imports from other countries, but denied ever buying imports of this product from Spain.<sup>118</sup> No information indicating

either price suppression or depression has been provided or developed.

*No Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*

In 1982, U.S. importers' end-of-period inventories for the January-March period increased to 5,493 tons compared to 1,629 tons for the comparable 1981 period. Even more important were the substantial decreases between 1980-1981 in both total exports and exports to the United States.<sup>119</sup> Furthermore, no other information such as Spanish capacity utilization or intent to increase exports to the U.S. was presented. Thus, there is no reasonable indication of threat of material injury by reason of Spanish imports of hot-rolled alloy steel bar.

**IX. Cold-Formed Carbon Steel Bar**

The Commission determined that there is a reasonable indication of material injury or threat of material injury<sup>120</sup> to a domestic industry by reason of imports of cold-formed carbon steel bar from Spain. This determination is based on dramatically increased imports, consistent underselling, and confirmed lost sales.

*Condition of the Domestic Industry*

The domestic cold-formed carbon steel bar industry has experienced financial losses as well as a decline in capacity utilization and employment during the past two years. Although production rose slightly in 1981, it did not offset the decline experienced in 1980.<sup>121</sup>

The domestic industry sustained an operating loss of \$7 million for 1980, \$5 million for 1981, and \$13 million for the first quarter of 1982. This resulted in a ratio of operating loss to net sales of 14.5 percent for the January-March 1982 period.<sup>122</sup>

Although capacity has increased slightly in the past year, capacity utilization has decreased since 1979.<sup>123</sup> Capacity utilization went from a high of 80.5 percent in 1979 to 56 percent in 1981. This decline has resulted from an irregular decrease in production from 1,051,000 tons in 1979 to 738,000 tons in 1980 and 796,000 tons in 1981.<sup>124</sup>

<sup>111</sup> *Id.* at A-27.

<sup>120</sup> Chairman Alberger and Commissioners Frank and Haggart determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

<sup>121</sup> *Id.* at A-13.

<sup>122</sup> *Id.* at A-22.

<sup>123</sup> *Id.* at A-13.

<sup>124</sup> *Id.*

Shipment data essentially mirror the production figures.<sup>125</sup>

Employment figures show a similar decline since 1979. Persons working in the production and related areas of cold-formed carbon steel bar were 3,724 in 1979, 2,841 in 1980 and 2,731 in 1981.<sup>126</sup>

*Reasonable Indication of Material Injury by Reason of Spanish Imports*<sup>127</sup>

Imports, both in absolute terms and as a ratio of apparent U.S. consumption, rose dramatically in 1981. The quantity more than tripled from 5,000 tons in 1980 to 17,000 tons in 1981. This high level is expected to continue since the January-March 1982 import figure is the same as it was for those months in 1981, 4,000 tons.<sup>128</sup> This substantial increase in Spanish imports has meant that the penetration level of imports has tripled.<sup>129</sup> The ratio of Spanish imports to apparent U.S. consumption increased from 0.4 percent in 1980 to 1.2 percent in 1981.

Price data reveal that importers have consistently undersold domestic producers since the second quarter of 1980.<sup>130</sup> Although price comparisons were made on the basis of only one importer, this importer accounted for almost all imports of the product.<sup>131</sup> The Commission also confirmed two lost sales of about 4,000 tons on which quotations of \$2.8 million had been made.<sup>132</sup>

*Reasonable Indication of Threat of Material Injury by Reason of Spanish Imports*

Vice Chairman Calhoun and Commissioners Stern and Eckes base their finding on the above factors as well as the following information. Although data on Spain's capacity were not available, information on the increased percentage of exports was provided. This information showed that, although exports to the U.S. fell 50 percent in 1980, they more than tripled in 1981. In that year, exports to the U.S. accounted for 40 percent of Spain's total exports.<sup>133</sup> In quantity, the increase has been from 4 tons in 1980 to 14 tons in 1981.<sup>134</sup> End-of-period inventories of U.S. importers also rose from 1,500 tons in 1980 to 5,390 tons in 1981. This level has

<sup>125</sup> *Id.* at A-10 and A-13.

<sup>126</sup> *Id.* at A-15.

<sup>127</sup> Commissioner Frank cumulated. See his separate views.

<sup>128</sup> *Id.* at A-31.

<sup>129</sup> Report at A-33.

<sup>130</sup> *Id.* at A-13.

<sup>131</sup> *Id.* at A-45.

<sup>132</sup> *Id.* at A-55.

<sup>133</sup> *Id.* at A-27.

<sup>134</sup> *Id.*

<sup>111</sup> Report at A-13.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at A-15.

<sup>115</sup> *Id.* at A-22.

<sup>116</sup> *Id.* at A-31.

<sup>117</sup> *Id.* at A-33.

<sup>118</sup> *Id.* at A-33.

already been exceeded in the first quarter of 1982 at 5,454 tons.<sup>135</sup>

#### X. Cold-Formed Alloy Steel Bar

We have determined that there is no reasonable indication of material injury or threat thereof to a domestic industry by reason of imports of cold-formed alloy steel bar from Spain.<sup>136</sup> Spanish imports account for a small proportion of total domestic consumption, and there is no indication that they have had a meaningful effect on prices or sales of domestic products.

##### *Condition of the Domestic Industry.*

Even though its production levels have declined during the period covered by this investigation, the industry producing cold-formed alloy steel bar has remained in a relatively healthy condition. Production irregularly declined from a high of 159,000 tons in 1979 to 122,000 tons in 1981 and declined slightly again in the first quarter of 1982.<sup>137</sup> Shipments declined in a like manner. Although production capacity has remained almost static, capacity utilization has fallen from 71 percent in 1978 to 57.3 percent in 1981, with a further decrease to 47.8 percent in the first quarter of 1982.<sup>138</sup> Employment also has declined from its high point of 931 workers in 1979 to 701 in 1981 and 666 in the first quarter of 1982.<sup>139</sup>

Profitability in this industry, however, has not suffered to the same extent that it has in other segments of the overall steel industry. Operating profits have declined from \$17 million in 1978 to \$11 million in 1981. Profits were less than \$500,000 in the first quarter of 1982, down from \$4 million in the first quarter of 1981. The ratio of operating profit to net sales, although down from 1978 levels, has generally remained high during the period studied. It was 16.2 percent in 1978, 12.1 percent in 1979, 10.4 percent in 1980, and 9.9 percent in 1981. In the first quarter of 1982 it dropped to 0.7 percent.<sup>140</sup>

##### *No Reasonable Indication of Material Injury by Reason of Spanish Imports*

Although the economic indicators applicable to this industry have declined during the period under investigation, we find no reasonable indication of a causal relationship between this decline and the present of Spanish imports in the U.S. market. Spanish imports have never totalled more than 2,000 tons in

any year between 1978 and the present, and were less than 500 tons in 1980 and 1981. Spanish import penetration levels ranged from lows of 0.1 percent in 1980 and 1981 to a high of only 0.5 percent in 1979. The first quarter of 1982 showed a 0.5 percent penetration figure for that period.<sup>141</sup> Moreover, no lost sales were confirmed and no information supporting a finding of price suppression or depression was provided or developed.

##### *No Threat of Material Injury by Reason of Imports From Spain*

We also find no threat of material injury to be present in this case. As noted above, Spanish imports have remained very low for the last several years. The United States does not appear to be a principal export market for Spain in this product. While total exports have remained relatively constant since 1979, exports to the United States have fallen, amounting to only 5.8 percent of total exports in 1981, compared with 17.4 percent in 1980 and 47.1 percent in 1979.<sup>142</sup>

##### **Additional Views of Vice Chairman Michael J. Calhoun**

In reaching my determinations in these investigations, I have assessed the impact of the Spanish imports under investigation in the context of the corresponding imports from Belgium, Brazil, Italy, France, Luxembourg, the Netherlands, Romania, the United Kingdom and West Germany which were the subject of the Commission's preliminary investigations 701-TA-86 through 144, 701-TA-146 through 147, and 731-TA-53 through 86. As was the case in the previous investigations, I have not included imports from South Africa in my aggregate assessment. (See Additional Views of Vice Chairman Calhoun, ITC Publication 1221, February 1982, p. 95).

In analyzing the impact of Spanish imports in the context of the imports previously investigated, I recognize that the statute requires a finding of material injury with regard only to the imports under investigation by the Department of Commerce. Thus it is possible to construe the statute as proscribing the cumulation of the impact of certain imports with the impact of those investigated in previous Commission investigations. Because these imports are still under investigation by Commerce, my action is consistent with the statute.

In my view, our authority for aggregating the impact of imports from

different countries and under different investigations, whether the investigations are undertaken concurrently or at different times, arises under section 771(7)(B) which provides that in making our material injury assessments we shall consider the delineated factors "among other factors." And under section 771(7)(C)(iii), in assessing the impact of imports on the industry we are, by similar implication, given equally broad discretion. This view of our broad discretion in assessing the impact of imports on domestic producers seems well enough established so as not to warrant lengthy discussion here. The gist of this broad discretion plainly goes to our ability to relate the behavior of imports to realities in the marketplace.

Consistent with this view, I understand our task under the Trade Agreements Act of 1979, in its most basic expression, to be that of identifying whether imported products are adversely impacting in a material way the producers of those domestic products with which they are the most competitive. In this regard, then, whether a particular product is coming from only one country or from several is of little significance to the impact suffered by the domestic industry.

If imports from various countries are present in the marketplace at the same time and meet the other criteria we have used, it is most likely in their cumulative effect that their impact is most significant. Therefore, it has been the practice of this body to aggregate, on occasion, the impact of products from various countries when those imported products have been before us all at one time. In the absence of compelling reasons to the contrary, it is becoming my usual practice to aggregate in such circumstances.

Quite simply, in the present case, my cumulating the impact of Spanish imports with the impact of imports assessed in recent but previous Commission investigations is based on the same sound reasons underlying cumulation in investigations conducted concurrently. It seems to me that the timing of the filing of a petition before us ought not, in and of itself, be a basis for finding that the impact of a category of imports in the marketplace is somehow unrelated to that of similar imports whose impact has been recently assessed. If imports unequivocally interact in the market concurrently or with a hammering effect and all the other considerations underlying cumulation are met, it seems unaccountably arbitrary to assess impact separately simply on the basis of

<sup>135</sup> *Id.* at A-24.

<sup>136</sup> Commissioner Frank dissents. See his separate views.

<sup>137</sup> Report at A-51.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.* at A-15.

<sup>140</sup> *Id.* at A-22.

<sup>141</sup> *Id.* at A-33 and A-36.

<sup>142</sup> *Id.* at A-27.

the date on which the case arises. Admittedly, this view provides little incentive for petitioners to be diligent in bringing complete and comprehensive cases before us in the first instance. However, as this particular case demonstrates, factors beyond the diligence of petitioners can result in subsequent and related allegations of harm by imports from additional sources.

For these reasons, I have evaluated the impact of Spanish imports in the context of the aggregate impact of imports analyzed in the previous steel cases.

### Separate Views of Commissioner Eugene J. Frank

#### I. Introduction

These views are to be considered in conjunction with my views with respect to the carbon and alloy steel 92 steel product preliminary investigations before the Commission in January 1982,<sup>143</sup> and made an integral part of this opinion.

Since those preliminary cases, the condition of the U.S. steel industry has suffered further significant deterioration by all recognized indicia of economic distress which does not bear recitation here. Some mention is warranted however. The American Iron and Steel Institute reported for the week ended June 5, 1982, industry capacity utilization of 42.5 percent and last weeks raw steel production was 49.3 percent below output produced a year earlier. Since mid-1981 about 105,000 steelmakers have either lost their jobs permanently or are on indefinite layoff. This does not even consider the effects on indirect employment which are of great magnitude. Some steel executives are predicting industry total shipment levels for 1982 as low as 70 million tons, compared with 87 million tons shipped last year. And steel imports have risen to more than 20 percent of this depressed domestic market since last year.

Although statutory considerations prescribe a like product and definition of industry approach as set forth by my colleagues for these cases, in my views in the January cases, I stated therein: "I believe, in ascertaining injury to the domestic industry affected in the conduct of these investigations it is appropriate to consider as a relevant

factor in all these investigations, the basic, commonsense economic reality of the impact of such imports on the domestic steel industry in general."<sup>144</sup>

For these preliminary investigations, I cumulated the impact of alleged unfairly traded imports of comparable articles on the domestic industry from countries whose preliminary cases have been continued (including South Africa, not a signatory to the Subsidies Code) consistent with my approach and position on cumulation.<sup>145</sup> In this respect, I depart from the approach taken by some of my colleagues who have approached these preliminary investigations on a case-by-case basis.

Finally, I would reiterate here my oft-stated position that the statute and legislative history in Title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available that the facts reasonably indicate that an industry in the United States could possibly be suffering material injury, threat thereof, or material retardation.<sup>146</sup>

The following represent my determinations on these preliminary investigations, stating, where applicable, points of departure from my colleagues in analyses and dissent.<sup>147</sup>

#### II. Hot-Rolled Carbon Steel Plate

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. While otherwise concurring in general with my colleagues, I cumulated the impact on the pertinent domestic industry of subject imports from Spain along with Belgium, The United Kingdom, West Germany, Brazil, Romania, and South Africa, which indicates a general increase in overall levels of imports since 1978 to significant levels with a marked degree of domestic market penetration of 12.7 percent with respect to apparent domestic consumption the first quarter 1982.

#### III Hot-Rolled Carbon Steel Sheet

I find that there is no reasonable indication that imports of hot-rolled carbon steel sheet from Spain have

resulted in material injury or threat of material injury to the domestic industry. While I generally concur with the observations of my colleagues, I amplify my position to indicate that I did not believe cumulation of subject imports from Spain with those countries for which the Commission made an affirmative preliminary determination, and South Africa, was appropriate. This was primarily in view of the historically miniscule levels and insignificant market presence of such Spanish imports (less than 0.05 percent in 1979-1981) only reaching a level worthy of some note in the first quarter 1982 of 0.1 percent. Further, I note that Spain's imports of hot-rolled carbon steel sheet substantially exceeded exports during 1979-1981, attributable to problems with a fairly new cold-reduction mill put in by Altos Hornos del Mediterraneo.

#### IV. Cold-Rolled Carbon Steel Sheet

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I concur with my colleagues in their observations relative to the severely weakened condition of the domestic industry. However, in cumulating the impact of subject imports on the domestic industry along with France, Italy, Netherlands, West Germany, and South Africa imports, it is readily apparent that imports have increased significantly from 1979 to 1981, registering a dramatic surge in the comparable 1981-1982 January-March quarter, and attained a significant market penetration of 5.5 percent for 1981 and 7.3 percent the first quarter 1982 compared with 1.7 percent the first quarter 1981. Although pricing data and lost sales information is insufficient or inconclusive, I would anticipate such information would be available in a final investigation for Commission consideration should the case return.<sup>148</sup>

#### V. Galvanized Carbon Steel Sheet

I find a reasonable indication of material injury to the affected domestic industry by subject imports and did not reach the issue of threat. Although I generally concur with the observations of Commissioners Eckes and Haggart in their views on this investigation, I cumulated the impact of subject imports from Spain with those from South Africa. Although such imports declined in absolute levels and with respect to market share from 1979-1981, they registered a substantial increase in the

<sup>143</sup> Investigation Nos. 701-TA-86 to 144, 701-146, a dn 701-TA-147 (Prel.), and Investigations Nos. 731-TA-53 to 86 (Prel.) USITC Pubs. 1221 and 1226, February 1982, *Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany* Views of Commissioner Eugene J. Frank, pp. 121-185.

<sup>144</sup> Views of Commissioner Eugene J. Frank, *Certain Steel Products from Belgium*, p.136

<sup>145</sup> See *Id.* pp. 127-129.

<sup>146</sup> H.R. Report No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

<sup>147</sup> All data are derived from the accompanying Report unless otherwise indicated. First quarter January-March 1982 and January-December 1981 data on imports from South Africa were obtained by direct inquiry from staff on June 1 and June 2, 1982.

<sup>148</sup> See my views on the January cases, pp. 125-127 in which I cite my concerns about these areas.

first quarter of 1982, comprising two-thirds of imports for the entire 1981 period in this quarter, and attained a market penetration of 2.3 percent of domestic consumption.

#### VI. Carbon Steel Structural Shapes

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. Although I generally concur with the observations of my colleagues in this case, I cumulated the impact of subject imports from Spain with those from South Africa, Belgium/Luxembourg, France, the United Kingdom, and West Germany. Such imports increased substantially from 850,000 tons in 1979 to 1,046,000 tons in 1981, accounting for an 18 percent share of the U.S. market in 1981. Although such imports dropped somewhat the first quarter 1982, they still amounted to 15.5 percent of domestic consumption during that period.

#### VII. Hot-Rolled Carbon Steel Bar

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. Although I generally concur with the observations of my colleagues, I cumulated the impact of subject imports from Spain with those from the United Kingdom and South Africa. Such imports increased from 95,000 tons in 1980 to 153,000 tons in 1981, and comparable January to March 1981-1982 quarters similarly reflect a substantial increase. Additionally, market penetration of such imports increased from 1.9 percent in 1979 to 3.4 percent in 1981; and although it abated somewhat in the first quarter 1982 to 2.3 percent, it still represents significant penetration. I would anticipate more thorough scrutiny of pricing data and lost sales information in a final investigation should the Commission be called upon to conduct one.

#### VIII. Hot-Rolled Alloy Steel Bar

I find a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I therefore dissent from my colleagues in this determination and analyses herein. Relevant indications of the health of the domestic industry such as production, capacity, capacity utilization, shipments, employment, paid hours worked and inconsistent profitability as I had stated in my views on the previous January cases<sup>149</sup> for this product have shown

declines albeit irregular during the 1978-1981 period. Moreover, in the instant investigation it is germane to note for the first quarter 1982 marked further declines in shipments, production, employment and hours paid, and capacity utilization rate of 52.3 percent. Further, relevant profit and loss data for U.S. producers in January-March 1982 showed aggregate gross profits of only \$1 million compared with \$32 million for the comparable 1981 period, and an aggregate operating loss of \$10.0 million for the 1982 first quarter—negative 5.0 percent with respect to negative 5.0 percent with respect to net sales—compared with \$23 million operating profit or 9.9 percent of sales for the comparable 1981 quarter.

I cumulated subject imports from Spain with those from South Africa. Such imports posted a 532 percent increase in 1981 to 5,058 short tons, 0.2 percent of the market, from 800 short tons in 1980; more strikingly, such imports evidenced a marked surge, looking at comparable January-March 1981-1982 data, registering a 286 percent increase from 980 tons to 3,785 tons, and jumped to 0.7 percent of apparent domestic consumption while domestic industry indicators declined substantially. I would anticipate that the Commission would be able to develop further and more comprehensive data on pricing patterns and lost sales in a final investigation. I note that importers did not provide data on average prices of this product according to the Staff Report and that lost sales information is inconclusive.<sup>150</sup>

I believe on the basis of the available information that there is a reasonable indication that the affected domestic industry in the United States *could possibly* be suffering material injury, and that this investigation should continue.

#### IX. Cold-Formed Carbon Steel Bar

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. While otherwise concurring in general with my colleagues, I cumulated the impact on the pertinent domestic industry of subject imports from Spain along with the United Kingdom and South Africa. Such imports increased 266 percent in 1981 to 48,827 tons from 1980 levels and, as a percent of domestic consumption, also climbed markedly from 1 percent to 3.4 percent. Although first quarter 1981-1982 data show some decline in absolute levels, market

penetration of 2.7 percent is still significant contrasted with 2.3 percent in January-March 1981.

#### X. Cold-Formed Alloy Steel Bar

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports and do not reach the issue of threat. I therefore dissent from my colleagues in this determination and analyses herein. I believe relevant indicia of industry condition evidence overall a decline in its health during the 1978-1981 period manifested by decreases, albeit irregular in production, capacity utilization, shipments, employment and paid hours worked and flattened operating profits.<sup>151</sup> Moreover, first quarter 1982 figures show further deterioration in these areas witnessed, for example, by capacity utilization rate of 47.8 percent (compared with 58.2 percent the comparable 1981 quarter), further declines in employment, and substantial decreases in gross and operating profits, especially operating profit margins which plummeted from 14.3 percent to 0.7 percent. One must note the most recent first quarter surge of imports for the entire 1981 period with penetration climbing from 0.1 percent to 0.5 percent of consumption, coupled with a decline in industry fortunes in considering a reasonable indication of the domestic industry possibly suffering for this product, which would more likely be developed in a final investigation should the Commission be called upon to conduct one.

I believe on the basis of available information that there is a reasonable indication that the affected domestic industry in the United States *could possibly* be suffering material injury and that this investigation should continue.

By order of the Commission.

Issued: June 10, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-16264 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

#### [Investigation No. 337-TA-113]

#### Certain Log Splitting Pivoted Lever Axes; Amendment of Notice of Investigation to Add Respondent

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add one new respondent pursuant to § 210.22(a) of the

<sup>149</sup> See my views on the January cases, pp. 173-175.

<sup>150</sup> See my views on the January cases, pp. 125-127 relative to my concerns about these areas.

<sup>151</sup> See my views on the January cases, pp. 181-184.

Commission's rules of practice and procedure (19 CFR 210.22(a)).

**SUMMARY:** On June 10, 1982, the Commission granted a motion (Motion No. 113-16) to amend the notice of investigation in this investigation to add Formosa Forges Corp. as an additional respondent.

**SUPPLEMENTARY INFORMATION:** On March 24, 1982, complainant Chopper Industries, Inc., moved (Motion No. 113-16) to amend the complaint and the notice of investigation to add as a new respondent Formosa Forges Corp. Formosa Forges Corp. is alleged by complainant to be engaged in contributory patent infringement with respect to the axehead component of the axes under investigation. On April 12, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 13). After consideration of Motion No. 113-16 and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add Formosa Forges Corp., 8 Tsu-Li, 1st Road, Nan Kung Industrial Park, Nan Tou, Taiwan 540, as a respondent in this investigation.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-9161.

**FOR FURTHER INFORMATION CONTACT:** Sheila J. Landers, Esq., Office of the General Counsel, telephone 202-523-0421.

By order of the Commission.

Issued: June 11, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-16263 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-103]

**Certain Stabilized Hull Units and Components Thereof and Sonar Units Utilizing Said Stabilized Hull Units; Termination of Investigation**

**AGENCY:** International Trade Commission.

**ACTION:** Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

**SUPPLEMENTARY INFORMATION:** On the basis of a complaint filed on April 29, 1981, the Commission on June 10, 1981,

published in the *Federal Register* (46 FR 30737) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's investigation covered alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain stabilized hull units and components thereof alleged to infringe certain claims of U.S. Letters Patent 3,553,638, owned by complainant Western Marine Electronics, Inc.

On May 20, 1982, the Commission unanimously determined that there was no violation of section 337 in investigation No. 337-TA-103 in the importation or sale of the stabilized hull units and components thereof in question.

Copies of the Commission's Action and Order, the Commission Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**FOR FURTHER INFORMATION CONTACT:** William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

By order of the Commission.

Issued: June 9, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-16267 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-108]

**Certain Vacuum Bottles and Components Thereof; Termination of Respondent**

**AGENCY:** International Trade Commission.

**ACTION:** Termination of investigation as to respondent World Wide, Inc.

**SUMMARY:** The Commission has terminated the above-captioned investigation as to respondent World Wide, Inc. (World Wide), on the basis of a joint motion filed by complainant Union Manufacturing Co., respondent World Wide, and the Commission investigative attorneys.

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain

vacuum bottles and components thereof. The joint motion to terminate the investigation as to World Wide included an affidavit executed by Mr. Ronald A. Ericken, chief executive officer of World Wide. In the affidavit, Mr. Erickson stated that World Wide had imported 10,000 vacuum bottles from a company in Taiwan and that World Wide would not import or sell any of the allegedly infringing vacuum bottles unless and until such time as there is a final decision by the Commission that the vacuum bottles in question do not infringe Union's alleged trademark.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**FOR FURTHER INFORMATION CONTACT:** William E. Perry, Esq., Office of the General Counsel, telephone 202-523-0359.

By order of the Commission.

Issued: June 9, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-16268 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 603-TA-8]

**Certain Stainless Steel Shears; Termination of Investigation**

**AGENCY:** International Trade Commission.

**ACTION:** Termination of preliminary investigation.

**SUMMARY:** On February 8, 1982, at the request of the Division of Unfair Import Investigations, the Commission voted to institute a preliminary investigation pursuant to section 603 of the Trade Act of 1974 (19 U.S.C. 2482) into the possible existence of unfair methods of competition and unfair acts with respect to the importation into the United States and sale of certain stainless steel shears and the effects, if any, of such methods and acts. Notice of this investigation was issued on February 22, 1982, and published in the *Federal Register* on March 3, 1982 (47 FR 9113).

