AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

11-8-82
Vol. 47 No. 216
Pages 50457-50676

federal register

Monday
November 8, 1982

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Internal Revenue Service

Agricultural Research
Agricultural Marketing Service

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Bicycles
Federal Highway Administration

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

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

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Presidential Documents

Title 3—

The President

Executive Order 12391 of November 4, 1982

Partial Suspension of Federal Service Labor-Management Relations

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b)(2) of Title 5 and Section 301 of Title 3 of the United States Code, and having determined that it is necessary in the interest of national security to suspend certain labor-management relations provisions with respect to overseas activities of the Department of Defense, it is hereby ordered as follows:

Section 1. *Suspensions.* With regard to United States citizen employees of the Department of Defense, including the Military Departments, who are employed outside the United States as defined in 5 U.S.C. 7103(a)(18), with the exception of those employed in the Republic of Panama:

(a) The provisions of 5 U.S.C. 7105(a)(2)(D), (E), (G), and (H) and of 5 U.S.C. 7123(b) are suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(b) The provisions of 5 U.S.C. 7102(2), 7114(a)(1), 7114(a)(4), 7116(a)(5), and 7117(c) are suspended with respect to any matter proposed for bargaining which would substantially impair the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation;

(c) The provisions of 5 U.S.C. 7116(a)(7) and 7117(b) are suspended with regard to any regulation governing the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nations; and

(d) The provisions of 5 U.S.C. 7121(b)(3)(C) are suspended with respect to any grievance involving the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation.

Sec. 2. *Disputes.* Disputes between a labor organization and the United States Forces as to whether a particular matter is covered by one or more of the suspensions set forth in this Order shall be referred to the Secretary of Defense. The decision of the Secretary in such disputes shall be made after consultation with the Secretary of State and shall be final. The Secretary of Defense may delegate this authority, but only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. The functions assigned to the Secretary of State may not be delegated or assigned to anyone below the rank of an Assistant Secretary of State.

Ronald Reagan

THE WHITE HOUSE,
November 4, 1982.

[FR Doc. 82-30803
Filed 11-5-82; 10:04 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4991 of October 27, 1982

Suspension of the Application of Column 1 Rates of Duty of the Tariff Schedules of the United States to the Products of Poland

Correction

In the November 2, 1982, issue of the **Federal Register,** there appears on page 49623 an incorrect reference to paragraph (1). In order to clarify the correct text, the seventh through twelfth paragraphs are printed below. They should read as follows:

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States including, but not limited to, the TEA and the Trade Act do proclaim that:

(1) The obligations of the United States pursuant to the General Agreement on Tariffs and Trade to extend the rates of duty provided in column 1 of the Tariff Schedules of the United States (TSUS) to products of Poland, whether imported directly or indirectly, are suspended until this Proclamation has been modified or terminated.

(2) General Headnote 3(f) of the TSUS is modified

(i) by deleting the colon at the end of the first paragraph and inserting "or pursuant to Presidential Proclamation 4991, dated October 27, 1982:" in lieu thereof; and

(ii) by inserting "Polish People's Republic" in alphabetical order in the list of countries therein.

(3) This Proclamation shall take effect with respect to articles exported on and after the third day following the date of publication of this Proclamation in the **Federal Register.**[1]

[FR Doc. 82-30808
Filed 11-5-82; 11:26 am]
Billing code 3195-01-M

Ronald Reagan

[1] **Editorial Note:** Proclamation 4991 originally was published in the **Federal Register** of October 29, 1982 (47 FR 49005, 49006). The proclamation is thus effective with respect to articles exported on and after November 1, 1982.

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 180

Plant Variety Protection Act: Increase of Certification Fee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Plant Variety Protection Act of 1970 authorizes the Secretary of Agriculture to prescribe, charge, and collect reasonable fees incurred in the issuance of plant variety protection certificates. The Secretary is amending the regulations to increase the rates for the certification services to make the administration of the Act substantially self-supporting at the earliest date

DATES: Interim rule effective November 8, 1982; comments must be received on or before, January 7, 1983.

ADDRESS: Written comments may be mailed to Kenneth H. Evans, Acting Commissioner; Plant Variety Protection Office; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture; Room 500, National Agricultural Library Building; Beltsville, Maryland 20705. (Comments will be available for public inspection at this location during regular business hours, Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Kenneth H. Evans (301/344–2518).

SUPPLEMENTARY INFORMATION: The Plant Variety Protection Act of 1970 (7 U.S.C. 2321 *et seq.*, "Act") provides for the assessment and collection of fees for certification services performed by the Department of Agriculture. The legislative history indicates that the Act was intended to be self-supporting, with the fees to substantially cover all costs of administration. Although the cost of administration has increased over the years, there has been no fee increase since 1972 when the fee was originally set. Therefore, the Department promulgates this interim final rule to increase the fee to $1,500 to better reflect the costs incurred by the Department. When the certification fees were initially set in 1972, no operating experience existed upon which to base costs. The Department anticipated that substantial startup costs would be incurred in the development of background information on various varieties of crops and the preparation of information for computer storage. Moreover, since 1972, program costs have continued to rise. There have been significant increases in costs such as rent and other overhead and administrative costs. Federal employees have received pay increases in conformity with the Federal Pay Comparability Act of 1970 and the grade level as well as the pay scale of examiners performing services have shifted to a higher level due to longevity and progressive performance for promotion to the journeyman examiner level.

On September 29 1982, the Plant Variety Protection Board (Board) met and received information that the costs incurred by the Department in processing a single application for a plant variety certificate ranged from $2,000 to $3,500. Based on that information, the Board recommended to the Secretary that the certification fees immediately be increased from the current $750 to $1,500 and that the fee increase be effective upon publication of a notice in the **Federal Register.** The Board also implemented action to study the operation of the Plant Variety Protection Office to more precisely determine current costs of the program and, where appropriate, to recommend to the Department changes which would effectively reduce costs. The Department accepts the Board's recommendation as a temporary measure until the Board's study is completed and the costs of the certification program can be better determined.

The Board's recommendation for the immediate increase in the fee reflects a concern that numerous applications might be submitted immediately to take advantage of present low fees. The Plant Variety Protection Office staff has been reduced by half due to 1983 budget reductions. An increase in the number of applications filed at this time would substantially backlog the processing of applications and delay conversion to a more efficient examining procedure. An alternative to increasing fees would be to delay significantly the processing of applications. This would substantially increase the backlog of applications awaiting processing and could result in protecting ineligible varieties under the protection applied for status. It would also increase the financial liability of the Government by requiring the processing of applications at less than cost which is contrary to the legislative intent of the Act. Other alternatives include reducing the amount of supervision and review of plant examiner's work by the Chief Examiner/Commissioner and eliminating the placing of information on new varieties in the computer file. Either of the latter alternatives would increase the probability of issuing certificates on ineligible applications which would seriously affect the integrity of the program. Moreover, all of the above discussed alternatives would merely delay the expenditure of necessary funds thereby increasing the average costs of processing future applications.

Accordingly, the Administrator has determined 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 coments after publication.

This interim final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in production costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effect on competition, employment, or on the ability of United States-based

enterprises to compete with foreign-based enterprises in domestic or export markets.

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. A number of breeders of novel varieties fall within the confines of "small businesses" as defined in the Regulatory Flexibility Act.

The Department has determined that this action will not have a significant economic impact on these small entities because the increased fee reflects the inflationary costs incurred by the Department and is a relatively small cost in the total cost of the development and release of a new variety. It has been determined that the economic impact upon all entities, small and large, by the increased fee will not be adverse and will not affect normal competition in the marketplace.

Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in duplicate to the Plant Variety Protection Office and should bear a reference to the date and page number of this issue of the **Federal Register.** Comments submitted pursuant to this document will be made available for public inspection in the Plant Variety Protection Office in Beltsville, Maryland, during regular business hours.

List of Subjects in 7 CFR Part 180:

Plant Variety Protection Act, Administrative practices and Procedures, Fees.

PART 180—[AMENDED]

Accordingly, the Department amends Part 180, Code of Federal Regulations as follows:

§ 180.175 [Amended]

Section 180.175 is amended by revising paragraphs (a), (b), and (c) to read as follows:

(a) Filing application, $500
(b) Search or examination, $500
(c) Allowance and issuance of certificate, $500

(7 U.S.C. 2326 and 2371)

Done at Washington, D.C., November 2, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-30629 Filed 11-5-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-41; Amdt. 39-4488]

Garrett Turbine Engine Company Engine Models TFE731-2, -3, -3R, -A, -3AR, -3B, and -3BR Series Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection for fatigue cracking of certain high pressure compressor impellers used in Garrett Model TFE731-2 and -3 series engines. This AD is being issued to reduce the possibility of an uncontained failure of a turbine engine rotating impeller.

DATES: Effective November 15, 1982. Comments must be received on or before January 15, 1983. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010; telephone: (602) 267-3011.

A copy of the service information is contained in the FAA Rules Docket, FAA, New England Region, Office of the Regional Counsel, Attn: Docket No. 82-ANE-41, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Bill Moring, Aerospace Engineer, ANM-174W, Western Aircraft Certification Field Office, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; telephone: (213) 536-6381.

SUPPLEMENTARY INFORMATION: This AD is required due to recent experimental investigations of the high pressure compressor impeller, supported by analyses, which identify the low cycle fatigue life limiting region to be on the seal relief surface of the impellers currently in use on all TFE731-2 and -3 series engines. Previously, the life location was identified to be in the impeller bore. Furthermore, a manufacturing indexing notch also exists in the forward balance ring of a number of impellers now in service. These design deficiencies, if not removed, will develop fatigue cracks and subsequently may result in an uncontained rotor failure.

An inspection for fatigue cracks in the seal relief area of the impeller is required by this AD. Crack indications are cause for rejection of the impeller. If no cracks are present, the manufacturer has provided a method for removing the stress riser in the seal relief area as well as the manufacturing notch in the forward balance ring to make the impeller serviceable again.

The impeller may operate 1,100 cycles more in the TFE731-2 engines than in the TFE731-3 series engines prior to the required inspection due to the increased impeller backside cooling airflow conditions. Operators are hereby advised that early inspection and rework of the subject compressor impellers reduces the probability that a crack indication will be found and, therefore, may result in an increase in the total serviceable life of the impeller. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Garrett Turbine Engine Company. Applies to all Garrett TFE731-2, -3, -3R, -3A, -3AR, -3B, and -3BR turbofan engines incorporating high pressure compressor impeller part number 3070274-1 or 3072639-1.

Compliance required as indicated unless already accomplished.

To prevent failure of high pressure compressor impellers due to cracks originating from a double radius in the seal relief region or a manufacturing notch in the forward balance ring, inspect and rework these impellers in accordance with the procedures contained in the accomplishment instructions section of Garrett Service Bulletin Number TFE731–72–3239RWK, dated September 13, 1982, or later FAA approved revisions, or equivalent means approved by the Manager, Aircraft Certification Division, New England Region.

Inspect in accordance with the following schedule:

(1) Impellers which have been operated in TFE731–3, –3R, –3A, –3AR, –3B, or –3BR engines during any portion of their service lives must be inspected prior to exceeding 5,100 cycles in service.

Note.—The engine life limited parts log card for each impeller is located with the impeller or in the engine log book. This card lists the engine serial number of each engine in which the impeller has operated. The 5 digit serial numbers of the TFE731–3 series engines begin with the 2 digits 75, 76, 77, 78, 80, 82, 83, 84, 85, 87, or 90.

(2) Impellers which have been operated in TFE731–2 engines only must be inspected prior to exceeding 6,200 cycles in service.

Note.—The 5 digit serial numbers of the TFE731–2 series engines begin with the 2 digits 73, 74, 81, 86, or 89.

Impellers found to have crack indications are to be removed from, and not returned to, service. Impellers not found to have crack indications may be returned to service after having the seal relief region and notch in the forward balance ring recontoured in accordance with the procedures contained in the accomplishment instructions section of Garrett Service Bulletin Number TFE731–72–3239RWK, dated September 13, 1982, or later FAA approved revisions, or equivalent means approved by the Manager, Western Aircraft Certification Field Office, ANM–170W, Northwest Mountain Aircraft Certification Division.

Note.—Service lives of impellers which are reworked and reidentified in accordance with Service Bulletin 72–3239RKW may be found in Garrett Service Bulletin Number TFE731–72–3001.

The manufacturer's specifications and procedures identified and described in this directive may be obtained from the manufacturer, Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective November 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

Issued in Burlington, Massachusetts, on October 27, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–30526 Filed 11–5–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–ANE–36; Amdt. 39–4464]

General Electric Company CF6–45 Series and CF6–50 Series Model Turbofan Engines; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In Docket No. 80–ANE–36 Amendment No. 39–4464, appearing on page 41943 Volume 47, No. 185, in the **Federal Register** of September 23, 1982, the effective date of the amendment shown on page 41944 was erroneously stated as October 31, 1981. The correct effective date of the amendment is October 31, 1982. Also on page 41944, subparagraph E, P/N 945M34P09 should read 9045M34P09.

FOR FURTHER INFORMATION CONTACT: George F. Mulcahy, Engine and Propeller Standards Staff, ANE–110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts, 01803; Telephone: (617) 273–7330.

SUPPLEMENTARY INFORMATION: In consideration of the foregoing and pursuant to the authority delegated to me by the administrator, Amendment 39–4464 published in the **Federal Register** on page 41943, volume 47, No. 185, September 23, 1982, is hereby amended by correcting the effective date of the amendment shown on page 41944 from October 31, 1981, to October 31, 1982, and revising the P/N shown in subparagraph E from 945M34P09 to 9045M34P09.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1345(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); (14 CFR 11.89.)

Issued in Burlington, Massachusetts, on October 27, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–30534 Filed 11–5–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–36; Amdt. 39–4490]

Ratier-Figeac Propeller Model FH.146

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to the Ratier-Figeac Model FH.146 propeller, which requires a one time inspection for possible short circuit between the deicing counterweight pins. This AD is the result of the discovery of excessive were on the tailpin of the rear counterweight and the counterweight assembly.

DATES: Effective November 15, 1982. Compliance schedule—as prescribed in text of AD. Comments on the rule must be received on or before January 15, 1983.

ADDRESSES: The applicable Service Bulletin [1] may be obtained from Ratier-Figeac, 46100 Figeac, France.

A copy of the Service Bulletin is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: George F. Mulcahy, Engine and Propeller Standards Staff, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7330.

SUPPLEMENTARY INFORMATION: A Ratier-Figeac Model FH.146 propeller installed on a Nord 262 aircraft suffered an in-

[1] The Service Bulletin is filed as a part of the original document.

flight failure and separation of one of its three blades. Investigation indicates the blade failure resulted from a corrosive pitting in an area covered by the electrical deicing boot causing an extensive fatigue crack. Evidence suggests that an electrical short had occurred in the area of the fatigue origin creating corrosive elements due to local overheating.

Since this condition is likely to exist on other Ratier-Figeac Model FH.146 propellers, an AD is being issued to require an electrical check of the deicer element.

Since a situation exists that may result in the loss of an aircraft, immediate adoption of this regulation is required. It is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Ratier-Figeac FH.146: Applies to Ratier-Figeac propeller Model FH.146.

Compliance required within the next 100 hours of operation after the effective date of this AD unless already accomplished.

To preclude the possibility of propeller blade failure, accomplish the following:

(a) In accordance with Ratier-Figeac Service Bulletin No. 61–142 dated June 1, 1982, or an equivalent method approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, New England Region:

1. Measure electrical resistance at end of disconnected wires of slip ring assembly.

2. Measure electrical resistance of insulation between wires and each propeller blade.

(b) Remove propellers with measurements outside the limits of Bulletin No. 61–142 from service prior to further flight.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.89 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on October 28, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–30642 Filed 11–5–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–43; Amdt. 39–4489]

WSK "PZL-Rzeszow" PZL–3S Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to the WSK "PZL–Rzeszow" PZL–3S engines, which requires inspection for wear on the rear counterweight supporting arm and resistors and the propeller blade body. This AD is the result of an investigation of an in-flight failure of these propellers, installed on a Nord 262 aircraft, which indicated the blade failure resulted from corrosive pitting in an area covered by an electrical deicing boot.

DATES: Effective November 15, 1982. Compliance schedule—as prescribed in text of AD. Comments on the rule must be received on or before January 15, 1983.

ADDRESS: Information supporting this AD is in the Rules Docket, FAA, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: George F. Mulcahy, Engine and Propeller Standards Staff, ANE–110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7330.

SUPPLEMENTARY INFORMATION: As a result of recent propeller blade and propeller bolt failures and subsequent engine teardown and inspection, excess wear was discovered on the trailing pin of the rear counterweight and the counterweight assembly itself. In addition, an inspection not involving teardown, on one engine with abnormal engine/propeller noise indicates potential counterweight pin wear. These incidents occurred between 330 and 1400 hours total time.

In one incident the propeller separated from the engine during an emergency landing. A second incident resulted in an in-flight propeller separation with subsequent destruction of the aircraft.

Since this condition is likely to exist on other engines of the same type design, an AD is being issued to require inspection for wear on engines within the next 25 hours of operation and every 100 hours thereafter.

Since a situation exists that may result in the loss of an aircraft, immediate adoption of this regulation is required. It is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly

helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Send comments to Federal Aviation Administration, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subject in 14 CFR Part 39

Propellers, Engines, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Wytwornia Sprzetu Komunikacyjnego "PZL-Rzeszow": Applies to PZL-3S engine.

Compliance required as indicated, unless already accomplished.

To preclude the possibility of propeller blade failures, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours operation since the last inspection, inspect the rear vibration damper counterweight pins and counterweight assembly for excessive wear as follows:

1. Remove cylinder number four.

2. Rotate the propeller to bring the rear vibration damper assembly near the cylinder #4 position so that the counterweight mass hangs down on the counterweight pins.

Note.—That position is achieved when the #1 piston is at top dead center.

3. By hand, grasp the rear counterweight mass and move it through its complete arc at least two times.

4. Rotate each pin through three complete revolutions with counterweight mass hanging on pins.

5. Repeat Step 4 with counterweight mass held in full left and right deflection positions.

6. Observe the smoothness of operation through the revolutions of the counterweight pins.

(b) If any roughness, binding, catching, or uneven resistance to motion is detected, remove the engine from service, inspect for secondary damage, and repair as necessary prior to return to service.

(c) If there is no indication of counterweight pin damage, replace cylinder #4 and make the appropriate logbook entry.

(d) Upon request of the operator, equivalent means of compliance with the requirements of this AD may be approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, New England Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Section 1189 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on October 28, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-30643 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-9]

Transition Areas; Designation; Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700' transition area to provide controlled airspace for aircraft executing a new VOR/DME instrument approach to Kremmling Airport, Kremmling, Colorado. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: December 23, 1982.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered to 700' above the ground. Development of a new instrument procedure requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The area will be shown on aeronautical charts which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule conditions. For further information contact Ted Melland, Airspace & Procedures Specialist, ANM-533, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 433-1640.

History

On page 35518 of the **Federal Register** dated August 16, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 17) so as to establish a new 700' controlled airspace transition area near Kremmling, Colorado. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., December 23, 1982, as follows:

That airspace extending upward from 700 feet above the surface within an 11.5 mile radius of the Kremmling Airport (latitude 40°03'13" N, longitude 106°22'06" W) and 11.5 miles each side of the Kremmling Airport 215° bearing extending from the 11.5 mile radius to 24 miles southwest of the airport excluding the Eagle, Colorado, transition area.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (Section 11.65 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on October 21, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-30537 Filed 11-05-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-5]

Alteration of Transition Areas, Bozeman and Coppertown, Montana; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The Coppertown, Montana 1200' transition area was erroneously identified as the Butte, Montana 1200' transition area in the **Federal Register** on September 2, 1982 (47 FR 38687—Airspace Docket No. 82-ANM-5). This action corrects that error.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: William H. Dickson, Airspace and Procedures Specialist, ANM-531, Airspace & Procedures Branch, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone number (206) 433-1640.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

History

Federal Register Document 82-23783 (Airspace Docket No. 82-ANM-5) published on September 2, 1982, altered the 1200 foot transition areas of Bozeman and Coppertown, Montana, to allow arriving aircraft at Butte, executing the ILS Runway 15 approach with a Whitehall (HIA) transition, to utilize the minimum transition altitude of 11,000 feet in controlled airspace. The Coppertown, Montana transition area was erroneously identified as the Butte, Montana transition area.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-23783, as published in the **Federal Register** on September 2, 1982, is corrected to read:

§ 71.181 Bozeman, Montana

Is amended as follows:

Delete lines 4, 5, 6, & 7 in their entirety.

§ 71.181 Coppertown, Montana

Is amended as follows:

Delete all words following "* * * 11 miles northwest of the VORTAC," and insert" * * * and that airspace extending upward from 1200 feet above the surface beginning at (latitude 46°33'00" N., longitude 113°05'00" W.) direct to (latitude 46°33'00" N., longitude 112°54'00" W.); then bounded on the north by the Helena, Montana 1200 foot transition area and the south edge of V2N; on the east along longitude 110°42'00" W.; on the south along latitude 45°35'00" N.; on the west along longitude 113°05'00" W. to the point of beginning, excluding that airspace within the Dillon and Livingston, Montana 1200 foot transition areas."

(Sec. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c), and 1501); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule: under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) is certified that it will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on October 22, 1982.

David E. Jones,

Director, Northwest Mountain Region.

[FR Doc. 82-30538 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-12]

Revised Transition Area; Eugene, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An omission in the description of the Revised Transition Area for Eugene, Oregon, was noted after publication in the **Federal Register** on August 9, 1982, (47 FR 34361). This action corrects that omission.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist (ANM-534), Airspace & Procedures Branch, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168; Telephone (206) 433-1640.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Transition areas.

History

Federal Register Document 82-21392 (Airspace Docket No. 82-ANM-12) published on August 9, 1982, revised the Eugene, Oregon Transition Area to reduce the size of controlled airspace designated in the Willamette Valley (West Central Oregon) to ease the burden imposed by controlled airspace to visual flight rules (VFR) operations. The description inadvertently omitted a small area of 1200 foot controlled airspace southwest of Eugene, Oregon, which is completely encompassed by controlled airspace and, therefore, operationally insignificant for use other than instrument flight rules (IFR) operations.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-21392, as published on August 9, 1982, is corrected to read:

Eugene, Oregon (Amended)

"* * * clockwise to (latitude 44°37'00"N., longitude 123°21'00"W.); that airspace within an area bounded by V-452 on the north, V-448 on the east, V-121 on the south, and V-27 on the west."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and (14 CFR 11.69))

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

Issued in Seattle, Washington, on October 27, 1982.

Charles R. Foster,

Director Northwest Mountain Region.

[FR Doc. 82-30533 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1212

Privacy Act of 1974; Protection of Personal Privacy

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is amending its regulations implementing the Privacy Act of 1974, Pub. L. 93-579.

88 Stat. 1896, which currently appear at 14 CFR Part 1212. As a result of recent reorganizations in NASA, this revision changes the internal agency organization for handling Privacy Act matters and also makes some administrative changes. Since this revision involves only agency organization and management procedures, no public comment period is required.

EFFECTIVE DATE: November 8, 1982.

ADDRESS: Office of Management, Code NI, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Vogel, (202) 755-3430.

List of Subjects in 14 CFR Part 1212

Privacy

PART 1212—PROTECTION OF PERSONAL PRIVACY

For reasons set out in the Preamble, 14 CFR Part 1212 is amended by revising the Table of Contents for Subpart 1212.3; § 1212.302 (a) and (b); § 1212.303(b); § 1212.304 (b) and (c); § 1212.305; and § 1212.401 (b) and (c) to read as follows:

1. The Table of Contents for Subpart 1212.3 is revised to read as follows:

Subpart 1212.3—Authority and Responsibilities

Sec.
1212.300 NASA employees.
1212.301 Associate Deputy Administrator.
1212.302 Associate Administrator for Management.
1212.303 Headquarters and field or component installations.
1212.304 System manager.
1212.305 Assistant Administrator for Procurement.
1212.306 Delegation of authority.

Subpart 1212.3—Authority and Responsibilities

2. Section 1212.302 is amended by revising the section heading, the introductory text of paragraph (a), and paragraph (b) to read as follows:

§ 1212.302 Associate Administrator for Management.

(a) The Associate Administrator for Management is responsible for the following:

* * * * *

(b) The Associate Administrator for Management may establish a position of "NASA Privacy Officer" or designate someone to function as such an officer, reporting directly to the Associate Administrator for Management, and delegate to that officer any of the functions described in paragraph (a) of this section.

3. In § 1212.303, paragraph (b) is revised to read as follows:

§ 1212.303 Headquarters and field or component installations.

* * * * *

(b) Directors of NASA Field Installations and Officials-in-Charge of Component Installations may establish the position of Installation Privacy Officer or designate someone to function as such to assist in carrying out the responsibilities listed in paragraph (a) of this section.

4. In § 1212.304, paragraph (b) and (c) are revised to read as follows:

§ 1212.304 System manager.

* * * * *

(b) Where a system of records has subsystems described in the system notice, the subsystem manager will have the responsibilities outlined in paragraph (a) of this section. Although the system manager has no line authority over subsystem managers, the system manager does have overall functional responsibility for the total system, and may issue guidance to subsystem managers on implementation of this part. When furnishing information for required reports, the system manager will be responsible for reporting on the entire system of records, including any subsystems.

(c) Exercise of the responsibilities and authorities in paragraph (a) of this section by any system or subsystem managers at a NASA installation shall be subject to any conditions or limitations imposed in accordance with § 1212.303 (a)(4) and (b).

5. Section 1212.305 is amended by revising the heading and text to read as follows:

§ 1212.305 Assistant Administrator for Procurement.

The Assistant Administrator for Procurement is responsible for developing appropriate procurement regulations and procedures under which NASA contracts requiring the maintenance of a system of records in order to accomplish an agency function are made subject to the requirements of this part.

Subpart 1212.4—Disclosure of Records

6. In § 1212.401, introductory text of paragraph (b) and paragraph (c) are revised to read as follows:

§ 1212.401 Accounting of certain disclosures.

* * * * *

(b) The disclosure accounting required by paragraph (a) of this section include:

* * * * *

(c) The disclosure accounting shall be retained for at least 5 years after the disclosure or for the life of the record, whichever is longer.

* * * * *

(The National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473; The Privacy Act of 1974, 88 Stat. 1896, 5 U.S.C. 552a)

James M. Beggs,

Administrator.

October 28, 1982.

[FR Doc. 82-30539 Filed 11-5-82; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-19190]

Broker-Dealer Recordkeeping and Preservation Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its recordkeeping requirements to clarify the authority of the Commission staff to obtain from broker-dealers, upon request, legible, true and complete copies of documents required to be made and/or preserved by Commission Rules.

EFFECTIVE DATE: December 10, 1982.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (202)272-2372.

SUPPLEMENTARY INFORMATION: Section 17(a)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] provides in pertinent part that all members of a national securities exchange and registered brokers and dealers shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Section 17(b) of the Act provides that all records required to be made and/or preserved are subject at any time to reasonable

[1] 15 U.S.C. 78q, as amended by Pub. L. No. 94-29 (June 4, 1975).

examination by representatives of the Commission.

Rules 17a–3 and 17a–4 (17 CFR 240.17a–3 and 17a–4), adopted pursuant to Section 17, require specified records to be made and/or preserved by exchange members and brokers and dealers. Rule 17a–4 in addition, requires the preservation of records required to be made by other Commission rules and other kinds of records which firms ordinarily make or receive in the course of their businesses. At present, however, these rules do not explicitly require those subject to the rules to furnish copies of the required records to Commission examiners or other representatives of the Commission.

Despite the statutory authority of the Commission,[2] some broker-dealers have resisted requests of the Commission staff to supply copies of their records, which are required to be maintained and preserved, arguing the lack of an explicit rule. The Commission, on March 11, 1980, proposed for public comment an amendment to its recordkeeping requirements under Rule 17a–4,[3] to clarify the authority of Commission examiners or representatives to obtain promptly[4] from broker-dealers, upon request, legible, true and complete copies[5] of documents required to be made and/or preserved by Rules 17a–3 and 17a–4.

In response to the proposed amendment the Commission received a number of thoughtful comments from members of the securities industry.[6] None of the comments, however, described specific abuses in the authority heretofore exercised. On balance, after consideration of all of the comments which are discussed below, the Commission has determined to adopt the amendment, substantially as proposed.

I. Expense

Many commentators complained about the expense of duplication. A few expressed the fear that copies of all their records could be requested under the proposed rule. One firm suggested that the first copy be furnished at the expense of the firm with additional copying costs to be borne by the Commission.

While these comments appear to be sincere, they are unwarranted in light of the purpose of the amendment. The amendment is not intended to expand present Commission practice regarding requests for copies of broker-dealer records in connection with examinations or informal investigations nor is it intended to impose an unreasonable or unwarranted burden or expense on broker-dealers. Its purpose is to clarify the obligation of a broker-dealer to turn over promptly to Commission representatives, upon request, legible, true and complete copies of documents required to be made and/or preserved by Rules 17a–3 and 17a–4.

As in the past, the Commission staff will make reasonable efforts to minimize the need to duplicate records. Normally, copies of records should be requested only where the Commission examiner or representative believes that copies of such records are necessary for analysis or preservation outside the broker-dealer's offices.[7] It would be most unusual for a Commission examiner or representative to request more than one copy of a particular record. Finally, none of the many firms that have provided copies of records to Commission personnel in the past commented on experiencing any unreasonable duplication expenses.[8]

II. Reasonableness

The second major group of comments dealt with the "reasonableness" of Commission requests for copies of records required to be made and/or preserved under Rules 17a–3 and 17a–4. As did those parties who commented upon the expense involved in furnishing copies, broker-dealers and other commentators voiced concern that "unrealistic and unreasonable" requests for copies of records would be made by the Commission staff.

Commission demands for copies of records in the course of an examination should always be reasonable and, as stated previously, the Commission staff will attempt to minimize duplication requests. Where a broker-dealer believes that requests for copies of records are unreasonable, it should discuss the request with the person making it and, if unsuccessful, may always take the matter to an appropriate official in the Commission's regional or headquarters office and ultimately to the Commission.[9]

III. Confidentiality

Several commentators expressed concern about the confidentiality of records where copies of such records are made.[10] Some claimed that they would be exposed to potential liability for invasion of a customer's privacy if copies of customer records were made.

Commentators did not cite any authority for this proposition nor did they cite any specific instances where broker-dealers have been held liable for invasion of customer privacy in similar circumstances. It appears to the Commission that there could be no liability for violation of customer privacy where such records are required to be made and are subject to review to determine compliance with the federal securities law.[11] The furnishing of copies in connection with an examination would be pursuant to a legitimately authorized purpose, examination of a broker-dealer. Providing copies of records which may be examined by the Commission staff would not involve a greater invasion of privacy than the initial examination. In any event, the Commission is sensitive to the privacy of customers of broker-dealers[12] and has made every reasonable effort to shield information about customers from public scrutiny except where necessary for enforcement action or where the consent of the customer has been obtained.

Commentators were also concerned about the effect that the amendment would have on the broker-dealer's attorney-client privilege. Rule 17a–4

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[2] *Cf.* Securities Exchange Act Release No. 16340 (Nov. 14, 1979), 18 SEC Docket 922, 44 FR 66607 (November 20, 1979).

[3] Securities Exchange Act Release No. 16644, (March 11, 1980), 19 SEC Docket 874, 45 FR 17024 (March 17, 1980).

[4] The word "promptly" is not defined in the rule. In many, if not most, instances the rule generally will require the broker-dealer to turn over copies of the required records almost immediately. The time to turn over the records will, however, in all cases, depend on the particular circumstances.

[5] The term "copies" includes printouts of information stored in computers.

[6] The Commission received comments from 22 broker-dealers, as well as from the Securities Industry Association. Copies of all comments are available at the Commission's Public Reference Room in Washington, D.C.

[7] Where a particularly important document is involved, an examiner may ask for a copy to ensure its availability in the event the original cannot later be found.

[8] One commentator voiced concern that the amendment would require additional Commission filings. The amendment does not require a broker-dealer to make a filing with the Commission. The amendment simply clarifies the right of Commission representatives to receive copies of documents already required to be made and/or preserved.

[9] One commentator argued that any representative of the Commission could dispatch a letter to any broker-dealer requesting copies of all of its records and base his request on this new rule. This would seem to be an unreasonable request on its face. The respondent should proceed as suggested in the text of this Release.

[10] In addition, one commentator expressed concern that the Privacy Act, 5 U.S.C. 552a, and the Trade Secrets Act, 18 U.S.C. 1905, might be applicable to copies of customer records obtained by the Commission pursuant to the proposed rule amendment. However, these Acts are designed to protect rather than threaten the confidentiality of information. The Commission will of course comply with applicable provisions of these Acts in connection with copies of documents obtained pursuant to the proposed rule.

[11] *See* Section 17(b) of the Act.

[12] *See* 17 CFR 240.0–4 (nondisclosure of information obtained in examinations and investigations).

requires broker-dealers to retain for a specified period "originals of all communications received and copies of all communications sent * * *." The word communication is defined to include inter-office memoranda and communications.[13] This may include letters or memoranda between a firm's executives and its attorneys. However, the attorney-client privilege is one of non-disclosure, not one of "non-copying." To the extent that a broker-dealer has a privilege which it could assert from disclosing certain documents to Commission examiners, it could assert that privilege against the copying of those same documents.

Also in the area of confidentiality, some commentators expressed concern that requests under the Freedom of Information Act ("FOIA") [14] would result in the public dissemination of copies of records furnished during the course of an examination. Paragraph (a)(3) of the FOIA requires that each agency make certain information available to any person on request. Paragraph (b) provides certain exemptions to this requirement.

The Commission believes that several of these exemptions permit those documents for which broker-dealers have legitimate confidentiality concerns to be withheld from mandatory public disclosure.[15] The Commission also notes that broker-dealers providing copies may request confidential treatment pursuant to the Commission's confidential treatment rule which expressly provides for notice of, and an opportunity to contest, a Commission determination to release documents subject to a FOIA request.[16]

IV. Written Requests

Several commentators suggested that any request for copies of records be in writing. Ordinarily, this would seem unnecessary. However, Commission representatives will be willing to acknowledge receipt of materials on a document prepared by the broker-dealer which lists the materials duplicated for the Commission representative at his request, where this is not simply an attempt to delay or impede an examination or investigation. The paper should not be argumentative or contain stipulations or other statements which could cause the representative to hesitate to acknowledge the document.[17]

V. Subpoena Power

Two broker-dealers raised the possibility that the Commission could utilize the amendment to sidestep the Commission's procedure in issuing subpoenas. However, records subject to Rules 17a–3 and 17a–4 are records required to be made and/or preserved, and are subject "at any time" to reasonable examinations by Commission representatives.[18] This rule simply requires the furnishing of copies of these records to the staff. Thus, the Commission has a pre-existing authorization to examine such records, without the need for a subpoena.

Statutory Basis and Competitive Considerations

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 17 and 23 thereof, (15 U.S.C. 78q and 78w), hereby adds paragraph (j) to Rule 17a–4 (17 CFR 240.17a–4(j)) as set forth below.

It appears to the Commission that no burden will be imposed on competition by adoption of this amendment. If there is any burden on competition, it is necessary and appropriate in furtherance of the purposes of the Act, particularly in furtherance of the Commission's obligation to protect investors.

* * * * *

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

Text of Amendment

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Accordingly, 17 CFR Part 240 is amended by adding paragraph (j) to § 240.17a–4 as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(j) Every member, broker or dealer subject to this Section shall furnish promptly to a representative of the Commission such legible, true and complete copies of those records of the member, broker or dealer, which are required to be preserved under this Section, as are requested by the representative of the Commission.

Dated: October 29, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–30627 Filed 11–5–82; 8:45 am]

BILLING CODE 8010–01–M

[13] *See* Rule 17a–4(b)(4).

[14] 5 U.S.C. 552.

[15] 17 CFR 200.83.

[16] *See, e.g.*, 17 CFR 240.24b–3 and the Trade Secrets Act, 18 U.S.C. 1905.

[17] One commentator stated that such written requests should be signed by higher level Commission staff. Such a requirement, however, would be highly impractical and unnecessary in light of the ability of the broker-dealer to protest to the representative's supervisor and to the Commission. (*see* discussion on p. 6 *supra*).

[18] Section 17(b) of the Act.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 652 and 663

[FHWA Docket No. 79–3, Notice 4]

Adoption of Design and Construction Criteria for Bikeway Construction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration is issuing this final rule to adopt flexible criteria for the design and construction of bikeway projects. The recommended criteria adopted are contained in the "Guide for Development of New Bicycle Facilities, 1981" which was originally developed by FHWA, and subsequently published by the American Association of State Highway and Transportation Officials (AASHTO). The regulation is being revised to reflect the latest state-of-the-art information on the development of bicycle facilities while allowing flexibility to adjust to existing conditions, local needs, or fiscal constraints.

EFFECTIVE DATE: December 8, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Wasley, Highway Design Division, Office of Engineering (202–426–0306); or Reid Alsop, Office of the Chief Counsel (202–426–0800). Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to Section 141(b) of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689), the FHWA is updating its existing criteria for the design and construction of bikeway projects. The FHWA hereby amends the existing regulations concerning bikeway construction, 23 CFR 652, Pedestrian Facilities and Bikeways, and 23 CFR 663, Bicycle Grant Program. References in those regulations to the AASHTO publication entitled "Guide for Bicycle Routes" (1974) are being deleted and reference to the document, "Guide for Development of New Bicycle Facilities, 1981" (hereinafter "Guide") published by

AASHTO, is being added. In addition, the definitions currently contained in Part 652 will be amended to reflect the definitions contained in the Guide. This Guide contains the criteria which are recommended for use in the development of bikeway projects funded under FHWA programs.

An advance notice of proposed rulemaking (ANPRM) for developing design and construction criteria was published on February 8, 1979 (44 FR 7979). Comments were specifically requested regarding the criteria that should be included in bikeway design and construction standards, and the FHWA's existing criteria in the AASHTO "Guide for Bicycle Routes" (1974).

A notice of proposed rulemaking (NPRM) setting forth a draft "Guide for Bicycle Facilities" was published on August 4, 1980 (45 FR 51720). This NPRM discussed the comments received in response to the ANPRM, and identified other material used to develop the draft guide published with the NPRM.

As noted in the NPRM, the FHWA would prefer to see the Guide's criteria apply to all bikeway projects nationwide rather than having separate criteria apply based on the type of funding available. The NPRM anticipated requesting AASHTO to adopt the Guide and to promote the application of its criteria on all bicycle projects including those funded exclusively with State and local funds as well as on those receiving Federal funds.

Comments received in response to the NPRM were analyzed and are discussed below. The Guide was revised by FHWA in response to the comments and was subsequently adopted and published by AASHTO in October 1981.

This amendment revises existing regulations, in 23 CFR 652 and 663, concerning the design and construction of bicycle facilities to include the Guide in sections relating to design and construction criteria for bikeways.

The Guide does not set forth standards, but rather provides recommended criteria that are valuable in attaining good safe design, and that should be met when designing and constructing bicycle facilities. In addition, the Guide includes information on planning, operating, and maintaining bicycle facilities.

One hundred and four comments were received in response to the NPRM. These included 31 from State highway agencies, 23 from city or county governments, 14 from bicycle clubs, and 17 from private citizens. The remaining 19 comments were from metropolitan planning organizations, consultants, industry groups, and other bodies. Commenters overwhelmingly supported the overall value of the draft guide and considered it an improvement over the 1974 AASHTO version. The following are some of the major issues that were raised by the commenters and considered in preparing the final rule.

1. A number of commenters questioned whether the Guide should be issued in the form of mandatory standards rather than as guidelines. It was determined that a guideline format was preferable to prescribing rigid Federal requirements that could only be made mandatory on federally assisted projects. The guideline approach provides state-of-the-art information on the development of bicycle facilities while allowing flexibility to adjust to existing conditions, local needs, or fiscal constraints.

2. A number of the commenters questioned whether bicyclists and pedestrians should share the same facility. The Guide adopted in this final rule remains essentially unchanged from that in the NPRM. It discourages shared facilities for safety reasons but recognizes that occasionally they may be necessary to achieve transportation objectives. While noting that shared bicycle-pedestrian facilities are undesirable and should be discouraged, the Guide also suggests measures that can be taken to insure greater safety if a facility is shared.

3. Many comments were made suggesting various minimum widths for both one way and two way bicycle facilities. The final rule adopts the widths proposed in the NPRM with one exception. The suggested minimum width for bicycle lanes on curbed streets was increased from four feet to five feet. These widths are considered the minimum widths required to provide a safe facility.

4. A number of comments reflected a feeling that since essentially all public roads are open to the use of bicyclists, and since bicyclists are likely to use all such roads to some degree, all public roads and bridges should be designed to safely accommodate bicyclists and certain routes should not be singled out as more accessible for bicyclists, while others are ignored.

The Guide adopted in the final rule, like that in the NPRM, is silent on this issue. This is considered a question of State and local policy that should not be addressed in a document providing technical information on the design and construction of bicycle facilities.

5. Some commenters felt that bicycle lanes on existing highways create a false sense of security and thus aggravate accident problems, or that if sufficient highway width exists for bike lanes they are not necessary. These commenters opposed bicycle lanes in general and would prefer to allow bicycles and automobiles to mix and co-exist in the traffic stream. On the opposite extreme, some commenters believe that cars and bikes do not mix well at all, and, therefore, bicycles should be permitted to operate only in special bicycle facilities (i.e., lanes, paths). The final rule does not adopt either position. FHWA does not believe that available information on bicycle safety would support the adoption of either of these suggestions. The final rule does contain some additional information on problems that bike lanes could create at intersections.

6. Finally, there was considerable opposition to section 11–1205.1 of the Uniform Vehicle Code, which was included in the appendix of the guide published with the NPRM *for information purposes only*. This provision where adopted, requires bicyclists to use a bicycle path in lieu of a parallel roadway whenever a path exists. Commenting bicyclists objected to being required to use bike paths that may in some cases be inadequate or inferior. They argue that if the bicycle path is properly designed and constructed then bicyclists will prefer to use it rather than the parallel road. Since the excerpt from the Uniform Vehicle Code was only included in the NPRM for information purposes, the Guide adopted by the final rule does not discuss the merits of the position taken in the Uniform Vehicle Code. However, FHWA agrees with the commenters that, if a bicycle facility is well constructed and maintained, bicyclists would choose to use it rather than a parallel road. The appendix of the Guide adopted in the final rule now only contains citations to those provisions of the Uniform Vehicle Code that were set forth in the NPRM.

The following are other significant changes to the Guide that were made as a result of the comments received on the NPRM.

The "Definitions" section was reworked. Definitions of several other words and phrases were added to promote greater clarity.

The section on "Pavement Structures" was rewritten to outline the dangers of poor pavements and to describe features that make pavements suitable for bicyclists. The figure illustrating pavement structural sections was considered unnecessary and deleted.

Highway shoulders are described as less desirable than wide curb lanes from a bicyclist's viewpoint.

The recommendation against two-way bicycle lanes on one side of a road was strengthened.

The complications to normal turning movements caused by adding bicycle lanes have been outlined.

Language was added to discourage one-way bicycle paths.

The section on horizontal alignment was rewritten. It now provides much greater design radii.

The minimum vertical clearance was decreased from 8½ feet to 8 feet.

Stopping sight distances have been based on a zero-height object.

A chart has been added to aid in the selection of vertical curve length.

Mixed use of facilities by bicycles and mopeds has been discouraged.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. This change merely provides guidelines that will encourage the development of more effective bicycle facilities. No requirements are imposed. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. The anticipated economic impact of this proposal is so minimal as not to require preparation of a full regulatory evaluation.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

(23 U.S.C. 315; Sec. 141(b) of Pub. L. 95-599, 92 Stat. 2711; 49 CFR 1.48)

Accordingly, 23 CFR Parts 652 and 663 are amended as set forth below.

List of Subjects in 23 CFR Parts 652 and 663:

Bicycles, Grant programs—transportation, Highways and roads.

Issued on: October 18, 1982.

L. P. Lamm,

Deputy Federal Highway Administrator Federal Highway Administration.

PART 652—PEDESTRIAN FACILITIES AND BIKEWAYS [AMENDED]

1. Amend § 652.3 by redesignating paragraphs (f) through (j) to read as (g) through (k) and revise paragraphs (a) through (f) to read as follows:

§ 652.3 Definitions.

(a) *Bicycle.* A vehicle having two tandem wheels, propelled solely by human power, upon which any person or persons may ride.

(b) *Bikeway.* Any road, path, or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

(c) *Bicycle path (bike path).* A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way.

(d) *Bicycle lane (bike lane).* A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

(e) *Bicycle route (bike route).* A segment of a system of bikeways designated by the jurisdiction having authority with appropriate directional and informational markers, with or without a specific bicycle route number.

(f) *Shared roadway.* Any roadway upon which a bicycle lane is not designated and which may be legally used by bicycles regardless of whether such facility is specifically designated as a bikeway.

* * * * *

2. Section 652.11 is added as follows:

§ 652.11 Design and construction criteria.

Current FHWA design and construction criteria for bikeways contained in "Guide for Development of New Bicycle Facilities, 1981" or equivalent criteria approved by the FHWA Division Administrator shall apply. A copy of the guide may be examined during normal business hours at the FHWA division offices and at FHWA Washington Headquarters located at 400 Seventh Street, SW., Washington, D.C. 20590. The addresses of those document inspection facilities are set forth in 49 CFR Part 7, Appendix D. Copies are also available from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001.

PART 663—BICYCLE GRANT PROGRAM

3. Part 663 is amended by revising §663.7 (a) and (b) to read as follows:

§ 663.7 Construction criteria.

Current FHWA design and construction and construction criteria for bikeways contained in "Guide for Development of New Bicycle Facilities, 1981" or equivalent criteria approved by the FHWA Division Administrator shall apply. A copy of the guide may be examined during normal business hours at the FHWA division offices and at FHWA Washington Headquarters located at 400 Seventh Street, SW., Washington, D.C. 20590. The addresses of those document inspection facilities are set forth in 49 CFR Part 7, Appendix D. Copies are also available from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001.

[FR Doc. 82-30424 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7843]

Indirect Foreign Tax Credit for Domestic Corporations Required To Include Amounts in Gross Income With Respect to Certain Third-Tier Corporations Under Section 951

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the indirect foreign tax credit for domestic corporations required to include amounts in gross income with respect to certain controlled foreign corporations. Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations provide the public with guidance needed to comply with the law and will affect all domestic corporations required to include amounts attributable to the earnings and profits of a third-tier corporation in gross income under section 951.

DATE: These regulations are effective generally for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfroe of the Legislation & Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1980, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part I) under section 960 of the Internal Revenue Code of 1954 (45 FR 76450). These amendments were proposed to conform

the regulations to changes made by section 1037 of the Tax Reform Act of 1976 (90 Stat. 1633). One written comment was received, however, a public hearing was not requested. The comment suggested that the regulations address the issue of the discrepancy between the methods of determining earnings and profits under section 960(a)(1) and section 902. This issue was not addressed in the proposed regulations because it was beyond the scope of this regulation project.

The comment also suggested certain technical changes to the notice. These changes have been incorporated in the final regulations. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Section 960 Credit

Section 960 of the Code provides that domestic corporations which are required to include amounts attributable to the earnings and profits of certain controlled foreign corporations in gross income under section 951(a) shall be deemed to have paid a portion of the foreign taxes paid, accrued, or deemed to be paid by such controlled foreign corporations on or with respect to their earnings and profits. Prior to amendment by the Tax Reform Act of 1976, the credit provisions of section 960 were applicable to first- and second-tier corporations only. Section 1037 of the Tax Reform Act of 1976 extended this credit to third-tier corporations. These amendments change the regulations under section 960 accordingly.

Minor Changes to the Notice

These regulations are being published as they appeared in the notice of proposed rulemaking with several minor changes. For the most part, these changes correct technical errors or omissions. Several new parenthetical phrases have been added to proposed § 1.960–1 (c)(1)(i) and (c)(1)(ii) to provide a rule for Example (4) contained in proposed § 1.960–1(c)(4). The notice updated the figures in that example but deleted the explanatory parenthetical phrase contained in § 1.960–1(c)(1)(ii) because it was incorrectly stated. The new parenthetical phrases merely restate the rule embodied in the existing regulations. A new sentence has been added to paragraph (c)(1)(v) of § 1.960–1, to make it clear that the rule contained therein applies in taxable years subsequent to the Tax Reduction Act of 1975 only in those situations where an adjustment is required as a result of a section 963 election made prior to the Act. Calculations in the examples have been clarified by citations to the relevant section of the regulations or to the formulas contained in § 1.960–2(g).