The investigation, as set forth in the Notice, was to cover:

1. False and deceptive advertising for the purpose of furthering the belief on the part of the consumers that the stainless steel shears manufactured by

K.R. Witte Co. and imported by K.R. Witte Solingen-U.S.A. are forged and ice-tempered shears, the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shears industry in the United States.

2. Trade label, product disparagement, and tortious interference with contractual relations by K.R. Witte Co. or K.R. Witte Solingen-U.S.A., the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shears industry in the United States.

#### Deadline

The Commission's Unfair Import Investigations Division was directed to submit its report and recommendation to the Commission no later than 60 days from the date of publication of this notice in the *Federal Register*.

Having conducted an investigation into these matters, and received the report and recommendation from the Unfair Import Investigations Division with respect thereto, the Commission has determined that no further investigatory activity need take place at this time. In reaching this determination pursuant to 19 CFR 211.10 (a) and (b), the Commission has concluded that the public interest will be fully safeguarded.

#### FOR FURTHER INFORMATION CONTACT:

Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-1272.

Issued: June 7, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16269 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

#### [Investigation No. 104-TAA-9]

#### Termination of Countervailing Duty Investigation Concerning Michelin X-Radial Steel-Belted Tires From Canada

**AGENCY:** United States International Trade Commission.

**ACTION:** Termination of countervailing duty investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with regard to Michelin X-radial steel-belted tires from Canada.

**EFFECTIVE DATE:** June 7, 1982.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Schechter, Office of Investigations, telephone number (202) 523-0300.

**SUPPLEMENTARY INFORMATION:** The Trade Agreements Act of 1979,

subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such an industry would be materially retarded, if the order were to be revoked. On January 2, 1980, and January 3, 1980, the Commission received a request from the Canadian Embassy and Michelin Tire Corp., respectively, for the review of the outstanding countervailing duty order on Michelin X-radial steel-belted tires from Canada [T.D. 73-10].

The Commission instituted an investigation on Michelin X-radial steel-belted tires from Canada on March 11, 1982 and published notice of the investigation in the *Federal Register* of March 16, 1982 (47 FR 11341). On April 21, 1982, the Commission was notified by letter that the Rubber Manufacturers Association, the original and only petitioner for the countervailing duty order, wished to withdraw its petition on Michelin X-radial steel-belted tires, with the express proviso that the withdrawal be considered without prejudice to the filing of any future petition or petitions.

There is no provision in the Trade Agreements Act of 1979, or in its legislative history, specifically permitting termination of a section 104(b) investigation. However, authority to terminate such investigations is implied under section 704(a) of the Tariff Act of 1930. Section 704(a) permits termination of countervailing duty investigations properly instituted under Title VII of the Tariff Act of 1930. Section 704(a) directs the Commission to solicit public comment prior to termination and approve termination only if it is in the public interest.

On April 27, 1982, the Commission published a notice in the *Federal Register* (47 FR 18073) requesting public comment on May 27, 1982 on the proposed termination of the Commission's investigation on Michelin X-radial steel-belted tires from Canada. No adverse comments were received in response to the Commission's notice. Thus, the Commission deems it to be in the public interest to terminate this investigation in light of the withdrawal of the petition by the original petitioner and lack of interest in the continuance of the investigation by any interested parties.

The Commission is therefore terminating its investigation (Inv. No. 104-TAA-9) under section 104(b)(1) of the Trade Agreements Act of 1979 on Michelin X-radial steel-belted tires from Canada (T.D. 73-10). The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of such an industry be materially retarded, if the countervailing duty order were to be revoked.

In addition to publishing this *Federal Register* notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

Issued: June 8, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16270 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

#### Sugar; Report to the President on Investigation No. 22-45

June 8, 1982.

#### Determination

On the basis of the information developed during the investigation, the Commission determines that sugars, sirups, and molasses, derived from sugar cane or sugar beets, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets.<sup>1</sup>

#### Background

On December 29, 1981, the Commission received a letter from the President directing the Commission to determine, pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), whether sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS are being or are practically certain to be imported into

<sup>1</sup> Vice Chairman Michael J. Calhoun determines that the described products are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets.

the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program of the U.S. Department of Agriculture for sugar cane and sugar beets. Accordingly, the Commission instituted the present investigation, No. 22-45, on January 15, 1982.

Notice of the Commission's investigation was published in the *Federal Register* of January 20, 1982 (47 FR 2956). A public hearing was held on April 6, 1982, in Washington, D.C., at which all interested parties were afforded an opportunity to be present, to present evidence, and to be heard.

The information for this report was obtained from information presented at the public hearing, interviews by members of the Commission's staff, other Federal agencies, responses to Commission questionnaires, briefs submitted by interested parties, the Commission's files, and other sources.

#### Recommendation

We recommend that the President:

- (1) Maintain the current fee system set forth in Proclamation 4940;
- (2) Maintain the duties set forth in Proclamation 4888;
- (3) Maintain the quota system set forth in Proclamation 4941 until such time as duties and fees, which are preferred to a restrictive quota, are once again adequate to protect the price support program; and
- (4) Establish guidelines for the orderly transition between reliance on a quota and reliance on duties and fees.

#### Statement of the Commission

##### Introduction

The President asked us to determine, pursuant to section 22 of the Agricultural Adjustment Act, whether sugars, sirups, and molasses, derived from sugarcane or sugar beets,<sup>2</sup> are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program of the U.S. Department of Agriculture (USDA) for sugarcane and sugar beets. With an affirmative determination, the Commission makes appropriate recommendations concerning actions the President should take to protect the integrity of the program.<sup>3</sup>

<sup>2</sup>These articles are provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS).

<sup>3</sup>Under sec. 22 the Commission is to advise the President about the measures needed to protect the existing domestic price support program for sugar

Pending submission of our findings and recommendations, the President issued two emergency proclamations, Proclamation 4887 of December 23, 1981 (46 FR 62641) and Proclamation 4940 of May 5, 1982 (47 FR 19657), imposing fees on imports of the articles described above pursuant to his section 22(b) authority.<sup>4</sup> Further, the President issued two additional proclamations, Proclamation 4888 of December 23, 1981 (46 FR 62645) and Proclamation 4941 of May 5, 1982 (47 FR 19661), raising duties and modifying quotas, respectively, on such imports pursuant to separate authority set forth in Headnote 2, Subpart A, Part 10, Schedule 1 of the TSUS (19 U.S.C. 1202).<sup>5</sup>

After considering all of the information before us, including the arguments of the interested parties presented at the public hearing and in briefs and other submissions, we have determined that imports of sugars, sirups, and molasses, in the absence of recent Presidential action, would materially interfere with the USDA price-support program for sugarcane and sugar beets.<sup>6</sup>

We therefore recommend that the President:

- (1) Maintain the current fee system set forth in Proclamation 4940;

from import interference. It is not the Commission's responsibility to review policy issues, such as the necessity for a sugar program and the proper support price for sugar. The Commission could not anticipate all developments that might complicate administration of the domestic price-support program. Such factors include the possibility that high support prices could spur domestic production, or that the demand for sugar, both in the United States and abroad, could decline significantly in the years ahead. Developments such as these may require further policy consideration by Congress and the Executive Branch.

<sup>4</sup>Proclamation 4887 is reprinted in Appendix C of the report at A-72-75; Proclamation 4940 is reprinted in Appendix D at A-78-82. These proclamations are discussed at A-8-11 of the attached report.

<sup>5</sup>Proclamation 4888 is reprinted in Appendix C of the report at A-70-71; Proclamation 4941 is reprinted in Appendix D at A-83-86. These proclamations are discussed at A-7-8 and A-11.

<sup>6</sup>The determination of Vice Chairman Calhoun is limited to a finding that imports are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the USDA price-support program for sugarcane and sugar beets. He finds that material interference does not presently exist because of the recent actions taken by the President. As a result of these actions, none of the usual indicia of material interference exist—e.g., there have been no purchases by the CCC, thus there are no significant CCC loan stocks or CCC outlays to purchase the product. Rather, the circumstances discussed in this opinion lead the Vice Chairman to the conclusion that, absent some action under sec. 22, the volume and price of imports will be such as to cause the CCC to purchase very large quantities of the 1982 crop, and possible subsequent crops, at considerable expense to the Government.

(2) Maintain the duties set forth in Proclamation 4888;

(3) Maintain the quota system set forth in Proclamation 4941 until such time as duties and fees, which are preferred to a restrictive quota, are once again adequate to protect the price support program; and

(4) Establish guidelines, as outlined below, for the orderly transition between reliance on a quota and reliance on duties and fees.

#### The USDA Price-Support Program for Sugar

The purpose of the USDA's sugar program is to provide price support to domestic sugarcane and sugar beet growers by guaranteeing that the Commodity Credit Corporation (CCC) buys processed sugar from processors at the support price.<sup>7</sup> The processors are thus able to buy sugar from the growers at a specified price with the knowledge that subsequently they can choose to sell the sugar to the CCC at the support price or on the market at a higher price. If sugar imports are allowed to drive the market price below the support price, it is more profitable for the processors to sell the sugar to the CCC rather than in the marketplace.

The current USDA support program for sugar is governed by the provisions of the Agriculture and Food Act of 1981.<sup>8</sup> This new law requires the Secretary of Agriculture to support, through purchases, the price of sugar processed from domestically grown sugarcane and sugar beets from December 22, 1981, the date of enactment of the legislation, through March 31, 1982, at a level appropriate to approximate a raw sugar price of 16.75 cents per pound.

The 1981 law also requires the Secretary to support the price of the 1982-85 domestic sugarcane crops through nonrecourse loans at such level as he determines appropriate, but not less than 17 cents per pound for the 1982 crop, 17.5 cents per pound for the 1983 crop, 17.75 cents per pound for the 1984 crop, and 18 cents per pound for the 1985 crop. The Secretary is to support the price of domestically grown sugar beets through nonrecourse loans at a level that is fair and reasonable in relation to the level of loans for sugarcane.

In its report accompanying the 1981 act, the Senate Committee on Agriculture, Nutrition, and Forestry, the primary author of the sugar provision,

<sup>7</sup>Report at A-4.

<sup>8</sup>Pub. L. 97-98, § 901, 95 Stat. 1213 (1981). The new sugar support prices are set forth in title IX of the 1981 law. Title IX amended sec. 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446), which sets forth the basic price support provisions.

urged the President to make timely use of his authorities under both section 22 and the TSUS headnote to avoid the adverse budgetary consequences of situations where the market price for sugar falls below the price objective and loan level specified in the sugar program.<sup>9</sup>

#### The Imported Products

The United States imported 51 percent of its sugar needs in calendar year 1981.<sup>10</sup> The imported sugars, sirups, and molasses enter primarily in four different forms—raw sugar, refined sugar, liquid sugar, and invert sugar sirup.<sup>11</sup> Raw sugar, which consists of large sucrose crystals coated with molasses, is the principal sugar shipped in world trade. It accounted for 99.9 percent of U.S. sugar imports in 1981.<sup>12</sup> Raw sugar is an intermediate product, generally brown in color, derived principally from sugarcane. Refined sugar is the pure white sugar of commerce, derived from processing raw sugar and sugar beets. Sugar beets generally are converted to refined sugar in one operation. Liquid sugar is a solution of refined sugar in water. Invert sugar sirup is a combination of equal parts of glucose and fructose formed from sucrose and water by the action of acids or certain other chemicals.

#### The Sweetener Market

Sugar derived from sugarcane and sugar beets is the primary sweetener in the U.S. market. The principal alternatives to sugar are noncaloric sweeteners and cornstarch derivatives, including glucose, glucose sirup, dextrose, and high fructose corn sirup (HFCS).<sup>13</sup> HFCS, the most important of these alternative, is a liquid form of fructose which can be used as a direct sugar substitute for most sweetener uses that do not specifically require dry crystals. In 1981, HFCS accounted for 25–30 percent of the total industrial sweetener use and 50 percent of beverage sweetener use.<sup>14</sup>

As a result of the increased use of sugar substitutes, U.S. per capita consumption of sugar has declined in recent years. While non-HFCS sweetener consumption has increased moderately during the last 5 years, HFCS use has more than doubled in this

period.<sup>15</sup> This trend is expected to continue.

#### Material Interference

In past section 22 investigations, the Commission has found material interference to exist when the interference is "more than slight interference but less than major interference."<sup>16</sup> The Commission has considered such factors as import levels, inventories held by the CCC under the particular program, changes in the cost to the Government in running the program, price differences between the domestic and imported products, world stocks of the imported product, and whether objectives of the program are being met. Basic objectives of a program may be satisfied, but a program may nevertheless be materially interfered with if imports are causing increases in domestic stocks under loan or significant expenditures by the CCC.

In the absence of the President's recent actions, the CCC would have to purchase much of the domestic 1981 sugar crop and would be expected to acquire most of the domestic 1982 crop. This is the case because world sugar prices have fallen substantially in recent months and are now considerably below the U.S. support price. Whenever the world price, as adjusted for U.S. import duties and fees and transportation and other costs, falls below the domestic support price, domestic sugar is likely to be displaced in the marketplace by imports. U.S. processors, wishing to sell at the highest price, will sell to the CCC.

World prices for sugar have fluctuated widely in recent years. Only a relatively small amount of sugar enters the world market (22 percent in 1981) and demand for sugar in most consuming countries is relatively inelastic. As a result, fluctuations in the amount of sugar produced can have an important effect on world prices.<sup>17</sup> This was demonstrated during the period 1975–81 when the world price for sugar (f.o.b., Caribbean, No. 11 spot price) varied widely, averaging 20.50 cents per pound in 1975, 11.60 cents per pound in 1976, 8.10 cents per pound in 1977, 7.81 cents per pound in 1978, 9.59 cents per pound in 1979, 29.00 cents per pound in 1980, and 16.85 cents per pound in 1981.<sup>18</sup> The

monthly average world price ranged from 41.09 cents per pound in October 1980, to 6.43 cents per pound in July 1978. Dramatic price changes can occur over a brief time span. For example, in the 11-month period October 1980–September 1981, the world price fell by 72 percent, from 41.09 cents per pound to 11.66 cents per pound. Domestic sugar prices tend to follow world prices.

The intent of the emergency section 22 fees and higher duties imposed by the President on December 23, 1981, was to ensure that the price received by U.S. processors for sugar was above the support price, thereby avoiding sales to the CCC.<sup>19</sup> However, during the first 4 months of 1982, world sugar prices continued to fall, requiring additional increases in the level of fees up to the maximum allowed by law. By April 23, the world price had fallen to 8.58 cents per pound, and the maximum duties and fees were not sufficient to raise the world price to the effective market stabilization price (MSP).<sup>20</sup> To remedy this situation, on May 5, 1982, the President issued two new emergency proclamations pursuant to section 22 and the headnote authority. Quarterly import quotas allocated on a country-by-country basis were imposed in place of the previous global quota under the headnote, and the section 22 fees were adjusted.

The world price continued to fall, in part because of the new U.S. actions. The world price was 7.85 cents per pound on May 18, 1982, less than one half the support price of 16.75 cents per pound.<sup>21</sup>

As of May 12, 1982, the CCC has entered into purchase agreements with U.S. processors for about 863,000 short tons of sugar. This amount was expected to exceed 1 million short tons by May 31, 1982, the deadline for entering into such agreements.<sup>22</sup> Processors have through September 30, 1982, to give notice of their intent to sell this sugar to the CCC. Some, if not most, of this sugar can be expected to be sold to the CCC if the U.S. market price is below the support price on that day.<sup>23</sup>

<sup>19</sup> Id. at A-10.

<sup>20</sup> Id. The MSP is the minimum market price required to discourage sale or forfeiture of sugar to the CCC. The MSP equals the sum of the support price, a transportation factor, and an incentive factor. The import fee, pursuant to Proclamation 4940, is based on the difference between the MSP and the No. 12 domestic contract price for sugar.

<sup>21</sup> By June 7, 1982, the world price had fallen to 7.05 cents per pound.

<sup>22</sup> Report at A-6. The deadline was later extended to June 14, 1982.

<sup>23</sup> The USDA is strongly opposed to the CCC becoming a large purchaser of domestic sugar. Hearing transcript at 68–69.

<sup>9</sup> S. Rept. No. 126, 97th Cong., 2nd Sess. 106 (1981). Commissioner Frank notes the emergency actions taken by the President are in accord with the intent of Congress.

<sup>10</sup> Report at A-21.

<sup>11</sup> Id. at A-2.

<sup>12</sup> Id.

<sup>13</sup> Id. at A-15.

<sup>14</sup> Id. at A-17.

<sup>15</sup> Id. at A-23.

<sup>16</sup> See Certain Tobacco, Inv. No. 22-43, USITC Pub. No. 1174 (1981), p. 3; and Casein, Mixtures in Chief Value of Casein, and Lactalbumin, Inv. No. 22-44, USITC Pub. No. 1217 (1982), p. 3.

<sup>17</sup> Report at A-27. The United States has been the largest open market for sugar imports since 1974 when the Sugar Act quotas were terminated (report at A-21).

<sup>18</sup> Id. at A-32-34, table 11.

In the absence of the actions which the President has taken since December, imports of low-priced sugar would be materially interfering with the USDA's price-support program by forcing the CCC to purchase large amounts of domestically grown sugar. To prevent this, it is necessary that a system of duties, fees, and quotas be maintained.

#### Recommendations<sup>24</sup>

Section 22(b) permits the President to impose such fees (up to 50 percent ad valorem) or such quantitative restrictions (up to 50 percent of the imported articles entered or withdrawn from warehouse during a representative period) as are necessary in order that the imported articles will not render or tend to render ineffective, or materially interfere with, the subject program. In addition, the sugar headnote requires the President to impose a duty of between 0.6625 and 2.98125 cents per pound and a quota on imports of the sugars, sirups, and molasses provided for in TSUS items 155.20 and 155.30. The headnote imposes no limits on the President's authority to set quotas.

Our remedy recommendation in this investigation is a flexible system designed to ensure that imports do not materially interfere with the price-support program. We have taken into account the fact that only one measure, either a system of fees and duties or a quota, is the primary restraint at any given time. Therefore, we have designed a remedy which shifts the primary restraint between a system of fees and duties, which is preferable when effective, and a restrictive quota,<sup>25</sup> when necessary. To prevent severe dislocation of the market during a shift, fees and duties should be adjusted to achieve the MSP.

**Flexible system.**—In the present case, we recommend that the President continue to impose a system of fees pursuant to section 22 and duties and restrictive quotas pursuant to the headnote authority. In general, a system of fees and duties is to be preferred over a restrictive quota, provided that there is authority to raise fees and duties to a

level sufficient to close the gap between the world price and the MSP. Fees and duties are likely to have a less distortive effect on the marketplace than are restrictive quotas.<sup>26</sup> However, when the gap between the world price and the MSP exceeds the amount by which fees and duties can be raised, as in the present case, a restrictive quota must be imposed and maintained.<sup>27</sup> When the world price rises to a level high enough to allow the fees and duties once again to bridge the gap between the world price and the MSP, the quota should be relaxed in order to allow the fees and duties to be the effective import constraint.<sup>28</sup>

A restrictive quota should continue in effect until the world price of imported sugar is higher than the level at which the maximum possible duties and fees, added to the cost of shipping sugar to U.S. ports, are capable of attaining the price objective, the MSP. Under current price-support levels, the world price must be at least 10.32 cents per pound for maximum duties and fees and shipping costs to achieve the MSP of 19.88 cents per pound.<sup>29</sup> Based on current market conditions, we suggest that the restrictive quotas be relaxed when the world price rises to two cents per pound above this level, or 12.32 cents per pound.

The restrictive quota would be relaxed and duties and fees would become the primary import constraint only after this price level (i.e., currently 12.32 cents per pound) has been reached or exceeded for 20 consecutive market days. This length of time and two-cent price rise are necessary to establish the difference between a price trend and a temporary fluctuation.<sup>30</sup> During periods when duties and fees are the primary constraint, we recommend that they be adjusted so the market price does not exceed the MSP solely because of the duties and fees. We therefore recommend that provision be made for adjustment of fees and duties to minimize costs to consumers.

<sup>26</sup> Report at A-45.

<sup>27</sup> Id. at A-46-47.

<sup>28</sup> Retaining the fee and duty structure along with the restrictive quota provides an orderly transition period until the quota has its intended effect. If for any reason the President is precluded from imposing a restrictive quota under the headnote authority at the same time that a fee system is in place pursuant to sec. 22, and world prices continue to be below the level which we recommend for relaxing the quotas then we recommend that the restrictive quota be continued pursuant to sec. 22, thereby necessitating elimination of the fee structure until such time as prices permit the maximum fees and duties to achieve the MSP.

<sup>29</sup> The USDA estimates shipping costs from Caribbean ports to U.S. ports north of Cape Hatteras at 1.6 cents per pound.

<sup>30</sup> See data in the report at A-32-34, table 11.

When quotas are not restrictive and the world price has fallen sufficiently, the quota should be tightened and again become the primary constraint. To avoid CCC purchases, this shift must occur before the world price drops below the level at which maximum fees and duties become inadequate. We therefore recommend that quotas be tightened when the world price falls to within one cent per pound of the price below which maximum fees and duties are ineffective and remains below this level for 5 consecutive days.<sup>31</sup>

Under current price-support levels, the restrictive quota system would go into effect if the world price falls to 11.32 cents per pound and remains at or below that level for 5 consecutive days. Duties and fees would remain at levels necessary to achieve the MSP in order to avoid disrupting the market when prices approach the transition point.

**Quota on raw sugar.**—Because present world sugar prices are considerably below 10 cents per pound, the Commission recommends that quarterly quotas be established for raw sugar. Under the headnote authority, the President has already acted to constrain sugar imports in the period May 11–June 30 to 220,000 short tons. The quota level of 220,000 short tons was based on a USDA estimate that imports would total 877,000 short tons during the first 4 months of 1982, and 110,000 short tons under the Proclamation's exemption clause.<sup>32</sup> Imports during the first 4 months of 1982 were 861,000 short tons, or 16,000 short tons less than the USDA estimate. However, the amount of sugar imported under the exemption clause is now estimated to be two or three times more than the 110,000 short tons initially anticipated by USDA. As a result of this underestimation, it is likely that the amount of sugar imported for the first half of the year may exceed the USDA estimates by as much as 110,000 to 220,000 short tons. Because of the uncertainties with respect to import quantities during the first half year, we think it is more prudent to accept the

<sup>31</sup> The 5-day period should protect against the system responding to temporary aberrations. If before the 5-day time limit expires, the world price should plummet to a level below which fees and duties (added to transportation costs) can raise it to the MSP level, the quota should be tightened as soon as possible.

<sup>32</sup> The quantitative limitations imposed by Proclamation 4941 do not apply to sugar entered or withdrawn from warehouse for consumption prior to July 1, 1982, if the sugar was exported on a through bill of lading to the United States from the country of origin prior to April 23, 1982. Also, the quota does not apply to sugar imported between the date the proclamation was issued, May 5, 1982, and the date it went into effect, May 11, 1982.

<sup>24</sup> We have relied extensively on data and estimates provided by USDA for our assumptions and calculations. Because the sugar market is highly volatile, the specifics of our recommendations must be adjusted for any significant changes in USDA's data and estimates.

<sup>25</sup> A restrictive quota is one set at a level which is expected to be filled and constrain imports. A nonrestrictive quota is one set at a level above the expected demand for imports. Quotas may be set on a global or country-by-country basis. For example, the quota in effect on sugar under the headnote prior to May 11, 1982, was a global nonrestrictive quota of 6.9 million short tons per year. Imports have never exceeded 6.2 million short tons.

220,000 short ton amount as a basis for determining the third quarter quota.

In its preliminary quota plan, the USDA recommended quarterly quotas during the last half of 1982 of 825,000 short tons and 990,000 short tons for the third and fourth quarters, respectively. The most critical test for the quota occurs at the end of September when the USDA purchase program ends and the CCC might be required to purchase large quantities of sugar. Hence, the effect of greater-than-anticipated imports at the beginning of the year will have to be balanced by cuts in the third quarter quota. Therefore, we recommend a third quarter quota of 605,000 short tons. If this level should raise the domestic price above the MSP, we recommend that adjustments be made in the fourth quarter quota.