Drafting Information

The principal author of this regulation is Diane L. Renfroe of the Legislation & Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

This regulation is not subject to the Regulatory Flexibility Act because the notice of proposed rulemaking upon which this final regulation is based was published prior to January 1, 1981. The Commissioner has determined that this final regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

List of Subjects in 26 CFR Parts 1.861–1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Sources of income, United States investments abroad.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, the amendments to 26 CFR Part 1 are adopted as follows:

Paragraph 1. Section 1.960–1 is amended by revising paragraphs (a), (b), (c) (1) through (3) and (d) through (h); by redesignating examples (3) and (4) under paragraph (c)(4) as examples (4) and (5), and by revising the new example (4); and by adding a new example (3) under paragraph (c)(4) as follows:

§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-, second-, or third-tier corporation's earnings and profits. Section 1.960–2 prescribes rules for applying section 902 to dividends paid by a third-, second-, or first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960–3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960–4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960–5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960–6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax. Section 1.960–7 prescribes the effective dates for application of these rules.

(b) *Definitions.* For purposes of section 960 and §§ 1.960–1 through 1.960–7—

(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* In the case of amounts included in the gross income of the taxpayer under section 951—

(i) For taxable years beginning before January 1, 1977, the term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(ii) For taxable years beginning after December 31, 1976, the term "second-tier corporation" means a foreign corporation as least 10 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Third-tier corporation.* In the case of amounts included in the gross income of a domestic shareholder under section 951 for taxable years beginning after December 31, 1976, the term "third-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such second-tier corporation.

(4) *Immediately lower-tier corporation.* In the case of a first-tier corporation the term "immediately lower-tier corporation" means a second-tier corporation. In the case of a second-tier corporation, the term "immediately lower-tier corporation" means a third-

tier corporation. In the case of a third-tier corporation, the term "immediately lower-tier corporation" means a fourth-tier corporation.

(5) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a foreign country or a possession of the United States.

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951*—(1) *In general.* For purposes of section 901—

(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first- or second-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960–2) to be paid by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount (in the case of a first-tier corporation, determined without regard to section 958(a)(2); in the case of a second-tier corporation, determined without regard to section 958(a)(1)(A) and, to the extent that stock of such second-tier corporation is owned by the domestic corporation through a foreign corporation other than the first-tier corporation, determined without regard to section 958(a)(2)) so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation for its taxable year. This paragraph (c)(1)(i) shall not apply to amounts included in the gross income of the domestic corporation under section 951 with respect to the second-tier corporation unless the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a third-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount (determined without regard to section 958(a)(1)(A) and, to the extent that stock of such third-tier corporation is owned by the domestic corporation through a foreign corporation other than the second-tier corporation, determined without regard to section 958(a)(2)) so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation. This paragraph (c)(1)(ii) shall not apply unless the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.

(iii) In applying paragraph (c)(1)(i) or (c)(1)(ii) of this section to a first-, second-, or third-tier corporation which for the taxable year has income excluded under section 959(b), paragraph (c)(3) of this section shall apply for purposes of excluding certain earnings and profits of such foreign corporation and foreign income taxes, if any, attributable to such excluded income.

(iv) This paragraph (c)(1) applies whether or not the first-, second-, or third-tier corporation makes a distribution for the taxable year of its earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This paragraph (c)(1) does not apply to an increase in current earnings invested in United States property which, but for paragraph (e) of § 1.963–3 (applied as if section 963 had not been repealed by the Tax Reduction Act of 1975), would be included in the gross income of the domestic corporation under section 951(a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year. This subdivision shall apply in taxable years subsequent to the Tax Reduction Act of 1975 only in those cases where an adjustment is required as a result of an election made under section 963 prior to the Act.

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation.* For purposes of paragraph (c)(1) of this section, the foreign income taxes paid or accrued by a first-, second- or third-tier corporation on or with respect to its earnings and profits for its taxable years shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(3) *Exclusion of earnings and profits and taxes of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (c)(1)(i) or (c)(1)(ii) of this section is applied—

(i) The earnings and profits of such foreign corporation for its taxable year consist of (A) earnings and profits attributable to dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and (B) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the dividends to which its earnings and profits described in paragraph (c)(3)(i)(A) of this section are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(i)(B) of this section are attributable, then, for the purposes of applying paragraph (c)(1)(i) or (c)(1)(ii) of this section to the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such foreign corporation for such taxable year shall be considered not to include the earnings and profits described in paragraph (c)(3)(i)(A) of this section and only the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(i)(B) of this section are attributable shall be taken into account. For purposes of applying this paragraph (c)(3), the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3) (iv) and (viii) and (c) of § 1.954–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) *Illustrations.* * * *

* * * * *

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $80 attributable to the earnings and profits of C Corporation for such year, $45 attributable to the earnings and profits of B Corporation for such year and $50 attributable to the earnings and profits of A Corporation for such year.

Neither C Corporation nor B corporation distributes any earnings and profits for 1978. The foreign income taxes which are deemed paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings of C Corporation	$150.00
Foreign income taxes (40%)	60.00
Earnings and profits	90.00
Amounts required to be included in N Corporation's gross income under section 951	80.00
Dividends paid to B Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of C Corporation	60.00

B Corporation (second-tier corporation):

Pretax earnings of B Corporation	$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951	45.00
Dividends paid to A Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of B Corporation	40.00

A Corporation (first-tier corporation):

Pretax earnings and profits of A Corporation	$100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income under section 951	50.00
Dividends paid to N Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of A Corporation	20.00

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960(a)(1):	
Taxes of C Corporation $80/$90×$60	$53.33
Taxes of B Corporation $45/$60×$40	30.00
Taxes of A Corporation $50/$80×$20	12.50
Total taxes deemed paid under section 960(a)(1)	$95.83

Example (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns 5 percent of the one class of stock of controlled foreign corporation B. N Corporation also directly owns 95 percent of the one class of stock of B Corporation. (Under these facts, B Corporation is only a first-tier corporation with respect to N Corporation) all such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $60 attributable to the earnings and profits of B Corporation and $79.20 attributable to the earnings and profits of A Corporation. For 1978, B Corporation distributes $19 to N Corporation and $1 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed in accordance with § 1.960–1(c)(1)(i):

B Corporation (first-tier corporation):

Pretax earnings and profits	$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation	60.00

A Corporation (first-tier corporation):

Pretax earnings and profits (including $1 dividend from B Corporataion)	$100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income with respect to A Corporation ($99 – [$99×0.20]	79.20

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to—	
B Corporation ([$60×0.95/$60]×$40)	$38.00
A Corporation ($79.20/$80×$20)	19.80
Total taxes deemed paid under section 960(a)(1)	$57.80

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $175 attrubutable to the earnings and profits of A Corporation for such year. For 1978, B Corporation has earnings and profits of $225, on which it pays foreign income taxes of $75. In 1978, B Corporation distributes $150, which, under paragraph (b) of § 1.960–2, consists of $100 to which section 902(b)(1) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and $50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1978. Under paragraph (b) of § 1.960–2, A Corporation is deemed to have paid $25 ($50/$150×$75) of the $75 foreign income taxes paid by B Corporation on its pretax earnings and profits of $225. The foreign income taxes deemed paid by N Corporation for 1978 under section 960(a)(1) with respect to A Corporation are determined as follows upon the basis of the following assumed facts:

Pretax earnings and profits of A Corporation:			
Dividends received from B Corporation	$150.00		
Other income		250.00	
Total pretax earnings and profits			$400.00
Foreign income taxes:			
On dividends received from B Corporation		0	
On other income ($250×0.40)		100.00	
Total foreign income taxes			100.00
Earnings and profits:			
Attributable to dividends received from B Corporation which are attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation		100.00	
Attributable to other income:			
Attributable to dividends received from B Corporation which are attributable to amounts not included in N Corporation's gross income under 951 with respect to B Corporation	$50.00		
Attributable to other income ($250–$100 [$250×0.40]	150.00	$200.00	
Total earnings and profits			$300.00
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation:			
Tax paid by A Corporation in respect to its income other than dividends received from B Corporation attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation ($175/$200×$100)			87.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) in respect to such income ($175/$200×$25)			21.88
Total foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation			$109.38

(d) *Time for meeting stock ownership requirements*—(1) *In general.* For the purposes of applying paragraph (c) of this section to amounts included in the gross income of a domestic corporation attributable to the earnings and profits of a first-, second-, or third-tier corporation, the stock ownership requirements of paragraph (b) (1), (2), and (3) of this section and the percentage of voting stock requirements of paragraph (c)(1) (i) and (ii) of this section, if applicable, must be satisfied on the last day in the taxable year of such first-, second-, or third-tier corporation, as the case may be, on which such foreign corporation is a controlled foreign corporation. For paragraph (c) to apply to amounts included in a domestic corporation's gross income attributable to the earnings and profits of a second-tier corporation, the requirements of paragraph (b) (1) and (2) of this section and the percentage of voting stock requirement of paragraph (c)(1)(i) of this section must be met on such date. For paragraph (c) to apply to amounts included in a domestic corporation's gross income attributable to the earnings and profits of a third-tier corporation, the requirements of paragraph (b) (1), (2), and (3) of this section and the percentage of voting

stock requirement of paragraph (c)(1)(ii) of this section must be met on such date.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N is required for its taxable year ending June 30, 1978, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1977 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1977, but B Corporation is a controlled foreign corporation only from January 1, 1977, through September 30, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation, A Corporation owns at least 10 percent of the voting stock of B Corporation, and the percentage of voting stock requirement of paragraph (c)(1)(i) of this section is met.

Example (2). The facts are the same as in example (1), except that A Corporation is a controlled foreign corporation only from January 1, 1977, through March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation, A Corporation owns at least 10 percent of the voting stock of B Corporation, and the percentage of voting stock requirement of paragraph (c)(1)(i) of this section is met.

Example (3). Domestic Corporation N owns 100 percent of the stock of controlled foreign corporation A. A Corporation owns 20 percent of the stock of controlled foreign corporation B. B Corporation owns 10 percent of the voting stock of controlled foreign corporation C. For calendar year 1983, N Corporation is required to include amounts in its gross income attributable to the earnings and profits of A, B, and C Corporations. A, B, and C Corporations were all controlled foreign corporations throughout their respective taxable years ending as follows: A Corporation, December 31, 1983; B Corporation, November 30, 1983; and C Corporation, August 31, 1983. Paragraph (c) of this section applies to amounts included in gross income of N Corporation with respect to the earnings and profits of A Corporation because the 10 percent ownership requirement of paragraph (b)(1) of this section is met on December 31, 1983. Paragraph (c) of this section applies to amounts included in the gross income of N Corporation with respect to the earnings and profits of B Corporation because the 10 percent stock ownership requirements of paragraph (b) (1) and (2) of this section are met on November 30, 1983, and the percentage of voting stock requirement of paragraph (c)(1)(i) of this section (5 percent) is also met on such date. The percentage of voting stock in A Corporation owned by N Corporation (100 percent) multiplied by the percentage of voting stock in B Corporation owned by A Corporation (20 percent) is 20 percent. Paragraph (c) of this section will not apply to amounts included in N Corporation's gross income attributable to the earnings and profits of C Corporation even though on August 31, 1983, the 10 percent stock ownership requirements of paragraph (b) (1), (2), and (3) of this section are met, because the percentage of voting stock requirement of paragraph (c)(1)(ii) of this section (5 percent) is not met on such date. The percentage of voting stock of C Corporation owned by B Corporation (10 percent) multiplied by 20 percent (the percentage of voting stock of A Corporation owned by N Corporation multiplied by the percentage of voting stock of B Corporation owned by A Corporation) is 2 percent.

(e) *Information to be furnished.* If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a)(1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid as it is required to furnish with respect to the taxes actually paid or accrued by it and for which credit is claimed. See § 1.905–2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038(a) and the regulations thereunder.

(f) *Reduction of foreign income taxes paid or deemed paid.* For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(c) (as amended by section 338 of the Tax Equity and Fiscal Responsibility Act of 1982) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(g) *Amounts under section 951 treated as distributions for purposes of applying effective dates.* For purposes of applying section 902 in determining the amount of credit allowed under section 960(a)(1) and paragraph (c) of this section, the effective date provisions of the regulations under section 902 shall apply, and for purposes of so applying the regulations under section 902, any amount attributable to the earnings and profits for the taxable year of a first-, second-, or third-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such foreign corporation is a controlled foreign corporation.

(h) *Source of income and country to which tax is deemed paid.*—(1) *Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-, second-, or third-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960(a)(1), shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-, second-, or third-tier corporation and deemed to be paid by the domestic corporation under section 960(a)(1) by reason of the inclusion of the amount described in paragraph (h)(1)(i) of this section in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corporation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income $45 attributable to the earnings and profits of B Corporation for such year and $50 attributable to the earnings and profits of A Corporation for such year. For 1978, because of the inclusion of such amounts in gross

income, N Corporation is deemed under section 960(a)(1) and paragraph (c) of this section to have paid $15 of foreign income taxes paid by B Corporation for such year and $10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount ($95) included in N Corporation's gross income under section 951 attributable to the earnings and profits of corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes ($25) deemed paid by N Corporation under section 960(a)(1) with respect to such $95 is deemed to be derived from sources within country X. The $25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

Par. 2. Section 1.960–2 is amended as follows:

Paragraphs (a) through (d) are revised;

Paragraph (e) is redesignated as (f), the introductory text of paragraph (f) and the introductory text of example (6) under paragraph (f) are revised, and examples (8) through (10) under paragraph (f) are added; and

New paragraphs (e) and (g) are added as follows:

§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by third-, second-, or first-tier corporation.

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a third-, second-, or first-tier corporation, as the case may be, from its earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951, or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2, with respect to the domestic corporation. In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959–1, or any portion of a distribution received from an immediately lower-tier corporation by the third-, second-, or first-tier corporation which is excluded from such foreign corporation's gross income under section 959(b) and § 1.959–2, shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes paid by such third-, second-, or first-tier corporation which are not deemed paid by the domestic corporation under section 960(a)(1) and § 1.960–1.

(b) *Application of section 902(b) to dividends received from an immediately lower-tier corporation.* For purposes of paragraph (a) of this section and paragraph (c)(1)(i) of § 1.960–1, section 902(b) shall apply to all dividends received by the first- or second-tier corporation from the immediately lower-tier corporation other than dividends attributable to earnings and profits of such immediately lower-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such immediately lower-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* For purposes of paragraph (a) of this section, section 902 (a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(d) *Allocation of earnings and profits of a first- or second-tier corporation having income excluded under section 959(b)*—(1) *First- tier corporations.* If the first-tier corporation for its taxable year receives dividends from the second-tier corporation to which in accordance with paragraph (b) of this section 902(b)(1) or section 902(b)(2) applies and other dividends from the second-tier corporation to which such sections do not apply, then in applying section 902(a) pursuant to this section and in applying section 960(a)(1) pursuant to § 1.960–1(c)(1)(i), with respect to the foreign income taxes paid and deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation for such taxable year under section 902(b)(1)—

(i) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for the taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) and

(ii) For the purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) shall not be treated as a dividend.

(2) *Second-tier corporations.* If the second-tier corporation for its taxable year receives dividends from the third-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b)(2) applies and other dividends from the third-tier corporation to which such section does not apply, then in applying section 902(b)(1) pursuant to this section, and in applying section 960(a)(1) pursuant to paragraph (c)(1)(i) of § 1.960–1, with respect to the foreign taxes deemed paid by the second-tier corporation for such taxable year under section 902(b)(2)—

(i) The earnings and profits of the second-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the third-tier corporation, and

(ii) For the purposes of so applying section 902(b)(1), distributions to the first-tier corporation from such earnings and profits which are attributable to such other dividends from the third-tier corporation shall not be treated as a dividend.

(e) *Separate determinations under sections 902(a), 902(b)(1), and 902(b)(2) in the case of a first-, second-, or third-tier corporation having income excluded under section 956(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (b) or (c) of this section is applied—

(1) The earnings and profits of such foreign corporation for its taxable year consist of—

(i) Dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and

(ii) Other earnings and profits, and

(2) The effective rate of foreign income taxes paid or accrued by such foreign corporation on the dividends described in paragraph (e)(1)(i) of this section is higher or lower than the effective rate of foreign income taxes attributable to its earnings and profits described in paragraph (e)(1)(ii) of this section, then, for purposes of applying paragraph (b) or (c) of this section to dividends paid by such foreign corporation to the domestic corporation

or the first- or second-tier corporation, sections 902(a), 902(b)(1), and 902(b)(2) shall be applied separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(i) of this section and separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section. In making a separate determination with respect to the earnings and profits described in paragraph (e)(1)(i) or (e)(1)(ii) of this section, only the foreign income taxes paid or accrued (or, in the case of earnings and profits of a first- or second-tier corporation described in paragraph (e)(1)(ii) of this section, deemed to be paid) by such foreign corporation on the income attributable to such earnings and profits shall be taken into account. For purposes of applying this paragraph (e), no part of the foreign income taxes paid, accrued, or deemed to be paid which are attributable to the earnings and profits described in paragraph(e)(1)(ii) of this section shall be attributed to the dividend described in paragraph (e)(1)(i) of this section; and no part of the foreign income taxes paid or accrued on the dividend described in paragraph (e)(1)(i) of this section shall be attributed to the earnings and profits described in paragraph (e)(1)(ii) of this section. Furthermore, the effective rate of foreign income taxes paid or accrued shall be determined consistently with the principles of paragraph (b)(3) (iv) and (viii) and (c) of § 1.954–1. Thus, for example, the effective rate of foreign income taxes on dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(f) *Illustrations.* The application of this section may be illustrated by the following examples. In all of the examples other than examples (6), (7), (9) and (10), it is assumed that the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation, as the case may be, in respect to dividends received from the immediately lower-tier corporation, is the same as the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation with respect to its other income: * * *

Example (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. A and B corporations are organized under the laws of foreign country X. All of B corporation's assets used in a trade or business are located in country X. Country X imposes an income tax of 20 percent on B corporation's income. For 1978, N Corporation is required under section 951 to include in gross income $100 attributable to the earnings and profits of B Corporation for such year. For 1978, B Corporation distributes $150, consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $50 from its other earnings and profits. Country X imposes an income tax of 10 percent on A Corporation's income but exempts from tax dividends received from B Corporation. N is not required to include any amount in gross income under section 951 for 1978 attributable to the earnings and profits of A Corporation for such year. For 1978, A Corporation distributes $175, consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation, and $75 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1978 under section 960(a)(1) and section 902(a) are determined as follows on the basis of the facts assumed:

* * * * *

Example (8). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include $50 attributable to the earnings and profits of C Corporation and $15 attributable to the earnings and profits of B Corporation in its gross income. N Corporation is not required to include any amount in its gross income with respect to A Corporation under section 951 in 1978. For such year, C Corporation distributes $75 to B Corporation. B Corporation in turn distributes $60 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for 1978 and distributes $45 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under section 960(a)(1) and section 902(a) are determined as follows on the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings and profits	$150.00
Foreign taxes paid by C Corporation (30%)	45.00
Earnings and profits	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation	50.00
Dividend to B Corporation	75.00
Dividend from earnings and profits to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	50.00
Dividend from earnings and profits to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income with respect to C Corporation)	25.00

Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902(b)(2) and § 1.960–2(b):

$$\text{Dividend to B Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to C Corporation} \times \text{Taxes paid by C Corporation}$$

$$\text{Earnings and profits of C Corporation}$$

($25/$105 × $45) $10.71

B Corporation (second-tier corporation):

Pretax earnings and profits:	
Dividend from C Corporation	$75.00
Other earnings and profits	225.00
Total pretax earnings and profits	300.00
Foreign income taxes paid by B Corporation (40%)	120.00
Earnings and profits	180.00
Earnings and profits attributable to amounts to which section 902(b)(2) does not apply (amounts included in N Corporation's gross income under section 951 with respect to C Corporation ($50 − ($50 × .40))	30.00
Other earnings and profits	150.00
Earnings and profits of B Corporation after exclusion for amounts to which section 902(b)(2) does not apply (amounts attributable to earnings and profits which are included in N Corporation's gross income under section 951 with respect to C Corporation) ($180 − $30)	150.00
Amount to be included in gross income under section 951 of N Corporation with respect to B Corporation	15.00
Amount of dividend to A Corporation	60.00
Dividend from earnings and profits to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	30.00
Dividend from earnings and profits to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)	15.00
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to B or C Corporation)	15.00

Foreign income taxes of B Corporation deemed paid by A Corporation under section 902(b)(1) and § 1.960–2(b):

$$\text{Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation} \times \text{Taxes paid by B Corporation}$$

$$\text{Earnings and profits of B Corporation}$$

($45/$180 × 120) $30.00

Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902(b)(1) in accordance with § 1.960–2(b) and § 1.960–2(b)(2) (i) and (ii):

$$\text{Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation and C Corporation} \times \text{Taxes paid by C Corporation which are deemed paid by B Corporation}$$

$$\text{Earnings and profits of B Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation}$$

($15/$150 × $10.71) 1.07

A Corporation (first-tier corporation):

Pretax earnings and profits:	
Dividend from B Corporation	$60.00
Other earnings and profits	0
Total pretax earnings and profits	60.00
Foreign income taxes paid by A Corporation (10%)	6.00
Earnings and profits	54.00
Earnings and profits attributable to amounts to which section 902(b)(2) does not apply (attributable to amounts previously included in N Corporation's gross income under section 951 with respect to C Corporation) ($30 – ($30X.10))	27.00
Earnings and profits attributable to amounts to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($15 – ($15X.10))	13.50
Other earnings and profits ($15—($15X.10))	13.50
Earnings and profits of A Corporation after exclusion for amounts to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($54.00 – $13.50)	40.50
Earnings and profits of A Corporation after exclusion for amounts to which sections 902(b) (1) and (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation) ($40.50 – $27.00)	13.50
Dividend to N Corporation	45.00
Dividend from earnings and profits to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	27.00
Dividend from earnings and profits to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)	13.50
Dividend from earnings and profits to which section 902(a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)	0
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation)	4.50

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960(a)(1) and § 1.960-1(c)(1)(ii) with respect to C Corporation:

Amount included in N Corporation's gross income under section 951 with respect to C Corporation / Earnings and profits of C Corporation × Taxes paid by C Corporation

($50/$105 × $45.00) $21.43

Foreign income taxes deemed paid by N Corporation under section 960(a)(1) and § 1.960-1(c)(1)(i) with respect to B Corporation 11.07

Taxes paid by B Corporation:

Amount included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation × Taxes paid by B Corporation

($15/$180 × $120) 10.00

Taxes deemed paid by B Corporation in accordance with § 1.960-2(d)(2)(i):

Amount included in N Corporation's gross income under section 951 with respect to B Corporation / Earnings and profits of B Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation × Taxes paid by C Corporation which are deemed paid by B Corporation

($15/$150 × $10.71) $1.07

Total taxes deemed paid by N Corporation under section 960(a)(1) $32.50

Foreign income taxes deemed paid by N Corporation under section 902(a):

Taxes paid by A Corporation in accordance with § 1.960-2(c):

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A Corporation / Earnings and profits of A Corporation × Taxes paid by A Corporation

($45/$54 × $6) $5.00

Taxes paid by B Corporation deemed paid by A Corporation in accordance with §§ 1.960-2(c) and 1.960-2(d)(1) (i) and (ii):

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A and B Corporations / Earnings and profits of A Corporation less earnings and profits attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation × Taxes paid by B Corporation which are deemed paid by A Corporation

($31.50/$40.50 × $30.00) 23.33

Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation in accordance with §§ 1.960-2(c) and 1.960-2(d)(1) (i) and (ii):

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A, B, and C Corporations / Earnings and profits of A Corporation less earnings and profits attributable to amounts included in N Corporation's gross income under section 951 with respect to B and C Corporations × Taxes deemed paid by B Corporation which are deemed paid by A Corporation

($4.50/$13.50 × $1.07) ..... .36

Total taxes deemed paid by N Corporation under section 902(a) $28.69

Total foreign income taxes deemed paid by N Corporation under section 901 ..... $61.19

Example (9). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of controlled foreign corporation C. A and B Corporations are organized under the laws of foreign country X. C Corporation is organized under the laws of foreign country Y. All of B Corporation's assets used in a trade or business are located in country X. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in its gross income under section 951, $50 attributable to the earnings and profits of C Corporation and $100 attributable to the earnings and profits of B Corporation. N Corporation is not required to include any amount in its gross income under section 951 with respect to A Corporation. Country X imposes an income tax of 10 percent on dividends from foreign subsidiaries, 20 percent on dividends from domestic subsidiaries, and 40 percent on other earnings and profits. For 1978, C Corporation distributes $75 to B Corporation. For such year, B Corporation distributes $175 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for 1978 and distributes $130 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under sections 960(a)(1) and 902(a) are determined as follows on the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings and profits	$150.00
Foreign income taxes paid by C Corporation (30%)	45.00
Earnings and profits	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation	50.00
Dividend to B Corporation	75.00
Dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	50.00
Dividend to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation)	25.00
Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902(b)(2) and § 1.960-2(b) ($25/$105 × $45)	10.71

(For formula see § 1.960-2(g)(1)(i)(A))

B Corporation (second-tier corporation):

Pretax earnings and profits:	
Dividend from C Corporation	75.00
Other earnings and profits	225.00
Total pretax earnings and profits	300.00
Foreign income taxes paid by B Corporation	97.50
On dividends received from C Corporation to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 × .10)	5.00
On dividend from C Corporation to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 × .10)	2.50
On other income of B Corporation ($225 × .40)	90.00
Earnings and profits	202.50
Attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50 – $5)	45.00

Attributable to dividend from C Corporation to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25 − $2.50) 22.50
Attributable to other income of B Corporation ($225 − $90) 135.00
Earnings and profits after exclusion of amounts attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($202.50 − $45) 157.50
Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation 100.00
Dividend paid by B Corporation 175.00
Dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) 45.00
Dividend to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) 100.00
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation) 30.00

Foreign income taxes of B Corporation deemed paid by A Corporation under section 902(b)(1) (separate tax rate applicable to dividend received by B Corporation allocation in accordance with § 1.960-2(e)) (for formula see § 1.960-2(g)(1)(ii)(A)(*2*) (*i*) and (*ii*)):
Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower-tiers which is deemed paid by A Corporation:
Portion of dividend to A Corporation from earnings included in N Corporation's gross income under section 951 with respect to C Corporation or lower-tiers ÷ Earnings and profits of B Corporation included in N Corporation's gross income under section 951 with respect to C Corporation or lower-tiers × Tax paid by B Corporation on dividend received by B Corporation from earnings included in N Corporation's gross income with respect to C Corporation or lower-tiers.

($45/$45 × $5) $5.00

Tax paid by B Corporation on earnings not previously taxed with respect to C Corporation or lower-tiers which is deemed paid by A Corporation:
Portion of dividend to A Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to B Corporation or lower-tiers ÷ Earnings and profits of B Corporation not included in N Corporation's gross income under section 951 with respect ot C Corporation or lower-tiers × Tax paid by B Corporation on earnings not included in N Corporation's gross income with respect to C Corporation or lower-tiers

($30/157.50 × $92.50) 17.62

Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902(b)(1) ($30/$157.50 × $10.71) 2.04
(For formula see § 1.960-2(g)(1)(ii)(B)(*1*))

A Corporation (first-tier corporation):

Pretax earnings and profits:
Dividend from B Corporation $175.00
Other income 0
Total pretax earnings and profits 175.00
Foreign income taxes paid by A Corporation (20%) 35.00
Earnings and profits 140.00
Attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45 − ($45 × .20)) 36.00
Attributable to amounts to which section 902(b)(1) does not apply (Attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($100 − ($100 × .20)) 80.00
Attributable to other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation) 24.00
Earnings and profits after exclusion for amounts to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($140 − $80) 60.00
Earnings and profits after exclusion for amounts to which sections 902(b)(1) and 902(b)(2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation) ($60 − $36) 24.00
Amount required to be included in N Corporation's gross income under section 1951 with respect to A Corporation ..... None
Dividend to N Corporation 130.00
Dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) 36.00
Dividend to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) 80.00
Dividend to which section 902(a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation) 0
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation) 14.00

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960(a)(1) and § 1.960-1(c) with respect to C Corporation ($50/$105 × $45) 21.43
(for formula see § 1.960-2(g)(2)(i)(A))
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to B Corporation (allocation of earnings and profits being made in accordance with § 1.960-1(c)(3) and § 1.960-2(e)) (Separate tax rate applicable to dividend received by B Corporation) 65.53

Taxes paid by B corporation (for formula see § 1.960-2(g)(2)(ii)(A)(*2*)):
Amount included in N Corporation's gross income under section 951 with respect to B Corporation ÷ Earnings and profits of B Corporation not included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers × Tax paid by B Corporation on earnings not included in N Corporation's gross income with respect to C Corporation or lower tiers

($100/$157.50 × $92.50) $58.73

Taxes (of C Corporation) deemed paid by B Corporation under section 902(b)(2) which are deemed paid by N Corporation under section 960(a)(1) ($100/$157.50 × $10.71) 6.80
(for formula see § 1.960-2(g)(2)(ii)(B)(*1*))
Total taxes deemed paid by N Corporation under section 960(a)(1) 86.96
Foreign income taxes deemed paid by N Corporation under section 902(a):
Taxes paid by A Corporation ($130/$140 × $35) 32.50
(for formula see § 1.960-2(g)(1)(iii)(A)(*1*))

Taxes paid by B Corporation deemed paid by A Corporation (Separate tax rate applicable to dividend received by B Corporation allocation required by § 1.960-2(e)) (for formula see § 1.960-2(g)(1)(iii)(B)(*2*) (*i*) and (*ii*)):
Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower tiers which is deemed paid by N Corporation:
Portion of dividend to N Corporation which is from earnings included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers ÷ Earnings and profits of A Corporation included in N Corporation's gross income under section 951 with respect to C Corporation or lower tiers × Tax paid by B Corporation on earnings previously taxed with respect to C Corporation or lower tiers which is deemed paid by A Corporation

($36/$36 × $5) 5.00

Tax paid by B Corporation on earnings not previously taxed with respect to C Corporation or lower tiers which is deemed paid by N Corporation:
Portion of dividend to N Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to A Corporation or lower tiers ÷ Earnings and profits of A Corporation not included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers × Tax paid by B Corporation on earnings not previously taxed with respect to C Corporation or lower tiers which is deemed paid by A Corporation

($14/$24 × $17.62) 10.28
Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation ($14/$24 × $2.04) 1.19
(for formula see § 1.960-2(g)(1)(iii)(C)(*1*))
Total taxes deemed paid by N Corporation under section 902(a) 48.97

Total foreign income taxes deemed paid by N Corporation under section 901 ..... 135.93

Example (10) The facts are the same as in example (9) except that A Corporation has other earnings and profits of $200 in 1978 and country X imposes a tax of 50 percent on A Corporation's other earnings and profits. A Corporation distributes $200 of its earnings and profits to N Corporation in 1978. The foreign income taxes paid by N Corporation under sections 960 (a)(1) and 902 (a) are determined as follows on the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings and profits	$150.00
Foreign income taxes paid by C Corporation (30%)	45.00
Earnings and profits	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation	50.00
Dividend to B Corporation	75.00
Dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	50.00
Dividend to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation)	25.00
Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902(b)(2) and § 1.960-2(b) ($25/$105×$45)	10.71
(for formula see § 1.960-2(g)(1)(i)(A))	

B Corporation (second-tier corporation):

Pretax earnings and profits:	
Dividend from C Corporation	75.00
Other earnings and profits	225.00
Total pretax earnings and profits	300.00
Foreign income taxes of B Corporation	97.50
On dividends received from C Corporation to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50×.10)	$5.00
On dividend from C Corporation to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25×.10)	2.50
On other income of B Corporation ($225×.40)	90.00
Earnings and profits	$202.50
Attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($50-$5)	45.00
Attributable to dividend from C Corporation to which section 902(b)(2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) ($25-$2.50)	22.50
Attributable to other income of B Corporation ($225-$90)	135.00
Earnings and profits after exclusion of amounts attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($202.50-$45)	157.50
Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation	100.00
Dividend paid by B Corporation	$175.00
Dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	$45.00
Dividend to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)	100.00
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation)	30.00
Foreign income taxes of B Corporation deemed paid by A Corporation under section 902(b)(1) with allocation required by § 1.960-2 (e):	
($45/$45×$5)	5.00
($30/$157.50×$92.50)	17.62
(for formula see § 1.960-2(g)(1)(ii)(A)(*2*) (*i*) and (*ii*))	
Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902(b)(1)	
($30/$157.50×$10.71)	2.04
(for formula see § 1.960-2(g)(1)(ii)(B)(*1*))	

A corporation (first-tier corporation):

Pretax earnings and profits:	
Dividend from B Corporation	$175.00
Other earnings and profits	200.00
Total pretax earnings and profits	375.00
Foreign income taxes paid by A Corporation	135.00
On dividend received from B Corporation to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45×.20)	9.00
On dividend received from B Corporation to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) ($100×.20)	20.00
On dividend from B Corporation attributable to B Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation) ($30×.20)	6.00
On other income of A Corporation ($200×.50)	100.00
Earnings and profits	240.00
Attributable to dividend to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($45-$9)	36.00
Attributable to dividend to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation) ($100-$20)	80.00
Attributable to other earnings and profits of A Corporation (attributable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation) [($30-$6)+($200-$100)]	124.00
Amount required to be included in N Corporation's gross income under section 951 with respect to A Corporation	None
Earnings and profits after exclusion of amounts attributable to dividend to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)	160.00
Earnings and profits after exclusion of amounts attributable to dividend to which sections 902(b)(1) and 902(b)(2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B and C Corporation)	124.00
Dividend to N Corporation	200.00
Dividend attributable to amounts to which section 902(b)(2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation)	36.00
Dividend attributable to amounts to which section 902(b)(1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation)	80.00
Dividend attributable to amounts to which section 902(a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)	0
Dividend attributable to A Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation)	$84.00

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960(a)(1) and § 1.960-1(c) with respect to C Corporation ($50/$150×$45) (for formula see § 1.960-2(g)(2)(i)(A))	21.43
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to B Corporation (allocation of earning and profits being made in accordance with § 1.960-1(c)(3) and § 1.960-2(e))	65.53
Taxes paid by B Corporation ($100/$157.50×$92.50) (for formula see § 1.960-2(g)(2)(ii)(A)(*2*))	58.73
Taxes deemed paid by B Corporation ($100×$157.50×$10.71) (for formula see § 1.960-2(g)(2)(ii)(B)(*1*))	6.80
Total taxes deemed paid by N Corporation under section 960(a)(1)	86.96

Foreign income taxes deemed paid by N Corporation under section 902(a) (separate tax rate applicable to dividends received by A Corporation allocation required by § 1.960-2(e)) (for formula see § 1.960-2(g)(1)(iii)(A)(*2*) (*i*) and (*ii*)):

Tax paid by A Corporation on earnings previously taxed with respect to B Corporation or lower tiers which is deemed paid by N Corporation:

Portion of dividend to N Corporation which is from earnings included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers / Earnings and profits of A Corporation included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers × Tax paid by A Corporation on dividends received by A Corporation from earnings included in N Corporation's gross income with respect to B Corporation or lower tiers

($116/$116×$29) $29.00

Tax paid by A Corporation on earnings not previously taxed with respect to B Corporation or lower tiers which is deemed paid by N Corporation:

Portion of dividend to N Corporation which is from earnings not included in N Corporation's gross income under section 951 with respect to A Corporation or lower tiers / Earnings and profits of A Corporation not included in N Corporation's gross income under section 951 with respect to B Corporation or lower tiers × Tax paid by A Corporation on earnings not included in N Corporation's gross income with respect to B Corporation or lower tiers

($84/$124×$106) 71.81

Taxes (paid by B Corporation) deemed paid by A Corporation allocation required by § 1.960-2(e):	
($36/$36×$5)	5.00
($84/$124×$17.62)	11.94
(for formula see § 1.960-2(g)(1)(iii)(B)(*2*) (*i*) and (*ii*))	
Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation ($84/$124×$2.04)	1.38
(for formula see § 1.960-2(g)(1)(iii)(C)(*1*))	
Total taxes deemed paid by N Corporation under section 902(a) credit	119.13
Total foreign income taxes deemed paid by N Corporation under section 901	206.09

(g) *Formulas.* This paragraph contains formulas for determining a domestic corporation's section 902 and 960 credits when amounts distributed through a chain of ownership have been included

in whole or in part in the gross income of a domestic corporation under section 951 with respect to first-, second-, third-, or lower-tier corporations.

(1) *Determination of the section 902 credit.*—(i) *Section 902(b)(2) credit.* If the second-tier corporation receives a dividend from a third-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the second-tier corporation's credit for taxes paid by the third-tier corporation under section 902(b)(2) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Dividend to second-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation}} \times \text{Taxes paid by third-tier corporation}$$

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*1*) Credit for tax paid by third-tier corporation on earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividends to second-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}}{\text{Earnings and profits of third-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on dividend received by third-tier corporation from earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

(*2*) Credit for tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividend to second-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}}{\text{Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

(ii) *Section 902(b)(1) credit.* If the first-tier corporation receives a dividend from a second-tier corporation attributable in a whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the first-tier corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 902(b)(1) is determined as follows:

(A) *Taxes paid by the second-tier corporation which are deemed paid by the first-tier corporation.*

(*1*) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Dividend to first-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation}} \times \text{Taxes paid by second-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*i*) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations—

$$\frac{\text{Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}}{\text{Earnings and profits of second-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on dividend received by second-tier corporation from earnings included in domestic corporation's gross income with respect to third- or lower-tier corporations}$$

(*ii*) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations—

$$\frac{\text{Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations}$$

(B) *Taxes deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation.* (*1*) If the effective rate of tax dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Dividend to first-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to second- and third-tier corporations}}{\text{Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to third-tier corporation}} \times \text{Taxes paid by third-tier corporation which are deemed paid by second-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*i*) Credit for tax paid by third-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}}{\text{Earnings and profits of second-tier corporations included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation}$$

(*ii*) Credit for tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation}$$

(iii) *Section 902(a) credit.* If the domestic corporation receives a dividend from a first-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the first- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 902(a) is determined as follows:

(A) *Taxes paid by the first-tier corporation which are deemed paid by domestic corporation.*

(*1*) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation}} \times \text{Taxes paid by first-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*i*) Credit for tax paid by first-tier corporation on earnings previously taxed with respect to second- or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by first-tier corporation on dividends received by first-tier corporation from earnings included in domestic corporation's gross income with respect to second- or lower-tier corporations}$$

(*ii*) Credit for tax paid by first-tier corporation on earnings not previously taxed with respect to second- or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations}$$

(B) *Taxes (paid by second-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.*

(*1*) If the effective rate of tax on dividends received by the second-tier corporation is the same as its tax rate on other earnings and profits—

$$\frac{\text{Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first- and second-tier corporations}}{\text{Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation}} \times \text{Taxes paid by second-tier corporation which are deemed paid by first-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*i*) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third-tier or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation.}$$

(*ii*) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(C) *Taxes (of third-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.*

(*1*) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-, second- and third-tier corporations}}{\text{Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporations}} \times \text{Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

(*i*) Credit for tax (of third-tier corporation) deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(*ii*) Credit for tax (of third-tier corporation) deemed paid by second-tier on earnings not previously taxed with respect to fourth- or lower-tier corporations—

$$\frac{\text{Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(2) *Determination of domestic corporation's section 960 credit for amounts included in its gross income with respect to a first-, second-, or third-tier corporation which has received a distribution previously included in the gross income of a domestic corporation under section 951.*—(i) *Third-tier credit.* If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a third-tier corporation which has received a distribution from a fourth-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the fourth- or lower-tier corporations, the domestic corporation's credit for taxes paid by the third-tier corporation under section 960(a)(1) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation}} \times \text{Taxes paid by third-tier corporation}$$

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation}}{\text{Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations}} \times \text{Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations}$$

(ii) *Second-tier credit.* If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a second-tier corporation which has received a distribution from a third-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 960(a)(1) is determined as follows:

(A) *Credit for taxes paid by the second-tier corporation which are deemed paid by the domestic corporation.*

(*1*) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation}} \times \text{Taxes paid by second-tier corporation}$$

(*2*) If the effective rate of tax on dividends received by the second-tier is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations}$$

(B) *Credit for taxes (of the third-tier corporation) deemed paid by the second-tier corporation under section 902(b)(2).*

(*1*) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to third-tier corporation}} \times \text{Taxes paid by third-tier corporation which are deemed paid by second-tier corporation.}$$

(*2*) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation}}{\text{Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporation}} \times \text{Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation}$$

(iii) *First-tier credit.* If a domestic corporation is required to include amounts in its gross income under section 951 with respect to a first-tier corporation which has received a distribution from a second-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 960(a)(1) shall be determined as follows:

(A) *Credit for taxes paid by the first-tier corporation.*

(*1*) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporations}} \times \text{Taxes paid by first-tier corporation}$$

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations}$$

(B) *Credit for taxes paid by the second-tier corporation deemed paid by the first-tier corporation under section 902(b)(1).*

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corportion less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation}} \times \text{Taxes paid by second-tier corporation which are deemed paid by first-tier corporation}$$

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations}} \times \text{Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation}$$

(C) *Credit for taxes (of the third-tier corporation) deemed paid by the second-tier corporation which are deemed paid by first-tier corporation under section 902(b)(1).*

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporation}} \times \text{Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation}$$

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits—

$$\frac{\text{Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation}}{\text{Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second-or lower-tier corporation}} \times \text{Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation}$$

Par. 3. Section 1.960–3(b) is revised to read as follows:

§ 1.960–3 Gross-up of amounts included in income under section 951.

* * * * *

(b) *Certain taxes not included in income.* Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 902(a) or section 960(a)(1) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78–1 to the extent that such taxes are paid or accrued by the first-, second-, or third-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

* * * * *

Par. 4. Section 1.960–7(c) is revised to read as follows:

§ 1.960–7 Effective dates.

* * * * *

(c) *Third-tier credit.* The rules contained in §§ 1.960–1—1.960–6 shall apply to amounts included in the gross income of a domestic corporation under section 951 with respect to the earnings and profits of third-tier corporations (as defined in § 1.960–1) in taxable years beginning after December 31, 1976.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 6, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82–30416 Filed 11–5–82; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 301

[T.D. 7845]

Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to public inspection of applications for tax exemption, applications for determination of the qualification of pension and other plans, and other related material. Changes to the applicable law were made by the Employee Retirement Income Security Act of 1974 and the Tax Reform Act of 1976. The regulations provide guidance to the public on how documents may be obtained for inspection, and would affect all persons wishing to inspect the documents, as well as those submitting them.

DATE: The regulations are effective for applications for tax exemption filed after October 31, 1976, and applications for determination letters for pension and other plans filed after September 2, 1974.

FOR FURTHER INFORMATION CONTACT: Paul B. Accettura of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention:CC:LR:T) (202–566–3544, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1980, the **Federal Register** published proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under section 6104(a)(1) of the Internal Revenue Code of 1954 (45 FR 85788). The amendments were proposed to conform the regulations under section 6104(a)(1)(A) to section 1201(d) of the Tax Reform Act of 1976 (90 Stat. 1667), and the regulations under section 6104(a)(1) (B), (C) and (D) to section 1022(g) of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 940).

A public hearing was not requested on the regulations. After careful consideration of all comments received regarding the proposed amendments, the amendments are adopted as revised by this Treasury Decision.

Group Exemption Situations

One comment questioned how the regulations apply to requests for information with respect to an organization covered by a group exemption. In this context, a request for information with respect to any organization will be treated as a request for information only on that organization. The Internal Revenue Service's response will provide all disclosable information relating to the organization. If the information received shows that the organization is a subordinate organization covered by a group exemption, the person making the request can then proceed with a request under these regulations for all disclosable information relating to the parent organization upon which the group exemption is based.

Compensation Ranges

Two comments specifically objected to the last sentence of section 301.6104 (a)–5 (b)(4) of the proposed regulations. That sentence stated: "Further, a description of the numbers of individuals covered and not covered by a plan, listed by compensation range, does not constitute confidential compensation information." Section 301.6104 (a)–5 (b)(4) is intended to describe that information which constitutes confidential compensation information within the meaning of section 6104(a)(1)(c).

The following three sentences are contained in the House Report on ERISA, and relate to section 6104 in general and section 6104(a)(1)(C) in particular:

> However, under the bill information contained in these papers and documents from which the compensation of any participant (or other person) may be ascertained is not to be open to public inspection. (However, all other information in these documents is to be available to the public, including information such as the numbers of individuals covered and not covered in a plan, listed by compensation range.) These rules are to enable plan participants and beneficiaries to obtain the full information needed to enforce their plan rights, pursuant to the new rules established in the bill, and are also to protect the confidentiality of information regarding the financial status of specific individuals.

H.R. Rep. No. 93–807, 93rd Cong., 2d Sess. 162 (1974), 1974–3 (supp.) C.B. 397.

The above quote specifically states congressional intent that compensation ranges are not considered confidential compensation information within the meaning of section 6104(a)(1)(C), and are to be made available to the public under section 6104(a). The above quote additionally points out the Congressional intent in providing plan participants and beneficiaries with full information to enforce their plan rights. Compensation ranges are an important part of many plan applications and allow interested parties to better enforce their plan rights where appropriate. Accordingly, the final regulations retain the provision that compensation ranges do not constitute section 6104(a)(1)(C) material and are, therefore, available to the public to the extent otherwise provided in these regulations.

One comment on compensation ranges also objected to the retroactivity of § 301.6104 (a)–5 (b)(4). In addition to the actual language of section 6104(a)(1)(C), the above quoted legislative history put the public on notice that such information would be disclosed to the public. The public was also informed of the disclosure of compensation ranges in the 5300 series of applications completed and filed with the Internal Revenue Service. The instructions for Forms 5300, 5301, 5303 and 5307 specifically state that "the application is open to public inspection if there are more than 25 participants." Also, Forms 5302 and 5310A, which relate to the twenty-five highest paid participating employees, state in the upper right hand corner: "This form (Schedule) is NOT open to Public Inspection." The instructions to Form 5302 specifically refer to section 6104(a)(1)(C) as the source of the nondisclosure of the information included in Form 5302. The statement in the House Report, and the statement in the instructions to Forms 5300, 5301, 5303 and 5307 (in which compensation range information is required in certain circumstances), as well as the specific statement in Forms 5302 and 5310A that it, in contrast, is not open to public inspection gave adequate notice to the applicants that compensation ranges were to be disclosed. Thus, the applicable date of the proposed regulations remains unchanged in the final regulations.

One comment also claimed that compensation ranges may be trade secret information. After careful consideration, it was determined that compensation ranges, except under extraordinary circumstances, cannot be considered trade secret material. The trade secret section of the proposed regulations (section 301.6104(a)–5) is equally applicable to compensation ranges, and serves as a protection for an applicant's trade secret information.

Revocation Letters

One comment claimed there was an inconsistency between § 301.6104 (a)–1 (i)(2) and § 301.6104 (a)–3 (c)(4) regarding disclosure of letters from the Internal Revenue Service revoking favorable determination letters. The wording of sections 6104(a)(1)(A) and 6104(a)(1)(B) are distinct from each other regarding the scope of disclosure of letters issued by the Internal Revenue Service. These distinctions result in revocation letters regarding pension plans being disclosed (section 6104(a)(1)(B) and section 301.6104 (a)–3 (c)(4)) while similar material relating to tax-exempt organizations is not disclosed (section 6104(a)(1)(A) and § 301.6104 (a)–1 (i)(2)). Both provisions are retained as proposed.

Definition of "Issued By"

One comment objected to § 301.6104(a)–3(b) of the proposed regulations as unduly limiting the definition of documents "issued by" the Internal Revenue Service, within the meaning of section 6104(a)(1)(B)(iv). This definition has been retained since Congressional intent only extended to those letters or documents issued by the Internal Revenue Service to the applicant, or the applicant's representative.

Plan Participant

One comment objected to § 301.6104(a)–4(c) of the proposed regulations which provided that an administrator, executor, or trustee of the estate of a deceased plan participant automatically qualified as a plan participant for purposes of inspecting material relating to a plan with fewer than 26 participants. This section has been revised to include as plan participants, for purposes of inspecting material relating to a plan with fewer than 26 participants, only those

administrators, executors, or trustees who are receiving benefits or are entitled to receive future benefits under the plan in their official capacity.

Trade Secrets

With regard to material identified in § 301.6104(a)–5, additions of specific time deadlines have been made for organizations to respond to a determination by the Commissioner that information which an organization sought to protect from disclosure will be disclosed.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Paul G. Accettura of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department, participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Parts 301.6104(a)–1—301.6104(a)–6

Administrative practice and procedure, Disclosure.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

PART 301—[AMENDED]

Paragraph 1. Section 301.6104–1 is removed, and the following new sections are added in its place:

§ 301.6104(a)–1 Public inspection of material relating to tax-exempt organizations.