We understand that the third and fourth quarter quotas may require further adjustment if the levels of domestic production, consumption, or stocks vary considerably from current USDA estimates. Our recommendations are based on USDA estimates of a 1982 domestic harvest of 5.8 million short tons and consumption of 9.6 million short tons. Furthermore, USDA estimates stocks at the beginning of January 1982, at 3.4 million short tons. We believe that stocks can be reduced to the 1.1 million short ton level by September 1982, as proposed by USDA and thus maintain the domestic price at the MSP level. However, we recommend that the Secretary of Agriculture have the authority to adjust the quotas to compensate for these uncertainties.<sup>33</sup>

If it is necessary to continue the restrictive quotas beyond 1982, we recommend a quota of 3.4 million short tons for 1983. In reaching this recommendation, we assume that USDA has accurately estimated 1982 production at 5.8 million short tons; that consumption will fall to 9.2 million short tons as sugar users continue to substitute HFCS for sugar; that domestic stocks will be adjusted to normal levels by the beginning of 1983; and that exempted imports will not be a factor in 1983. Therefore, a quota of 3.4 million

short tons should be sufficient to allow the available supply to meet expected demand. In 1984, production is expected to continue at the same level, but we estimate consumption will continue to fall by another 400,000 short tons to 8.8 million short tons. Hence, we recommend that the quota for 1984 be reduced to 3.0 million short tons.

We recognize that uncertainties in this market make accurate predictions difficult and have consequently recommended a flexible system that requires the continued attention of the Secretary.<sup>34</sup>

*Quota on refined sugar.*—U.S. imports of refined sugar historically have been very small relative to imports of raw sugar. In the period 1975–79, annual imports of refined sugar averaged 122,547 short tons, less than 2 percent of total sugar imports.<sup>35</sup> In recent years, imports of refined sugar entered principally from Canada and the European Community; however, imports from these sources have been made subject to countervailing and antidumping duties as a result of three proceedings in 1978–80.<sup>36</sup> In 1980 and 1981, annual imports of refined sugar averaged only 6,450 short tons.<sup>37</sup>

At the hearing, USDA requested that the Commission comment on the fee differential between raw and refined sugar necessary to ensure that refined sugar is not imported to circumvent the restrictions on imports of raw sugar. At that time, the quarterly established fee for refined sugar, pursuant to Proclamation 4887, was the fee for raw sugar plus 15 percent of the amount by which the MSP exceeded the 20-day average world spot price for raw sugar. Under Proclamation 4940, the differential was set at one cent per pound.

Because a restrictive quota on raw sugar will encourage imports of refined sugar and we do not believe the one-cent differential is sufficient to prevent circumvention when such a quota is in effect, we recommend that a separate restrictive quota be established for refined sugar when a restrictive quota

on raw sugar is in effect. Separate quotas for raw and refined sugar were imposed under the Sugar Act of 1948. We recommend that the quota for refined sugar be set at 10,000 short tons per year, an amount somewhat larger than the level of such imports in 1980 or 1981. Such a quota will, in our view, ensure that importers of specialty sugars have access to sufficient supplies.

When fees and duties are the effective constraint on raw sugar imports, the cents-per-pound differential must be high enough that imports of refined sugar will not be encouraged. In each year during the period 1978–81, the average cost to refiners after refining loss exceeded the domestic raw sugar price by more than one cent per pound.<sup>38</sup> Before fees and duties again become the primary constraint, we recommend that USDA re-examine the one-cent-per-pound differential to assess its adequacy.<sup>39</sup>

By order of the Commission.

Issued: June 8, 1982.

Kenneth R. Mason,  
Secretary.

[FR Doc. 82-16265 Filed 6-15-82; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 81-12]

#### Joseph Henry Pritchett, M.D.; Denial of Application

On March 20, 1981 the Administrator of the Drug Enforcement Administration (DEA) directed to Joseph Henry Pritchett, M.D. (Respondent) an Order to Show Cause proposing to deny Respondent's application dated August 4, 1980 for authority to possess, dispense and distribute controlled substances under section 303 of the Controlled Substances Act (21 U.S.C. 823) at an address in Georgia. The statutory predicate for the Order was Respondent's conviction on May 19, 1980 in the State of Alabama Circuit Court for Madison County of one (1) count of unlawfully prescribing a controlled substance, a felony violation

<sup>33</sup>Report at A-32-34, table 11.

<sup>38</sup>Chairman Alberger does not believe that a cents-per-pound differential can be found that will adequately address the problem of limiting imports of refined sugar. It is his view that either imports of refined sugar will be encouraged when the differential is inadequate, or that it will be excessive. He recommends a fixed annual quota of 40,000 short tons of refined sugar to be in effect whether fees and duties or quotas are the primary restraint on raw sugar.

<sup>33</sup>Chairman Alberger, noting that changes in domestic production, consumption, stocks, or first half 1982 imports from USDA estimates may require adjusting second half 1982 quotas, recommends that the third quarter quota be set more conservatively. Since it is essential that prices be at or above the MSP at the end of September, extra care should be taken to handle all possible contingencies. To significantly reduce the likelihood of CCC sugar purchases, he recommends that third quarter imports not exceed 400,000 short tons and that any changes in actual figures for production, consumption, or stocks which would allow for increased imports be reflected by adjusting the fourth quarter quota.

<sup>34</sup>If at any point the price objectives are met so as to permit relaxation of the restrictive quota, the possibility of its being tightened without a further sec. 22 investigation should serve as a deterrent to sudden large influxes of imported sugar which would once again threaten to disrupt the market and materially interfere with the support program.

<sup>35</sup>Report at A-24.

<sup>36</sup>Countervailing duty on sugar from the European Communities, Treas. Dec. 78-253 (1978), 19 CFR Annex III, Part 335; and antidumping duties on sugar from France, the Federal Republic of Germany, and Italy, Treas. Dec. 79-167 (1979), and sugar and sirups from Canada, 45 F.R. 24127 (1980), 19 CFR Annex I, Part 353.

<sup>37</sup>Report at A-24.

of the Alabama Uniform Controlled Substances Act.

In a letter dated March 31, 1981, Respondent stated that he was permitted to practice medicine in Alabama by the Alabama Board of Medical Examiners at the Partlow State School and Hospital, Tuscaloosa, Alabama. The Administrator directed Administrative Law Judge Francis L. Young to proceed to hearing, and this matter was then placed on DEA's administrative docket. The hearing on the issues raised in the Order to Show Cause and in subsequent pleadings was held in Homewood, Alabama on January 12, 1982. Respondent appeared *pro se*.

Between the issuance of the Order and the time of the hearing, it developed that Respondent was practicing medicine in Alabama, not in Georgia as indicated in his application for DEA registration. The Alabama Board of Medical Examiners had restricted Respondent's practice to that of a staff physician at the Partlow State School and Hospital and had permitted Respondent to apply for DEA registration in Schedules III, IV and V only. The Georgia State Composite Board of Medical Examiners suspended Respondent's Georgia medical license but stayed the suspension so long as Respondent practiced medicine subject to the restrictions imposed by the Alabama Board.

On March 23, 1982 Judge Young certified the record of the proceedings in this matter, together with his recommended findings of fact, conclusions of law, and a recommended decision, to the Acting Administrator under 21 CFR 1316.65. Based upon the findings of fact and conclusions of law set forth below, the Acting Administrator publishes his Final Order in this proceeding pursuant to 21 CFR 1316.67.

Judge Young found that on May 19, 1980 Respondent pled guilty in the State of Alabama Circuit Court for Madison County to one (1) count of unlawfully prescribing a controlled substance, for which he was sentenced to two years in the state penitentiary, sentence suspended. An agent of the Alabama Bureau of Investigation, who was formerly employed by the Alabama Department of Public Health, Diversion Investigation Unit (DIU), testified at the January 12, 1982 hearing. The following findings of fact are based on the agent's testimony.

Respondent's controlled substances prescribing practices first came to the attention of the Alabama authorities in 1973 when the Alabama Board of Medical Examiners and Respondent entered into a "gentlemen's agreement"

that Respondent would limit his prescribing of Schedule II narcotic and nonnarcotic controlled substances to hospitalized patients. Respondent was then in the general practice of medicine in Huntsville, Alabama. Respondent did not keep that agreement.

In 1976, the Board of Medical Examiners received a complaint that Respondent was prescribing controlled substances outside of the terms of the "gentlemen's agreement." The agent who testified, working for the DIU in 1976, went to Huntsville to investigate. At pharmacies close to Respondent's office he found eight prescriptions for Schedule II controlled substances written by Respondent between August 30, 1975 and March 4, 1976.

Respondent again came to the attention of the DIU in March, 1979 when a State Pharmacy Board investigator told the DIU agent that Dr. Pritchett was prescribing Dilaudid (hydromorphone) to his son-in-law. The agent knew Respondent's son-in-law to be a drug addict and abuser. He sent another DIU agent to Huntsville to investigate these allegations. The second agent found several Dilaudid prescriptions in area pharmacies written by Respondent for his son-in-law. One such prescription stated that the son-in-law was admitted to the U.S. Public Health Service facility at Lexington, Kentucky for treatment when in fact he had not been admitted. When interviewed on March 15, 1979, Respondent acknowledged writing the prescriptions for his son-in-law. He told the agent that he knew his son-in-law was an addict and was attempting to help him until he could receive some kind of treatment; however, Respondent could produce nothing to show that his son-in-law had sought or received any treatment for drug addiction. During this interview Respondent and the agent discussed the street value of Dilaudid. Within one 31 day period Respondent prescribed 492 Dilaudid tablets, with an approximate street value of \$19,680, for his daughter and son-in-law. At this same interview, Dr. Pritchett voluntarily surrendered his Alabama controlled substances registration, thus terminating his authority to possess, prescribe, dispense, distribute or otherwise handle controlled substances in Alabama.

On April 26, 1979 the DIU received information that Respondent was still prescribing Dilaudid for his son-in-law, and that either his son-in-law or daughter were picking up the prescriptions from pharmacies in the Huntsville area. From March 24 to April 25, 1979 Respondent wrote prescriptions for 194 Dilaudid tablets to his daughter (often under a fictitious name) and son-

in-law. When a DIU agent confronted Respondent with these prescriptions, Dr. Pritchett identified his signature and stated he would not prescribe any more controlled substances for anyone since he lacked the authority to do so.

In the 22 day period from April 25, 1979 to May 14, 1979 Respondent wrote additional prescriptions for 132 dosage units of Dilaudid for his daughter and son-in-law. He subsequently told the DIU that he had forgotten that he wrote those prescriptions. On May 15, 1979 Respondent's daughter and son-in-law were arrested in Haleyville, Alabama and charged with obtaining drugs by fraud. Haleyville, Alabama is approximately one hour fifteen minutes, to one hour and a half driving time from Huntsville, Alabama, where Respondent maintained his practice. DIU investigation revealed prescriptions written by Respondent for controlled substances in various Alabama locations up to an hour and a half automobile drive from Huntsville.

By July, 1979 Huntsville area pharmacies had learned that Dr. Pritchett was no longer authorized to prescribe controlled substances. DIU agents learned that two pharmacies in the area had received prescriptions written by Respondent for Nembutal, a Schedule II controlled substance. Both prescriptions stated that another Huntsville physician would countersign the prescriptions for Respondent. When DIU agents discussed this with the other physician, he angrily denied that he had agreed, or would ever agree, to countersign a prescription for Respondent.

The Alabama Bureau of Investigation had developed intelligence concerning sources of controlled substances in the Huntsville area. Informants of demonstrated reliability often mentioned that during the period between 1975 and 1979, the Respondent had a reputation among addicts and drug users for being a source for illegally obtaining controlled substances in the Huntsville area.

Respondent is currently assigned to the Warrior Center at Partlow State School and Hospital. Partlow State School and Hospital is registered with DEA as a hospital/clinic, but the Warrior Center itself is not so registered. Partlow State School is a home and school for the mentally retarded operated by the State of Alabama Department of Mental Health. The hospital at which Respondent works provides medical treatment only for students at the school. Judge Young found that the school and hospital were

not affected by the fact that Respondent was not registered with DEA.

Respondent has been hospitalized three times for psychiatric problems, once in 1973 and twice in 1979. He has not been hospitalized since. Respondent's case in mitigation consisted of a letter from the Medical Director of the Partlow School. The Medical Director stated that Respondent's work was excellent and that the facility feels fortunate to have him there. The Alabama Board of Medical Examiners has terminated Respondent's probationary status. Respondent submitted a three page filing entitled "Applicant's Conclusions" on March 22, 1982 almost one month after the date for filing proposed findings of fact and conclusions of law set by Judge Young. The Administrative Law Judge and the Acting Administrator have considered the contents of this paper and of Respondent's entire case in mitigation.

Based on the facts set out above, the Administrative Law Judge concluded that the facts compel the Acting Administrator to deny Respondent's application in all schedules. The Acting Administrator fully concurs, and adopts the Administrative Law Judge's findings of fact, conclusions of law and recommended ruling and decision. The Acting Administrator adopts the Administrative Law Judge's conclusion that Respondent knew that at least some of the drugs he was prescribing for his daughter and son-in-law were being sold on the street and that he made no genuine effort to obtain help for them in overcoming their addiction. Given Respondent's demonstrated inability to responsibly handle controlled substances, the Acting Administrator concludes that the record presented does not give him a reasonable basis for granting Respondent even a limited registration.

The Administrative Law Judge and Acting Administrator are mindful of the fact that Respondent has been practicing his profession to the apparent satisfaction of his superiors at the Partlow State School and Hospital. The provisions of 21 CFR 1301.76(a) would prevent Partlow State School and Hospital from continuing to employ Respondent once his application for registration is denied. On the recommendation of the Administrative Law Judge, the Acting Administrator waives application of 21 CFR 1301.76(a) to permit Respondent's continued employment at Partlow State School and Hospital even though his application for DEA registration is denied. The Acting Administrator grants this waiver with

the understanding that even though Respondent may have physical "access" to controlled substances, he is not authorized to prescribe, administer, possess or dispense any controlled substances himself in the course of his employment. This Administration has granted similar waivers of 21 CFR 1301.76(a). *In the Matter of David Frank Micci, M.D.*, 45 FR 71448 (October 28, 1980) and 45 FR 74795 (November 12, 1980); *In the Matter of Charles J. Burks, M.D.*, Docket No. 79-4, 44 FR 61466 (October 25, 1979).

Respondent has timely submitted exceptions to the findings of fact, conclusions of law and recommended decision of the Administrative Law Judge under 21 CFR 1316.66. Government counsel has replied to these exceptions. The Acting Administrator has considered the exceptions and the response thereto and concludes that Respondent has not presented evidence sufficient to disturb the findings, conclusions and recommended decision of the Administrative Law Judge.

The Acting Administrator concludes that there is a lawful basis for the denial of the application for DEA registration filed by Respondent and that under the facts and circumstances presented in this case the application should be denied. Therefore, under the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b), the Acting Administrator of the Drug Enforcement Administration hereby denies the application for DEA registration executed August 4, 1980 by Respondent Joseph Henry Pritchett, M.D., c/o Partlow State School and Hospital, P.O. Box 1730, Tuscaloosa, Alabama 35493, and waives application of 21 CFR 1301.76(a) to the extent set forth above, both effective July 16, 1982.

June 9, 1982.

Francis M. Mullen, Jr.,  
Acting Administrator, Drug Enforcement  
Administration.

[FR Doc. 82-16232 Filed 6-15-82; 8:45 am]

BILLING CODE 4410-09-M

**Office of Juvenile Justice and  
Delinquency Prevention National  
Institute for Juvenile Justice and  
Delinquency; Prevention  
Announcement of the National  
Juvenile Justice Standards Resource  
and Demonstration Program**

**AGENCY:** Office of Juvenile Justice and  
Delinquency Prevention, Justice.

**ACTION:** Announcement of Draft  
Solicitation for Applications for the  
National Juvenile Justice Standards  
Resource and Demonstration Program.

**SUMMARY:** Notice is hereby given that the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (JJDP Act), 42 U.S.C. 5601 et seq., is issuing a draft Solicitation for Applications for the National Juvenile Justice Standards Resource and Demonstration Program. The program announcement is being issued in draft and will be made final subject to the advice of the National Advisory Committee for Juvenile Justice and Delinquency Prevention pursuant to its statutory responsibilities set forth in section 207 of the JJDP Act (42 U.S.C. 5617). Any revisions to the draft Solicitation will be announced in the Federal Register by July 7, 1982.

**FOR FURTHER INFORMATION CONTACT:**

Barbara Allen-Hagen, National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone 202/724-7573.

**SUPPLEMENTARY INFORMATION:** The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) is sponsoring the National Standards Resource and Demonstration Program which is designed to encourage the adoption of nationally developed standards for the administration of juvenile justice. Through cooperative efforts with selected State and local jurisdictions and national public and private organizations, the OJJDP hopes to demonstrate the utility of national juvenile justice standards as effective tools for generating and maintaining improvements in the administration of juvenile justice, consistent with the mandates and policies of the JJDP Act. A corollary goal is to promote national awareness of the utility of standards through the development of resources to respond to the information, training and technical assistance needs of the selected sites and other jurisdictions interested in adopting national juvenile justice standards.

**A. Program Objectives:**

Consistent with the OJJDP Policy on Juvenile Justice Standards, the purposes of the JJDP Act and the goals of the program, the following objectives have been identified for the overall program:

(1) To complete a standards adoption process within twelve months in at least six jurisdictions that will result in the development or revision of administrative policies, court rules, or state or local codes, as appropriate, to

reflect specific policies of the JJDP Act and relevant national standards, with the expectation of demonstrating measurable changes in practices within an additional twelve months;

(2) To develop a better understanding of the process of standards adoption and implementation in selected sites and how they can be used in improving the performance of the juvenile justice system;

(3) To identify and respond to the information, training and technical assistance needs of State legislators, judges, program administrators and practitioners involved in the adoption of standards in the selected sites and in other jurisdictions interested in the adoption of standards;

(4) To compile and develop the necessary support materials to assist in the process of consideration and adoption of national juvenile justice standards, including information, training and technical assistance packages for drafting appropriate policies, legislation, and court rules;

(5) To incorporate the products of this program into all training and technical assistance activities of the Office related to improving the operations of the juvenile justice system;

(6) To develop a national network of resources comprised of individuals and organizations who can provide the most current, comprehensive information, training and technical assistance on the state-of-the-art of standards adoption and implementation;

(7) To provide information and recommendations to the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC) for refining the NAC Standards for the Administration of Juvenile Justice.

#### B. Summary of Program Design

The program consists of two components: a Demonstration Component and a National Standards Resource Coordinator.

It should be emphasized that while only a limited number of sites will be selected for grant awards under this program, the information, training, and technical assistance resources developed by the National Standards Resource Coordinator will be made available to those jurisdictions who have not been selected either directly by the National Standards Resource Coordinator or in cooperation with other OJJDP Technical Assistance Contractors, as appropriate.

The following statement summarizes the basic elements that will be used in selecting jurisdiction as demonstration sites. Each of the underlined terms is discussed in detail in the Solicitation.

*Six to eight jurisdictions will be selected as demonstration sites to receive \$25,000-\$50,000 of financial assistance on the basis of their commitment to institute a process of standards adoption that within 12 months of initiation will result in the adoption of standards appropriate to their jurisdiction and within another 12 months will yield measurable results in achieving one or more of the priority objectives of the JJDP Act.*

Grant applications are invited from officials of State and local governments, including juvenile justice or law enforcement agencies, courts and legislative bodies. In addition, State advocacy organizations or advisory groups, such as a State Advisory Group established pursuant to the JJDP Act are eligible to apply.

The JJDP Act was used as a basis for identifying specific areas for improving the administration of juvenile justice which will be considered for this program. In addition to the mandates of the legislation, those provisions which were designed in the Act as areas of "special emphasis," or "advanced techniques" and which are addressed by national juvenile justice standards are listed below:

(a) Deinstitutionalization of status offenders and non-offenders (section 223(a)(12)(a));

(b) Separation of juveniles from incarcerated adults (section 223(a)(13));

(c) Removal of juveniles from adult jails and lockups (sections 223(a)(14), 223(a)(10)(H)(i), 224(a)(5)(A) and 102(a)(8));

(d) Diversion of juveniles from the traditional juvenile justice system; (sections 224(a)(3), 223(a)(10)(C) and 102(b)(2));

(e) Improving the juvenile justice system's handling of serious and violent juvenile offenders with special attention to improving sentencing and dispositional alternatives for youth who commit serious crimes (sections 224(a)(12) and 101(a)(8));

(f) Reducing the use of secure detention and incarceration of non-serious juvenile offenders (sections 223(a)(12)(B), and 223(a)(10)(H)(iv));

(g) Development of community-based alternatives to incarceration (sections 223(a)(10)(A)-(C), 224(a)(12));

(h) Establishing due process/procedural safeguards for juveniles affected by the juvenile justice system (Sections 223(a)(10)(D), 224(a)(9) and 102(b)(3)); and

(i) Advocacy for services (Sections 223(a)(10)(D), 224(a)(7)).

Although the scope of these issues is less comprehensive than the range of topics covered by the various sets of

national standards, the list provides a set of policy objectives on which there is substantial agreement among these various standards groups. While their particular approaches may vary in terms of how a certain objective is achieved, this variation reflects the need to have a number of options or models that can be effectively adopted in the States to achieve the same objective. Therefore, in the selection of demonstration sites, careful attention will be paid to choosing those sites in which there is a strong mutual interest in furthering the purposes and policies of the JJDP Act through the adoption of juvenile justice standards.

A secondary rationale for selecting these areas of emphasis is that the actual implementation of the standards will not receive financial support directly from this program, but rather must rely on available state or local resources, including formula grant funds which should be used to support the priorities of the Act and the designated "advanced techniques." Although some system changes will require additional resources, any of the standards applicable to these issues can be implemented with little or no major new costs. Assistance will be provided to demonstration sites during phase I to identify resources to accomplish the objectives in the most cost effective manner. It is anticipated that supplemental awards will be made to the demonstration sites to support monitoring and training efforts associated with the implementation of the standards, subject to availability of funds and successful performance of grantees.

The National Standards Resource Coordinator will be awarded a 12 month competitive cooperative agreement of up to \$500,000 to perform three major program support functions: (1) Technical support to the demonstration sites; (2) development of information, training and technical assistance materials and resources to support the process of standards adoption and implementation; and (3) assessment of the standards development and implementation process in the demonstration sites. Details on specific objectives and program support services and tasks are provided in the draft Solicitation.

Applications are invited from public and private non-profit organizations (and private profit-making organizations that agree to waive their profit fee) that have extensive knowledge and experience in the development and utilization of juvenile justice standards in legislation, litigation, and policy and program development. Collaboration

among organizations with specialized expertise is encouraged.

Interested parties are encouraged to call (202) 724-7573 to receive copies of the draft Solicitation for Applications for the National Juvenile Justice Standards Resource and Demonstration Program.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-16233 Filed 6-15-82; 8:45 am]

BILLING CODE 4410-18-M

## NATIONAL SCIENCE FOUNDATION

### Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Women in Science & Technology

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550

Date: Tuesday & Wednesday, July 13-14, 1982

Time: 9:00-5:00, July 13; 9:00-3:00, July 14

Type of meeting: Open

Contract person: Mrs. Mary Poats,

Executive Secretary of the Committee, National Science Foundation, Rm. 537, 1800 G Street, N.W., Washington, D.C. 20550 Telephone: 202/357-9571

Purpose of subcommittee: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for women in science and technology, and the impact of science and technology on women.

Summary minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittee is asked to consider mechanisms to increase participation of women in Foundation programs and research projects; to provide advice to the Director for the modification of NSF policies and procedures relating to women appointments on advisory committees, as well as to suggest a modification of the internal distribution of funds to implement this program.

M. Rebecca Winkler,

Committee Management Coordinator.

June 11, 1982.

[FR Doc. 82-16192 Filed 6-15-82; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237 and 50-249]

### Commonwealth Edison Co. (Dresden Station, Units 2 and 3); Hearing

June 9, 1982.

Notice is hereby given of a Hearing to be held in the above entitled matter beginning at 10:00 AM Tuesday, July 13, 1982, in the Nuclear Regulatory Commission Hearing Room, Room No. 550 in the East-West Tower Building, 4350 East-West Highway, Bethesda, Maryland. The Hearing will continue on July 14, 1982, in the same Courtroom, if necessary.

By mail, dated May 28, 1982, the NRC Staff served the parties in this case with a Supplementary Safety Evaluation Report. The Report attempts to resolve the issue as to whether or not the spent fuel pool floors can withstand the loads which could be imposed by the new high density fuel rods during a seismic event. Evidence relevant to this issue will be heard at the hearing, notice of which is given above.