(a) *Application for tax exemption and supporting documents.* If the Internal Revenue Service determines that an organization described in section 501 (c) or (d) is exempt from taxation for any taxable year, the application for tax exemption upon which the determination is based, together with any supporting documents, is open to public inspection. Some applications for tax exemption have been destroyed and therefore are not available for inspection. For purposes of determining the availability for public inspection, a claim for tax exemption filed to reestablish exempt status after denial thereof under the provisions of section 503 or 504 (as in effect on December 31, 1969), or under the corresponding provisions of any prior revenue law, is considered an application for tax exemption.

(b) *Letters or documents issued by the Internal Revenue Service with respect to an application for tax exemption.* If an application for tax exemption is filed with the Internal Revenue Service after October 31, 1976, and is open to public inspection under paragraph (a) of this section, then any letter or document issued to the applicant by the Internal Revenue Service which relates to the application is also open to public inspection. For rules relating to when a letter or document is issued, see § 301.6110–2(h). Letters or documents to which this paragraph applies include, but are not limited to—

(1) Favorable rulings and determination letters (see § 601.201(n)(1)) issued in response to applications for tax exemption,

(2) Technical advice memoranda (see § 601.201(n)(9)) issued with respect to an approved, or subsequently approved, application for tax exemption, and

(3) Letters issued in response to an application for tax exemption that propose a finding that the organization is not entitled to be exempt from tax, if the organization is subsequently determined, on the basis of the application, to be exempt from tax.

(c) *Requirement of exempt status.* An application for tax exemption, supporting documents, and letters or documents issued by the Internal Revenue Service that relate to the application will not be open to public inspection before the organization filing the application is determined, on the basis of the application, to be exempt from taxation for any taxable year. On the other hand, if the organization is determined to be exempt for any taxable year, the material will not be withheld from public inspection on the ground that the organization is determined not to be exempt for any other taxable year.

(d) *Documents included in the term "application for tax exemption".* For purposes of this section—

(1) *Prescribed application form.* If a form is prescribed for an organization's application for tax exemption, the application for tax exemption includes the form and all documents and statements the Internal Revenue Service requires to be filed with the form.

(2) *No prescribed application form.* If no form is prescribed for an organization's application for tax exemption, the application for tax exemption includes:

(i) The application letter and a copy of the articles of incorporation, declaration of trust, or other instrument of similar import that sets forth the permitted powers or activities of the organization,

(ii) The bylaws or other code of regulations,

(iii) The latest financial statement showing assets, liabilities, receipts and disbursements,

(iv) Statements showing the character of the organization, the purpose for which it was organized, and its actual activities,

(v) Statements showing sources of income and receipts and the disposition thereof, and whether or not any income or receipts is credited to surplus or may inure to the benefit of any private shareholder or individual, and

(vi) Any other statements or documents the Internal Revenue Service requires to be filed with the application lettter.

(3) *Prohibited transactions.* An application for tax exemption does not include a request for a ruling as to whether a proposed transaction is a prohibited transaction under section 503.

(e) *Supporting documents defined.* For purposes of this section, "supporting documents", as used with respect to an application for tax exemption, means any statement or document not described in paragraph (d) of this section that is submitted by an organization in support of its application. For example, a legal brief submitted in support of an application for tax exemption is a supporting document.

(f) *Statement of exempt status.* In addition to having the opportunity to inspect material relating to tax exempt organizations, a person may request a statement setting forth the following information:

(1) The subsection and paragraph of section 501 (or the corresponding provision of any prior revenue law) under which an organization has been determined, on the basis of an application open to public inspection, to qualify for exemption from taxation, and

(2) Whether the organization is currently held to be exempt.

The request for the statement must be made in the same manner as a request for inspection (see § 301.6104(a)–6).

(g) *Withholding of certain information from public inspection.* For rules relating to certain information contained in an application for tax exemption and related material which will be withheld from public inspection, see § 301.6104(a)–5(a).

(h) *Procedures for inspection.* For rules relating to procedures for public inspection of applications for tax exemption and related material, see § 301.6104(a)–6.

(i) *Material not open to public inspection under section 6104 or 6110.* Under section 6110 certain written determinations issued by the Internal Revenue Service are made available for public inspection. Section 6110 does not apply, however, to matters on which the determination of availability for public inspection is made under section 6104. Accordingly, § 301.6110–1(a) describes matters which, for purposes of section 6110, are considered within the ambit of section 6104. Some determination letters and other documents relating to tax exempt organizations that are not open to public inspection under section 6104(a)(1)(A) and this section are nevertheless within the ambit of section 6104 for purposes of section 6110. These determination letters and other documents are therefore not available for public inspection under either section 6104 or section 6110. They include but are not limited to—

(1) Unfavorable rulings or determination letters (see § 601.201(n)) issued in response to applications for tax exemption,

(2) Rulings or determination letters revoking or modifying a favorable determination letter (see § 601.201(n)(6)),

(3) Technical advice memoranda (see § 601.201(n)(9)) relating to a disapproved application for tax exemption or the revocation or modification of a favorable determination letter,

(4) Any letter or document filed with or issued by the Internal Revenue Service relating to whether a proposed or accomplished transaction is a prohibited transaction under section 503,

(5) Any letter or document filed with or issued by the Internal Revenue Service relating to an organization's status as an organization described in section 509 (a) or 4942(j)(3), unless the letter or document relates to the organization's application for tax exemption, and

(6) Any other letter or document filed with or issued by the Internal Revenue Service which, although it relates to an organization's tax exempt status as an organization described in section 501 (c) or (d), does not relate to that organization's application for tax exemption, within the meaning of paragraph (d).

§ 301.6104(a)–2 Public inspection of material relating to pension and other plans.

(a) *Material open to inspection.* Except as provided in § 301.6104(a)–4 with respect to plans having fewer than 26 participants, an application for a determination letter which is filed with the Internal Revenue Service after September 2, 1974, together with supporting documents filed by the applicant in support of the application, will be open to public inspection under section 6104(a)(1)(B) (i) and (ii). An application for a determination letter and supporting documents will be open to public inspection whether or not the application is withdrawn by the applicant, and whether or not the Internal Revenue Service determines that the plan, account, or annuity to which the application relates is qualified or that any related trust or custodial account is exempt from tax.

(b) *Documents included in the term "application for a determination letter".*—(1) *Employees' plans and individual retirement plans.* For purposes of this section, the term "application for a determination letter" includes the documents that an applicant files with respect to a request that the Internal Revenue Service determine the qualification of—

(i) A pension, profit-sharing, or stock bonus plan under section 401(a),

(ii) An annuity plan under section 403(a),

(iii) A bond purchase plan under section 405(a), or

(iv) An individual retirement account or annuity described in section 408 (a), (b) or (c).

(2) *Tax exempt trusts or custodial accounts.* The term "application for a determination letter" also includes the documents an applicant files with respect to a request that the Internal Revenue Service determine the exemption from tax under section 501(a) of an organization forming part of a plan or account described in subparagraph (1) of this paragraph, or a custodial account described in section 401(f).

(3) *Master, prototype and pattern plans.* the term "application for a determination letter" also includes documents which an applicant files with respect to a request for approval of a master, prototype, pattern or other such plan or account.

(4) *Prescribed forms and application letters.* With respect to an application for a determination letter described in this paragraph (b) for which an application form is prescribed, the application for a determination letter includes the form and all documents and statements required to be filed in connection with the form. With respect to an application for a determination letter for which no application form is prescribed, the application for a determination letter includes the application letter and all documents and statements the Internal Revenue Service requires to be submitted with the application letter.

(c) *Documents not constituting an "application for a determination letter".* The following are not applications for a determination letter for purposes of this section:

(1) An incomplete application that is returned without action for proper completion,

(2) An application that is returned without action to the applicant for failure to notify all interested parties in accordance with the regulations under section 7476 (relating to declaratory judgments), and

(3) A request for a ruling as to whether a proposed transaction is a prohibited transaction under section 4975.

(d) *Supporting documents.* "Supporting documents", as used with respect to an application for a determination letter which is open to public inspection under this section, means any statement or document submitted in support of the application which is not specifically required by the application form or the Internal Revenue Service. For example, a legal brief submitted in support of an application for a determination letter is a supporting document.

(e) *Applicant.* For purposes of this section, § 301.6104(a)–3 (relating to Internal Revenue Service letters and documents open to public inspection) and § 301.6104(a)–5 (relating to the withholding of certain information from public inspection), an "applicant" includes, but is not limited to, an employer, plan administrator (as defined in section 414(g)), labor union, bank, or insurance company that files an application for a determination letter.

§ 301.6104(a)–3 Public inspection of Internal Revenue Service letters and documents relating to pension and other plans.

(a) *In general.* Except as provided in § 301.6104(a)–4 with respect to plans having fewer than 26 participants, a letter or other document issued by the Internal Revenue Service after September 2, 1974, is open to public

inspection under section 6104(a)(1)(B)(iv) and this section, if it is issued with respect to—

(1) The qualification of a pension, profit-sharing or stock bonus plan under section 401(a), an annuity plan under section 403(a), a bond purchase plan under section 405(a), or an individual retirement account or annuity described in section 408 (a), (b) or (c),

(2) The exemption from tax under section 501(a) of an organization forming part of such a plan or account, or a custodial account described in section 401(f), or

(3) The approval of a master, prototype, pattern or other such plan or account.

(b) *Scope.* Internal Revenue Service letters and documents open to public inspection under section 6104(a)(1)(B)(iv) and this section are not limited to those issued in response to an application for a determination letter described in § 301.6104(a)–2. They are, however, limited to those issued by the Internal Revenue Service to the person or organization which either did or could file an application for a determination letter for the plan, account or annuity to which the letter or document relates. If such a person or organization designates a representative having a power of attorney, however, then the letter or document will be open to inspection if issued to the representative. For rules relating to when a letter or document is issued, see § 301.6110–2(h). Internal Revenue Service letters and documents are open to public inspection under section 6104(a)(1)(B)(iv) and this section whether or not the Internal Revenue Service determines that the plan, account or annuity to which the letter or document relates is qualified or that any related trust or custodial account is exempt from tax.

(c) *Letters and documents open to public inspection.* Internal Revenue Service letters and documents open to public inspection under section 6104(a)(1)(B)(iv) and this section include, but are not limited to:

(1) Determination letters relating to the qualification of a plan, account or annuity described in paragraph (a)(1) of this section (see § 601.201 (o)),

(2) Technical advice memoranda (see § 601.201(n)(9)) relating to the issuance of such determination letters,

(3) Technical advice memoranda relating to the continuing qualification of a plan, account or annuity previously determined to be qualified, or to the qualification of a plan, account or annuity for which no determination letter has been issued,

(4) Letters or documents revoking or modifying any prior favorable determination letter or denying the qualification of a plan, account or annuity for which no determination letter has been issued,

(5) Determination letters relating to the exemption from tax of a trust or custodial account described in paragraph (a)(2) of this section (see § 601.201 (o)(2)(i)(*b*)), or

(6) Opinion letters relating to the acceptability of the form of any master, prototype or other such plan or account (see § 601.201 (p) and (q)) or notification letters issued with respect to pattern plans.

(d) *Extent letter or document open to public inspection.* A letter or document issued by the Internal Revenue Service is open to public inspection under section 6104(a)(1)(B)(iv) and this section only to the extent it relates directly to the qualification of a plan, account or annuity, the exemption from tax of a related organization or custodial account, or the approval of a master, prototype, pattern or other such plan. Any part of the letter or document which does not directly relate to such a qualification, exemption or approval is not open to public inspection. For example, a letter to an employer which concludes that an employee's plan is not qualified and the related trust is not tax exempt will be open to public inspection. However, that same letter may also assert an income tax deficiency because employer contributions to the trust are, therefore, not deductible. In such a case, that part of the letter relating to the tax deficiency will be deleted before the letter is opened to public inspection.

(e) *Letters or documents issued with respect to tax return examination.* In the case of an examination of a taxpayer's return or consideration of a taxpayer's claim for credit or refund, no letter or document issued to the taxpayer before the preliminary or "30-day" letter described in § 601.105(d)(1) is issued to the taxpayer will be open to public inspection under section 6104(a)(1)(B)(iv) and this section. The "30-day" letter and any statutory notice of deficiency subsequently issued to the taxpayer under section 6212 will be open to public inspection to the extent provided in paragraph (d) of this section. If any letter or document other than a statutory notice of deficiency is issued to the taxpayer after the "30-day" letter is issued, such letter or document will be open to inspection to the extent provided in paragraph (d) of this section only if it finally resolves or otherwise disposes of a plan qualification or tax exemption issue raised in the "30-day" letter.

(f) *Letters or documents issued after September 2, 1974.* Section 6104(a)(1)(B)(iv) and this section apply to letters or documents issued by the Internal Revenue Service after September 2, 1974, even though the relevant application for a determination letter or other initiating correspondence from the applicant was filed with the Internal Revenue Service before September 2, 1974.

§ 301.6104(a)–4 Requirement for 26 or more plan participants.

(a) *Inspection by plan participants.* In the case of a plan, annuity or account described in § 301.6104(a)–2(b) and § 301.6104(a)–3(a) that has fewer than 26 participants, material described in §§ 301.6104(a)–2 and 301.6104(a)–3 as open to public inspection is only open to inspection by a plan participant or the participant's authorized representative. This limitation does not apply, however, with respect to documents which an applicant files with respect to a request for approval of a master, prototype, pattern or other such plan (see § 301.6104 (a)–2 (b)(3)) or to opinion, notification or other such letters issued by the Internal Revenue Service with respect to such plans (see § 301.6104 (a)–3 (a)(3)).

(b) *Determining number of plan participants.*—(1) *In general.* For purposes of determining whether a plan has fewer than 26 participants, the number of plan participants will be the number indicated on the most recent annual return filed for the plan under section 6058. Where an annual return indicates the number of participants both at the beginning and end of the plan year, the number indicated on the return means the number at the end of the plan year. If no annual return has been filed for the plan, then the number of plan participants will be the number indicated on the most recent application for a determination letter filed for the plan. If, however, the number of plan participants is increased prior to final Internal Revenue Service action on the application, the number of plan participants will be that increased number.

(2) *Decreasing number of plan participants.* If a plan having 26 or more participants, as indicated on an annual return or application for a determination letter, subsequently files an annual return indicating fewer than 26 plan participants, then material relating to the plan which is issued or received by the Internal Revenue Service after the date the annual return is filed will be

open to inspection only by plan participants or their authorized representatives. Similarly, if a plan having 26 or more participants as indicated on an annual return or an application for a determination letter, subsequently files an application for a determination letter which indicates fewer than 26 plan participants, then that application and related material, as well as any other material relating to the plan which is received or issued by the Internal Revenue Service after the date of receipt of that application, will be open to inspection only by plan participants or their authorized representatives. In either case, material open to public inspection pursuant to the number of plan participants indicated on previous annual returns or applications for a determination letter will remain open to public inspection.

(3) *Increasing number of plan participants.* If a plan having fewer than 26 plan participants, as indicated on an annual return or application for a determination letter, files a subsequent return or application indicating 26 or more plan participants, all the plan's prior applications and other material received or issued by the Internal Revenue Service after September 2, 1974, will be open to public inspection regardless of the number of plan participants indicated on any prior return or application.

(c) *Plan participant.* Solely for purposes of determining who is a plan participant permitted to inspect material relating to a plan having fewer that 26 participants, the term "plan participant" includes, but is not limited to, former employees (such as certain retired and terminated employees) who have a nonforfeitable right to benefits under the plan. An individual who is merely a beneficiary of an employee or former employee is not a plan participant, unless the individual is a beneficiary of a deceased former employee and is receiving benefits or entitled to receive future benefits under the plan. The term "plan participant" also includes the administrator, executor, or trustee of the estate of a deceased plan participant if such administrator, executor, or trustee is receiving benefits or entitled to receive future benefits under the plan in his or her official capacity. That material may be available for inspection to an individual under this paragraph does not constitute a determination by the Internal Revenue Service that the individual is a plan participant for any purpose other than inspection under section 6104(a)(1)(B).

(d) *Authorized representative.* "Authorized representative" means the representative of a plan participant designated by the participant in writing to inspect material described in §§ 301.6104(a)–2 and 301.6104(a)–3. The document designating the authorized representative must be signed by the plan participant and must specify that the representative is authorized to inspect the material. The document, or a copy, must be filed with the office of the Internal Revenue Service in which the authorized representative is to inspect the material. A copy which is reproduced by a photographic process need not be certified as a true and correct copy of the original.

§ 301.6104(a)–5 Withholding of certain information from public inspection.

(a) *Tax exempt organizations.*—(1) *Trade secrets, patents, processes, styles of work, or apparatus.* An organization whose application for tax exemption is open to public inspection under section 6104(a)(1)(A) and § 301.6104(a)–1 may in writing request the withholding of information contained in the application or supporting documents which relates to any trade secret, patent, process, style of work, or apparatus of the organization. The information will be withheld from public inspection if the Commissioner determines that the disclosure of such information would adversely affect the organization. Requests for withholding information from public inspection should be filed with the office with which the organization files the documents containing the information. The request must clearly identify the material desired to be withheld (the document, page, paragraph, and line) and must state why the information should not be open to public inspection. The organization will be notified of the Commissioner's determination as to whether the information will be withheld from public inspection. If the Commissioner determines that the information will be disclosed, the organization will be given 15 days after notification of the Commissioner's decision to contest that decision before the document is disclosed.

(2) *National defense material.* The Internal Revenue Service will withhold from public inspection any information which is submitted by an organization whose application for tax exemption is open to inspection under section 6104(a)(1)(A) and § 301.6104(a)–1, if the Commissioner determines that public disclosure would adversely affect the national defense.

(b) *Pension and other plans.*—(1) *Applicant's exclusion of certain information.* Except as provided in subparagraph (2) of this paragraph, information that, in the opinion of the applicant, is of the type described in section 6104 (a) (1) (C) or (D) should not be included in an application for a determination letter, supporting documents, or any other document open to inspection under section 6104(a)(1)(B). Accordingly, an applicant should not include in an application for a determination letter or supporting documents confidential compensation information as described in subparagraph (4) of this paragraph. Neither should an applicant include information relating to any trade secret, patent, process, style of work or apparatus, the disclosure of which would be adverse to the applicant.

(2) *Exception for separate document.* The rule that an applicant should exclude from an application for a determination letter of other documents information of the type in section 6104(a)(1) (C) or (D) does not apply—

(i) In the case of the separate schedule to certain applications for a determination letter which is provided for the purpose of setting forth confidential compensation information (as described in subparagraph (4) of this paragraph) which must be submitted by the applicant.

(ii) If the applicant determines that it is impossible to provide the Internal Revenue Service with sufficient information to support an application for a determination letter without submitting what is believed to be information of the type described in section 6104(a)(1) (C) or (D), or

(iii) If the Internal Revenue Service requests that the applicant submit information of the type described in section 6104(a)(1) (C) and (D).

In a case described in subdivision (ii) or (iii) of this subparagraph, the applicant is to set forth the information in a document separate from the remainder of the application for a determination letter or other documents. The separate document is to state why the information is to be witheld from public inspection under section 6104(a)(1) (C) or (D). If the Internal Revenue Service has not requested the information, the separate document is to also state why it is impossible to provide the Internal Revenue Service sufficient information to support the application for a determination letter without including information which is to be withheld. The separate document should clearly identify the relevant portion of the application for a determination letter or other document (the document, page, paragraph, and line) to which the information set forth in the separate document relates. The Internal Revenue

Service will withhold from public inspection (including inspection by a plan participant or authorized representative) information contained in the separate document if the Commissioner determines that the information is in fact information of the type described in section 6104(a)(1) (C) or (D), and, in the case of information relating to any trade secret, patent, process, style of work or apparatus, the Commissioner further determines that disclosure would be adverse to the applicant. If the Commissioner determines that the information will be disclosed, the organization will be given 15 days after notification of the Commissioner's decision to contest the decision before the document is disclosed.

(3) *National defense material.* The Internal Revenue Service will withhold from public inspection (including inspection by a plan participant or authorized representative) any information which is included in an application for a determination letter or supporting documents if the Commissioner determines that public disclosure would adversely affect the national defense. The information will be withheld whether or not submitted on a separate document pursuant to subparagraph (2) of this paragraph.

(4) *Confidential compensation information.* If an application for a determination letter, supporting document, or related letter or document referred to in section 6104(a)(1)(B) and §§ 301.6104(a)–2 and 301.6104(a)–3 contains information (including aggregate figures) from which an individual's compensation (including deferred compensation) may be ascertained, that information is not open to public inspection (including inspection by a plan participant or authorized representative). Confidential compensation information includes the amount of benefit a specific plan participant may expect to receive at normal or early retirement age and the amount of the employer's contributions under the plan that may be allocated to a specific plan participant. However, so long as a plan has more than one participant, the amount of benefit provided under the plan to plan participants, in general, at normal or early retirement age, or the amount of the employer's contributions under the plan that are allocable to plan participants, in general, does not constitute confidential compensation information. Further, a description of the numbers of individuals covered and not covered by a plan, listed by compensation range, does not constitute confidential compensation information.

§ 301.6104(a)–6 Procedural rules for inspection.

(a) *Place of inspection; tax exempt organizations and pension and other plans.* Material relating either to tax exempt organizations or to pension and other plans that is open to public inspection under section 6104(a)(1) and § 301.6104(a)–1 through § 301.6104(a)–3 will be made available for inspection at the Freedom of Information Reading Room, National Office, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, and in the office of any district director of internal revenue.

(b) *Request for inspection.*—(1) *Tax exempt organizations and pension and other plans; public inspection.* Material relating to either tax exempt organizations or pension and other plans that is open to public inspection under section 6104(a)(1) and §§ 301.6104(a)–1 through § 301.6104(a)–3 will be available for inspection only upon request. If inspection at the National Office is desired, a request should be made in writing to the Commissioner of Internal Revenue, Attention: Freedom of Information Reading Room, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Requests for inspection in the office of a district director should be made in writing to the district director's office. The request must describe the material to be inspected in reasonably sufficient detail so that Internal Revenue Service personnel can locate the material. If a tax-exempt organization has more than one application for tax exemption open to public inspection, or if a pension or other plan has more than one application for a determination letter open to public inspection, only the most recent application and related material will be made available for inspection unless the request states otherwise. Further, in the case of a pension or other plan, only Internal Revenue Service documents issued or delivered after the date of the filing of the most recent application for a determination letter will be made available for inspection, unless the request states otherwise.

(2) *Pension and other plans; inspection by plan participant or authorized representative.* As described in § 301.6104(a)–4, material relating to plans having fewer than 26 participants is only open to inspection by a plan participant or authorized representative. In the case of such a plan, the rules described in subparagraph (1) of this paragraph apply. The request for inspection must include satisfactory evidence that the person requesting inspection is a plan participant (see § 301.6104(a)–4(c)) or an authorized representative of such a plan participant within the meaning of § 301.6104(a)–4(d).

(c) *Time and extent of inspection.* A person requesting inspection will be notified when the material will be made available for inspection. The material will be made available for inspection at times that will not interfere with its use by the Internal Revenue Service or exclude other persons from inspecting it. In addition, the Commissioner or district director may limit the number of applications for tax exemption, applications for a determination letter, supporting documents, or letters and documents issued by the Internal Revenue Service that will be made available to any person for inspection on a given date. Inspection will be allowed only in the presence of an Internal Revenue Service employee and only during regular business hours.

(d) *Copies.* Notes may be taken of the material open for inspection. Copies may be made manually or, if a person provides the equipment, photographically at the place of inspection. Photographic copying is subject to reasonable supervision with regard to the facilities and equipment used. A fee will be charged for copies of the material furnished by the Internal Revenue Service. Copies will be certified upon request.

§§ 301.6104–2, 301.6104–3 and 301.6104–4 [Redesignated as §§ 301.6104(b)–1, 301.6104(c)–1, 301.6104(d)–1]

Par. 2 Sections 301.6104–2, 301.6104–3 and 301.6104–4 are redesignated §§ 301.6104(b)–1, 301.6104(c)–1 and 301.6104(d)–1, respectively.

This Treasury Decision is issued under the authority contained in sections 6104(a)(1)(A), 6104(a)(1)(B), and 7805 of the Internal Revenue Code of 1954 (72 Stat. 1660, 88 Stat. 940, 68A Stat 917; 26 U.S.C. 6104(a)(1)(A), 6104(a)(1)(B), 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 14, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-30527 Filed 11-5-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD CR-22-82]

Establishment of Special Local Regulations for the "NJBA Nationals" on the Colorado River.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a regulated area on the Colorado River at approximate river mile 179½ on 5, 6 and 7 November 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the regulated area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This regulation is effective 5, 6 and 7 November 1982.