The public is invited to attend. No personal appearances will be heard at this hearing. However, written statements, relevant to the issue in question, will be accepted and will ride with the record.

Dated and issued at Bethesda, Maryland this 9th day of June 1982.

For the Atomic Safety and Licensing Board.

John F. Wolf,

Chairman, Administrative Judge.

[FR Doc. 82-16272 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

### Northeast Nuclear Energy Co., et al.<sup>1</sup> (Millstone Nuclear Power Station, Unit 3); Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has

<sup>1</sup> The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Main Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Connecticut Municipal Electric Energy Cooperative, Massachusetts Gas and Electric Department, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton

issued Amendment No. 9 to Construction Permit No. CPPR-113. The amendment reflects the reduction in ownership shares to be transferred from Public Service Company of New Hampshire (PSNH) to the Connecticut Municipal Electric Energy Cooperative (CMEEC) from 1.7391% (20 MW), as previously authorized in Amendment No. 7 to CPPR-113, to 1.0435% (12 MW). The transfer of ownership shares as authorized in Amendment No. 7 never took place.

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 amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment, dated May 11, 1982; (2) Amendment No. 9 to Construction Permit CPPR-113; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. 20555 and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford Connecticut, 06385. Item (2) may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Technical Information and Document Control.

Dated at Bethesda, Maryland, this 9th day of June 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-16273 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

### International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing

Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., The Village of Lyndonville Electric Department, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department, Vermont Electric Generation and Transmission Cooperative, Inc., Vermont Public Power Supply Authority and Washington Electric Cooperative, Inc.

development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purposes of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D12, "Design of the Reactor Containment Systems in Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. S. V. Inamdar from Canada, Mr. J. Czech from the Federal Republic of Germany, and Mr. J. Thiesing from the U.S.A. (Bechtel Power Corporation), developed this guide from an IAEA collation. The working group draft was modified by the IAEA Technical Review Committee, and we are now soliciting public comment on this draft (Rev. 2, 10/19/81). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by July 26, 1982, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear

Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C., this 10th day of June 1982.

For the Nuclear Regulatory Commission.  
Robert B. Minogue,  
Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-16274 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 OL and 50-362 OL]

**Southern California Edison Co. et al. (San Onofre Nuclear Generating Station, Units 2 and 3); Oral Argument**

Notice is hereby given that, in accordance with the Appeal Board's order of June 10, 1982, oral argument on the application of intervenor Guard, Carstens, et al., for a stay of full power license will be heard at 9:30 A.M. on Friday, June 25, 1982, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: June 10, 1982.

For The Appeal Board.

C. Jean Shoemaker,  
Secretary to the Appeal Board.

[FR Doc. 82-16276 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

**Advisory Committee on Reactor Safeguards; Proposed Meetings**

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 19, 1982 (47 FR 21645). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (\*). It is expected that the sessions of the full Committee meeting designated by an asterisk (\*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be

discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

**ACRS Subcommittee Meetings**

*\*Emergency Core Cooling Systems (ECCS)*, June 16 and 17, 1982 Idaho Falls, ID. The Subcommittee will discuss General Electric Company's request for a change in 10 CFR Part 50, Appendix K requirements. The Subcommittee will also review selected portions of the Research programs on LOCA/ECCS research for the ACRS Report on the FY 1984 and FY 1985 Long-Range Research Program. Notice of this meeting was published June 2 (47 FR 24000).

*\*Reactor Radiological Effects*, June 23, 1982, Washington, DC. The Subcommittee will discuss the NRC Staff proposed revision to 10 CFR Part 20 and the use of potassium iodine for thyroid blocking in the event of a radiation accident. Notice of this meeting was published June 3 (47 FR 24238).

*\*Clinch River Breeder Reactor (CRBR) and Site Suitability*, June 24 and 25, 1982, Washington, DC. The Subcommittee will discuss the site suitability review for the Clinch River Breeder Reactor. Notice of this meeting was published June 8 (47 FR 24894).

*\*Perry Nuclear Power Plant Units 1 and 2*, June 28 and 29, 1982, Cleveland, OH. The Subcommittee will continue the review of the application of Cleveland Electric Illuminating Company for an operating license for the Perry Nuclear Power Plant Units 1 and 2. Notice of this meeting was published June 3 (47 FR 24238).

*\*Systematic Evaluation Program*, June 30, 1982, Washington, DC. The Subcommittee will review the completion of the Systematic Evaluation Program review on Ginna.

*\*Electrical Systems and Qualification Programs for Safety-Related Equipment*, July 1, 1982, Washington, DC. The Joint Subcommittees will discuss the NRC-sponsored research programs, proposed research funding for FY 1984 and FY 1985, and those parts of the Long-Range Research Plan which relate to the areas

for which these two Subcommittees are responsible.

\**Grand Gulf*, July 1, 1982, Washington, DC—POSTPONED.

\**Human Factors*, July 6, 1982, Washington, DC. The Subcommittee will review the Nuclear Regulatory Commission's proposed FY 1984 and FY 1985 Research Programs and budget and will develop specific comments on the NRC's Long-Range Research Plan as each relates to the area of Human Factors. Notice of this meeting was published May 28 (47 FR 23605).

\**Safety Research Program*, July 7, 1982, Washington, DC. The Subcommittee will review the NRC Safety Research Program and budget for FY 1984 and FY 1985.

\**Reactor Radiological Effects*, July 20, 1982 (TENTATIVE), Washington, DC. The Subcommittee will review the PWR occupational radiation exposure histories and recent experiences in exposure reduction at several plants, discuss the status of requirement of "Radiation Protection Plan" for nuclear power plants, and discuss findings of Health Physics Appraisals (Tentative).

\**Fluid Dynamics*, July 29 and 30, 1982, San Jose, CA. The Subcommittee will discuss potential safety issues related to the BWR Mark III containment design raised by Mr. J. Humphrey.

\**Watts Bar*, August 10, 1982 (TENTATIVE), Washington, DC. The Subcommittee will continue the review of the application of Tennessee Valley Authority for an operating license for the Watts Bar Nuclear Power Plant Units 1 and 2.

\**Regulatory Activities*, August 10, 1982, Washington, DC. The Subcommittee will review proposed Regulatory Guides and Regulations.

\**Safety Research Program*, August 11, 1982, Washington, DC. The Subcommittee will continue its review of the NRC Safety Research Program and budget for FY 1984 and FY 1985.

\**Clinch River Breeder Reactor Working Group on Structures and Materials*, August 18 and 19, 1982, Washington, DC. The Subcommittee will discuss elevated temperature design (N-47), "leak before break" criteria, overall leakages, leak detection, inservice inspection, and overall structural integrity of transition joints.

\**Reactor Operations*, August 25, 1982, Washington, DC. The Subcommittee plans to discuss NRC's enforcement policy, the Inspection and Enforcement (IE) performance appraisal team inspection program and the IE regionalization program.

\**Washington Public Power Supply System Unit 2 (WPPSS)*. Date to be determined (late August), Hanford, WA.

The Subcommittee will review the application of Washington Public Power Supply System for an operating license for the WPPSS Nuclear Project Unit 2.

\**Transportation of Radioactive Materials*, Date and location to be determined. The Subcommittee will continue its review of the adequacy of the NRC procedures for certifying packages for transporting radioactive materials.

\**Metal Components*, Date to be determined, Washington, DC. The Subcommittee will continue the review of pressurized thermal shock.

#### ACRS Full Committee Meeting

July 8-10, 1982: Items are tentatively scheduled.

\**A. Perry Nuclear Power Plant Unit 1*—Operation License review.

\**B. Ginna Nuclear Plant*—Systematic Evaluation Report/Integrated Reliability Assessment review.

\**C. Grand Gulf Nuclear Plant* (Tentative)—Outstanding Operating License issues.

\**D. Clinch River Breeder Reactor*—Site suitability review.

\**E. NRC Safety Research Program*—Review of proposed FY 1984 and 1985 budget.

\**F. ACRS Subcommittee activity*—Reports regarding safety related activities including proposed changes to 10 CFR Part 50, Appendix K—Emergency Core Cooling System Evaluation Models; resolution of steam generator tube integrity problems; proposed DOE program for siting and assessment of high level radioactive waste repositories; proposed changes in 10 CFR Part 20—Standards for Protection Against Radiation and use of radioiodine blocking agents.

*G. Appointment of ACRS Members*—Nominees for appointment to the Committee will be discussed.

\**H. Future ACRS Activities*—Anticipated Subcommittee activity and proposed full Committee activities will be discussed.

\**I. Decay Heat Removal Systems*—Discuss proposed NRC plan for NRC Task Action Plan A-45, Evaluation of Alternate Decay Heat Removal Systems.

\**J. High Level Waste Disposal*—Discuss proposed NRC rule 10 CFR Part 61—Criteria for High Level Waste Disposal.

August 12-14, 1982: Agenda to be announced.

September 9-11, 1982: Agenda to be announced.

Dated: June 10, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-16275 Filed 6-15-82; 8:45 am]

BILLING CODE 7590-01-M

## PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

### Conservation Subcommittee; Meeting

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

**ACTION:** Notice of meeting.

**STATUS:** Open.

**SUMMARY:** The Northwest Power Planning Council hereby announces a forthcoming meeting of the Conservation Subcommittee of its Scientific and Statistical Advisory Committee.

**DATE:** Monday and Tuesday, June 21 and 22, 1982. 8:30 a.m.

**ADDRESS:** The meeting will be held at the Hilton Hotel, 921 Sixth Avenue, Portland, Oregon. Room to be announced.

**FOR FURTHER INFORMATION CONTACT:** Tom Eckman, (503) 222-5161.

**DISCUSSION:** This is a workshop. The primary discussion item is the development of the conservation program.

Edward Sheets,  
Executive Director.

[FR Doc. 82-16221 Filed 6-15-82; 8:45 am]

BILLING CODE 0000-00-M

### Resource Assessment Subcommittee; Meeting

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

**ACTION:** Notice of meeting.

**STATUS:** Open.

**SUMMARY:** The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

**DATE:** Friday, June 18, 1982. 9:00 a.m.

**ADDRESS:** The meeting will be held at the Council Suite of the Hilton Hotel, 921 Sixth Avenue, Portland, Oregon.

**FOR FURTHER INFORMATION CONTACT:** Tom Foley, (503) 222-5161.

**DISCUSSION: Financial Parameters, Capital Availability, Transparency of Production Costing Models.**Edward Sheets,  
*Executive Director.*

[FR Doc. 82-16220 Filed 6-15-82; 8:45 am]

BILLING CODE 0000-00-M

**Fish and Wildlife Subcommittee Meeting****AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).**ACTION:** Notice of meeting.**STATUS:** Open.**SUMMARY:** The Northwest Power Planning Council hereby announces a forthcoming meeting of the Fish and Wildlife Subcommittee of its Scientific and Statistical Advisory Committee.**DATE:** Friday June 18, 1982. 9:00 a.m.**ADDRESS:** The meeting will be held at the Council's Central Office located at 700 S.W. Taylor Street, Suite 200, Portland, Oregon.**FOR FURTHER INFORMATION CONTACT:** Ms. Torian Donohoe, (503) 222-5161.Edward Sheets,  
*Executive Director.*

[FR Doc. 82-16219 Filed 6-15-82; 8:45 am]

BILLING CODE 0000-00-M

**POSTAL SERVICE****Notice Concerning Proposal for Selling Advertising Space****AGENCY:** Postal Service.**ACTION:** Notice of disposition of proposal for selling advertising space.**SUMMARY:** This is a summary of comments received by the Postal Service concerning the selling of advertising space on postal vehicles, in postal lobbies and on certain philatelic items. The Service announces its conclusion that any benefits which could accrue from an advertising program would not outweigh the problems such a program would create.**SUPPLEMENTARY INFORMATION:** On August 27, 1981, the Postal Service published for comment a proposal it had under consideration to sell advertising for display at postal facilities, on postal equipment, and on stamp booklets and other products, but not in the design of postage stamps or postal indicia on aerogrammes or embossed envelopes [46 FR 43338-9]. The Postal Service received 1,026 comments on the published proposal. Thirty-eight percent, or 380, supported the concept, saying

any method of increasing postal revenues should be followed. Twenty-nine percent, or 303, opposed the idea on the ground that it would subject Americans to more commercialism and would be an affront to the dignity of the Postal Service and government in general. The remaining 343 responses, or 33 percent of the total, supported the concept only if it would help minimize future postage increases and if certain conditions are observed. For example, it was argued that ads promoting cigarettes, liquor, or personal products as well as religious and political messages, should be avoided, while all others should be required to exhibit "good taste." Other commenters who conditionally accepted the idea stressed the need for a fair rate schedule and an equitably administered program.

Most of the comments came from individuals, with only about five percent coming from businesses. None of the comments expressed any interest or potential future interest in purchasing advertising space. Several advertising brokers, however, offered to manage various parts of a postal advertising program for a fee.

In reviewing these comments and examining the feasibility of a postal advertising program, the Postal Service concentrated on three forms of advertising: postal vehicles, postal lobbies, and postal stationery items.

**Advertising on Vehicles**

As no professional advertisers responded to the *Federal Register* document, five of the nation's largest advertising agencies were contacted and asked for their views on vehicle advertising, considered the most likely form of postal advertising. Their views were not encouraging. Not one expressed interest in purchasing display space on postal vehicles for clients. One indicated that it did not regard "truck" advertising as being very successful compared to other possibilities. The Postal Service was warned to expect litigation if it tried to refuse product and service categories of advertisements or even controversial subject matter, and told that approximately 30 percent of "transit-type" advertising revenues are derived from potentially unacceptable products such as tobacco, beer, and liquor. Furthermore, the agencies indicated that advertisers more than likely would not want to produce their ads in the several sizes dictated by the available space on various postal vehicles. In any case, the Postal Service was advised that only the right-hand side of trucks—the street side—could effectively convey a message. The Postal Service was also

told it could count on retaining only about half the advertising fees collected as the rest would go to ad agencies, brokers and poster servicing contractors.

As for determining the fees to charge advertisers, since the Postal Service could not guarantee the precise timing, routing, or geographical area each vehicle would cover, it appears that the truck-advertising industry's "cost per 1,000 exposures" method for establishing competitive rates would not be readily applied in the Postal Service.

The Postal Service is familiar with some of the logistics required for truck advertising because of its experience in using promotional posters on postal trucks. We have found that only the more expensive heavy vinyl poster can be used successfully in all kinds of weather without detracting from the appearance of postal vehicles. The time required to change this type of poster, along with the fact that postal trucks are not centrally located, would make frequent changing of advertising copy an expensive proposition. Use of available space for commercial posters also would limit the space available for our own posters, such as those promoting Express Mail.

**Advertising in Postal Lobbies and on Collection Boxes**

At first impression, the Postal Service's network of post offices, located throughout America's urban and rural neighborhoods, has a considerable advertising potential. Upon closer inspection, however, that potential appears to be limited. In many lobbies display space is limited. Accepting commercial advertisements would require the removal of information relating to postal and other governmental services. In effect, the Postal Service would be trading revenues derived from promoting and selling its own products and services for fees obtained from the display of non-postal advertisements. But there would be no guarantee that the Postal Service would come out ahead. For example, philatelic sales, which are largely promoted through lobby displays, generated \$121 million in revenues in Fiscal Year 1981; the sale of stamps alone to collectors provides the Postal Service with a return of 99 per cent over variable costs. It is unlikely that advertising revenues could approach such a return margin, especially when the Postal Service might have to contract for costly private advertising brokerage services to administer a lobby program to avoid diverting postmasters

from the primary task of moving the mail.

Acceptance of ads for display on collection boxes also poses several serious obstacles. Due to the size, shape and construction of the boxes, only an area approximately 15 by 15 inches would be available for potential advertisers. It is doubtful that such a small display space could be sold at a large enough return to cover the costs to the Postal Service of maintaining ads on approximately 287,777 collection boxes scattered throughout the country.

#### Advertising on Philatelic Items

Stamps booklets, postal cards, embossed envelopes and aerogrammes were the only philatelic items examined for possible use as advertising mediums. Since postal operations depend upon the timely production and distribution of these items, any delays due to accommodating advertisers would not be justifiable. Furthermore, as philatelic items are so closely associated with the post office, the Postal Service is concerned that the public may perceive an implied endorsement for the non-postal services or products advertised on philatelic items. In addition, several prominent stamp collectors expressed their concern that philatelic ads could seriously hurt philately as a hobby. Since collectors generally feel compelled to acquire each item produced, flooding the market with many different items could force some to pursue other interests.

#### Conclusions

Careful evaluation of these three forms of advertising, both separately and in combination, has led the Postal Service to conclude that a commercial program is too doubtful an undertaking to warrant the Postal Service becoming involved in it. The comments did show that a majority of the public apparently does not oppose the idea in principle. The comments also showed, however, that such a program would be strongly opposed by many citizens, and that majority support for it would depend on the Postal Service succeeding in acting as a censor to accept certain types and sources of advertising and to refuse others. Such a role would undoubtedly involve the program in ongoing controversy.

While the likelihood of substantial public controversy is not sufficient reason to shy away from a program which could make a noticeable contribution toward holding down postage rates, our investigation suggests that a commercial advertising program simply does not have the potential for the level of economic return which

would noticeably affect postage rates. To save a penny in the First-Class postage rate requires offsetting revenues or cost savings of \$600 million or more per year. Even our most optimistic evaluation of the economic potential of an advertising program could not hope to come anywhere near that level of revenues. In fact, the only business interest we have found has come from those who would like to charge the Postal Service to help market the advertising, not from those who buy advertising for themselves or for their advertising clients. We are also convinced that an advertising program necessarily would compete with other activities which the Postal Service now finds useful, such as the promotion of our own services.

For all of these reasons, we have concluded, with regret, that the commercial advertising idea would unfortunately not prove helpful in practice, and that the Postal Service should direct its efforts to hold down and offset postal costs in other directions.

W. Allen Sanders,

*Associated General Counsel, Office of General Law and Administration*

[FR Doc. 82-16207 Filed 6-15-82; 8:45 am]

BILLING CODE 7710-12-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 12477; (812-5172)]

### Automated Cash Management Trust; Filing of Application

June 10, 1982.

Notice is hereby given that Automated Cash Management Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, PA 05219, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 19, 1982, requesting an order of the Commission, pursuant to section 6(c) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant's assets to be valued at amortized cost. 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 states that it is a "money market fund" designed as an investment vehicle for investors with temporary cash balances or cash reserves, and to provide stability of principal and current income consistent with stability of principal. Cash Management Services,

Inc. ("Adviser"), currently a wholly-owned subsidiary of Federated Investors, Inc., acts as investment adviser to Applicant.

The application states that Applicant's portfolio may be invested in a variety of money market instruments, including United States Government obligations, instruments of banks and savings and loans associations which are members of the Federal Deposit Insurance Corporation ("FDIC") or the Federal Savings and Loan Insurance Corporation ("FSLIC"), and other money market instruments maturing in one year or less. Applicant will not invest in instruments issued by banks and savings and loan institutions unless: (a) at the time of investment they have capital, surplus and undivided profits in excess of \$100,000,000 at the date of their most recently published financial statements; or (b) the principal amount of the investment is insured in full by the FDIC or FSLIC. It is asserted that commercial paper investments are limited to commercial paper rated A-1 by Standard and Poor's Corporation, Prime 1 by Moody's Investor Service or F-1 by Fitch Investors Services.

As is more fully set forth in its prospectus, Applicant states that, prior to the beginning of the public offering of its shares, Applicant adopted a Distribution Plan ("Plan"), among itself, its Adviser and its Distributor, Federated Securities Corporation. It is asserted that the Plan is designed to stimulate participating financial institutions (including depository institutions such as banks) ("Administrators"), to provide administrative support services to Applicant and its shareholders. Administrators will receive fees with respect to shares owned from time to time by their clients. Applicant represents that Administrators may arrange to have subaccounts automatically invested in shares of Applicant ("swept"). Cash accumulations in accounts of Administrators (such as checking accounts of customers of banks) may be swept on a pre-designated day such as the first business day of each week or when the checking account reaches a selected dollar amount such as \$5,000. Applicant further maintains that no preference will be shown in the selection of investments for the instruments of depository institutions acting as Administrators under the Plan.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2)

with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission 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 rules 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.

The application states that, by not purchasing any instrument for its portfolio with a remaining maturity of greater than one year and by maintaining a dollar-weighted average portfolio maturity not exceeding 120 days, Applicant believes it can achieve its objectives of stability of principal and steady flow of investment income

satisfactory to its investors and yet afford investors adequate protection under the Federal securities laws. Applicant asserts that its board of directors ("Board") had determined in good faith that the amortized cost method of valuation of portfolio instruments is appropriate and preferable. The application states that the Board has further determined that it will continually monitor valuations indicated by other methods and has directed the Executive Committee to make reports to the Board so that the Board may make any changes in method which may be necessary to assure that the method of valuation being used is a fair approximation of fair value in view of all pertinent factors. Finally, Applicant maintains that operation of Applicant under the management policies described above and under the conditions set forth below is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it has agreed to the following conditions to any order granting the application:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at \$1.00 per share.

2. Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's \$1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money

market instruments published by reputable sources.

(b) In the event such deviation from Applicant's \$1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board will promptly consider what action, if any, should be initiated by the Board.

(c) Where the Board believes the extent of any deviation from Applicant's \$1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States

dollar denominated instruments which the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 5, 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. 82-16208 Filed 6-15-82; 6:45 am]

BILLING CODE 8010-01-M

[Release No. 12479; (812-5148)]

### E.W. Axe & Co., Inc. et al.; Filing of an Application

June 10, 1982.

Notice is hereby given that E. W. Axe & Co., Inc. ("Adviser"), Axe Securities

Corporation ("Distributor"), and Axe-Houghton Stock Fund, Inc., Axe-Houghton Income Fund, Inc. and Axe-Houghton Fund B, Inc. (the "Funds" and jointly with the Adviser and Distributor, the "Applicants"), 400 Benedict Avenue, Tarrytown, New York 10591, filed an application on March 30, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting them from the provisions of section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit the Funds to offer their shares at prices which reflect reductions in the usual schedule of sales charges disclosed in the prospectus of each of the Funds. 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.

Applicants state that the Funds, which are all registered under the Act as open-end diversified management investment companies, currently offer their shares to the public at net asset value plus sales charges in accordance with the schedule of charges set forth in the prospectus of each Fund. Applicants state that each of the Funds is managed by the Adviser and has a different investment objective and that the Distributor, a wholly-owned subsidiary of the Adviser, acts as the principal underwriter for each of the Funds, pursuant to underwriting agreements which provide that the Distributor, as agent, will use its best efforts to sell shares of the Funds.

Applicants assert that the Funds' shares may be acquired in connection with an Individual Retirement Account ("IRA"), pursuant to section 408(a) of the Internal Revenue Code ("Code"), and established with one of the Funds. Applicants assert further that a prototype IRA plan is available through each of the Funds or the Distributor and that the IRA plan generally permits qualified to defer income taxes on that portion of income which is contributed to the IRA, up to a specified maximum contribution in any one year. Applicants maintain that the Economic Recovery Tax Act of 1981 ("Tax Act") permits individuals who are participants in employer sponsored retirement plans to establish IRA accounts and that it is estimated that millions of individuals who are participants in employer sponsored retirement plans and thus were previously ineligible to establish IRAs, are now eligible to do so. Applicants submit that as a result of the changes in the Code brought about by the Tax Act, a number of employers,

many of whom also sponsor traditional retirement or pension programs, have instituted plans to facilitate the establishment of IRAs by their employees.

Applicants represent that in order to encourage purchases of shares of the Funds under such programs, the Funds have, pursuant to Rule 22d-1(f) of the Act, adopted a schedule of reduced sales charges which apply to purchases of the Funds' shares made by participants in "Eligible Retirement Programs." As defined in the prospectus of each of the Funds, an Eligible Program is a retirement program (i) in which 50 persons or more are eligible to participate and (ii) that is established either by a tax-exempt organization qualified pursuant to section 403(b)(7) of the Internal Revenue Code or by a single employer or two or more affiliated employers as a means to facilitate the establishment of IRAs by their employees, provided that economies of scale are realized by one or more of the following: a payroll deduction or other periodic payment plan to invest in Fund shares; bulk distribution to employees of sales literature, prospectuses, disclosure statements, applications, shareholder reports, and other information regarding employee investments in the Fund furnished by the Fund or its underwriter; opportunities for group presentations by dealers and/or Fund representatives; or remittances from a single source. In addition, a further reduction in applicable sales charges is available to participants in Eligible Retirement Programs in which 10,000 or more individuals are eligible to participate.