FOR FURTHER INFORMATION CONTACT: Lt. N. M. Turner, Commander(bpa), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590–2213.

SUPPLEMENTARY INFORMATION: The details concerning this year's event were not known in time to publish a proposed rule before the event. Therefore, this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal individuals involved in drafting this rule are Lt. Noris M. Turner, Chief, Boating and Public Affairs Branch, Eleventh Coast Guard District, and Lt. Catherine M. Kelly, Project Attorney, Legal Office, Eleventh Coast Guard District.

Special Local Regulation

Discussion

The National Jet Boat Association's "NJBA Nationals" will be conducted beginning 5, 6 and 7 November 1982, starting from river mile 179½, thence southerly along the natural flow of the river to Headgate Rock Dam and return. This event will have 200 inboard ski boats 18–20 feet in length that could pose hazards to navigation, along the race route. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Procedure

This regulation has been promulgated as an emergency Final Rule without any prior announcement of Notice of Proposed Rulemaking since this is a well-known annual event and has received wide advertisement in anticipation of its occurrence. Also, the event is scheduled to occur in less than 30 days. Therefore, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, and opportunity for public participation are considered unnecessary. Nevertheless, interested persons wishing to comment may do so by submitting written comments to the office listed under **"FOR FURTHER INFORMATION CONTACT"** in this preamble. Commenters should include their names and addresses, identify the docket number for the rulemaking, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels. Also, the regulated area will be in effect for a limited time. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted, since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 USC 605 (b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations: In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations is amended by adding the following section:

§ 100.35–CR22 Colorado River/NJBA Nationals.

(a) The following controlled traffic area will be closed intermittently to all vessel traffic from 7:00 a.m. to 7:00 p.m. each day on 5, 6 and 7 November 1982: The Colorado River commencing approximately at river mile 179½, thence southerly along the natural flow of the river to Headgate Rock Dam.

(b) No person or vessel may enter or remain in the regulated area unless participating in the event or authorized by the sponsor of the event to do so.

(c) Procedures for transiting the race course:

(1) The regulated area will be opened every hour on the hour or after each heat or race for a minimum of ten (10) minutes for the safe transit of nonparticipant watercraft.

(d) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1), 33 CFR 100.35; 49 CFR 1.46(b))

John Dirschel,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 81–30531 Filed 11–5–82; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 11–04–82]

Establishment of Special Local Regulations for the "12th Los Angeles to Mazatlan Invitational Yacht Race"

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a regulated area outside the San Pedro Breakwater near Los Angeles Light on November 6, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the regulated area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This regulation is effective November 6, 1982.

FOR FURTHER INFORMATION CONTACT: Lt. N. M. Turner, Commander (bpa), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590–2213.

SUPPLEMENTARY INFORMATION: The details concerning this year's event were not known in time to publish a proposed rule before the event. Therefore, this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information

The principal individuals involved in drafting this rule are Lt. Noris M. Turner, Chief, Boating and Public Affairs Branch, Eleventh Coast Guard District, and Lt. Catherine M. Kelly, Project

Attorney, Legal Office, Eleventh Coast Guard District.

Discussion

The Los Angeles Yacht Club's "12th Los Angeles to Mazatlan Invitational Yacht Race" will be conducted beginning November 6, 1982 from a starting line outside the Los Angeles Harbor breakwater. This event will have 32 racing yachts under sail 30–80 feet in length that could pose hazards to navigation, particularly in the immediate area of the starting line. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

Procedure

This regulation has been promulgated as an emergency Final Rule without any prior announcement of Notice of Proposed Rulemaking since this is a well-known biennial event and has received wide advertisement and news media attention in past years, as well as this year, in anticipation of its occurrence. Also, the event is scheduled to occur in less than 30 days. Therefore, the provisions of the Administrative Procedure Act (5 U.S.C 553) requiring notice of proposed rulemaking, and opportunity for public participation are considered unnecessary. Nevertheless, interested persons wishing to comment may do so by submitting written comments to the office listed under **"FOR FURTHER INFORMATION CONTACT"** in this preamble. Commenters should include their names and addresses, identify the docket number for the rulemaking, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the regulated area will be open for the passage of commercial vessels and can be opened periodically to recreational vessels.

Also, the regulated area will be in effect for a limited time. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 USC 605(b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–1104 Port of Los Angeles/Los Angeles to Mazatlan Yacht Race.

(a) The following regulated area will be closed intermittently to all vessel traffic from 11:00 AM to 1:30 PM on November 6, 1982: That portion of the Pacific Ocean south and west of the San Pedro Breakwater bounded by straight lines between and the following coordinates on chart 18751:

33°41'38"N	118°17'12"W
33°40'51"N	118°17'12"W
33°42'14"N	118°15'00"W
33°40'51"N	118°15'00"W

(b) No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the regulated area during above hours unless cleared for such entry by or through a patrolling law enforcement vessel, or an event committee boat.

(c) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the race area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(d) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth.

(46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b)):

John Dirschel,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District Acting.

[FR Doc. 82-30532 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 100, 165

[CGD 82-104]

Temporary Safety and Security Zones; Establishment

AGENCY: Coast Guard, DOT.

ACTION: Notice of Temporary Rules Issued.

SUMMARY: This document gives notice of temporary safety and security zones. Periodically the Coast Guard must issue safety and security zones for limited periods to time in limited areas. These zones are established, for example, around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area.

DATES: The following list includes zones that were established between June 11, 1982 and October 16, 1982 and have since been terminated.

ADDRESS: The complete text of any of these temporary zones may be examined at, and is available on request from Executive Secretary, Marine Safety Council (G–CMC), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LTJG Dave Schoorens at (202) 426–1477.

SUPPLEMENTARY INFORMATION: The local COTP must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these zones. Since these events usually take place without advance notice, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed by means of local notice to mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because most mariners are notified by the local notice to mariners and Coast Guard Officials on scene, **Federal Register** notice is not required to place the security zone or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, Coast Guard publishes a periodic list of temporary security and safety zones which have been established throughout the United States. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

These temporary safety and security zones were established and terminated between June 11, 1982 and October 16, 1982 and are listed as follows:

Docket No.	Location	Type	Date
1. CGD 02-82-04	Mississippi River, Mississippi	Safety Zone	07-12-82
2. CGD 03-82-21R	New York Harbor-Hudson River, New York	do	07-29-82
3. CGD 03-82-22R	New London Harbor, Connecticut	do	07-10-82
4. CGD 03-82-25R	New York Harbor, New York	do	08-19-82
5. CGD 03-82-26	Toms River, New Jersey	do	08-28-82
6. CGD 03-82-28R	New London Harbor, Connecticut	Security Zone	09-19-82
7. CGD 03-82-29R	Upper New York Harbor, New York	Safety Zone	09-30-82
8. CGD 05-82-13R	Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk Virginia	do	06-11-82
9. CGD 05-82-15R	Chesapeake Bay, Baltimore Harbor, Baltimore, Maryland	do	07-04-82
10. CGD 05-82-17R	Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk, Virginia	do	07-24-82
11. CGD 05-82-18R	Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk, Virginia	do	07-28-82
12. CGD 05-82-19R	Chesapeake Bay, Hampton Roads, James River, Newport News, Virginia	do	08-02-82
13. CGD 05-82-20R	Chesapeake River, Baltimore Harbor, Baltimore, Maryland, Norfolk, Virginia	do	08-07-82
14. CGD 05-82-21R	Chesapeake River, Hampton Roads, Elizabeth River, Norfolk, Virginia	do	08-16-82
15. CGD 05-82-22R	Chesapeake River, Severn River, Annapolis, Maryland,	do	08-13-82
16. CGD 05-82-23R	Chesapeake River, Baltimore Harbor, Baltimore, Maryland	do	09-12-82
17. CGD 05-82-24R	Chesapeake Bay, Hampton Roads, James River, Newport News, Virginia	do	10-16-82
18. CGD 05-82-25R	Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk, Virginia	do	10-15-82
19. CGD 08-82-14	Vicinity of Matagorda Island, Texas,	do	09-09-82
20. CGD 09-82-09	Detroit River, Michigan	do	06-22-82
21. CGD 09-82-10	Lake Erie, Michigan	do	06-05-82
22. CGD 09-82-14	Detroit River, Michigan	do	06-30-82
23. CGD 09-82-22	Chicago Harbor, Illinois	do	07-23-82
24. CGD 13-82-02	Seattle, Washington	do	09-05-82

Bruce P. Novak,

Acting Executive Secretary, Marine Safety Council.

[FR Doc. 82-30357 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-14-M

Environmental Protection Agency

40 CFR Part 120

[WH-FRL 2242-1]

Water Quality Standards; State of Ohio; Withdrawal of Regulation; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to a rulemaking.

SUMMARY: On July 7, 1982, EPA published a rule in the **Federal Register** by which the Agency intended to withdraw all of the water quality standards previously promulgated for Ohio (47 FR 29541). However, that promulgation inadvertently limited the withdrawal to 40 CFR 120.45(a)–(g). The withdrawal should have been for 40 CFR 120.45(a)–(h). Therefore, the Rule should read as follows.

FOR FURTHER INFORMATION CONTACT: Mr. David K. Sabock, Environmental Protection Agency, Criteria and Standards Division (WH-585), 401 M Street SW., Washington, DC 20460, (202) 245-3042.

PART 120—WATER QUALITY STANDARDS

§ 120.45 Ohio [Amended]

Section 120.45 paragraphs (a)–(h), of Part 120, Chapter 1, Title 40 of the Code of Federal Regulations are removed and reserved.

(Sec. 303 of the Clean Water Act, as amended (Pub. L. 92-500 (33 U.S.C. 1313))

Dated: November 1, 1982.

Frederic A. Eidness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-30623 Filed 11-5-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

41 CFR Ch. 22

Community Services Administration Contract Regulations; Removal of Former Community Services Administration Contract Regulations

AGENCY: Office of Community Services, HHS.

ACTION: Final rule.

SUMMARY: The Office of Community Services (OCS) is removing the former Community Services Administration (CSA) contract regulations. As CSA was abolished effective October 1, 1981, and as performance under all former CSA contracts is completed, there is no further need for these regulations. The removal of these regulations eliminates obsolete material, leaving any closeout of CSA contracts to be governed by the Federal Procurement Regulations, 41 CFR, Chapter 1.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Meyer, Office of Community Services, Department of Health and Human Services, 1200 19th Street NW., Washington, D.C. 20506; telephone 202-653-9233.

SUPPLEMENTARY INFORMATION: As this issuance merely removes an obsolete Chapter, public notice and comment procedures would be impracticable, unnecessary, and contrary to the public interest. For the same reasons, this issuance is effective immediately rather than thirty days after publication. This rule does not have any appreciable effect on the national economy, so it is not subject to the provisions of Executive Order 12291 requiring preparation of a regulatory impact analysis for regulations with an impact of $100 million or more on the national economy. Neither do the provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6) apply to this rule, since it has no significant impact on a substantial number of small entities. Accordingly the Secretary hereby certifies that a regulatory flexibility analysis is not required.

(Sec. 682(e), Pub. L. 97-35, 95 Stat. 519 (42 U.S.C. 9911); Statement of Organization, Functions and Delegations of Authority, Office of Community Services, 46 FR 49211)

CHAPTER 22—[REMOVED]

For the reasons set forth in the preamble Title 41 of the Code of Federal Regulations is amended by removing Chapter 22.

Dated: September 27, 1982.

Harvey R. Vieth,

Director, Office of Community Services.

Dated: October 14, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-30520 Filed 11-5-82 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

49 CFR Parts 450, 451, 452 and 453

[CGD 82-086]

Requirements for Safety Approval of Cargo Containers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations amend certain requirements of the Safety Approval of Cargo Container regulations. In addition to certain administrative changes, this final rule makes the following amendments to the existing regulations: [1] It changes the date by which container owners must have new containers, that were not approved at the time of manufacture, and existing containers examined and fitted with a safety plate. [2] It modifies the schedule for subsequent examination of containers. [3] It provides a transition period for the marking of the date of re-examination of new and existing containers. These changes are being made to implement amendments to the International Safe Container Act and the International Convention for Safe Containers. These changes will give container owners a reasonable transition period to enable them to have their existing containers examined and safety plated. These regulations do not extend the date by which they must have their existing containers approved.

EFFECTIVE DATE: These regulations are effective September 8, 1982.

FOR FURTHER INFORMATION CONTACT: Lt. Jeffrey G. Lantz, Merchant Vessel Inspection Division (G-MVI-5), Room 2407, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street SW, Washington, DC 20593, 202-426-4431.

SUPPLEMENTARY INFORMATION: On June 2, 1980, the U.S. Coast Guard published a Final Rule, Safety Approval of Cargo Containers, Docket CGD 79-027 [45 FR 37212], that amended the existing procedure for approval of freight containers subject to the requirements of the International Convention for Safe Containers (CSC), 1972. The CSC came into force on September 6, 1977 and was ratified by the United States on January 3, 1978. On November 15, 1979 the International Maritime Organization (IMO), formerly known as the Inter-Governmental Maritime Consultative Organization (IMCO), adopted Resolution A.436(XI), Harmonized Interpretation and Implementation of the International Convention for Safe Containers, which was also incorporated into the June 2 Final Rule. On April 2, 1981 IMO adopted amendments to the CSC to: (1) Allow container owners until January 1, 1985 to have their existing containers examined and affixed with a safety plate; (2) Treat new containers not approved at the time of construction as existing containers and not require them to be examined and safety plated until January 1, 1985; and (3) Provide a transition period until January 1, 1987 to have containers marked with the date of the next examination. These amendments entered into force December 1, 1981. Additionally, the Maritime Safety Committee, during its 44th session in April 1981, adopted the Revised and Consolidated Recommendation on Harmonized Interpretation and Implementation of the International Convention for Safe Containers to be consistent with the adopted amendments to the CSC. On September 8, 1982 Pub. L. 97-249 amended the International Safe Container Act [46 U.S.C. 1501) to incorporate the January 1, 1985 date as the deadline for having existing containers examined and fitted with a safety plate.

Notice of Proposed Rulemaking

Since these amendments consist only of changes to compliance dates to conform to amended statutes and international conventions to which the United States is a party, editorial additions, and organizational changes within the Coast Guard, notice and opportunity for comment has been determined to be impracticable and unnecessary. Therefore, under the provisions of 52 U.S.C. 553 these amendments are being issued as a final rule without prior publication of a notice of proposed rulemaking.

Drafting Information

The principal drafters of this document are Lt. Jeffrey G. Lantz, Project Officer, Office of Merchant Marine Safety and Michael N. Mervin, Office of Chief Counsel.

Discussion of Changes

When written in 1972, the CSC allowed the owners of existing containers five years after the date of entry into force of the Convention to have their existing containers approved, examined and affixed with a safety plate. This five year period was considered sufficient time for the envisioned fleet of existing containers. The CSC entered into force on September 6, 1977 which set this date at September 6, 1982. Several large container owning nations including the United States did not ratify the CSC until after it entered into force (the United States ratified the CSC on January 3, 1978 and by the terms of the Convention, it did not come into force in the United States until January 3, 1979). By this time, the fleet of existing containers had grown to approximately 2½ times that which had been envisioned when the Convention was drafted in 1972. On January 6, 1981 IMO released the results of a survey conducted to determine the progress of compliance with the CSC for existing containers and new containers not approved at the time of construction. The survey, which included responses from the U.S. and most of the other major countries owning containers, showed that of approximately 850,000 existing containers, 80% had been approved but only 12% had been examined and plated. For approximately 55,000 new containers not approved at the time of construction, 92% had been approved, examined and plated. Recognizing the need to allow container owners a longer transition period to have their existing containers examined and plated, the following actions were taken:

(1) IMO amended Annex I of the CSC to extend the date from September 6, 1982 to January 1, 1985 by which container owners must examine and safety plate their existing containers. The date by which owners must obtain approval of their existing containers remains September 6, 1982. On September 8, 1982 the International Safe Container Act (46 U.S.C. 1501) was amended by Pub. L. 97-249 to incorporate this change to the CSC. Accordingly § 452.1(a) and § 453.1(a) are being amended to incorporate this change to the law.

(2) IMO added Regulation 10 to Annex I of the CSC. This regulation, which supersedes paragraph 3.6 of Resolution A.436(XI), specifies the approval procedure for new containers that were not approved at the time of construction and establishes January 1, 1985 as the date by which they must be examined and safety plated. When issued on June 2, 1980 the regulations in §451.14(a) implemented the provisions of

paragraph 3.6 of Resolution A.436(XI) regarding the treatment of new containers built before June 16, 1978 which were not approved at the time of construction. It specified the approval procedure for these containers would be the same as for existing containers and the June 16, 1978 date was chosen as the cut off point because that was the date on which the first listing of the Coast Guard's delegated approval authorities was published in the **Federal Register.** It also specified that these containers must be examined and fitted with a safety plate within 5 years of the date of manufacture. In view of the IMO action, § 451.14(a) is being amended to allow new containers, as described above, to have safety plates affixed and receive their first examination by January 1, 1985 rather than 5 years after the date of manufacture. By making this change, container owners will not have to have new containers, which were not approved at the time of construction, examined and plated before they must have their older existing containers examined and plated.

(3) IMO also amended the CSC to provide a transition period until January 1, 1987 by which container owners are to have all containers marked with the date of the next examination. This amendment does not relieve container owners from having to meet the requirements for subsequent examination of containers plated before January 1, 1985, it only relieves them from having to mark the date for the next examination on the container until January 1, 1987. The only control to be exercised between January 1, 1985 and January 1, 1987 is in seeing that all containers are fitted with a safety plate, however, containers can be detained if they are deemed unsafe as currently provided for in the regulations section 452.1(b) is being changed to incorporate this amendment to the CSC.

(4) IMO recognized that the CSC would require re-examination of existing containers, that were approved, examined and plated at an early stage of the implementation of the CSC, before other existing containers would have to be initially examined and plated. Not wanting container owners to delay the initial examination and plating of existing containers, IMO proposed a schedule for the re-examination of existing containers approved and plated during the transition period. This schedule was included in Resolution A.436(XI) and was incorporated into the regulations in § 452.1(a). With the amending of the CSC postponing the date by which existing containers must be examined and safety plated from September 6, 1982 to January 1, 1985, IMO realized that not only existing containers, but some new containers would require examination prior to the time other containers had been initially plated. Therefore in April 1981 the Maritime Safety Committee within IMO adopted changes to the Harmonized Interpretation and Implementation of the International Convention for Safe Containers which modified the schedule for subsequent examinations of containers approved, examined and plated before January 1, 1985. Section 452.1(a) is being amended to incorporate the new schedule.

In addition there are two other minor administrative amendments to the regulations. They are:

(1) The definitions of "new" and "existing" containers have been added to § 450.3 for completeness and to aid in the application of these regulations. These definitions are the same as those in the International Safe Container Act.

(2) The cognizant office for implementation of these regulations is changed to the Merchant Vessel Inspection Division (G–MVI) in lieu of the Cargo and Hazardous Materials Division (G–MHM).

Final Evaluation and Environmental Assessment

These regulations are considered to be nonsignificant and accordingly, a final evaluation has been prepared and placed in the public docket as required by the DOT Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The DOT Order requires that each evaluation include an economic analysis that quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations. Since these rules only postpone the dates by which existing containers must comply with the standards for safe containers and do not increase or decrease the standards themselves, no additional cost will be incurred by container owners or the public from these rules. These rules generate an economic benefit to U.S. container owners by allowing them to defer and spread the cost of examining and plating their existing containers, estimated at $18 million ($52/container for approximately 350,000 U.S. containers) over the 27 month period from September 6, 1982 to January 1, 1985. Without the statutory change reflected in this rulemaking, container owners would have had to spend this amount to have these containers examined and plated by September 6, 1982.

The evaluation is available for public inspection and copying between the hours of 8:00 AM and 4:00 PM, Monday through Friday, except holidays, at the office of Marine Safety Council (G–CMC), Room 4402, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street SW, Washington, DC. 20593, 202–426–1477.

An environmental assessment has not been prepared since these regulations are considered to be administrative and procedural. As specified by DOT Order 5610.1C and Commandant Instruction M16714.1A, regulations of this type are excluded from the requirement to prepare an environmental assessment.

Regulatory Impact Analysis and Regulatory Flexibility Act Certification

A Regulatory Impact Analysis has not been prepared since these regulations are considered to be nonmajor under Executive Order 12291. As specified by Section 3(c)(3) of the Executive Order, regulations of this type are excluded from the requirement to prepare a Regulatory Impact Analysis.

Under the provisions of 5 U.S.C. 601 this rule is not subject to the Regulatory Flexibility Act, however, it has been evaluated and it is certified that this rule will not have a significant economic impact on a substantial number of small entities, since, as explained above, it merely allows the deferral of costs for a limited time.

List of Subjects

49 CFR Part 450

Authority delegations (Government agencies), Freight, Packaging and containers, Safety.

49 CFR Part 451

Freight, Packaging and containers, Safety.

49 CFR Part 452

Freight, Packaging and containers, Safety.

49 CFR Part 453

Administrative practice and procedure, Freight, Packaging and containers, Safety.

PARTS 450 THROUGH 453—[AMENDED]

In consideration of the foregoing, 49 CFR Parts 450 through 453 are amended as follows:

1. Section 450.3 is amended by adding paragraphs (a) (5) and (6) to read as follows:

§ 450.3 Definitions.

(a) * * *

(5) "New Container" means a container, the construction of which began on or after September 6, 1977.

(6) "Existing Container" means a container that is not a new container.

2. § 451.14 is amended by revising paragraph (a) to read as follows:

§ 451.14 Alternative approval of new containers by design type.

(a) New containers manufactured before June 16, 1978 without being approved under the preceding section may be approved by submission to an approval authority of an application corresponding to that required under § 451.1(b) for existing containers. All new containers so approved must have safety approval plates affixed and receive their first periodic examination in accordance with the procedures prescribed in § 452.3 by January 1, 1985.

3. Paragraphs (a) and (b) of § 452.1 are revised to read as follows:

§ 452.1 Periodic examination required.

(a) Each owner of an approved container subject to this part shall examine the container or have it examined in accordance with the procedures prescribed in § 452.3 at intervals of not more than 24 months, except that for containers approved as new containers the interval from the date of manufacture to the date of the first examination must not exceed five years. For containers approved, examined and plated as existing containers before January 1, 1985 and containers approved and plated as new containers before January 1, 1985, the subsequent examination must be carried out in accordance with the following schedule:

Date of initial plating and subsequent examination
Existing containers before September 30, 1981 and New containers before December 31, 1978; before January 1986
Existing containers between October 1, 1981 and September 30, 1982 and New Containers between January 1, 1979 and December 31, 1979; before April 1986
Existing Containers between October 1, 1982 and September 30, 1983 and New Containers between January 1, 1980 and December 31, 1980; before September 1986
Existing containers between October 1, 1983 and December 31, 1984 and New Containers between January 1, 1981 and December 31, 1981; before January 1987

(b) Upon completion of an examination required by this part, the owner shall mark on the safety approval plate, or on the container itself as close as practicable to the safety approval plate, the month and year before which the container must next be examined. This marking must be on all containers by January 1, 1987. The marking may be by a decal, sticker, stencil, or other means so long as it is capable of remaining legible for at least 24 months. Affixing such a marking to a container that has not been examined in accordance with § 452.3 constitutes a misrepresentation in a matter within the jurisdiction of an agency of the United States, and makes the owner punishable under 18 U.S.C. 1001.

* * * * *

4. Section 453.1 is amended by revising paragraph (a) to read as follows:

§ 453.1 Unsafe and noncomplying containers subject to detention or control.

(a) Any container used in or offered for movement in international transport which does not have a valid safety approval plate attached to it is subject to detention or other control by a District Commander or Captain of the Port. However, upon receipt of evidence that a container which does not have a valid safety approval plate attached to it meets the standards of the convention, the District Commander or Captain of the Port may authorize limited movement of such container under conditions he deems appropriate. This paragraph becomes effective on January 3, 1979 for new containers and on January 1, 1985 for existing containers."

* * * * *

§ 450.11 [Amended]

5. Paragraph (a) of § 450.11 is amended by removing the words "Commandant, (G–MHM)" and inserting in their place "Commandant, (G–MVI)" wherever it appears.

§ 451.1 [Amended]

6. Paragraph (a) of § 451.1 is amended by removing the words "Commandant, (G–MHM)" and inserting in their place "Commandant, (G–MVI)" wherever it appears.

§§ 450.11, 450.12, 450.13, 450.14, 450.15, 450.16, 451.3, 451.5, 451.18, and 453.7 [Amended]

7. Sections 450.11, 450.12, 450.13, 450.14, 450.15, 450.16, 451.3, 451.5, 451.18 and 453.7 are amended by removing the words "Cargo and Hazardous Materials Division" and inserting in their place "Merchant Vessel Inspection Division", wherever these words appear.

(46 U.S.C. 1503, 49 CFR 1.46(n))

Dated: September 27,1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-30386 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 76-06; Notice 13]

Federal Motor Vehicle Safety Standards; Speedometers and Odometers

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petition for reconsideration.

SUMMARY: This notice responds to one petition for reconsideration of the agency's decision to rescind Standard No. 127, *Speedometers and Odometers.* After reviewing its decision, the agency has concluded that the rescission of the standard was a necessary and appropriate action under the National Traffic and Motor Vehicle Safety Act. The petition is, therefore, denied.

FOR FURTHER INFORMATION CONTACT: Mr. John Carson, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202–426–2720).

SUPPLEMENTARY INFORMATION: On February 16, 1982 (47 FR 7250; February 18, 1982), the agency rescinded Standard No. 127, *Speedometers and Odometers* (49 CFR Part 571.127). The agency had concluded that there was no likelihood that the standard would yield significant safety benefits. Subsequently, Congressman Ronald Mottl timely filed a petition for reconsideration of the agency's decision. The agency has reviewed the arguments set forth in Congressman Mottl's petition and determined that the rescission was a necessary and appropriate action under the National Traffic and Motor Vehicle Safety Act.

Congressman Mottl raised two basic arguments. First, he argued that an accurate odometer reading is an important contributing factor to the safe operating condition of a vehicle. In addition, he argued that rescission of the standard will lead to increased odometer fraud.

As discussed in the rescission notice, the agency has never disputed that mileage is a factor that may influence some drivers to take preventive

maintenance measures. The issue has always been whether there are other factors which play a more significant role in influencing drivers to perform preventive maintenance.

In making the determination that factors other than mileage have a more significant effect on driver preventive maintenance behavior, the agency relied on a report entitled "Tri-Level Study of the Causes of Traffic Accidents." The study, done by the Indiana University Institute for Research in Public Safety, concluded that problems with vehicle systems were causal or contributing factors in 4.5 to 25.2 percent of the accidents that were studied in-depth by investigation teams. The study found that there were four predominant vehicle-related causes. Those causes are (1) Brake system problems, (2) problems in tires and wheels, (3) steering system problems, and (4) communication system problems (problems with lights, signal, horns, etc.). All of those causes involve components which must be periodically replaced or serviced regardless of mileage. Deterioration in performance, such as brakes pulling, or in appearance, such as low tire tread depth, are readily apparent to the driver and should do more to alert the driver to potential safety-related problems than does the mileage of the vehicle.

The National Traffic and Motor Vehicle Safety Act authorizes the agency to issue Federal motor vehicle safety standards addressed to significant safety problems. Since the role of the odometer in alerting drivers to potential safety-related problems is not crucial, the agency concluded that rescission of the standard would not have an adverse impact on safety and was a necessary and appropriate action under the Act.

Odometer Fraud

The agency recognizes that odometer-related fraud is a major consumer problem. While it is conceivable that the standard might have had some effect on the incidence of odometer tampering, that possible benefit did not justify retention of the standard. The Vehicle Safety Act does not authorize the agency to issue standards addressed to the problem of odometer fraud.

The agency emphasizes that its decision to rescind the safety standard on odometers does not have any effect on the agency's vigorous efforts to enforce the odometer disclosure requirement of Title IV of the Motor Vehicle Information and Cost Savings Act. Last fiscal year, the agency's investigations confirmed instances of odometer fraud in 92 investigations in 21 States. Twenty-two cases involving large-scale odometer tampering were turned over to the Department of Justice for criminal prosecution. The agency is actively pursuing additional investigations, as well as exploring other ways of reducing the problem of odometer tampering.

In consideration of the foregoing, the agency's decision to rescind Standard No. 127 is affirmed and the petition for reconsideration is denied.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on October 29, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-30535 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 47, No. 216
Monday, November 8, 1982

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

Irish Potatoes Grown in the 48 Contiguous States of the United States; Recommended Decision on Proposed Amendment of Potato Research and Promotion Plan and Opportunity to File Written Exceptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision proposes an amendment to the Potato Research and promotion Plan regulating potatoes grown in the 48 contiguous States of the United States, and provides interested persons an opportunity to file written exceptions to this decision. The proposed amendment would authorize an increase in the rate of assessment, the addition of a public member to the National Potato Promotion Board, hereinafter called the "Board," and provide for reimbursement of referendum and administrative costs incurred by the Department. These provisions are designed to allow the Broad to maintain research and promotion activities at effective levels, and to improve the program's administration.

DATE: Written exceptions to this recommended decision may be filed by November 23, 1982.

ADDRESSES: Written exceptions should be filed in duplicate with the Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable, Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued September 17, 1982, and published September 21, 1982 (47 FR 41578).

This formal rulemaking action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

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 significantly affect costs for the regulated handlers.

It has been determined that a comment period of less than 60 days is warranted. The proposal has already been discussed intensively at industry meetings and most industry members are familiar with the provisions. Additionally, the proposal was considered at a public hearing on September 28, 1982, and interested persons were allowed to file proposed findings and conclusions and written arguments or briefs based on evidence presented at the hearing through October 15. No briefs were filed during this period. Because evidence presented at the hearing indicates that the industry has an urgent need for the changes in the program which are proposed, it is hereby found and determined that a comment period of 15 days is sufficient and will effectuate the declared policy of the act.

Preliminary statement. Notice is hereby given of the filing with the Hearing Clerk of this recommended decision on proposed amendment of the Potato Research and Promotion Plan. The plan provides for a nationally coordinated research and promotion program financed by an assessment on potatoes for food and seed.

On August 28, 1982, an amendment to the Potato Research and Promotion Act was approved (Public Law 97–244, 7 U.S.C. 2617–2623) which provides authority to change the maximum assessment rate, to add a public member on the Board, and to reimburse the Department for referendum and administrative costs.

The above notice of filing of this decision and of opportunity to file exceptions to it are issued pursuant to the provisions of the Potato Research and Promotion Act (7 U.S.C. 2611–2627), and the applicable rules of practice and procedure governing proceedings under research, promotion and education programs (47 FR 44684).

This proposed amendment was formulated on the record of a public hearing held in Denver, Colorado, on September 28, 1982. Notice of the hearing was published in the September 21, 1982, issue of the **Federal Register** (47 FR 41578). The notice set forth a proposed amendment submitted by the Board on behalf of potato producers in the 48 contiguous States of the United States.

Material issues. The material issues of record are as follows:

(1) Authorizing a change in the maximum assessment rate;

(2) Authorizing the addition of a public member on the Board and establishing qualifications for such membership;

(3) Providing for the reimbursement of referendum and administrative costs incurred by the Department;

(4) Making such changes in the plan as may be necessary to bring it into conformity with any amendments that may result from the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of hearing:

(1) The Potato Research and Promotion Plan (hereinafter referred to as the "plan") should be amended to authorize increasing the maximum allowable assessment which may be levied upon designated handlers under the program. This change may be effectuated by revising § 1207.342 "Assessments" to provide that the assessment rate shall not exceed one-half of one percent of the immediate past 10 calendar year average U.S. price received for potatoes by growers as reported by the Department.

A number of witnesses testified on the objectives and achievements of the plan. Since its inception in 1972, the annual assessment rate under the plan has been one cent per hundredweight, the maximum authorized. That rate has resulted in a yearly net assessment income of about $2.5 million which has been used to finance a board variety of potato promotion, market development, and research activities.

The Board's efforts focused on a nutritional education program designed to change consumers' perception of the potato. Television, print ads, and public relations activities were used to inform the public that the potato is relatively low in calories and an important source of essential vitamins and minerals. Other major activities highlighted in the record included a continuing program to stimulate sales by retailers through better merchandising techniques, and market development projects to boost shipments of U.S. seed potatoes and a variety of processed potato products to numerous foreign markets. Research projects included analyses of buyer attitudes and use patterns, and measurement of the potato's average nutrient values through a pioneer market survey procedure.

Record evidence indicates that the Board's overall program has been meeting its objective, with more people aware of the positive attributes of the potato and market opportunities expanding. But over time the Board encountered major problems as inflation sharply eroded the buying power of the Board's funds. Advertising costs in general more than doubled over the past decade, with television advertising rates up about 170 percent during that period. Despite continuing economy measures, Board administrative costs also moved up sharply. With income stable but costs rising, it became necessary for the Board to gradually curtail major activities, thereby holding the program's effectiveness below its potential. The use of television ads was stopped in the mid-1970's most print ads were not used in 1982, and market development activities in other countries were not as broad as they otherwise could have been if more adequate funds had been available.

Without exception industry witnesses expressed the need to increase the rate of assessment. The Board requires significantly more income so that promotion activity can return to the level of ten years ago, and market development can be maintained and expanded. Therefore, the plan should be amended to allow the collection of increased funds. This would effectuate the policy of the act, which is to provide for an adequately financed broad program to improve the competitive position of potatoes.

The record indicates that the maximum assessment rate should not exceed one-half of one percent of the immediate past 10 year U.S. average price received by growers as reported by the Department. This maximum rate would compensate for inflation which has affected program operations since 1972, yet would not result in a burdensome rate of assessment. For example, during the 1982 fiscal period, the Board's maximum allowable rate of assessment would have been about 2.1 cents per hundredweight under the proposal, and at that rate revenues would have approximated about $4 million. This would provide sufficient revenue to fund a program level similar to that undertaken in the early 1970's. Further, the proposal would automatically compensate for future inflation to some extent by tying rates of assessment to the value of potatoes, which tends to vary with changes in the general economy.

(2) The plan should be amended to provide for public representation on the Board. To effectuate such a change, § 1207.320 of the current plan providing for the establishment and membership of the Board should be revised to enlarge the Board by adding a public member and to indicate qualification criteria for the public member. Further, a new paragraph (d) should be added to § 1207.322 "Nominations" to indicate criteria and procedures for selecting the public member; and § 1207.328 "Duties" should be revised to incorporate nominating the public member as a Board duty.

Record evidence indicates that public representation on the Board could improve the exchange of information and viewpoints between industry members and the public. While the influence of consumers is implicitly present in the deliberations of members, and all Board meetings are open to the public, the appointment of a public member would provide more direct communication between industry members and the public. The public member should have the same rights and privileges as other Board members, such as voting rights, reimbursement for expenses, and membership on committees and subcommittees of Board members.

Individuals selected from the public to serve on the Board should meet eligibility requirements specified by the Board in administrative rules issued with approval of the Secretary. The record indicates that the public representative should not be permitted to have a direct financial interest in the commercial production, financing, buying, packing, or marketing of potatoes except as a consumer, or be a director, officer, or employee of any firm so engaged. Also, the public representative should be able to devote sufficient time and indicate a willingness to attend Board meetings regularly and become familiar with the background and economics of the industry.

The record indicates that the public member should be nominated by the industry members of the Board at its first meeting following selection of members for a new term of office, and should serve on the Board until a successor is selected and has qualified.

(3) Paragraph (b) of § 1207.341 "Budget and expenses" should be revised to also provide that any referendum and administrative costs incurred by the Secretary under the program will be reimbursed by the Board. Such a change is necessary so that the plan will conform to the act as amended in 1982. The reason for these changes, in both the act and the plan, is that Federal administrative costs for programs such as the potato promotion program should be borne by those who would benefit from such programs.

Record evidence indicates that administrative costs incurred by the Department would include salaries and overhead costs associated with oversight of the program. Reimbursement to the Department for conduct of the referendum would be related to costs for such items as printing, postage, and supplies, and any fees or service charges which are directly attributed to a referendum.

(d) Certain conforming changes should also be made so that the plan, as amended, would be consistent. One such change, to add nominating the public member as a Board duty to § 1207.328 "Duties," has already been mentioned. All such changes should be incorporated in the recommended amendment of the plan.

Rulings on briefs of interested persons. At the end of the hearing, the Administrative Law Judge fixed October 15, 1982, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon evidence received at the hearing. No briefs were filed.

General findings. (1) The following findings are supplementary and in addition to the ones made in issuing the Plan. Except for those findings which may be in conflict with these findings, all such prior findings are hereby ratified and affirmed; (2) The amendment to the Plan will tend to effectuate the declared policy of the Act;

(3) The following terms and conditions are recommended as the detailed means of carrying out the declared policy of the Act with respect to carrying out a program of research and promotion for potatoes.

Recommended amendment of the Potato Research and Promotion Plan. The following amendment of the Plan is recommended as the detailed means by which the foregoing conclusions may be carried. out:

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

1. Section 1207.320 is amended by revising paragraphs (a), (b), and adding (e) to read:

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers and the public as selected by the Secretary. The public representative to the Board shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary. Producer members shall be selected from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Producer membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. Each State's producer membership shall be initially determined on the basis of one member for each five million hundredweight of production, or major fraction thereof, produced within such State. Each State initially shall be entitled to at least one producer member on the Board. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, officer or employee of any firm so engaged. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

* * * * *

(e) In the event that producer Board members fail to select a public representative nominee the Secretary may appoint such a member.

§ 1207.322 [Amended]

2. Section 1207.322 is amended as follows:

Where "member" or "nominees" appears in paragraphs (a), (b), and (c), insert "producer" before each. Also, add a new paragraph (d) to read:

* * * * *

(d) The public member shall be nominated by the producer members of the Board. The Board shall prescribe such additional qualifications, administrative rules and procedure for selection and voting for each candidate as it deems necessary and the Secretary approves.

§ 1207.328 [Amended]

3. In § 1207.328, paragraph (a) is revised by adding "to nominate the public member;" after "of Board members;".

4. In § 1207.341, paragraph (b) is revised to read:

§ 1207.341 Budget and expenses.

* * * * *

(b) The Board is authorized to incur such expenses for research, development, advertising, or promotion of potatoes and potato products, such other expenses for the administration, maintenance, and functioning of the Board, and any referendum and administrative costs incurred by the Department of Agriculture as are approved pursuant to § 1207.361.

5. In § 1207.342, paragraph (a) is revised to read:

§ 1207.342 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar year United States average price received for potatoes by growers as reported by the Department of Agriculture and not more than one such assessment may be collected on any potatoes.

* * * * *

Signed at Washington, D.C., on November 2, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-30626 Filed 11-5-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 22101; Petition Notice PR 82-14]

Petition of Jerome J. Seidenman; Encoding Transponders and Redundant Electrical Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for rulemaking.

SUMMARY: This notice publishes for public comment the petitions of Jerome J. Seidenman dated August 6 and October 14, 1981, and August 23, 1982. The petitioner proposes to amend Part 91 of the Federal Aviation Regulations to require that all aircraft be equipped with an operable coded radar beacon transponder. This transponder must have a mode 3/A 4096 code capability, replying to mode 3/A interrogation with the code specified by ATC, and must be equipped with automatic pressure reporting having a Mode C capability that automatically replies to Mode C interrogations by transmitting pressure altitude information in 100-foot increments. This requirement would apply at any time an aircraft is being operated.

Additionally, the petitioner proposes to amend Parts 91 and 23 to require all manufacturers of high-performance single-engine aircraft to design into the aircraft they build a redundancy capability in the event of an electrical system failure.

The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice is not intended to affect the legal status of the petition or its final disposition.

DATE: Comments must be received on or before January 6, 1983.

ADDRESS: Send comments on this petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22101, 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver in triplicate to Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments delivered must be marked: Docket No. 22101. Comments may be inspected at Room 916 weekdays, except holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Roger Baker, Project Development Branch (AFO-850), General Aviation and Commercial Division, Office of

Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–8150.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petitions as they may desire. Communications should identify the docket and petition notice number and be submitted in triplicate to the address indicated above. All communications received on or before the closing date will be considered before taking action on the petition. All comments submitted will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of comments received in response to this notice should submit a self-addressed stamped postcard which states "Comments to Docket No. 22101." The postcard will be date/time stamped and returned to the commenter.

Normally, the FAA only summarizes petitions for rulemaking for publication in the **Federal Register.** In the case of the petition of Mr. Jerome J. Seidenman, however, because the position taken in the petition is more restrictive than that taken by the FAA in Part 91 and may have a significant economic impact, the FAA has elected to publish the petition and its revisions verbatim. The FAA also believes verbatim publication of this petition is desirable since it might add to the growing dialogue concerning the National Airspace System Plan. This action also ensures that commenters will be able to review the content of the petition free from any possible inappropriate characterizations arising from a summarization.

This notice sets forth the contents of the petitions as received by the FAA without changes, and it invites public comment upon the petition in accordance with FAA procedures governing petitions for rulemaking. It does not propose a rule for adoption. represent and FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and reach a conclusion on the merits of the proposal after it has had an opportunity to evaluate it carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

The Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petitions for rulemaking of Mr. Jerome J. Seidenmen dated August 6 and October 14, 1981, and August 23, 1982.

Issued in Washington, D.C., on November 1, 1982.

John H. Cassady, III,

Assistant Chief Counsel, Regulations and Enforcement Division.

August 23, 1982.

Re My 8/6/81 letter, Docket: 22101.

William J. Sullivan, Chief, Safety Regulations Staff,

Associate Administrator for Aviation Standards, U.S. Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

Dear Mr. Sullivan: Enclosed please find: 1. 8/6/81 letter Seidenman to Helms; 2. 8/26/81 letter Sullivan to Seidenman; 3. 10/14/81 letter Seidenman to Sullivan.

There is no doubt that what I advocated could be very effective in helping to avoid mid-air collisions.

Please read the enclosed article "Learning and Looking" which appears in the August, 1982 issue of "FAA General Aviation News".

The story I have bracketed on page 9 emphasizes my point. I direct your attention to the observation by the arrow ". . . a functioning transponder with altitude encoding capability would have provided a constant altitude readout to ATC."

Here it is—published in a DOT/FAA Flight Operations Safety Publication. Can't you do something to get the ball rolling on requiring encoding transponders to be in all aircraft as outlined in my proposal?

It is really a silly and dangerous game to have ATC point out to some IFR or VFR aircraft, both with altitude encoders that other traffic is close by heading its way and the "altitude is unknown."

The technology has existed for some time now to make the unknown, known.

There are lots of unsuspecting people who fly as pilots, crew and passengers who are put at greater risk because ATC many, many times cannot do better than say that the altitude of certain blips is "unknown".

What can be done?

I think for starters I shall write to the manufacturers of encoding transponders to see if they can't get some sort of a lobby going to get this proposal made into a regulation.

I would appreciate your observations.

Thank you.

Very truly yours,

Jerome J. Seidenman

October 14, 1981

Re My 8/6/81 letter, Docket: 22101.

William J. Sullivan, Chief, Safety Regulations Staff,

Associate Administrator for Aviation Standards, U.S. Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591

Dear Mr. Sullivan: Your letter to me of August 26, 1981 is enclosed for ready reference.

1. The text of the rule changes I propose is that *all* operational single engine and multi-engine aircraft, without exception, now subject to the FARs, be required to have on board an operable transponder with altitude reporting capability; that the pilot in command of any such aircraft be required to activate such transponder to its altitude reporting mode and appropriate VFR or IFR codes on *all* flights; that such transponder be checked for accuracy at no later interval than every 100 flight hours or 12 calendar months, which shall first occur; that any pilot found guilty of operating any such aircraft in violation of this FAR shall be subject to a minimum $1,000.00 fine or suspension of flight privileges for not more than 30 days or both.

2. This rule change is in the public interest and will benefit the public as a whole because the potential for safer and more efficient aircraft control will be established so as to significantly reduce the risk of two or more aircraft colliding in flight expecially in congested traffic airport areas outside of TCAs and TRSAs.

3. Summary: This rule change requires all operational single and multi-engine aircraft to have transponders with altitude reporting modes on board and operating during flight for the purpose of further reducing or eliminating the risk of mid-air collisions.

A hearing is requested.

Thank you.

Very truly yours,

Jerome J. Seidenman

August 6, 1981

Re Air Safety

J. Lynn Helms, Administrator,

Federal Aviation Administration, Washington, D.C. 20591

Dear Mr. Helms:

I applaud the action you have taken recently in choosing an airborne collision avoidance system, and while it is a step in the right direction, it is still far in the future and, even when it is implemented, it will not be mandatory for all aircraft to employ.

I respectfully suggest that the FAA, under your leadership, require *all* aircraft, certified as air worthy, to have an operable transponder with altitude reporting capability installed and kept in proper working condition.

This should be required as standard equipment on all new airplanes and as a retrofit requirement to all other aircraft flying, without exception. A short time limit should be imposed within which all aircraft should have this piece of equipment installed.

I am sure I do not have to tell you that it is a rather scary experience when you are flying an aircraft that is equipped with an encoder, an ATC or an approach controller calls traffic at a certain position—then adds, "* * * altitude unknown"—and you say "negative contact, but looking" and all of a sudden you see a late model Bonanza or some other high performance single engine or twin engine airplane whiz by a few hundred feet away. That has happened to me several times. Has it happened to you? Should it happen?

I suggest that this kind of event happens all too frequently and could be avoided if only all aircraft were required to have encoding transponders.

Changes are that if the FAA requires such equipment to be aboard and functioning, the owner/operator will maintain it and use it. I dislike somebody enjoying the "privilege" of flying and then having the so-called "right" to fly in the same air space as other aircraft without being required to employ technology that helps promote safety in the air—such as mid-air collisions.

I am not impressed by excuses such as strong lobbying pressure, or AOPA opposes it, or its too expensive for the average guy, etc.

In my opinion, if you can't afford to fly safely, then you can't afford to fly.

The FAA should require the elimination and/or the minimization of all unreasonable risks of danger that reasonable technology provides and guards against. In that regard, I suggest the requirement I ask the FAA to implement is reasonable.

Additionally, the FAA should require all manufacturers of high performance single engine aircraft to design into the aircraft it builds a redundancy capability in the event of an electrical system failure. Many high performance singles fly day and night, IFR, over mountains, etc., and there is no legitimate reason why these aircraft should not have some reliable redundancy systems built into them in the event of an electrical system failure.

I am suggesting that manufacturers be required to design out the risk of danger whenever possible and that aircraft manufacturers, owners, and operators, be required to have encoding transponders.

Please respond.

Thank you.

Sincerely,

Jerome J. Seidenman.

[FR Doc. 82-30584 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-7]

Revised Control Zone; Salem, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revise the control zone of Salem, Oregon to accommodate instrument approach procedures at McNary Field.

DATES: Comments must be received on or before December 18, 1982.

ADDRESSES: Send comments to: Manager, Airspace & Procedures Branch, ANM-503, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The official docket may be examined in the Regional Counsel Office (and an informal docket may be examined in the Airspace & Procedures Branch) at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ANM-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Airspace & Procedures Branch at the address previously listed. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment of § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace for the protection of aircraft executing the current ILS Rwy 31 and NDB Rwy 31 standard instrument approach procedures at McNary Field, Salem, Oregon.

Index Terms

List of Subjects in 14 CFR Part 71

Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by replacing the description of the Salem, Oregon Control Zone with the following:

Within a 5 mile radius of McNary Field, Salem, Oregon. Latitude 44°54'36"N., Longitude 123°00'05"W.; and within 3 mile each side of the Salem ILS localizer SE course, extending from the 5 mile radius zone to 8.5 miles SE of the LOM; within 4 miles each side of the Salem ILS localizer NW course, extending from the 5 mile radius zone to 15 miles NW of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and (14 CFR 11.65))

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

Issued in Seattle, Washington on October 27, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-30536 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9151]

Champion Home Builders Co.; Proposed Consent Agreement With Analysis To Aid public comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting

unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Drydon, Mich., manufacturer and seller of solar energy equipment to cease, among other things, making false or unsubstantiated representations concerning the performance, durability, quality, and maintenance requirements of its solar energy equipment. Also prohibited would be any unsubstantiated claims concerning the enrgy- and money-savings potential realized from use of such equipment. Further, the order would require the company to contact all purchasers of its equipment and inform them that the company is offering cash settlements to eligible persons. Those accepting the cash settlement would waive any legal claims they may have against the company, and any rights to receive service or repairs under the manufacturer's warranty. Additionally, the company would be required to send a warning package to all purchasers of its equipment, notifying them of precautions that should be taken to minimize any potential for fire in Champion-manufactured solar energy equipment.