Applicants represent that the National Rural Electric Cooperative Association ("NRECA") is a non-profit association whose membership is comprised of over 1,000 rural electric cooperatives throughout the nation ("Member Systems"). Applicants represent further that the Member Systems employ, in the aggregate, over 60 thousand persons and that NRECA, which currently administers a number of traditional employee benefit programs for the benefit of employees of its Member Systems, has implemented a program to encourage and facilitate the establishment of IRAs by employees, officers and directors of NRECA and its Member Systems, and their spouses and children under 21 years of age ("Program Participants").

Applicants state that section 22(d) of the Act prohibits a registered investment company and its principal underwriter from selling mutual fund shares "to any person except a dealer, a principal underwriter or the issuer,

except at a current public offering price described in the prospectus." Applicants further state that Rule 22d-1 provides certain exemptions from section 22(d) which under certain circumstances permit the sale of mutual fund shares at prices which reflect reductions in, or eliminations of, a sales charge that usually is applied to such purchases. Applicants state that, in particular, subparagraph (f) of Rule 22d-1 provides, in pertinent part, that an open-end investment company may sell its shares at a reduced sales load, " \* \* \* pursuant to a uniform offer described in the prospectus and made to employee benefit plans not qualified under section 401 of [the Code] provided that such non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales related expense selected by the issuer and described in the prospectus. As used in this paragraph 'employee benefit plan' shall mean any plan or arrangement which provides a means for employees or an employer on behalf of employees to purchase shares of a registered open-end investment company or companies by means of periodic payroll deductions or otherwise and 'employer' shall mean a single employer or two or more employers each of which is an affiliated person of the other under section 2(a)(3)(C) of [the Act]." Section 2(a)(3)(C) of the Act provides, in relevant part, that any person directly or indirectly controlling, controlled by, or under common control with another person is an affiliate of such other person.

Applicants state that, as presently organized, NRECA is not affiliated with its Member Systems as that term is defined in section 2(a)(3)(C) of the Act, nor are the Member Systems affiliated with one another and thus, absent a Commission order permitting it, sales of shares of the Funds to employees, officers and directors of the Member Systems and members of their families at reduced sales charges may be deemed in violation of section 22(d) of the Act.

Applicants submit that the legislative purpose of section 22(d) of the Act was to prevent discriminatory pricing in connection with the sale of mutual fund shares. In giving the Commission rulemaking authority under this provision, however, it is asserted that Congress recognized that under circumstances where cost savings can be realized in the distribution of mutual fund shares, it might be appropriate to pass such cost savings along to individual investors. Rule 22d-1 specifies a number of circumstances in

which the Commission has determined that such cost savings may be realized. Applicants submit that the nature of the NRECA program described in the application, together with the services NRECA will undertake under the terms of the Funds' prospectuses will all but eliminate the need for individual investors associated with NRECA to be contacted by a salesman as part of a sales effort, and thus, that significant economies of scale and sales effort will be realized in connection with the distribution of shares of the Funds.

In addition to the question of whether actual economies may be achieved in connection with any distribution or sales plan, Applicants further assert that one of the Commission's chief concerns in applying the provisions of section 22(d) and Rule 22d-1 and in considering application for exemptive relief therefrom, is that relief from such provisions not be made available to members of groups with so little in common that sales efforts directed to the group as whole would not reduce the need for sales efforts to be directed to its individual members. (Cf. Investment Company Act Release Nos. 2718 and 2798, dated May 29, 1955 and December 2, 1958, respectively.) Applicants do not believe that such a concern is applicable under the circumstances of the application. Although not within the precise definition of the rule, the unique character of NRECA demonstrates that NRECA is not a mere trade organization nor is the bond among its Member Systems comparable to the very loose relationship which exists among customers of a bank or customers of a brokerage house. Rather, the Member Systems are organized for common business purposes vital to the operation of each Member System. As a group, they control NRECA by electing its board of directors. NRECA also performs for its Member Systems many of the same functions that a parent stock corporation provides to affiliated subsidiary companies and their employees and provides the kind of cooperative management and policy development that is characteristic of that which may be found among companies of a single corporate family.

Section 6(c) of the Act authorizes the Commission to grant exemptive relief to any person or transaction from any provisions of the Act or any rule or regulation under the Act, 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 policies and provisions of the Act.

Notice is further given that any interested person may, no later than July 2, 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. 82-16210 Filed 6-15-82; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 12478; 812-5197]

### Massachusetts Cash Management Trust; Filing of an Application

June 10, 1982.

Notice is hereby given that Massachusetts Cash Management Trust ("Applicant"), 200 Berkeley Street, Boston, MA 02116, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed as application on May 13, 1982, requesting an order of the Commission amending in the manner described below in earlier order of the Commission dated July 1, 1980 (Investment Company Act Release No. 11240, the "Original Order"). The Original Order, pursuant to section 6(c) of the Act, exempted Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to

the extent necessary to value its then-existing portfolio of money market securities using the amortized cost method of valuation. All persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant was established under Massachusetts law as a Massachusetts business trust under a declaration of trust dated September 8, 1975. Applicant represents that its investment objective is to seek as high a level of current income as is considered consistent with the preservation of capital and liquidity.

Applicant further represents that at the time the Original Order was issued, Applicant consisted of a single portfolio investing in short-term money market instruments including United States securities, obligations of banks, prime commercial paper and high grade corporate obligations. By favorable vote on October 21, 1981, of a majority of the shares outstanding and entitled to vote, Applicant's shareholders authorized its trustees to establish two or more series of shares. By instrument dated November 18, 1981, the trustees established two series of shares, namely the Prime Series, representing the existing portfolio and the Government Series representing a portfolio consisting only of money market securities issued or guaranteed by the United States Treasury or agencies or instrumentalities of the United States Government. Applicant now seeks to amend the Original Order to the extent necessary to permit it to value its Prime Series and Government Series using the amortized cost method of valuation.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase

shall be an amount which reflects calculations made substantially in accordance with provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of its request, Applicant submits that many of its investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant argues that use of the amortized cost method of valuation permits it to provide investment vehicles with those features.

In addition, Applicant represents that its board of trustees has determined that, absent unusual circumstances, amortized cost represents the fair value of its portfolio securities.

Applicant has consented to the imposition of the following conditions to any order granting the application:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's

investment objectives, to stabilize Applicant's net asset value per share for each series, as computed for the purpose of distribution, redemption and repurchase at \$1.00 per share.

2. Included with the procedures to be adopted by the board of trustees of Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the \$1.00 amortized cost price per share of each series, and maintenance of records of such review.<sup>1</sup>

(b) In the event such deviation from the \$1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the \$1.00 amortized cost price per share for any series may result in material dilution or other unfair result to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair result, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity for each series appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.<sup>2</sup>

<sup>1</sup>To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

<sup>2</sup>In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of

"high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than July 5, 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. 82-16209 Filed 6/15/82; 8:45 am]

BILLING CODE 8010-01-M

# Sunshine Act Meetings

Federal Register

Vol. 47, No. 116

Wednesday, June 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

### COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10 a.m., Tuesday, June 22, 1982.

**PLACE:** 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Proposed Rules on Options on Physicals.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Jane Stuckey, 254-6314.

[S-888-82 Filed 6-14-82; 11:34 am]

**BILLING CODE 6351-01-M**

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### FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 9 a.m., June 22, 1982.

**PLACE:** Hearing Room One—1100 L Street, N.W., Washington, D.C. 20573.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to delegated authority.
2. Report on Notation Items disposed of during May 1982.
3. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during May 1982.
4. Report of the Secretary on Applications for Admission to Practice approved during May 1982, pursuant to delegated authority.
5. Docket No. 80-54: Time/Volume Rate Contracts—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States—Consideration of comments submitted in response to notice of proposed rulemaking and proposed final rule.
6. Discussion of terminal handling charges of Conferences serving East and Gulf Coast trades.
7. Filing and Service Fees—Notice of Proposed Rulemaking.
8. Discussion of Executive Order No. 769 of the Government of the Philippines.

### CONTACT PERSON FOR MORE

**INFORMATION:** Francis C. Hurney, Secretary, (202) 523-5725.

[S-890-82 Filed 6-14-82; 2:28 pm]

**BILLING CODE 6730-01-M**

3

### POSTAL SERVICE (BOARD OF GOVERNORS)

Addition of Item to the Agenda of June 8, 1982 Meeting

During its June 8, 1982, meeting, the Board of Governors of the United States Postal Service voted to add to its agenda consideration of the Opinion and Recommended Decision in Docket No. MC 82-1 issued by the Postal Rate Commission on June 4, 1982. The Opinion and Recommended Decision concerned a change in the Domestic Mail Classification Schedule, pursuant to Chapter 36, title 39, United States Code, to permit the acceptance of Express Mail Next Day Service shipments at the time or times prescribed by the Postal Service.

By unanimous vote the Board determined, in accordance with 5 U.S.C. 552b(e)(2), that Postal Service business required that the recommended decision be considered at this meeting even though the decision had not been on the agenda of the meeting as originally announced in the *Federal Register* (see 47 FR 24017-24031 [June 2, 1982]), and no earlier announcement of the change was possible.

Requests for information concerning the meeting should be addressed to Secretary of the Board, Louis A. Cox, at (202) 245-4632.

**Louis A. Cox.**

[S-889-82 Filed 6-14-82; 2:25 pm]

**BILLING CODE 7710-12-M**

4

### SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the Week of June 21, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 22, 1982, at 11:00 a.m. and on Thursday, June 24, 1982, following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the

Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Evans and Thomas voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 22, 1982, at 11:00 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive action.

Formal orders of investigation.

Litigation matter.

Institution of administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Thursday, June 24, 1982, following the 10:00 a.m. open meeting, will be:

Institution of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, June 24, 1982, at 10:00 a.m., will be:

1. Consideration of a request for a "no-action" letter from savings and loan associations that propose to permit a registered broker-dealer, Savings Association Investment Securities, Inc. to offer brokerage services on their premises without registering as broker-dealers under Section 15 of the Securities Exchange Act of 1934. For further information, please contact Colleen C. Harvey at (202) 272-2826.

2. Consideration of whether to propose for comment amendments to Rule 6a-2 and Forms 1 and 1-A under the Securities Exchange Act of 1934, regarding the form of application for or exemption from registration as a national securities exchange, and the form for amendments to and/or supplementation of such registration or exemption statements. For further information, please contact Judith W. Axe at (202) 272-2398.

3. Consideration of whether to propose rules which would (1) amend the requirements for oil and gas disclosures to conform with the provisions of an Exposure Draft recently issued by the Financial Accounting Standards Board, and (2) eliminate other requirements for oil and gas

disclosures set forth in Industry Guide 2. For further information, please contact James D. Hall at (202) 272-2133.

4. Consideration of whether to issue a release which amends Regulation S-X by establishing instructions for the presentation and preparation of pro forma financial information, and revising the rules governing the filing of financial statements of businesses acquired or to be acquired. The Commission will also consider amendments to Form 8-K to reflect the above amendments. For further information, please contact David F. Martin at (202) 272-2130.

5. Consideration of whether to grant the Freedom of Information Act Appeal of Joe and Mary Love, from the determination of the FOIA Officer to withhold certain documents concerning the Kilauea Township Consortium pursuant to 5 USC 552(b)(7)(C). For further information, please contact Gilles Attia at (202) 272-2448.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul J. Siegebaum at (202) 272-2468.

June 11, 1982.

[S-887-82 Filed 6-11-82; 4:28 pm]

BILLING CODE 8010-01-M

# **federal register**

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**Wednesday  
June 16, 1982**

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## **Part II**

### **Department of the Interior**

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#### **Minerals Management Service**

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**Alaska Outer Continental Shelf; Intent To  
Prepare Environmental Impact Statements  
for Proposed OCS Oil and Gas Lease  
Sale Nos. 83 and 87; Diapir Field  
Proposed Oil and Gas Lease Sale No. 71**

## DEPARTMENT OF THE INTERIOR

## Minerals Management Service

**Alaska Outer Continental Shelf; Intent To Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 83, Navarin Basin**

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on the offshore oil and gas leasing proposal known in OCS Sales No. 83. This proposed sale is tentatively scheduled for March 1984.

The May 21, 1982 Federal Register (47 FR 99), pages 22336 through 22338, contained a Call for Nominations and Comments for the entire Navarin Basin planning area and included a map and description of the planning area. Following public response to the Call for Nominations and Comments, the Department of the Interior will identify the area proposed for leasing. The EIS analysis will focus on the area having oil and gas potential and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the environmental impact statement include options to modify, delay, or withdraw the proposed lease offering. The EIS will also include a description of the environment covering the entire planning area in order to provide the best and most complete information available for decisionmaking.

The scoping process for this EIS is underway with scoping meetings planned for the following locations:

June 16, 1982, 7:00 p.m., Unalaska, City Council Chambers  
 July 6, 1982, 7:00 p.m., Bethel, KVNA Building  
 July 7, 1982, 7:00 p.m., Nome, City Council Chambers  
 July 8, 1982, 7:00 p.m., Savoonga, City Council Conference Room

Questions concerning this proposed action, the environmental impact statement or scoping should be addressed to Judith Gottlieb, Chief, Environmental Assessment Division, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276-2955, or Ralph Ainger, Minerals Management Service, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-6264.

**Harold E. Doley, Jr.,**

*Director, Minerals Management Service.*

June 10, 1982.

[FR Doc. 82-16188 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

## DEPARTMENT OF THE INTERIOR

**Alaska Outer Continental Shelf; Intent To Prepare an Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sale No. 87, Diapir Field**

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Minerals Management Service is announcing its intent to prepare an Environmental Impact Statement (EIS) on the offshore oil and gas leasing proposal in the Diapir Field region of

Alaska, known as OCS Scale No. 87. This proposed sale is tentatively scheduled for June 1984.

A Call for Information for the Diapir Field planning area is tentatively scheduled for late 1982. Following public response to the Call for Information, the Department of the Interior will identify the area proposed for leasing. The EIS analysis will focus on the area having oil and gas potential and analyze the potential environmental effects of leasing there. Possible alternatives to be considered in the environmental impact statement include options to modify, delay, or withdraw the proposed lease offering. The EIS will also include a description of the environment covering the planning area in order to provide the best and most complete information available for decisionmaking.

Federal, State and local agencies, interested groups and individuals with questions concerning this proposed action, or those wishing to assist the Mineral Management Service in determining the scope of the environmental impact statement, should contact: Judith Gottlieb, Chief, Environmental Assessment Division, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276-2955, or Ralph Ainger, Minerals Management Service, 18th & C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-6264.

**Harold E. Doley, Jr.,**

*Director, Minerals Management Service.*

June 10, 1982.

[FR Doc. 82-16189 Filed 6-15-82; 8:45 am]

BILLING CODE 4310-84-M

PROPOSED NOTICE OF SALE

4310-84

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf  
Diapir Field

Proposed Oil and Gas Lease Sale No. 71

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed sale notice. The following is a proposed sale notice for Sale No. 71 in the waters offshore the Beaufort Sea area. This notice is hereby published as a matter of information to the public.

*Harold E. Soley, Jr.*  
Director, Minerals Management Service

Approved:

(Sgd) James G. Watt

Secretary of the Interior

JUN 8 1982

Certified to be a true  
copy of the original.

*[Signature]*  
Certifying Officer

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Minerals Manager, Alaska Outer Continental Shelf (OCS) Region, 620 East 10th Avenue, P.O. Box 1159, Anchorage, Alaska 99510. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., September 1, 1982; or by personal delivery to the sale site in Anchorage, Alaska (to be announced) between the hours of 8:30 a.m., a.h.s.t., and 9:30 a.m.,

a.h.s.t., September 1, 1982. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.h.s.t., September 1, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 47 FR 14785, April 6, 1982.

3. Method of Bidding. A separate bid in a sealed envelope, labeled, "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., a.h.s.t. September 1, 1982," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or

certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to no more than five decimal places after the decimal point, e.g., 50.12345 percent as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of \$8 per hectare or fraction thereof and a minimum royalty of \$8 per hectare or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on tracts 71-1, 71-2, 71-3, 71-4, 71-17, 71-18, 71-19, 71-34, 71-35, 71-36, 71-51, 71-52, 71-53, 71-54, 71-55, 71-97, 71-98, 71-99, 71-100, 71-116, 71-117, 71-118, 71-119, 71-134, 71-135, 71-136, 71-137, 71-151, 71-152, 71-153, 71-251, 71-252, 71-253, 71-254, 71-255, 71-256, 71-257, 71-258, 71-259, 71-260, 71-261, 71-262, 71-263, 71-264, 71-265, 71-266, 71-267, 71-268, 71-269, 71-270, 71-271, 71-272, 71-273, 71-274, 71-275, 71-276, 71-282, 71-283, 71-299, 71-300, and 71-310 must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

(b) Bonus Bidding with a Fixed Sliding Scale Royalty. Bids on tracts 71-277, 71-278, 71-279, 71-280, 71-281, 71-284, 71-285, 71-286, 71-287, 71-288, 71-289, 71-290, 71-291, 71-292, 71-293, 71-294, 71-295, 71-296, 71-297, 71-298, 71-301, 71-302, 71-303, 71-304, 71-305, 71-306, 71-307,

71-308, 71-309, 71-311, 71-312, 71-313, 71-314, 71-315, 71-316, 71-317, 71-318, 71-319, 71-320, 71-321, 71-322, 71-323, 71-324, 71-325, 71-326, 71-327, 71-328, 71-329, 71-330, 71-331, 71-332, 71-333, 71-335, 71-336, 71-337, 71-339, 71-340, 71-341, 71-342, 71-343, 71-344, 71-345, 71-346, 71-347, 71-348, 71-349, 71-350, and 71-351 must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to \$28,109,193 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$28,109,194 million, but less than or equal to \$11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where

$R_j$  = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter  $j$

$$b = 8.0$$

monthly in the Survey of Current Business by the Bureau of Economic

Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., a.h.s.t., September 1, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on September 1, 1982, beginning at 10 a.m., a.h.s.t., at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, September 1, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks or bank drafts submitted with a bid may be deposited in a suspense

$\ln$  = natural logarithm

$V_j$  = the value of production in quarter  $j$ , adjusted for inflation, in millions of dollars

$S = 3.50$

When the adjusted quarterly value of production is equal to or greater than \$11622.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due,  $R_j$ , the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production,  $V_j$ , in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar (for example, 35.624831 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published

Figure 1  
Form of the Sliding Royalty Schedule

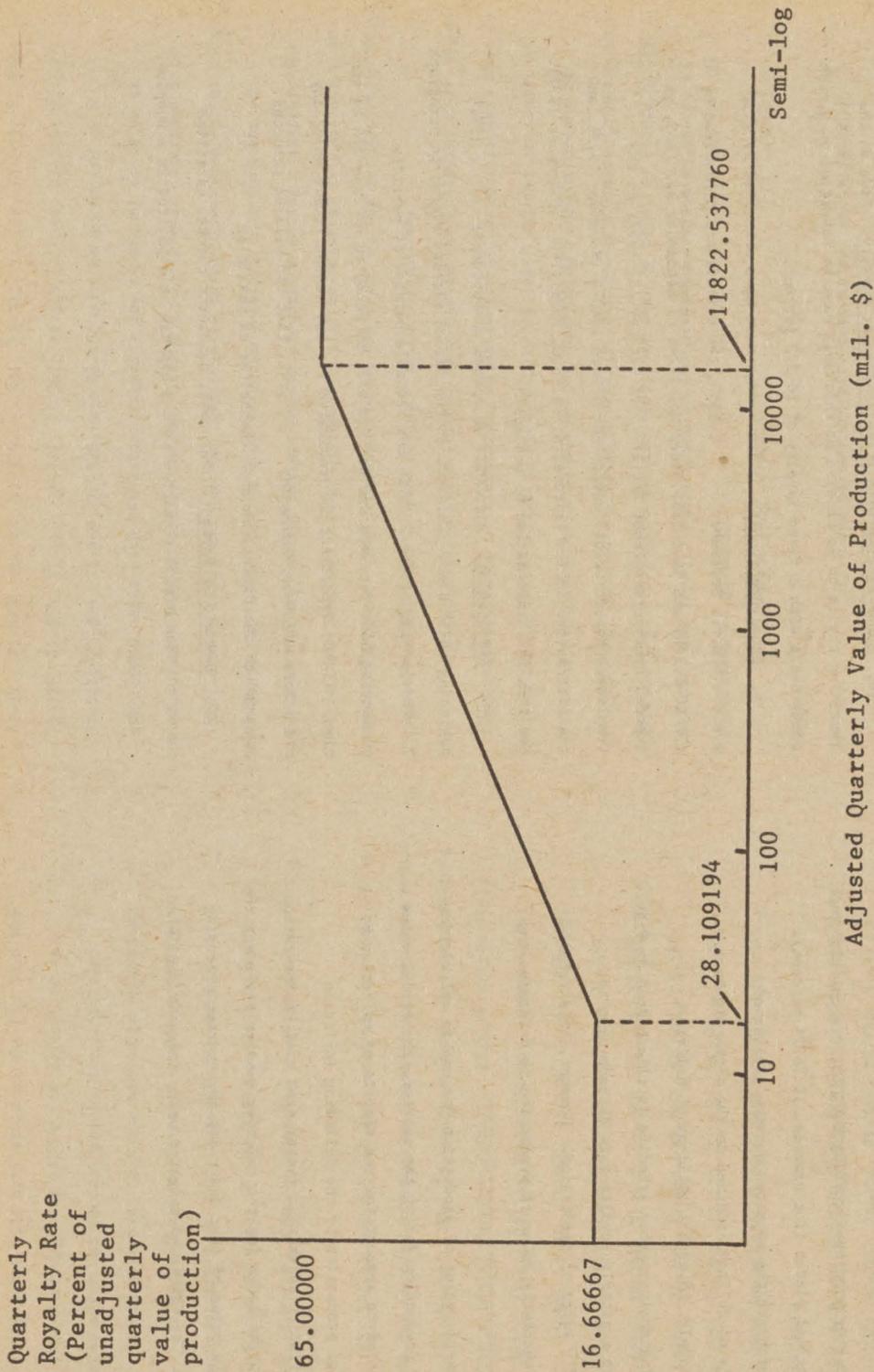


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A)	(B)	(C)	(D)	(E)	(F)
Actual Value of Quarterly Production (Millions of Dollars)	GNP Fixed Weighted Price Index	Inflation Factor <sup>1</sup>	Adjusted Value of Quarterly Production <sup>2</sup> (V <sub>t</sub> , Millions of \$)	Percent Royalty Rate (R <sub>t</sub> )	Royalty Payment <sup>3</sup> (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.666667	1.666667
30.000000	200.0	4/3	22.500000	16.666667	5.000000
90.000000	200.0	4/3	67.500000	23.67492	21.30743
270.000000	200.0	4/3	202.500000	32.46382	87.65231
810.000000	200.0	4/3	607.500000	41.25271	334.14695
10.000000	250.0	5/3	6.000000	16.666667	1.666667
30.000000	250.0	5/3	18.000000	16.666667	5.000000
90.000000	250.0	5/3	54.000000	21.88977	19.70079
270.000000	250.0	5/3	162.000000	30.67867	82.83241
810.000000	250.0	5/3	486.000000	39.46757	319.68732

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

- a. The bidder has complied with all requirements of this notice and applicable regulations;
- b. The bid is the highest valid cash bonus bid; and
- c. The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$62 or more per hectare or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's rental and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR Subpart 3316.5.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following official protraction diagrams which are available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the

first address stated in paragraph 2, at a cost of \$2 each:

a. Outer Continental Shelf Official Protraction Diagram NR 5-1, Dease Inlet (approved June 3, 1976).

b. Outer Continental Shelf Official Protraction Diagram NR 5-2, (approved June 5, 1976).

c. Outer Continental Shelf Official Protraction Diagram NR 5-3, Teshepuk (approved June 3, 1976).

d. Outer Continental Shelf Official Protraction Diagram NR 5-4, Harrison Bay (approved April 29, 1975).

e. Outer Continental Shelf Official Protraction Diagram NR 6-3, Beechey Point (approved April 29, 1975).

f. Outer Continental Shelf Official Protraction Diagram NR 6-4, Flaxman Island (approved April 29, 1975).

12. Tract Descriptions. Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice.

The tracts offered for bid are as follows:

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2  
(Approved 6/5/76)

Tract	Block	Designation	Hectares
71-17	749	All	2304.00
71-18	793	All	2304.00
71-19	837	All	2304.00
71-20	881	All	2304.00
71-21	882	All	2304.00
71-22	883	All	2304.00
71-23	884	All	2304.00
71-24	885	All	2304.00
71-25	886	All	2304.00
71-26	887	All	2304.00
71-27	888	All	2304.00
71-28	889	All	2304.00
71-29	890	All	2304.00
71-30	891	All	2304.00
71-31	892	All	2304.00
71-32	893	All	2304.00
71-33	894	All	2304.00
71-34	895	All	2304.00
71-35	896	All	2304.00
71-36	897	All	2304.00
71-37	925	All	2304.00
71-38	926	All	2304.00
71-39	927	All	2304.00
71-40	928	All	2304.00
71-41	929	All	2304.00
71-42	930	All	2304.00
71-43	931	All	2304.00
71-44	932	All	2304.00
71-45	933	All	2304.00
71-46	934	All	2304.00
71-47	935	All	2304.00
71-48	936	All	2304.00
71-49	937	All	2304.00
71-50	938	All	2304.00
71-51	939	All	2304.00
71-52	940	All	2304.00
71-53	941	All	2304.00
71-54	942	All	2304.00
71-55	943	All	2304.00
71-56	969	All	2304.00
71-57	970	All	2304.00
71-58	971	All	2304.00
71-59	972	All	2304.00

TENTATIVE TRACT LIST  
PROPOSED SALE NO. 71  
OCS OFFICIAL PROTRACTION DIAGRAM, DEASE INLET NR 5-1  
(Approved 6/3/76)

Tract	Block	Designation	Hectares
71-1	877	All	2304.00
71-2	878	All	2304.00
71-3	879	All	2304.00
71-4	880	All	2304.00
71-5	921	All	2304.00
71-6	922	All	2304.00
71-7	923	All	2304.00
71-8	924	All	2304.00
71-9	965	All	2304.00
71-10	966	All	2304.00
71-11	967	All	2304.00
71-12	968	All	2304.00
71-13	1009	All	2304.00
71-14	1010	All	2304.00
71-15	1011	All	2304.00
71-16	1012	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-3  
(Approved 6/3/76)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-75	41	All	2304.00	
71-76	42	1/	1807.33	
71-77	43	1/	1239.55	
71-78	44	Federal Portion	1349.30	
71-79	85	1/	687.95	
	86	1/	13.94	701.89

OCS OFFICIAL PROTRACTION DIAGRAM NR 5-2  
(Approved 6/5/76)

Tract	Block	Designation	Hectares
71-60	973	All	2304.00
71-61	974	All	2304.00
71-62	975	All	2304.00
71-63	976	All	2304.00
71-64	977	All	2304.00
71-65	978	All	2304.00
71-66	979	All	2304.00
71-67	980	All	2304.00
71-68	981	All	2304.00
71-69	982	All	2304.00
71-70	983	All	2304.00
71-71	984	All	2304.00
71-72	985	All	2304.00
71-73	986	All	2304.00
71-74	987	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-114	62	All	2304.00	2304.00
71-115	63	All	2304.00	2304.00
71-116	64	All	2304.00	2304.00
71-117	65	All	2304.00	2304.00
71-118	66	All	2304.00	2304.00
71-119	67	All	1865.49	1865.49
71-120	93	1/	28.58	28.58
	94	1/	784.55	784.55
	95	1/	1897.28	1897.28
71-121	96	All	2304.00	2304.00
71-122	97	All	2304.00	2304.00
71-123	98	All	2304.00	2304.00
71-124	99	All	2304.00	2304.00
71-125	100	All	2304.00	2304.00
71-126	101	All	2304.00	2304.00
71-127	102	All	2304.00	2304.00
71-128	103	All	2304.00	2304.00
71-129	104	All	2304.00	2304.00
71-130	105	All	2304.00	2304.00
71-131	106	All	2304.00	2304.00
71-132	107	All	2304.00	2304.00
71-133	108	All	2304.00	2304.00
71-134	109	All	2304.00	2304.00
71-135	110	All	2304.00	2304.00
71-136	111	All	2304.00	2304.00
71-137	112	All	1979.58	1979.58
71-138	113	1/	124.93	124.93
	140	1/	2132.98	2132.98
71-139	141	All	2304.00	2304.00
71-140	142	All	2304.00	2304.00
71-141	143	All	2304.00	2304.00
71-142	144	All	2304.00	2304.00
71-143	145	All	2304.00	2304.00
71-144	146	All	2304.00	2304.00
71-145	147	All	2304.00	2304.00
71-146	148	All	2304.00	2304.00
71-147	149	All	2304.00	2304.00
71-148	150	All	2304.00	2304.00
71-149	151	All	2304.00	2304.00
71-150	152	All	2304.00	2304.00

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-80	3	All	2304.00	2304.00
71-81	4	All	2304.00	2304.00
71-82	5	All	2304.00	2304.00
71-83	6	All	2304.00	2304.00
71-84	7	All	2304.00	2304.00
71-85	8	All	2304.00	2304.00
71-86	9	All	2304.00	2304.00
71-87	10	All	2304.00	2304.00
71-88	11	All	2304.00	2304.00
71-89	12	All	2304.00	2304.00
71-90	13	All	2304.00	2304.00
71-91	14	All	2304.00	2304.00
71-92	15	All	2304.00	2304.00
71-93	16	All	2304.00	2304.00
71-94	17	All	2304.00	2304.00
71-95	18	All	2304.00	2304.00
71-96	19	All	2304.00	2304.00
71-97	20	All	2304.00	2304.00
71-98	21	All	2304.00	2304.00
71-99	22	All	2304.00	2304.00
71-100	23	All	1751.37	1751.37
71-101	49	1/	2045.73	2045.73
71-102	50	All	2304.00	2304.00
71-103	51	All	2304.00	2304.00
71-104	52	All	2304.00	2304.00
71-105	53	All	2304.00	2304.00
71-106	54	All	2304.00	2304.00
71-107	55	All	2304.00	2304.00
71-108	56	All	2304.00	2304.00
71-109	57	All	2304.00	2304.00
71-110	58	All	2304.00	2304.00
71-111	59	All	2304.00	2304.00
71-112	60	All	2304.00	2304.00
71-113	61	All	2304.00	2304.00

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Total  
Tract  
(Leasing  
Unit)  
Hectares

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-187	276	All	2304.00	966.76
71-188	277	All	2304.00	
71-189	278	All	2304.00	
71-190	279	All	2304.00	
71-191	280	All	2304.00	
71-192	281	All	2304.00	
71-193	282	All	2304.00	
71-194	283	All	2304.00	
71-195	284	All	2304.00	
71-196	285	All	2304.00	
71-197	286	All	2304.00	
71-198	287	All	2304.00	
71-199	318	1/	959.44	
	362	1/	7.32	
71-200	319	All	2304.00	
71-201	320	All	2304.00	
71-202	321	All	2304.00	
71-203	322	All	2304.00	
71-204	323	All	2304.00	
71-205	324	All	2304.00	
71-206	325	All	2304.00	
71-207	326	All	2304.00	
71-208	327	All	2304.00	
71-209	328	All	2304.00	
71-210	329	All	2304.00	
71-211	330	All	2304.00	
71-212	331	All	2304.00	
71-213	363	1/	1644.50	
71-214	364	All	2304.00	
71-215	365	All	2304.00	
71-216	366	All	2304.00	
71-217	367	All	2304.00	
71-218	368	All	2304.00	
71-219	369	All	2304.00	
71-220	370	All	2304.00	
71-221	371	All	2304.00	
71-222	372	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Total  
Tract  
(Leasing  
Unit)  
Hectares

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-151	153	All	2304.00	2235.65
71-152	154	All	2304.00	
71-153	155	All	2093.64	
71-154	184	1/	1171.93	
71-155	185	All	2304.00	
71-156	186	All	2304.00	
71-157	187	All	2304.00	
71-158	188	All	2304.00	
71-159	189	All	2304.00	
71-160	190	All	2304.00	
71-161	191	All	2304.00	
71-162	192	All	2304.00	
71-163	193	All	2304.00	
71-164	194	All	2304.00	
71-165	195	All	2304.00	
71-166	196	All	2304.00	
71-167	197	All	2304.00	
71-168	198	All	2304.00	
71-169	199	All	2207.67	
71-170	228	1/	44.91	
	229	1/	1833.68	
	273	1/	357.06	
71-171	230	All	2304.00	
71-172	231	All	2304.00	
71-173	232	All	2304.00	
71-174	233	All	2304.00	
71-175	234	All	2304.00	
71-176	235	All	2304.00	
71-177	236	All	2304.00	
71-178	237	All	2304.00	
71-179	238	All	2304.00	
71-180	239	All	2304.00	
71-181	240	All	2304.00	
71-182	241	All	2304.00	
71-183	242	All	2304.00	
71-184	243	All	2297.22	
	244	All	24.45	
71-185	274	1/	2213.92	
71-186	275	All	2304.00	

1/That portion seaward of the three geographical mile line.

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-223	409	All	2304.00	
71-224	410	All	2304.00	
71-225	411	All	2304.00	
71-226	412	All	2304.00	
71-227	413	All	2304.00	
71-228	414	1/	2298.51	
71-229	415	1/	2201.55	
	439	1/	3.27	
	455	All	2304.00	2204.82
71-230	456	1/	2300.82	
71-231	457	1/	1170.40	
71-232	458	1/	90.65	1261.05
71-233	1	Federal Portion	1684.78	
71-234	2	Federal Portion	2107.81	
	46	Federal Portion	24.66	2132.47
71-235	47	Federal Portion	519.67	
	48	Federal Portion	1214.38	1734.05
71-236	373	Federal Portion	2235.57	
71-237	374	Federal Portion	1379.59	
71-238	375	Federal Portion	1006.34	
	376	Federal Portion	117.06	1123.40
71-239	407	1/	189.05	
	408	Federal Portion	1640.01	
	452	Federal Portion	6.27	1835.33
71-240	416	Federal Portion	1764.04	
	417	Federal Portion	413.25	2177.29
71-241	453	Federal Portion	882.02	
71-242	454	Federal Portion	2150.28	
71-243	498	Federal Portion	221.94	
	499	Federal Portion	747.65	
	500	1/	303.74	1273.33
71-244 (NR 5-3)	44	Disputed Portion	152.77	
	1	Disputed Portion	271.88	
	2	West Disputed Portion	0.12	424.77
71-245	2	East Disputed Portion	4.32	
	46	Disputed Portion	56.23	
	47	Disputed Portion	426.88	
	48	Disputed Portion	16.09	503.52

1/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, HARRISON BAY NR 5-4  
(Approved 4/29/75)

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-246	373	Disputed Portion	13.11	
	374	West Disputed Portion	0.01	
	416	Disputed Portion	41.47	
	417	Disputed Portion	425.80	480.39
71-247	408	Disputed Portion	112.26	
	452	Disputed Portion	878.64	
	496	Disputed Portion	1165.06	2155.96
71-248	453	Disputed Portion	1421.98	
	454	Disputed Portion	153.72	1575.70
71-249	497	Disputed Portion	2017.01	
71-250	498	Disputed Portion	1486.38	
	499	Disputed Portion	38.39	1524.77

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3  
(Approved 4/29/75)

Total Tract (Leasing Unit) Hectares

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-289	247	All	2304.00	
71-290	248	All	2304.00	
71-291	286	All	2304.00	
71-292	287	All	2304.00	
71-293	288	All	2304.00	
71-294	289	All	2304.00	
71-295	290	All	2304.00	
71-296	291	All	2304.00	
71-297	292	All	2304.00	
71-298	293	All	2304.00	
71-299	294	All	2304.00	
71-300	295	All	2304.00	
71-301	330	All	2304.00	
71-302	331	All	2304.00	
71-303	332	All	2304.00	
71-304	333	All	2304.00	
71-305	334	All	2304.00	
71-306	335	All	2304.00	
71-307	336	All	2304.00	
71-308	337	All	2304.00	
71-309	338	All	2304.00	
71-310	339	All	2304.00	
71-311	380	All	2304.00	
71-312	381	All	2304.00	
71-313	382	All	2304.00	
71-314	383	All	2304.00	
71-315	426	All	2304.00	
71-316	427	All	2304.00	
71-317	285	All	245.58	
(NR 5-4)	329	All	131.64	
(NR 5-4)	288	All	131.64	
71-318	332	All	245.58	754.44
	373	Federal Portion	112.98	
	374	Federal Portion	762.86	
	375	Federal Portion	639.56	1515.40
	376	Federal Portion	682.57	
	377	Federal Portion	1162.52	1845.09
	378	Federal Portion	1850.24	
	379	Federal Portion	2303.91	
	423	Federal Portion	446.45	
	424	Federal Portion	1369.12	1815.57

I/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3  
(Approved 4/29/75)

Total Tract (Leasing Unit) Hectares

Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-251	22	All	1751.37	
71-252	23	All	2304.00	
71-253	24	All	2304.00	
71-254	25	All	2304.00	
71-255	26	All	2304.00	
71-256	27	All	2304.00	
71-257	66	All	1865.49	
71-258	67	All	2304.00	
71-259	68	All	2304.00	
71-260	69	All	2304.00	
71-261	70	All	2304.00	
71-262	71	All	2304.00	
71-263	110	All	1979.58	
71-264	111	All	2304.00	
71-265	112	All	2304.00	
71-266	113	All	2304.00	
71-267	114	All	2304.00	
71-268	115	All	2304.00	
71-269	116	All	2304.00	
71-270	154	All	2093.64	
71-271	155	All	2304.00	
71-272	156	All	2304.00	
71-273	157	All	2304.00	
71-274	158	All	2304.00	
71-275	159	All	2304.00	
71-276	160	All	2304.00	
71-277	198	All	2207.67	
71-278	199	All	2304.00	
71-279	200	All	2304.00	
71-280	201	All	2304.00	
71-281	202	All	2304.00	
71-282	203	All	2304.00	
71-283	204	All	2304.00	
71-284	241	All	24.45	
	242	All	2297.22	
	243	All	2304.00	2321.67
	244	All	2304.00	
	245	All	2304.00	
	246	All	2304.00	

I/That portion seaward of the three geographical mile line

OCS OFFICIAL PROTRACTION DIAGRAM, BEECHEY POINT NR 6-3  
(Approved 4/29/75)

Total Tract (Leasing Unit) Hectares

Total Tract (Leasing Unit) Hectares

Tract	Block	Designation	Hectares	Tract	Block	Designation	Hectares	Total Tract (Leasing Unit) Hectares
71-323	425	Federal Portion	2203.03	71-341	617	Federal Portion	2112.45	
71-324	469	Federal Portion	152.20	71-342	618	All	2304.00	
71-325	470	Federal Portion	1096.95	71-343	661	Federal Portion	127.93	1118.38
71-326	475	Federal Portion	1161.96		662	Federal Portion	990.45	
	476	Federal Portion	1012.52	71-344	663	Federal Portion	1747.74	
	477	Federal Portion	906.43	71-345	664	Federal Portion	2282.30	
71-327	478	Federal Portion	1731.54	71-346	708	Federal Portion	215.48	
71-328	522	Federal Portion	12.25		709	Federal Portion	938.48	1153.96
	523	Federal Portion	952.96	71-347	710	Federal Portion	1657.21	
71-329	524	Federal Portion	2188.12	71-348	711	Federal Portion	2233.32	
71-330	568	Federal Portion	279.82	71-349	755	Federal Portion	98.15	
	569	Federal Portion	1665.97		756	Federal Portion	554.32	652.47
71-331	613	Federal Portion	2.34	71-350	617	Disputed Portion	88.55	
	614	Federal Portion	720.29	(NR 6-3)	659	Disputed Portion	1115.39	
71-332	615	Federal Portion	1957.14	(NR 6-3)	660	Disputed Portion	957.07	2161.01
71-333	659	Federal Portion	44.20	71-351	661	Disputed Portion	21.53	
	660	Federal Portion	972.04		662	Disputed Portion	427.39	
71-334	373	Disputed Portion	61.05		663	Disputed Portion	556.26	
	374	West Disputed Portion	68.61		706	Disputed Portion	78.48	
(NR 5-4)	374	East Disputed Portion	4.51		707	Disputed Portion	1101.76	2185.42
(NR 5-4)	375	Disputed Portion	529.42					
(NR 5-4)	376	Disputed Portion	100.75					
71-335	374	East Disputed Portion	12.23					
	375	Disputed Portion	100.36					
	376	West Disputed Portion	0.01					
71-336	376	East Disputed Portion	1.63					
	377	Disputed Portion	13.10					
71-337	378	Disputed Portion	22.97					
	379	Disputed Portion	0.09					
	422	Disputed Portion	5.50					
	423	Disputed Portion	89.87					
	424	West Disputed Portion	28.68					
71-339	424	East Disputed Portion	16.39					
	425	Disputed Portion	66.69					
	469	Disputed Portion	436.69					
	470	West Disputed Portion	149.44					
71-340	613	Disputed Portion	2.64					
	614	Disputed Portion	557.96					
	615	Disputed Portion	332.89					

OCS OFFICIAL PROTRACTION DIAGRAM, FLAXMAN ISLAND NR 6-4  
(Approved 4/29/75)

Total Tract (Leasing Unit) Hectares

Total Tract (Leasing Unit) Hectares

13. Lease Terms and Stipulations.

a. All leases issued as a result of this sale will be for an initial term of 10 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Minerals Manager, Alaska Outer Continental Shelf Region, at the first address stated in paragraph 2.

b. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term DMMOFO refers to the Regional Deputy Minerals Manager, Offshore Field Operations, Minerals Management Service, formerly Deputy Conservation Manager, Field Operations, U.S. Geological Survey, and the term Manager refers to the Minerals Manager of the Alaska Outer Continental Shelf (OCS) Region, formerly Manager of the Alaska Outer Continental Shelf Office.

c. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4(b), Form 3300-1 will be amended as follows:

Sec. 6. Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to \$28.109193 million, a royalty of 16.66667 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$28.109194 million, but less than or equal to \$11822.537759 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where

$R_j$  = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter  $j$

$$b = 8.0$$

$\ln$  = natural logarithm

$V_j$  = the value of production in quarter  $j$ , adjusted for inflation, in millions of dollars

$$S = 3.50$$

When the adjusted quarterly value of production is equal to or greater than \$11822.537760 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due,  $R_j$ , the calculation will be carried to five decimal places (for example, 18.56224 percent).

This calculation will incorporate the adjusted quarterly value of

production,  $V_j$ , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 35,624831 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Stipulation No 1.

To be included only in the leases resulting from this sale for the fixed sliding scale royalty tracts identified in paragraph 4(b) of this notice.

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21).

The Director, Minerals Management Service may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in sec. 15(d); the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease area.

Stipulation No. 2.

To be included only in leases resulting from this sale for tracts 71-17, 71-18, 71-22 through 71-36, 71-71 through 71-73, 71-93 through 71-95, 71-112 through 71-114, 71-296, 71-305 through 71-307, 71-318, 71-322, 71-324, 71-335, 71-337, and 71-339.

If the DMMOFO has reason to believe that a site, structure or object of historical or archeological significance, hereinafter referred to as "cultural resource" may exist in the lease area, and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DMMOFO for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the DMMOFO, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DMMOFO, either that such operation shall not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DMMOFO for his review. Should the DMMOFO determine that the existence of a cultural

resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DMMOFO has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMMOFO and make every reasonable effort to preserve and protect the cultural resource from damage until the DMMOFO has given directions as to its preservation.

Stipulation No. 3.

The lessee shall include in his exploration and development plans, submitted under 30 CFR 250.34, a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the DMMOFO. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated by qualified instructors experienced in each pertinent field of study, and shall employ effective methods to insure that personnel are informed of archaeological, geological, and biological resources, including bird colonies and sea mammal concentration areas, to insure the importance of avoidance and non-harassment of wildlife resources is understood. The program shall be designed to increase the sensitivity and understanding of personnel to the community values, customs, and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 4.

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of Federal, State, and local governments and the industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice scouring, subfreezing conditions, and other hazards as determined on a case-by-case basis.

operate during those periods of time that do not adversely affect the biological resources as established by the DMWOFO; and/or (4) modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

The lessee agrees that if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DMWOFO, and make every reasonable effort to preserve and protect the biological resource from damage until the DMWOFO has given the lessee directions with respect to its protection.

The lessee will submit all data obtained in the course of such surveys to the DMWOFO, with the locational information for drilling or other activity. The lessee may take no action that might affect the biologic populations or habitats surveyed, until the DMWOFO provides written directions to the lessee, with regard to permissible actions.

Stipulation No. 8.

(To be included in all leases on disputed lands)

This lease is subject to the terms in the "Agreement Between the United States and State of Alaska Pursuant to Section 7 of the Outer Continental Shelf Lands Act, and Alaska Statutes 38.05.137" (signed on October 26, 1979, and commonly referred to as the "Interim Agreement"), and the lessee hereby consents to every term of that agreement.

Any loss incurred or sustained by the lessee as a result of obtaining validation and recognition of this lease pursuant to the "Interim Agreement," and in particular any loss incurred or sustained by the lessee as a result of conforming this lease with any and all provisions of all applicable laws of the party prevailing in United States of America vs. State of Alaska, United States Supreme Court No. 84, Original, shall be borne exclusively by the lessee.

No taxes payable to the State of Alaska will be required to be paid with respect to this lease until such time as ownership of or jurisdiction over the lands subject to this lease is resolved. In the event that the lands subject to this lease or any portion of them, are judicially determined to be State lands, the lessee shall pay to the State a sum equivalent to the State taxes which would have been imposed under Alaska law if the lands, or portion thereof determined to be State lands, had been undisputed State lands from the date the lease was executed, plus interest at the rate of 10 percent per year accruing from the date the taxes would have become due under Alaska law. Such payment shall be in lieu of, and in satisfaction of the actual State taxes.

Stipulation No. 9.

(To be included in all leases on disputed lands)

This lease is subject to the terms of the "Agreement Regarding Unification for the

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DMWOFO.

Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), and the Port and Tanker Safety Act of 1978, as amended (33 U.S.C. 1221).

Stipulation No. 5.

This stipulation applies to the following tracts resulting from this lease sale: 71-1 through 71-119, 71-131 through 71-137, 71-149 through 71-153, 71-167 through 71-169, 71-183, 71-184, 71-233 through 71-235, 71-244, 71-245, 71-251 through 71-290, 71-295 through 71-300, 71-306 through 71-316, 71-321 through 71-333, 71-337 through 71-351.

Exploratory drilling and testing and other downhole exploratory activities will be prohibited during the period September 1 through October 31, unless the DMWOFO determines that continued operations are necessary to prevent a loss of well control or to ensure human safety. This stipulation will remain in effect until termination or modification by the Department of the Interior after consultation with the National Marine Fisheries Service.

Stipulation No. 6.

This stipulation applies to the following tracts: 71-223 through 71-232, 71-239 through 71-243, 71-246, 71-247, 71-249, and 71-250.

Discharge of drilling muds, cuttings, and formation waters under sea ice is prohibited. Discharge of drilling muds and cuttings on top of sea ice is subject to approval by the EPA. Such approval may be granted if discharges are shown to be adequately dispersed and non-toxic to overwintering fishes and benthic infaunal organisms.

Stipulation No. 7.

If biological populations or habitats which may require additional protection are identified by the DMWOFO on any tracts in the leasing area, the DMWOFO may require the lessee to conduct environmental surveys to determine the extent and composition of biological populations or habitats which might require additional protective measures. The DMWOFO will give written notification to the lessee of his decision to require such surveys.

Based on any surveys which the DMWOFO may require of the lessee, or other information available to the DMWOFO on special biological resources, the DMWOFO may require the lessee to: (1) relocate the site; (2) establish to the satisfaction of the DMWOFO, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; (3)

Proposed Joint Federal/State Beaufort Sea Lease Sale" executed by the United States and State of Alaska on October 26, 1979, and the Lessee is bound by terms of that agreement.

#### 14. Information to Lessees.

Bidders are advised that during the conduct of all activities related to leases issued as a result of this lease sale, the lessee and its agents, contractors, and subcontractors will be subject to the provisions of the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and International Treaties.

The lessee or its contractors should be aware that disturbance of wildlife could be determined to constitute harassment, and thereby be in violation of existing laws. Violations under these Acts and Treaties may be reported to the National Marine Fisheries Service or U.S. Fish and Wildlife Service, as appropriate. Behavioral disturbance of most birds and mammals found in or near the proposed Sale 71 area would be unlikely if ocean vessels and aircraft maintained at least a 1-mile distance from observed wildlife or known wildlife concentration areas such as bird colonies or marine mammal concentrations. Therefore, in concurrence with the U.S. Fish and Wildlife Service, it is recommended that aircraft or vessels operated by lessees maintain at least a 1-mile distance from observed wildlife or known wildlife concentrations.

To reduce potential impacts to bowhead whales from effects of noise and disturbance in specific blocks (see map on seasonal drilling restriction, Figure II.B.l.c. - 1, Final Environmental Impact Statement) lessees are encouraged to reduce, minimize, or reroute marine vessel operations to and from the leasehold by tugs, supply ships, hovercraft, or other self-propelled surface vessels during the period September 1 through October 31.

For protection of bowhead whales in specific blocks, operators of fixed-wing aircraft or helicopters should maintain a 1,500-foot altitude (except during take-off and landing) when in transit over the specific blocks during the period September 1 through October 31.

Maps locating major wildlife concentration areas are available for route planning from the DMMOFO and appropriate resource agencies. Human safety will take precedence at all times over these provisions.

Lessees are advised that oil and gas exploration and production operations should be conducted so as to minimize interference with subsistence harvests.

Bidders are advised that the Arctic Peregrine Falcon (Falco peregrinus tundrius) is officially listed as an endangered species by the U.S. Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et. seq.). This law provides, in part, that "it is unlawful for any person subject to the jurisdiction of the United States to . . . take any such [listed] species . . ." The term "take" has been defined in that law to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." It has been determined that there is a potential for conflict in this region between the onshore and aerial support of OCS exploration and development activities, and the Arctic Peregrine Falcon. No such conflict is anticipated if onshore support facilities are located within the corporate limits of Barrow or Kotzebue, the immediate vicinity of Cape Lisburne, or within the existing facility at Prudhoe Bay, and aerial support flight paths are 1,500 feet above ground level except over the aforementioned areas.

The U.S. Fish and Wildlife Service reviews exploration plans submitted by lessees to the Minerals Management Service. Bidders are advised that if, as a result of this review, it is determined that onshore support facilities or aerial support flight paths are planned for areas other than those four listed above, an illegal taking of the Arctic Peregrine Falcon may result. Bidders are further advised that the U.S. Fish and Wildlife Service has determined that the following actions would prevent such illegal taking: Annual surveys of habitat suitable for nesting Peregrine Falcons for all onshore areas (except as exempted above) which will be used in support of offshore exploration, production, or development activities (including gravel mining and aircraft flight corridors). Any documented nesting site not surveyed in any given year shall receive the full protection afforded to sites known or suspected to be occupied. Specific details of each survey should be coordinated through the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage. Within one (1) mile of nest sites: aircraft may be required to maintain minimum altitudes of 1,500 feet above nest level from April 15 through August 31; all ground level activity may be prohibited from April 15 through August 31, except on existing thoroughfares; and habitat alterations or the construction of permanent facilities may be prohibited. Within two (2) miles of nest sites: activities having high noise levels, including but not limited to gravel mining and its associated activities, may be prohibited from April 15 through August 31, and permanent facilities having high noise levels, sustained human activities, or altering limited, high quality habitat (e.g., ponds, lakes, wetlands, and riparian habitats), including but not limited to airfields and supply bases, may be prohibited. Within fifteen (15) miles

of nest sites: alteration of limited, high quality habitat which could detrimentally and significantly reduce prey availability (in particular ponds, lakes, wetlands, and riparian habitats) may be prohibited; and use of pesticides shall be prohibited--the only exception may be the limited, non-aerial application of approved non-persistent insecticides at supply bases.

Human safety would take precedence at all times over distances indicated herein for avoidance or disturbance of wildlife. Further, these restrictions may not be appropriate under all circumstances and in all situations, and exceptions may be granted on a case-by-case basis. It is anticipated that affected operators and lessees will establish regular communication with the U.S. Fish and Wildlife Service Endangered Species staff in Anchorage.

Lessees are advised that, after identifying potential OCS-related facility sites, they may wish to consult with the local planning agencies in the North Slope Borough and state agencies involved in coastal zone area review in order to provide coordination on coastal zone development and the siting of energy facilities. Lessees should realize that the North Slope Borough Coastal Management Program (CMP) is being prepared and should be completed in 1983. Early coordination with the North Slope Borough may assist in the identification of suitable facility siting.

Operations on some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes which might be established, among other reasons, for the purpose of protecting commercial fisheries. Bidders are advised that the United States reserves the right to designate necessary fairways

through lease tracts pursuant to the Port and Tanker Safety Act of 1978 (33 U.S.C. 1221).

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(e) of the Outer Continental Shelf Lands Act of 1953, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 F.R. 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in Section 5 of

this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

Bidders are advised that the State of Alaska will be consulted by the MMS throughout the stages of OCS development. In addition to State involvement in the Intergovernmental Planning Program (IPP), the Scientific Committee of the OCS Advisory Board, and the review of exploration and development plans, the DMMOFO may involve the State in the implementation of Stipulation 7.

As an element of national strategic minerals policy, the Secretary of the Interior announced in January approval of competitive leasing for non-energy minerals on the Outer Continental Shelf on a case-by-case basis. The initial phase will focus on manganese nodules in the South Atlantic and sand and gravel in the Arctic for artificial islands to support oil and gas development in the Beaufort Sea. The initial sale for the latter is proposed for May 1983, covering the Sales BF and 71 areas plus buffer.

Easements for the use of sand and gravel on oil and gas leases, however, may be granted by the Secretary. The appropriate vehicle for this is approval of exploration plans and development and production plans requiring these easements. These easements may extend across tract boundaries to any leasehold covered by a plan. Such plans may apply to

more than one lease held by a lessee or by a group of lessees acting under a unitization, pooling, or drilling agreement.

Where sand and gravel sources exist on tracts not leased for oil and gas or not appropriately included in an exploration plan or development and production plan, the transportation of sand and gravel from these tracts can only be accomplished through competitive leasing under Section 8(k) of the OCS Lands Act, as amended.

On tracts where the oil and gas lessee and the sand and gravel lessee are not the same, the correlative rights of the holder of an easement to use sand and gravel in connection with an oil and gas lease, and a lessee of the sand and gravel itself, have yet to be determined. Either the regulations concerning easements, or the Notice of Sale for a sand and gravel lease sale, or both, could define the rights of those parties.

In addition to the protection offered by the stipulation prohibiting exploratory drilling during certain periods on certain tracts, lessees are advised that the DMMOFO has the authority to suspend operations on any lease in the lease sale area whenever bowhead whales are present in the area or near enough to be subject to disturbance from offshore oil and gas activities. This authority is not limited to the time period of restricted drilling activities, or the leases subject to the restriction. The Department of the Interior will have in place a monitoring program to determine the timing and location of bowhead whales as they migrate through or adjacent to the Diapir Field lease sale area. If it is determined that whales are present, the DMMOFO shall initiate a prescribed course of action for cessation of drilling activities, until such time that it is determined that the whales are no longer subject to potential disturbances, or are outside the zone of influence.

Lessees and/or MMS permittees are advised that permits for seismic exploration will be subject to the authority of the DMMOFO to prohibit seismic operations when bowhead whales are present in the sale area or near enough to be subject to disturbance from seismic exploratory activity. The Department of the Interior will have in place a monitoring program to determine when whales are present in or adjacent to the area, or if they are being disturbed. A determination that whales are present or subject to potential disturbance shall result in the initiation of a prescribed course of action for cessation of seismic/geophysical activities, until such time that it is determined that the whales are no longer being disturbed, or outside the zone of influence.

Lessees are advised that certain geologic conditions and processes exist that are potentially hazardous to offshore oil and gas operations. Ice gouging, wave and current reworking, and over-ice flooding affect the seabed throughout the sale area and could lead to damage to pipelines and other seafloor installations. Ice gouging occurs in the entire sale area. Potential ice hazards with gouge microrelief of at least 2 meters are indicated on the tracts listed below.

In nearshore areas, wave and current reworking processes exist, indicated by rapidly eroded ice gouges and redistributed sediment. In the offshore shoals along the shoreward edges of the grounded ice ridges, there are indications of frequent high current velocities, including strong intermittent bottom currents in addition to active ice gouging. Over-ice flooding and associated circular drainage exist seaward of the Colville River delta, out to approximately the 7-meter isobath.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Arctic OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Portions of the following tracts may contain shallow gas deposits: 71-82, 71-83, 71-90, 71-120 through 71-123, 71-138 through 71-140, 71-154 through 71-156, 71-170 through 71-172, 71-181, 71-183 through 71-186, 71-192, 71-196 through 71-232, 71-236 through 71-243, 71-246 through 71-250, 71-278, 71-279, 71-284 through 71-298, 71-301 through 71-305, 71-317, 71-318, 71-325 through 71-335, and 71-340 through 71-351.

Portions of the following tracts may contain shallow faults: 71-3, 71-17 through 71-19, 71-21 through 71-26, 71-43 through 71-46, 71-63 through 71-66, 71-86, 71-89, 71-105, 71-108 through 71-112, 71-125, 71-127, 71-128, 71-142, 71-145, 71-161, 71-162, 71-176 through 71-179, 71-192, 71-194, 71-195, 71-207, 71-208, 71-222, 71-236, and 71-237.

Portions of the following tracts are subject to potential ice hazards, to both surface and seabed structures, with gouge microrelief of at least 2 meters: 71-1 through 71-12, 71-17 through 71-42, 71-45 through 71-55, 71-69 through 71-74, 71-92 through 71-100, 71-113 through 71-119, 71-131 through 71-137, 71-147 through 71-153, 71-165 through 71-169, 71-251 through 71-285, 71-287, 71-289, 71-290, 71-295 through 71-300, 71-306 through 71-310, 71-325 through 71-333, and 71-340 through 71-351.

Bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to Minerals Management Service either an exploration plan or a general statement of exploration intentions prior to the end of the ninth lease year.

Bidders are advised that certain of the tracts indicated in paragraph 12 as disputed will not be offered for sale unless the Agreement of October 26, 1979, is extended to them or unless an otherwise acceptable agreement can be reached under section 7 of the OCS Lands Act.

[FR Doc. 82-16190 Filed 6-15-82; 8:45 am]

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# **Register Federal Register**

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Wednesday  
June 16, 1982

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**Part III**

**Department of  
Health and Human  
Services**

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**Office of the Secretary**

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**Consolidation of Grants to the Insular  
Areas**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**
**Office of the Secretary**
**45 CFR Part 97**
**Consolidation of Grants to the Insular Areas**
**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Health and Human Services proposes to adopt a rule authorizing the consolidation of certain formula and block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. This rule would also waive all requirements for matching that are imposed upon an insular area under any of those block or formula grant programs that are included in a consolidated grant. Previous regulations allowing for consolidations of grants of the Public Health Service (42 CFR Part 50, Subpart F) and the Office of Human Development Services (45 CFR Part 1300) would be repealed. The proposed rule is based on the premise that it is in the public and insular area interest to provide the insular areas with the maximum flexibility allowed by the statute in order to minimize their administrative burden and ensure that federal funds are available for use in a manner determined most appropriate by the insular area.

**DATE:** Comments on this proposed rule must be received on or before July 16, 1982.

**ADDRESSES:** Comments should be mailed to Matthias Lasker, Director, Procurement and Assistance Policy, Office of the Secretary, Room 517 D, Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, or delivered to the same location between 8:30 a.m. and 5:30 p.m. on weekdays, federal holidays excepted. Comments received may be inspected at Room 517 D between 8:30 a.m. and 5:30 p.m. on weekdays, federal holidays excepted.

**FOR FURTHER INFORMATION CONTACT:** Matthias Lasker; Phone: 202/245-7565.

**SUPPLEMENTARY INFORMATION:** Section 501 of Pub. L. 95-134, the Omnibus Territories Act, as amended, 48 U.S.C. 1468a, authorizes federal agencies to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands ("insular areas"). Specifically, section 501 permits:

(a) A federal agency to consolidate any or all grants to each of these insular

areas except those grants used to make direct payments to individuals;

(b) A federal agency to waive requirements for matching funds, applications, and reports with respect to the consolidated grants;

(c) An insular area to use the consolidated grant funds for any purpose or purposes authorized under any of the grant programs that have been consolidated; and

(d) An insular area to determine the amount of funds to allocate to each program or purpose authorized under the consolidated grant.

The proposed rule is based on the premise that it is in the public and insular area interest to provide the insular areas with the maximum flexibility allowed by the statute in order to minimize their administrative burden and ensure that federal funds are available for use in a manner determined most appropriate by the insular area. The proposed rule has two purposes: (1) To set out rules permitting consolidation of grants; and (2) to waive matching requirements for the programs included in a consolidation.

**Consolidation**

The Department previously issued regulations allowing insular areas to consolidate certain formula grant programs of the Public Health Service (42 CFR Part 50, Subpart F) and certain programs of the Office of Human Development Services (45 CFR Part 1300). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) replaced many of those programs with block grant programs. Therefore, for the insular areas to take advantage of the consolidation authority of the Omnibus Territories Act, the Department is proposing to issue a rule providing for consolidation of these newly authorized programs as well as of other formula grant programs.

The proposed rule would allow consolidation of grants authorized by the following programs: the Preventive Health and Health Services Block Grant, the Alcohol and Drug Abuse and Mental Health Services Block Grant, the Primary Care Block Grant, the Maternal and Child Health Services Block Grant, the Social Services Block Grant, the Community Services Block Grant, the Low-income Home Energy Assistance program, Child Welfare Services, Developmental Disabilities, Aging Supportive Services and Senior Centers, Congregate Meals for the Elderly, Home Delivered Meals for the Elderly, State Agency Administration (Aging) and Child Abuse and Neglect State Grants.

In addition to the grant programs included in this proposal, the

Department is interested in suggestions for additional categorical programs that commenters believe should be included in the list of programs eligible for consolidated funding. The Department intends to consider carefully any suggestions for extending the consolidation provisions of Pub. L. 95-134 to additional grant programs.

An insular area may apply for a consolidated grant that would allow the insular area to use any of the funds to which the insular area is entitled under one or more of the eligible programs for any purpose(s) authorized by any of these programs. The insular area would have to submit an application that indicates the amount of funds that it is requesting to be consolidated, the program authorities that are the sources of those funds, and the program authorities under which it will expend the funds made available under the consolidated grant. The insular must comply with the application, reporting and other administrative requirements applicable to the program(s) under which it will expend the funds.

An insular area may submit one application for each group of eligible programs that it intends to consolidate. An insular area may choose to consolidate the funding of as many of the eligible programs as it wishes and as few as two. For example, an application could provide for spending all funds derived from all eligible programs on a single program. Alternatively, it could provide for expenditure of funds derived from only one of the eligible programs on another program. The consolidation of grants is at the option of the insular area. An insular area need not seek consolidation of grants under any of the eligible programs, but may choose to receive grant funds separately under each of those programs.

Section 501 of Pub. L. 95-134 authorizes Federal agencies to waive reporting requirements for those programs included in a consolidated grant. The regulations as proposed do not provide for the waiver of these requirements. However, we are interested in receiving comments on the advisability and utility of a process by which the Secretary could, upon application by an insular area, waive or simplify any or all reporting requirements. As drafted, the regulations do not impose any reporting requirements for the seven block grant programs eligible for consolidation beyond those in each block grant statute. However, the regulations do impose for other programs eligible for consolidation, those reporting requirements that are already codified

in regulations specifically governing those programs.

The Primary Care Block Grant authority does not become effective until October 1, 1982, and thus it cannot be consolidated with other grants until that date. For all other eligible programs, the regulations permit an insular area to apply for, and receive, a consolidated grant for FY 1982 to the extent that there are funds eligible for consolidation which have not been expended by the insular area. Thus, even though an insular area has received FY 1982 award for an eligible program, all unexpended funds under that award may be included in a consolidated grant.

#### Waiver of Matching Requirements

A second purpose of the proposed rule is to waive all matching requirements imposed upon an insular area government by any of the statutes authorizing the programs eligible for consolidation.

Under Pub. L. 95-134, a federal agency may waive matching requirements with respect to a consolidated grant. The Department has determined that it is in the public interest to waive these requirements. Matching requirements are included in programs to ensure that State governments commit a portion of their own resources to federally supported services. In the case of the insular areas, the local tax bases are extremely limited and therefore matching requirements are not effective ways to increase aggregate spending. Under the proposed rules, the matching requirements for any program included in a consolidated grant would be waived automatically.

#### Further Assistance

An insular area requiring further information or assistance in matters relating to consolidated funding and Pub. L. 95-134 should contact Stephen Page, Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs (202) 245-6156.

#### Repeal of Existing Regulations

The Office of Human Development Services and the Public Health Service previously issued regulations allowing for consolidation of certain grants to the insular areas (45 CFR Part 1300 and 42 CFR Part 50, Subpart F, respectively). The Public Health Service regulations were removed effective October 1, 1982, by a notice in the *Federal Register* of October 1, 1981 (46 FR 48592). We are proposing to remove the HDS regulations, and change the effective date of the removal of the PHS regulations to coincide with the effective date of these regulations.

#### Regulatory Flexibility Act of 1980

We do not believe that the proposed rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354, because the rule applies to a limited number of recipients of federal financial assistance which are not within the statutory definition of "small entities".

#### Executive Order 12291

We do not believe that the proposed rule is a "major rule" under Executive Order 12291 and thus a regulatory impact analysis is not required. This determination is based on our assessment that the rule would not:

- (1) Have an annual effect on the economy of \$100 million or more;
- (2) Impose a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or
- (3) Result in 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.

#### List of Subjects in 45 CFR Part 97

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community action programs, Drug abuse, Energy, Grant programs-energy, Grant programs-health, Grant programs-social programs, Health care, Maternal and child health, Mental health programs, Public health.

For the reasons set forth in the preamble, the Department proposes to amend the Code of Federal Regulations as follows:

#### PART 1300—GENERAL REGULATIONS [REMOVED]

1. 45 CFR Part 1300 would be removed.
2. 45 CFR Part 97 would be added to read as follows:

#### PART 97—CONSOLIDATION OF GRANTS TO THE INSULAR AREAS

Sec.

- 97.10 What is a consolidated grant?
- 97.11 Which jurisdictions may apply for a consolidated grant?
- 97.12 Which grants may be consolidated?
- 97.13 How does an insular area apply for a consolidated grant?
- 97.14 How will grant awards be made?
- 97.15 For what purposes can grant funds be used?
- 97.16 What fiscal, matching and administrative requirements apply to grantees?

Authority: Sec. 501, Pub. L. 95-134, 91 Stat. 1164, amended, Sec. 9, Pub. L. 95-348, 92 Stat. 495, Sec. 601, Pub. L. 96-205, 94 Stat. 90 (48 U.S.C. 1469a)

#### § 97.10 What is a consolidated grant?

As used in this Part, a "consolidated grant" means a grant award to an insular area, the funds of which are derived from the allocations under two or more of the programs specified in section 97.12.

#### § 97.11 Which jurisdictions may apply for a consolidated grant?

The Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands ("insular areas") may apply for a consolidated grant under this Part.

#### § 97.12 Which grants may be consolidated?

These regulations apply to the consolidation of grants under the following programs:

#### Title and Statutory Citation

##### Block Grants

- (a) Preventive Health and Health Services, 42 U.S.C. 300w-300w-8.
- (b) Alcohol and Drug Abuse and Mental Health Services, 42 U.S.C. 300x-300x-9.
- (c) Primary Care, 42 U.S.C. 300y-300y-11.
- (d) Maternal and Child Health Services, 42 U.S.C. 701-709.
- (e) Social Services, 42 U.S.C. 1397-1397f.
- (f) Community Services, 42 U.S.C. 9901-9912.
- (g) Low-Income Home Energy Assistance, 42 U.S.C. 8621-8629.

##### Formula Grants

- (h) Child Welfare Services, 42 U.S.C. 620, et seq.,
- (i) Developmental Disabilities, 42 U.S.C. 6061-6068.
- (j) Aging Supportive Services and Senior Centers, 42 U.S.C. 3030d.
- (k) Congregate Meals for the Elderly, 42 U.S.C. 3030e.
- (l) Home Delivered Meals for the Elderly, 42 U.S.C. 3030f.
- (m) State Agency Administration (Aging), 42 U.S.C. 3028.
- (n) Child Abuse and Neglect State Grants, 42 U.S.C. 5103(b).

#### § 97.13 How does an insular area apply for a consolidated grant?

(a) An insular area may apply for a consolidated grant in lieu of filing an individual application for any of the programs listed in § 97.12.

(b) The chief executive officer or his designee may submit a consolidated grant application at any time prior to expenditure of the funds proposed for consolidation. An application shall be submitted to the Deputy Under Secretary for Intergovernmental Affairs, 200 Independence Avenue, SW., Washington, D.C. 20201. The application must specify the amount of funds proposed for consolidation, the titles of the programs that are the sources of funds that are to be consolidated and the titles of the programs under whose statutory authority the funds are to be expended.

(c) The application must contain the assurances, certifications, and other information required by the statutes and regulations applicable to those programs under which funds will be expended. If any of the requirements for these latter programs are substantially the same, they may be met by a single assurance, certification, or narrative, as appropriate. The application need not meet the application or other requirements for programs which are sources of funds for the consolidated grant but under whose authority no funds will be expended.

(d) If after receiving a consolidated grant, an insular area wishes to use

funds for a purpose authorized by an eligible program that is not included in the consolidated grant, or by an eligible program that was included in the grant but was not intended as a program under which funds would be expended, the insular area must submit an amended application indicating the proposed change and containing the assurances, certifications and other information applicable to that program.

**§ 97.14 How will grant awards be made?**

The Secretary, or his designee, will award a consolidated grant to each insular area that applies for a consolidated grant and meets the requirements of this Part and of the statutes and regulations applicable to the programs under whose authority the consolidated grant funds will be expended. As long as the amount requested does not exceed the amount for which the insular area is eligible under the programs that are being consolidated, the amount of the award will equal the amount requested in the application.

**§ 97.15 For what purposes can funds be used?**

Funds awarded under a consolidated grant must be used for purposes

authorized by the statutes and regulations of the programs included in the consolidated grant. In its application for a consolidated grant the insular area is to indicate the amount of funds that are to be allocated to the eligible programs.

**§ 97.16 What fiscal, matching, and administrative requirements apply to grantees?**

(a) An insular area receiving a consolidated grant must comply with the statutes and regulations applicable to the programs under which the funds are to be used, except as otherwise provided in this Part.

(b) In regard to programs included in a consolidated grant, an insular area need not comply with any of the statutory or regulatory provisions requiring recipients to match federal funds with their own or other funds.

(c) A single report may be submitted in lieu of any individual reports that may be required under the programs included in a consolidated grant.

Dated: May 13, 1982.

Richard S. Schweiker,  
Secretary.

[FR Doc. 82-16174 Filed 6-15-82; 8:45 am]

BILLING CODE 4150-04-M

# Registered Federal Report

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Wednesday  
June 16, 1982

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## Part IV

### Department of Education

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Discretionary Grant Programs; Application  
Notice Establishing Closing Dates for  
Transmittal of Certain Fiscal Year 1983  
Applications

## DEPARTMENT OF EDUCATION

Discretionary Grant Programs;  
Application Notice Establishing  
Closing Dates for Transmittal of  
Certain Fiscal Year 1983 Applications

**AGENCY:** Education Department.

**ACTION:** Application notice establishing closing dates for transmittal of certain Fiscal Year 1983 applications.

**SUMMARY:** The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new grants under certain programs administered by the Department of Education.

**ORGANIZATION OF NOTICE:** This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

The budget estimates in the individual application notices are based on the President's budget request for Fiscal Year 1983 and are subject to enactment by the Congress.

**INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:** Applicants should note specifically the instructions for the transmittal of applications included below:

**Transmittal of Applications:** Applications must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

**Applications Delivered by Mail:** Applications must be addressed to the Department of Education Application Control Center, Attention: (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, The Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

**Applications Delivered by Hand:** Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

PART I.—PROGRAMS LISTED IN  
CHRONOLOGICAL ORDER

CFDA No.	Program	Closing date
84.023C.....	Handicapped Field Initiated Research—New Projects.	Aug. 2, 1982.
84.023A, B, 84.023A.	Handicapped Student Initiated Research—New Projects—First Cycle.	Sept. 1, 1982.
84.023B.....	Handicapped Student Initiated Research—New Projects—Second Cycle.	Mar. 17, 1983.
84.023L.....	Handicapped Technology Projects—New Projects.	Sept. 15, 1982.
84.023P.....	Handicapped Parent Projects—New Projects.	Sept. 15, 1982.
84.023J.....	Handicapped School Based Research Projects—New Projects.	Sept. 5, 1982.

**84.023C—Field Initiated Research**

Closing Date: August 2, 1982—New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442)

The purpose of this program is to provide a source of support for a broad range of research and development projects which fall outside areas of interest identified by the Education Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the Research program—support of applied research relating to education of the handicapped.

**Applications Delivered by Mail:** Applications must be addressed to the Department of Education Application Control Center, Attention: 84.023C, Washington, D.C. 20202.

**Available Funds:** The total amount of funds awarded under this grant program for Fiscal year 1981 was \$900,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant will be \$80,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

**Application Forms:** Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that applicants not submit information that is not requested.

**Applicable Regulations:** Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

**Further Information:** Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1442)

**84.023 A, B—Student Initiated Research Projects**

Closing Date: A—September 1, 1982—First Cycle

Closing Date: B—March 17, 1983—Second Cycle

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Student Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

Awards are made under this program to institutions of higher education on

behalf of postsecondary students who initiate and direct research projects concerned with educational programs for the handicapped.

The purpose of this program is to provide support to students, usually at the doctoral level, for the costs incurred in initiating, directing, and completing research projects concerned with educational programs for the handicapped. Content of the research projects is limited only by the research program mission, which is the support of applied research relating to the education of the handicapped.

*Applications Delivered by Mail:* Applications must be addressed to the Department of Education Application Control Center, Attention: 84.023A, or 84.023B, Washington, D.C. 20202.

*Available Funds:* The total amount of funds awarded under this grant program in Fiscal Year 1981 was \$250,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant will be \$8,333. Typically, student applications are for amounts under \$10,000 and the award period is within an 18 month time period. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

*Application Forms:* Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue SW, (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Applicable Regulations:* Regulations applicable to this program include the following:

- (a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).
- (b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

*Further Information:* Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1441-1442)

#### 84.023L—Technology Projects

Closing Date: September 15, 1982—  
New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Technology Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to provide support for projects on the use of technological devices and systems in schools and by handicapped students.

*Applications Delivered by Mail:* Applications must be addressed to the Department of Education Application Control Center, Attention: 84.023L, Washington, D.C. 20202.

*Available Funds:* The total amount of funds awarded under this grant program in Fiscal Year 1981 was \$200,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant of these one-year projects will be \$50,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

*Application Forms:* Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Applicable Regulations:* Regulations applicable to this program include the following:

- (a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).
- (b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

*Further Information:* Max Mueller, Research Projects Branch, Special Education Programs, Department of

Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1441-1442)

#### 84.023P—Parent Projects

Closing Date: September 15, 1982—  
New Projects.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of Parent Projects as one of the priority areas for funding the Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purposes of this program is to support projects relating to the role of parents and the family in the education of the handicapped.

*Applications Delivered by Mail:* Applications must be addressed to the Department of Education Application Control Center, Attention: 84.023P, Washington, D.C. 20202.

*Available Funds:* At this time the Fiscal Year 1983 appropriation is undetermined. The average grant of these one-year projects will be \$50,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

*Application Forms:* Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Applicable Regulations:* Regulations applicable to this program include the following:

- (a) Regulations governing the Research in the Education of the Handicapped (34 CFR Part 324).
- (b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

*Further Information:* Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1441-1442)

**04.023J—School Based Research Projects**

**Closing Date: September 15, 1982—New Projects.**

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441, 1442). The Secretary announces the selection of School Based Research as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h), 324.10, and 324.11) and the Education Department regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to support research based upon data available from school records focusing

upon issues related to the education of handicapped children.

*Applications Delivered by Mail:* Applications must be addressed to the Department of Education Application Control Center, *Attention:* 84.023J, Washington, D.C. 20202.

*Available Funds:* The total amount of funds awarded under this grant program for Fiscal Year 1981 was \$200,000. At this time the Fiscal Year 1983 appropriation is undetermined. The average grant of these one-year projects will be \$45,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

*Application Forms:* Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch Special Education Programs, Department of Education, 400 Maryland Avenue, SW (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the

regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

*Applicable Regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

*Further Information:* Max Mueller, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 3165 Donohoe Building), Washington, D.C. 20202. Telephone (202) 245-9836. (20 U.S.C. 1441-1444)

Dated: June 10, 1982.

**T. H. Bell,**

*Secretary of Education.*

[FR Doc. 82-16280 Filed 6-15-82; 8:45 am]

**BILLING CODE 4000-01-M**

# Federal Register

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Wednesday  
June 16, 1982

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## Part V

### Department of Transportation

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Federal Aviation Administration

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Special Federal Aviation Regulation No.  
44-3; Air Traffic Control System; Interim  
Operations Plan

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 91

[Docket No. 22050; Notice No. 82-8]

Special Federal Aviation Regulation  
No. 44-3; Air Traffic Control System;  
Interim Operations PlanAGENCY: Federal Aviation  
Administration (FAA), DOT.ACTION: Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** This notice proposes to amend Special Federal Aviation Regulation (SFAR) No. 44-3 to establish certain procedures for the operation of the National Air Traffic Control (ATC) System, including procedures to be used in the allocation of additional system capacity as it becomes available, to provide for the safe and efficient operation of the air traffic control system. The Administrator has determined that a situation still exists which requires reduces ATC capacity and that the continuation of special air traffic provisions is necessary to provide for the efficient and safe movement of air traffic. This notice proposes several alternative allocation procedures to be used by the FAA to distribute slots among the carriers so as to provide for more efficient movement of air carrier traffic. It also requests comments on continuation of the existing SFAR 44-3 slot allocation procedure.

**DATE:** Comments must be received on or before June 29, 1982.

**ADDRESSES:** Mail comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22050, Washington, D.C. 20591.

or deliver them to:

Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Donald R. Segner, Associate Administrator for Policy and International Aviation, 202-426-3030

or

Edward P. Faberman, Deputy Chief Counsel, 202-426-3775; Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C.

**SUPPLEMENTARY INFORMATION:  
Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time stamped, and returned to the commenter.

**Availability of NPRM**

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

**Background and Discussion**

On February 22, 1982, the FAA published Special Federal Aviation Regulation (SFAR) No. 44-3 (47 FR 7816) which modified the previously established special air traffic rules that had been adopted in response to the reduced air traffic control capacity caused by the illegal actions of certain air traffic controllers. Under SFAR 44-3, random drawings have been held to determine the priority order for the allocation of additional arrival capacity

at all airports within the contiguous United States in place of the first come-first served procedures formerly used. SFAR 44-3 also provides "new entrants" priority treatment in the drawings. "New entrants" are defined in the SFAR as carriers that applied for operating authority from the CAB prior to August 3, 1981, but had not initiated operations by February 17, 1982. They are given the first priority in each round of drawings for slots. Drawings have been held under SFAR 44-3 for the additional Air Route Traffic Control Center (ARTCC) and controlled airport capacity which will become available for the scheduling periods through October 1982.

On March 18, 1982, the FAA issued Notice No. 82-5 (47 FR 12320) which requested public comments on a possible change to SFAR 44-3 involving a redefinition of the term "new entrant" as used therein. The notice was issued at the request of the CAB and proposed that "new entrant" be defined as any carrier that has commenced or will commence operations with aircraft having more than 60 seats on or after October 24, 1978. Notice 82-5 would also limit the time period a carrier could be considered a "new entrant" and the number of airports at which new entrants could request slots under the SFAR. Comments on Notice 82-5 will be considered in connection with this rulemaking.

Based on the comments received on SFAR 44-3 and Notice 82-5, the FAA believes that SFAR 44-3 may be improved. (Summaries of the slot allocation procedure suggestions received by the FAA to date and the comments received on Notice 82-5 have been prepared and included in the docket.) One suggestion would be to divide the additional slots at controlled airports in a 70 percent—30 percent proportion. It has been argued that providing 70 percent of the available slots to incumbents is justified in view of the large number of slots taken from them when ATC services had to be reduced. Under the 70 percent—30 percent proposal, the slots would be distributed in three phases, first at a New Entrant Random Lottery, then at an Impacted Incumbent Ranked Drawing and finally at a General Random Lottery.

**1. New Entrant Random Lottery.** Thirty percent of the slots would be distributed by random lottery to new entrants—carriers that did not operate at any controlled airport before January 1, 1981. Any slots not distributed during this New Entrant Random Lottery are added to the total, if any, to be

distributed during the General Random Lottery.

**2. Impacted Incumbent Ranked Drawing.** The remaining 70 percent of the slots are allocated between an Impacted Incumbent Ranked Drawing and a General Random Lottery. Impacted incumbents are defined as those carriers who, on the date the drawing is held, hold fewer slots at that airport than they did on September 1, 1981. The slots are allocated to impacted incumbents in the following manner. First, the percentage of slots that the impacted carriers held on September 1, 1981, is determined. The impacted incumbents then receive that percentage of the slots remaining after the New Entrant Random Lottery. Finally, the impacted incumbents who lost the most slots are given priority in the selection process. Any remaining slots are added to the total, if any, to be distributed during the General Random Lottery. Impacted incumbents can choose slots during this drawing only until their total number of slots (those chosen plus those held before the drawing started) equals the number of slots they held on September 1, 1981. Any slots available to a carrier after it reaches that level are also added to the slots to be distributed during the General Random Lottery.

**3. General Random Lottery.** The remainder of the 70 percent not allocated in the Impacted Incumbent Ranked Drawing plus any slots not distributed during that drawing or the New Entrant Random Lottery are then distributed during a General Random Lottery. This lottery could be restricted to the airport from which the slots were obtained or, in the alternative, could be held on a national basis with the slots from all the airports obtained under the above-described system being distributed in one lottery. We specifically invite comments on these two alternatives. We also are interested in receiving comments on who should be permitted to participate in the General Random Lottery. The three basic alternatives for participants are:

1. Only the non-impacted incumbent carriers. These are the carriers who, on the date the lottery is held, hold the same number—or a greater number—of slots at that airport as they did on September 1, 1981.

2. Only the incumbent carriers. This would include the impacted as well as the non-impacted carriers.

3. All of the carriers. This would include the incumbents as well as the new entrants.

In the drawing and the lotteries, each carrier would select two slots during each turn it received.

The following example is provided to illustrate the above proposal.

#### Assumptions

- Metropolis Airport had 1000 slots on September 1, 1981.
- There are two impacted incumbent carriers at Metropolis Airport; each had 200 slots on September 1, 1981, one is presently allocated 180 slots, the other 190.
- There are two non-impacted incumbent carriers at Metropolis Airport; each had 300 slots on September 1, 1981, and are presently allocated 300 each.
- There are 100 new slots available for allocation.

#### Allocation

- The new entrants would choose up to the first 30 slots.
- The impacted incumbents would then choose from the remaining 70 slots. The one with 180 chooses first. Each would normally choose a maximum of 14 slots

$$\frac{(200 \times 70)}{1,000}$$

however, because the carrier with 190 would reach its "ceiling" with ten picks, its remaining four possible picks would be added to the General Random Lottery.

- The remaining 42 slots, plus any slots not taken by the new entrants or the impacted incumbents (the four described above, plus any not chosen) would be allocated in the General Random Lottery.

We would also like to receive comments on the following alternative. The slots that would be allocated under the General Random Lottery would, instead, be distributed in the following manner: All of the carriers at the airport—including new entrants and incumbents—would receive a percentage of the remaining slots; the percentage would be determined by dividing the total number of slots the carrier currently holds at that airport by the number currently allocated to all carriers at the airport. Amending language for one approach to a 70-30 percent proposal, is set forth below, and provides more detail.

Another suggestion would be to conduct a single lottery to allocate slots at the 22 controlled airports instead of conducting lotteries for each airport. Under this proposal, the additional slots at the 22 controlled airports would be placed in a pool. Each carrier would be ranked for selections from the pool. Ranking could be accomplished using a lottery, SFAR 44-3 procedures, or those

procedures modified as proposed in Notice 82-5. This unified lottery approach could also be used in conjunction with the 70 percent—30 percent mechanism for slot allocation. One lottery would be held for 70 percent of the additional slots at the 22 controlled airports for incumbents and a second lottery would be held for the remaining 30 percent of these slots for all other carriers. Under this proposal, carriers would be permitted, in rank order, to select two arrival slots from the pool at the 22 controlled airports. Selections would continue in rank order until all slots had been selected.

In addition to requesting comments on the proposals discussed above, the FAA is interested in the public's views on the continuation of the current procedures of SFAR 44-3, as well as any other suggested modifications to these procedures that would not compromise the safety of the ATC system. The agency is particularly interested in any allocation proposal generally acceptable to the air carrier industry. To date, the agency has not received such a proposal.

After October 31, 1982, new capacity, including that made available through unforeseen circumstances, would be allocated under procedures developed in this rulemaking. This Notice does not, however, propose adjustments to the existing operating bases of the carriers. Thus, any slots distributed under the new procedures for the October 31 through December 31, 1982, period would be added to the FAA-approved August 1 through October 30 operating bases.

#### List of Subjects in 14 CFR Part 91

Air traffic control.

#### The Proposed Amendment

#### PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the Federal Aviation Administration proposes to amend Appendix A in Part 91 of Special Federal Aviation Regulation No. 44-3, as follows:

#### SFAR 44-3

#### Arrival Approvals for Designated Airports

1. For operations after October 31, 1982—
  - (a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) for the period October 31, 1982 through December 31, 1982, and each subsequent scheduling period to the Official Airline Guide (OAG) by a date to be announced at a later time by APL-1. The number of daily arrival operations an air carrier may submit to the OAG at a controlled airport (as identified in this appendix) shall not exceed its FAA approved

daily and hourly allocation total at that airport for the previous schedule period. The number of daily arrival operations an air carrier may submit to the OAG at all other airports shall not exceed its FAA-approved daily allocation total at those airports for the previous schedule period.

(b) Each air carrier seeking authority for flights in excess of its current approved operational levels at an airport, new entrants, and requests by air carriers to initiate service must be separately identified and submitted in writing to the Associate Administrator for Policy and International Aviation, API-1, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone No.: (202) 426-3030; Telex No.: 892562 FAA WSH (for API-1) and ARINC No.: DCAYAXD (for API-1) in accordance with time schedules established by API-1 for each schedule period. The flight requests should be listed in order of priority so that capacity authorization determined in accordance with paragraph 2 of this appendix will be based upon the individual carrier's needs. If additional capacity is available, authority for these operations will be given. If capacity is not available for all such requests, priority consideration will be given in accordance with paragraph 2 of this Appendix.

#### 2. Additional capacity allocation.

(a) Unless directed by CAB in cases of essential air service or for some other CAB requirement or unless it is determined that the carrier has exceeded the number of operations allowed by this regulation, a carrier will not be required to involuntarily give up slot allocations for another carrier's use. Slot allocations that a carrier does not actually use at least 70 percent of the schedule period will be automatically revoked.

(b) For the purposes of special allocations under this SFAR, (1) an air carrier that was operating at one of the 22 controlled airports on August 3, 1981, is an "incumbent" at that airport; and (2) an air carrier that did not operate at any controlled airport before January 1, 1981, is a new entrant.

(c) A random drawing will be held under paragraph (d) of this appendix for each of the 22 controlled airports (identified in this Appendix) for special allocations to new entrants. A special allocation will be made for certain incumbents at the 22 controlled airports under paragraphs (e) and (f) of this Appendix. Random drawings will be held under paragraph (g) of this Appendix for all carriers, including new entrants and incumbents, for any slots not allocated under paragraphs (d), (e) and (f) of this Appendix at the 22 controlled airports. Finally, one random drawing will be held for all other airports. At each airport, new entrants will be allocated additional capacity first. No carrier will receive more slots than requested.

(d) *New Entrant Special Allocation.* The number of slots specially allocated to all new entrants at any controlled airport will be limited to 30 percent of the total additional air carrier capacity at that airport. Where there is more than one new entrant, the order in which slots will be allocated to each new entrant will be determined by random draw. Each new entrant will receive two slots each time its turn comes up in the drawing. Any

slots not selected by a new entrant will be placed in the pools of slots to be allocated under paragraph (g) of this Appendix.

(e) Following special allocations to new entrants, incumbents will be allowed to select 70 percent of the additional capacity at each of the 22 controlled airports by special allocation pursuant to paragraph (f) of this Appendix.

(f) *Incumbent Carrier Special Allocation.* Each incumbent carrier will receive the total number of slots determined under the following formulas (to the extent that slots are available) rounded to the nearest whole number:

$$\frac{X=B \times T}{Y}$$

Where:

X is the total number of slots to be selected at that airport by the carrier.

B is the number of slots in that carrier's September 1, 1981, OAG base.

Y is the total number of arrival slots at that airport for all current incumbent carriers in the September 1, 1981, OAG.

T is the total number of slots available to incumbent carriers in the instant overall special allocation.

A is the sum of each carrier's slots at that airport in its most recent FAA-approved operating base and its net loss of slots resulting from transfer or relinquishment.

However, whenever  $X+A$  for any incumbent carrier would be equal to or greater than B, the number of slots in excess of B will not be allocated to the carrier but will be placed in the pool for allocation pursuant to paragraph (g) of this Appendix. Those incumbent carriers selecting slots pursuant to this paragraph will select two slots (one, if only one is left) each time its turn to select comes up until it has selected its X slots (or the number of total slots available to it, if  $X+A$  is greater than B or there are insufficient slots for all incumbent carriers). Incumbent carriers at each of the 22 controlled airports will be ranked for slot allocation at each airport based on their number of  $B-A$  slots at that airport. Carriers with higher number of  $B-A$  slots will receive an allocation before one with a lower number.

(g) Each slot not selected by a new entrant pursuant to paragraph (d) of this Appendix and each slot not allocated to an incumbent pursuant to paragraph (f) of this Appendix will be placed in slot pools for each of the 22 controlled airports. An allocation will be held for each pool with all carriers requesting slots at that airport under this paragraph ranked by random draw. Each carrier will select two slots each time its turn comes up in the selection sequence. (Note: Other options to this paragraph are discussed in the preamble.)

(h) After additional capacity has been allocated at each airport, requests for one-time charter operations, hourly slides, origin changes and other changes will be processed as capacity permits.

(i) Air Route Traffic Control Center (ARTCC) capacity allocations will be made first for the 22 controlled airports located within ARTCC areas, without regard to the

above distinctions between classes of carriers. Remaining additional ARTCC capacity will be allocated to carriers who have requested slots at other airports within particular ARTCC areas to the extent that such capacity can be accommodated. If there is more demand for a particular flight segment than can be safely accommodated, the allocation will be made in accordance with priority determined by random draw for all noncontrolled airports. After the additional ARTCC capacity has been allocated, requests for one-time charters within an ARTCC, origin changes, hourly slides, and other changes will be processed as capacity permits.

3. No additional flight requests for changes will be accepted by the FAA between schedule periods. However, the FAA will process changes to flight schedules between schedule periods for—flight number changes, within-hour changes at the same controlled airport (as identified in this Appendix) and hourly changes within the allocated daily total at all other airports.

4. Charter, emergency, ferry pilot training, and mechanical repair checkout flight requests may be made to the FAA Central Flow Control Facility.

5. No person shall operate an air carrier flight unless approval for the operation has been received prior to the flight from API-1 as part of the particular air carrier's approved schedule or under this Appendix.

6. Airports and Air Route Traffic Control Centers (ARTCC) at which some constraints are necessary are listed below. Constraints may also be imposed at airports other than those listed if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. Schedule reductions in effect at an airport may be revised and will be removed to the extent the controller work force at the ATC facilities involved can accommodate those changes.

#### ARTCC's

Albuquerque	Los Angeles
Atlanta	Memphis
Boston	Miami
Chicago	Minneapolis
Cleveland	Jacksonville
Denver	Oakland
Ft. Worth	New York City
Houston	Salt Lake City
Indianapolis	Seattle
Kansas City	Washington

#### Controlled Airports

Atlanta	Kansas City
Boston	Kennedy
Chicago (O'Hare, Midway)	La Guardia
Cleveland	Las Vegas
Dallas/Fort Worth (DFW, Love)	Los Angeles
Denver	Miami
Detroit	Minneapolis
Ft. Lauderdale	Newark
Houston	Philadelphia
(Intercontinental, Hobby)	Pittsburgh
	St. Louis
	San Francisco
	Washington National

(Secs. 307(a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

**Note.**—The FAA has determined that this proposal, if adopted, would expand the number of carriers eligible for a limited number of priority slots at various airports within the contiguous United States without affecting the number of slots currently held by any carrier. There are no apparent direct or indirect (nonindustry) costs associated with the proposal, and the FAA is unaware of any specific data to indicate that these proposals would have more than a minimal

economic impact. Therefore, the preparation of a full regulatory evaluation at this time is unnecessary.

**Note.**—Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has

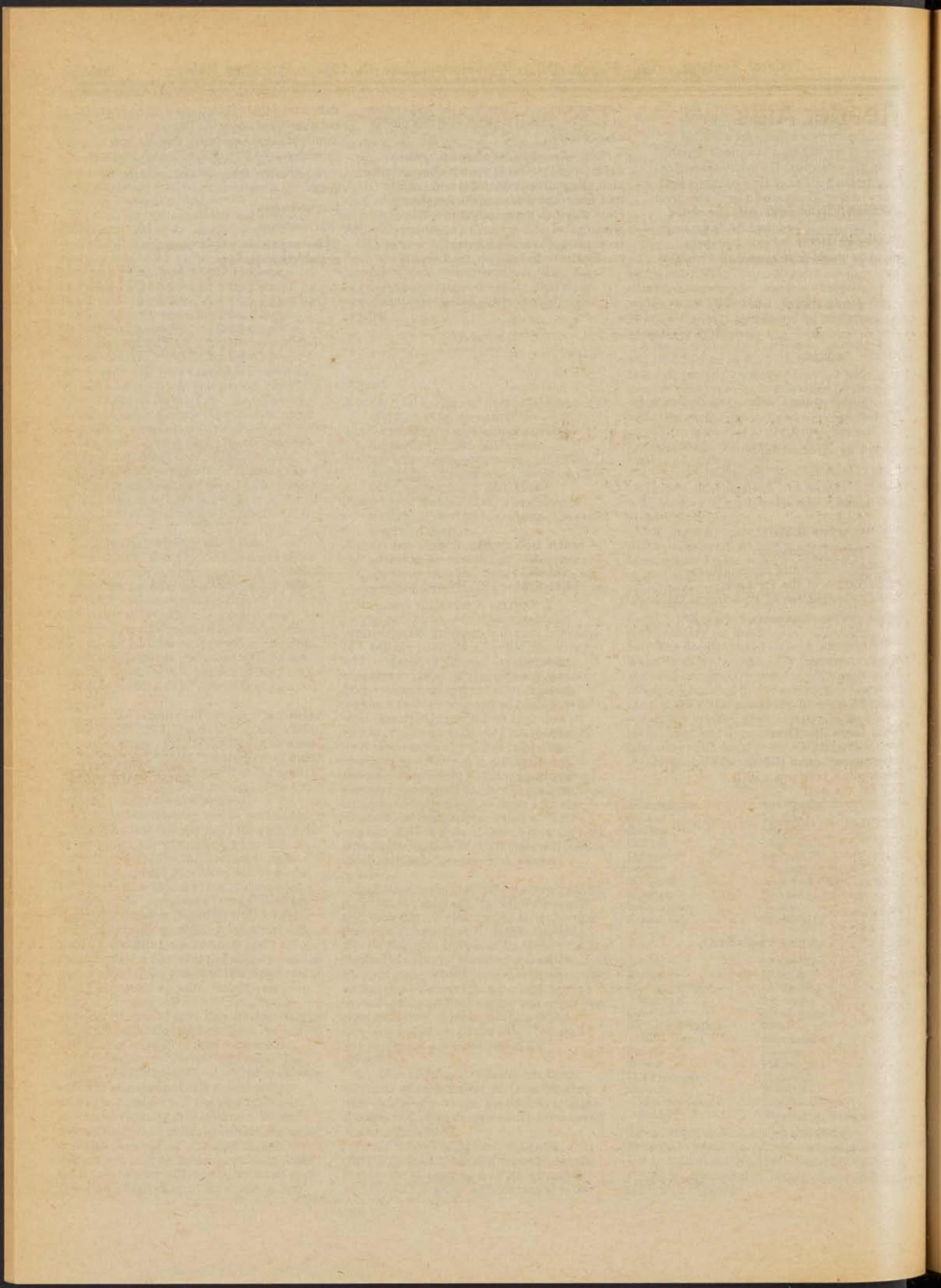
determined that this proposed amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on June 15, 1982.

**J. Lynn Helms,**  
*Administrator.*

[FR Doc. 82-16534 Filed 6-15-82; 12:18 pm]

**BILLING CODE 4910-13-M**



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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.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

## List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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