DATE: Comments must be received on or before January 7, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, Marilyn J. Holmes, Washington, D.C. 20580. (202) 724–0727.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Solar energy equipment.

In the matter of Champion Home Builders Co., a corporation; Docket No. 9151, agreement containing consent order to cease and desist.

The agreement herein, by and between Champion Home Builders Co., a corporation, by its duly authorized officer, hereafter sometimes referred to as respondent, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Champion Home Builders Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 5573 East North Street, in the City of Dryden, State of Michigan.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, and has filed an answer to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

9. By its final acceptance of this agreement, the Commission waives its right to commence a proceeding or action against respondent seeking consumer redress or other relief under Section 5 or Section 19 of the Federal Trade Commission Act with respect to the specific acts or practices alleged in the complaint, or alleged in the proposed amendment to the complaint certified to the Commission on January 5, 1982, which occurred pror to the date of service of the order.

Order

For purposes of this Order, the following definitions shall apply:

(1) "Solar energy equipment" shall mean all space heating or cooling or water heating equipment utilizing energy from the sun, including but not limited to Solar Furnaces and solar collectors manufactured by respondent, whether sold under the Champion brand name or another brand name.

(2) "Solar Furnace" shall mean the solar heating equipment manufactured by respondent between approximately 1976 and 1979, consisting of a self-contained A-frame structure with a collector and storage compartment, including but not limited to equipment

designated by respondent, or possessing the same design and physical characteristics as equipment designated by respondent, as models 96, 128, 160, 1500, 2000, and 2500, whether sold under the Champion brand name or another brand name.

(3) "Solar collector" shall mean the solar heating equipment manufactured by respondent between approximately 1976 and 1979, consisting of a glass-covered box with a dark absorber suface over which air can pass, including but not limited to the product marketed under the name "Champion Vertafin Collector."

(4) "Solar collector system" shall mean each distinct system of solar collector(s), air handlers, and controls.

(5) As used in this Order, the requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting orally, visually, in writing, or in any other manner, directly or by implication.

(6) "Competent and reliable scientific test" shall mean a test in which persons with skill and expert knowledge in the field to which the test pertains conduct the test and evaluate its results in an objective manner using testing, evaluation, and analytical procedures that ensure accurate and reliable results.

(7) "Purchaser" shall mean any person who purchased a Solar Furnace or solar collector for his or her own use as heating equipment or as a demonstrator, and who did not sell any Solar Furnace or solar collector (except for second-hand resale of the Solar Furnace or solar collector purchased by such person for his or her own use). This term shall include any dealer as defined below who did not sell any Solar Furnace or solar collector (except for second-hand resale of the Solar Furnace or solar collector purchased by such dealer for his or her own use.)

(8) "Dealer" shall mean any person authorized by respondent, by a distributor of respondent, or by a licensee or a distributor of a licensee of International Solarthermics Corporation, to sell Solar Furnaces or solar collectors to purchasers.

(9) "Eligible direct purchaser" shall mean any purchaser who purchased a Champion brand name Solar Furnace or solar collector, as new. This term shall not include any purchaser who, prior to April 1, 1982, waived all claims with respect to the Solar Furnance or solar collector in exchange for monetary compensation, or who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnace or solar collector.

(10) "Eligible direct dealer" shall mean any dealer who purchased a Champion brand name Solar Furnace or solar collector, as new, for his or her own use as heating equipment or as a demonstrator, and who sold at least one but less than three Solar Furnaces and solar collectors to purchasers. This term shall not include any dealer who, prior to April 1, 1982, waived all claims with respect to the Solar Furnace or solar collector in exchange for monetary compensation, or who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnace or solar collector.

(11) "Eligible licensee purchaser" shall mean any purchaser who purchased a Solar Furnace or solar collector of a brand name other than Champion, as new. This term shall not include any purchaser who, prior to April 1, 1982, waived all claims with respect to the Solar Furnace or solar collector in exchange for monetary compensation, or who received a judgment in a court of law for monetary damages or for a full or partial refund of the purchase price in an action against respondent with respect to the Solar Furnance or solar collector.

Part I

It is ordered that respondent Champion Home Builders Co., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacture, advertising, offering for sale, sale, or distribution of any solar energy equipment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing in any manner that:

(1) Respondent's solar energy equipment does not have any defect which substantially impairs the reliability, durability, or performance of the equipment;

(2) Little or no maintenance is required to keep respondent's solar energy equipment in operating condition;

(3) Respondent's solar energy equipment, or any material or component thereof, is durable or reliable;

(4) Respondent's solar energy equipment, or any material or component thereof, is not adversely affected by high temperatures;

(5) Respondent has 60 factories producing solar energy equipment, has a 22-year record of mass producing solar energy equipment, or has 3,200 trained dealers nationwide to provide prompt service on its solar energy equipment; or

(6) Competent, independently conducted tests have verified the performance or quality of respondent's solar energy equipment; unless such representation is true, and unless, at the time that the representation is made, respondent possesses and relies upon a competent and reliable scientific test or other objective material which substantiates the representation.

B. Representing in any manner the thermal or economic performance or efficiency, energy savings, heat output, cost recovery, "payback" potential, or investment potential of respondent's solar energy equipment unless such representation is true, and unless, at the time that the representation is made, respondent possesses and relies upon a competent and reliable scientific test or other objective material which substantiates the representation.

C. Misrepresenting in any manner:

(1) The reliability, durability, performance capabilities, or maintenance requirements of respondent's solar energy equipment;

(2) The production capabilities, manufacturing experience, or service capabilities of respondent relating to solar energy equipment; or

(3) The results or conclusions of any test upon which respondent relies to substantiate any representation relating to solar energy equipment.

Part II

It is further ordered that respondent shall:

A. Within 45 days after the date of service of this Order, determine the names and last known addresses of all purchasers and the names and last known addresses of all dealers. In making these determinations, respondent shall search all relevant records in its possession, custody, or control, and shall obtain and search all relevant service and repair records maintained by International Solar Technologies, Inc. as of the date of service of this Order.

B. Send by first-class mail, address correction requested, within 45 days after the date of service of this Order, to the last known address of each purchaser and dealer identified by respondent pursuant to Subpart A of this Part or identified by the Federal Trade Commission or its staff, a notice package consisting of: (i) A copy of the letter attached to this Order as Attachment A, incorporated herein by reference, with the return date filled in;

(ii) a copy of the questionnaire form attached to this Order as Attachment B, incorporated herein by reference, with the return date filled in; (iii) a self-addressed, postage-paid envelope; and (iv) an envelope containing the materials described in subsections (i) through (iii) and bearing the legend "CHAMPION SOLAR PROGRAM, IMPORTANT CASH SETTLEMENT OFFER." For the purposes of this Subpart, the return date shall be the date 90 days after the date of service of this Order.

Respondent shall also send by first-class mail a notice package to each person who, within 85 days after the date of service of this Order, contacts respondent or about whom respondent receives information indicating that the person may be a purchaser or dealer, and who has not received a notice package or received a notice package but subsequently lost it. The notice package shall be sent within five days after respondent's receipt of the contact or information.

Provided that respondent may refrain from sending a notice package to any person identified pursuant to Subparts A or B of this Part who respondent's records conclusively show is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser.

C. Determine all eligible direct purchasers, eligible direct dealers, and eligible licensee purchasers. These determinations shall be based upon all information received by respondent from returned Attachment B questionnaires, and all other information in respondent's possession, as of the date 105 days after the date of service of this Order.

Provided that respondent may determine that a person is or is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser notwithstanding the information provided by such person in an Attachment B form if respondent's records conclusively show that the person does or does not meet the definition of eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser as set forth in Definitions (9), (10), and (11) of this Order.

D. Determine a tentative cash settlement amount for each eligible direct purchaser and eligible direct dealer identified pursuant to Subpart C of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of the following:

(1) $1500 for each Solar Furnace or solar collector system purchased by an eligible direct purchaser who currently owns the unit(s) or who disposed of the unit(s) not for value;

(2) $1000 for each Solar Furnace or solar collector system purchased by an eligible direct purchaser and subsequently disposed of for value; and

(3) $750 for each Solar Furnace or solar collector system purchased by an eligible direct dealer which has purchased for the dealer's own use, either as heating equipment or as a demonstrator.

Provided that if the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) through (3) of this Subpart exceeds $375,000, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of $375,000 to the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) through (3).

E. Determine a tentative cash settlement amount for each eligible licensee purchaser identified pursuant to Subpart C of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of the following:

(1) $750 for each Solar Furnace or solar collector system purchased by an eligible licensee purchaser who currently owns the unit(s) or who disposed of the unit(s) not for value; and

(2) $500 for each Solar Furnace or solar collector system purchased by an eligible licensee purchaser and subsequently disposed of for value.

Provided that if the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) and (2) of this Subpart exceeds $150,000 plus any remaining portion of the $375,000 amount provided in Subpart D, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of $150,000 plus any remaining portion of the $375,000 amount to the aggregate dollar value of all tentative cash settlements determined pursuant to subsections (1) and (2).

F. Send by first-class mail, within 125 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser who is determined pursuant to Subpart C of this Part: (i) A copy of the letter attached to this Order as Attachment C, incorporated herein by reference, with the tentative cash settlement amount and the return date filled in; (ii) a copy of the acceptance and waiver form attached to this Order as Attachment D, incorporated herein by reference, with the tentative cash settlement amount, the return data, and the date of the Attachment C letter filled in; and (iii) a self-addressed, postage-paid envelope. The tentative cash settlement amount shall be determined as provided in Subparts D and E of this Part. For the purposes of this Subpart, the return date shall be the date 155 days after the date of service of this Order.

G. Send by first-class mail, within 180 days after the date of service of this Order, a cash settlement check to each eligible direct purchaser and eligible direct dealer who returned to respondent a signed Attachment D form which was received by respondent on or before the date 170 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart D, subsections (1) through (3) of this Part, and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that in the aggregate dollar value of all cash settlements as determined above exceeds $375,000, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of $375,000 to the aggregate dollar value of all cash settlements as determined above.

H. Send by first-class mail, within 240 days after the date of service of this Order, a cash settlement check to each eligible licensee purchaser who returned to respondent a signed Attachment D form which was received by respondent on or before the date 170 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart E, subsections (1) and (2) of this Part, and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that if the aggregate dollar value of all cash settlements as determined above exceeds $150,000 plus any undistributed portion of the $375,000 fund provided in Subpart G of this Part, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of $150,000 plus any undistributed portion of the $375,000 found to the aggregate value of all cash settlement as determined above.

I. Send by first-class mail to each person who, within 86 to 270 days after the date of service of this Order, contacts respondent or about whom rspondent receives information

indicating that the person may be a purchaser or dealer, and who has not received a notice package as provided in Subpart B or who received a notice package as provided in Subpart B but subsequently lost it, a notice package consisting of: (i) A copy of the letter attached to this Order as Attachment E, incorporated herein by reference, with the return date filled in: (ii) a copy of Attachment B, with the return date filled in; (iii) a self-addressed, postage-paid envelope; and (iv) an envelope containing the materials described in subsections (i) through (iii) and bearing the legend "CHAMPION SOLAR PROGRAM, IMPORTANT CASE SETTLEMENT OFFER." For the purposes of this Subpart, the return date shall be the date 275 days after the date of service of this Order. The notice package shall be sent within five days after respondent's receipt of the contact or information.

Provided that respondent may refrain from sending a notice package to any person who respondent's records conclusively show is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser.

J. Determine all additional eligible direct purchasers, eligible direct dealers, and eligible licensee purchasers. These persons shall include (i) persons whose Attachment B forms were received by respondent subsequent to the date 105 days after the date of service of this Order, and (ii) persons whose Attachment D forms were received by respondent subsequent to the date 170 days after the date of service of this Order. The determinations shall be based upon all information received by respondent from returned Attachment B questionnaires, and all other information in respondent's possession, as of the date 290 days after the date of service of this Order.

Provided that respondent may determine that a person is or is not an eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser notwithstanding the information provided by such person in an Attachment B form if respondent's records conclusively show that the person does or does not meet the definition of eligible direct purchaser, eligible direct dealer, or eligible licensee purchaser as set forth in Definition (9), (10), and (11) of this Order.

K. Determine a tentative cash settlement amount for each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser identified pursuant to Subpart J of this Part. The tentative cash settlement amounts shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector and shall consist of those amounts specified in Subpart D, subsections (1) through (3) and Subpart E, subsections (1) and (2) of this Part.

Provided that if the aggregate dollar value of all tentative cash settlements determined above exceeds $25,000 plus any undistributed portion of the $375,000 and $150,000 funds provided in Subparts G and H of this Part, then each tentative cash settlement shall be prorated by multiplying the tentative cash settlement amount by the ratio of $25,000 plus any undistributed portion of the $375,000 and $150,000 funds to the aggregate value of all cash settlements as determined above.

L. Send by first-class mail, within 310 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer and eligible licensee purchaser who is determined pursuant to Subpart J(i) of this Part: (i) A copy of Attachment C, with the tentative cash settlement amount and the return date filled in; (ii) a copy of Attachment D, with the tentative cash settlement amount, the return date, and the date of the Attachment C letter filled in; and (iii) a self-addressed, postage-paid envelope. The tentative cash settlement amount shall be determined as provided in Subpart K of this Part. For the purposes of this Subpart, the return date shall be the date 340 days after the date of service of this Order.

M. Send by first-class mail, within 310 days after the date of service of this Order, to each eligible direct purchaser, eligible direct dealer and eligible licensee purchaser who is determined pursuant to Subpart J(ii) of this Part and whose new tentative cash settlement amount is less than the tentative cash settlement amount previously determined for that person pursuant to Subpart D or E of this Part: (i) A copy of the letter attached to this Order as Attachment F, incorporated herein by reference, with the new tentative cash settlement amount and the return date filled in; (ii) a copy of Attachment D, with the new tentative cash settlement amount, the return date, and the date of the Attachment F letter filled in; and (iii) a self-addressed postage-paid envelope. The new tentative cash settlement amount shall be determined as provided in Subpart K of this part. For the purposes of this Subpart, the return date shall be the date 340 days after the date of service of this Order.

N. Send by first-class mail, within 365 days after the date of service of this Order, a cash settlement check to each eligible direct purchaser, eligible direct dealer, and eligible licensee purchaser who did not receive a cash settlement check as provided in Subparts I and J, and who returned to respondent a signed Attachment D form which was received by respondent on or before the date 355 days after the date of service of this Order. Each cash settlement shall be in the amount determined as provided in Subpart D, subsections (1) through (3) and Subpart E, subsections (1) and (2) of this Part, and shall be determined according to the status of the person at the time of purchase of each Solar Furnace or solar collector.

Provided that if the aggregate dollar value of all cash settlements as determined above exceeds $25,000 plus any undistributed portion of the $375,000 and $150,000 funds provided in Subparts G and H of this Part, then each cash settlement shall be prorated by multiplying the cash settlement amount by the ratio of $25,000 plus any undistributed portion of the $375,000 and $150,000 funds to the aggregate value of all cash settlements as determined above.

O. Send by first-class mail a copy of the letter attached to this Order as Attachment G, incorporated herein by reference, with the appropriate box checked, to each person who is determined to be ineligible for a cash settlement under the provisions of this Order or whose Attachment D form was not received by respondent on or before the date 355 days after the date of service of this Order.

The copy of Attachment G shall be sent within ten days after the determination of ineligibility is made or the Attachment D form is received by respondent.

P. Use all reasonable efforts to determine the correct and complete name and last known address of a purchaser or dealer in each instance where the records searched by respondent do not provide correct or complete information, and use all reasonable efforts to determine the correct eligibility and status of a person in each instance where the returned Attachment B form contains insufficient, ambiguous, or conflicting information. Such efforts shall include, but not be limited to, searches of respondent's records and requests for additional information by mail or telephone calls.

Q. In each instance where a letter or notice package provided for by Part II of this Order is returned by the Post Office undelivered and respondent is provided with a corrected address, remail the letter or notice package to the corrected address within five days after respondent's receipt of the corrected address from the Post Office.

R. Establish and maintain a telephone number which persons may call to receive information and materials relating to the programs provided in this Part and in Part III of this Order.

Part III

It is further ordered that respondent shall:

A. Within 45 days after the date of service of this Order, determine the names and original addresses of all persons who purchased Solar Furnaces or solar collectors, including purchasers, dealers, distributors of respondent, licensees of International Solarthermics Corporation, and distributors of licensees of International Solarthermics Corporation. In making these determinations, respondent shall search all relevant records in its possession, custody, or control.

B. Send by third-class mail, within 45 days after the date of service of this Order, to the original address of each person who purchased a Solar Furnace or solar collector identified by respondent pursuant to Subpart A of this Part or identified by the Federal Trade Commission or its staff, a warning package consisting of: (i) A copy of the letter attached to this Order as Attachment H, incorporated herein by reference; (ii) two copies of the sign attached to this Order as Attachment I, incorporated herein by reference, consisting of a white self-adhesive label of latex impregnated material, no smaller than four inches by six inches, with the first line printed in red in thirty-six point type and the second line printed in red in twenty-four point type; and (iii) an envelope containing the materials described in subsections (i) and (ii) bearing the legend "IMPORTANT SOLAR EQUIPMENT WARNING" and addressed as follows: "(Name of Person) or Current Resident."

Respondent shall also send by first-class mail a warning package to each person who, within 365 days after the date of service of this Order, contacts respondent or about whom respondent receives information indicating that the person may be a current owner of a Solar Furnace or solar collector, and who has not received a warning package or who received a warning package but subsequently lost it. The warning package shall be sent within five days after respondent's receipt of the contact or information.

Provided that respondent shall substitute on the envelope containing copies of Attachments H and I the name of the current owner of the Solar Furnace or solar collector for the name of the person who purchased the Solar Furnace or solar collector, if respondent's records show that the person who purchased the Solar Furnace or solar collector no longer owns the unit and if respondent's records contain the name of the current owner.

Provided that respondent may refrain from sending a warning package to any person identified pursuant to Subpart A of this Part who respondent's records conclusively show is not a current owner of a Solar Furnace or solar collector.

C. Use all reasonable efforts to determine the correct and complete name and original address of a person who purhased or owns a Solar Furnace or solar collector in each instance where the records searched by respondent do not provide correct or complete information. Such efforts shall include, but not be limited to, searches of respondent's records and requests for additional information by mail or telephone calls.

Part IV

It is further ordered that:

A. Respondent shall maintain documents and records demonstrating the manner and form of respondent's compliance with Part I of this Order, including:

(1) Documentation in support of and upon which respondent relies in making any representation concerning the reliability, durability or performance of solar energy equipment, and any other documentation which contradicts, qualifies, or otherwise calls into question any representation concerning the reliability, durability or performance of solar energy equipment, included in advertising or sales promotional materials disseminated by respondent or by any officer, representative, agent, employee, subsidiary, or division of respondent;

(2) Documentation or written results of tests performed in connection with carrying out the provisions of Part I, Subparts A and B of this Order.

Such documentation shall be retained by respondent for a period of three (3) years from the date such advertising or sales promotional materials were last disseminated, and may be inspected by the Commission or its staff upon reasonable notice.

B. Respondent shall maintain documents and records demonstrating the manner and form of respondent's compliance with Parts II and III of this Order, including but not limited to those reflecting:

(1) Efforts made and actions taken by respondent to identify, locate, contact, and provide cash settlements to persons as provided in Part II of this Order;

(2) Efforts made and actions taken by respondent to identify, locate and mail notices to addresses and persons as provided in Part III of this Order;

(3) The names, original addresses, and last known addresses of all persons required to be determined as provided in Part II, Subparts A and P and Part III, Subparts A and C of this Order;

(4) The name and address of each person to whom a notice package is sent as provided in Part II, Subparts B and I of this Order;

(5) The name and address of each person who is determined to be eligible and each person who is determined to be ineligible for a cash settlement as provided in Part II, Subparts B, C, I and J of this Order;

(6) The name and address of each person who receives a cash settlement as provided in Part II, Subparts G, H and N of this Order, and the amount of each refund;

(7) The Attachment B and Attachment D forms returned to respondent as provided in Part II, Subparts C, G, H, J and N of this Order;

(8) Any information used in making determinations of eligibility and ineligibility as provided in Part II of this Order;

(9) The name and address of each person who disputes a determination of ineligilibity or cash settlement amount made as provided in Part II of this Order, the nature of such person's dispute, and the resolution of the dispute;

(10) All written communications, and a log of all telephonic communications which includes a summary of the communications, between respondent and any person relating to the programs provided in Parts II and III of this Order;

(11) The name and address of each person to whom an Attachment H letter is sent as provided in Part III of this Order.

Such documents and records shall be maintained by respondent for a period of three (3) years from the date of the creation of the document or record, and may be inspected by the Commission or its staff upon reasonable notice.

Part V

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions, to its successors and assigns, and to each of its officers, agents, representatives, or employees who have sales, marketing, advertising, servicing, warranty, or policy responsibilities with respect to the subject matter of this Order.

Part VI

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in respondent such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

Part VII

It is further ordered that respondent shall, within sixty (60) days after the date of service of this Order, and within eighteen months after the date of service of this Order, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form in which it has complied with this Order.

Attachment A—[Champion letterhead]

[Date]

Dear : Our records show that you may have purchased a Solar Furnace or solar collector manufactured by Champion Home Builders Co. Champion has recently started a program to offer cash settlements of at least several hundred dollars each to certain people who purchased solar energy equipment sold under the "Champion" and other brand names. You may be eligible for a cash settlement under this program. Please read this letter and follow the steps listed below.

This program is part of an agreement between the Federal Trade Commission (FTC) and Champion. The FTC had alleged that Champion's Solar Furnaces and solar collectors did not provide as much heat as represented and required a great deal of maintenance and repairs. Although Champion does not admit this is true, we have agreed to offer these cash settlements.

How To Apply

In order to apply for a cash settlement, you *must* do the following:

(1) Fill out the enclosed questionnaire completely. This will be used to determine your eligibility for the cash settlement.

(2) If you owned more than one Solar Furnace or solar collector system, make extra copies of the questionnaire and fill out one for each Solar Furnace or solar collector system you owned.

(3) Return the completed questionnaire to us in the enclosed envelope. You must mail the questionnaire back to us by [return date] to make sure you are considered for the full settlement for which you may be eligible. If you are eligible for a cash settlement but we do not receive your completed questionnaire in time, you may get a lesser amount or you may get nothing.

Even if you no longer own the Solar Furnace or solar collector, or you were a dealer, or you bought a non-Champion brand, you may still be eligible for a cash settlement. Please fill out the questionnaire so that you may be considered.

How To Obtain Your Cash Settlement

Once we receive your completed questionnaire, we will determine if you are eligible for a cash settlement and let you know in writing within the next three months. If you are eligible, we will also tell you how much the settlement will be. Please let us know if you change your address in the next several months, so we can contact you again.

You will *not* have to return your Solar Furnace or solar collector if you decide to take the cash settlement. However, you *will* have to sign a waiver form which we will send you. By signing the waiver you will give up any rights you may have remaining under a warranty if you got a warranty from Champion. You will also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you have any questions about this program, please contract:

Champion Solar Program
c/o Champion Home Builders Co.
5573 E. North Street
Dryden, Michigan 48428
[Telephone number]

Remember: You must mail the completed questionnaire to us by [return date]. Also, please remember to let us know if you change your address.

Sincerely yours,

Champion Home Builders Co.

Enclosures.

Attachment B—Questionnaire

Please print your name, address, and telephone number. Then, answer the questions below by putting an "X" in the proper box.

Fill out a separate questionnaire form for each Solar Furnace or solar collector system you have owned. If you were a dealer, fill out a questionnaire form for each Solar Furnace or solar collector system you had for your own use as heating equipment or as a demonstrator.

Name:———
Telephone: ———
Address: ———
Zip Code: ———

1. Have you or your family ever bought a Solar Furnace or solar collector for your own use as heating equipment or as a demonstrator? (Answer yes if you bought the unit by itself or with your home.)

☐ Yes ☐ No

Note.—If you answered yes, please answer the following questions. If you answered no, please skip to Question 12.

2. Did you buy the Solar Furnace or solar collector as new?

☐ Yes ☐ No

3. What is the brand name of the Solar Furnace or solar collector?

☐ Champion ☐ Other (please specify):———

4. If you own or owned a Solar Furnace, does the outside surface look like:

☐ Aluminum or metal with a brown wood-grain pattern?
☐ Wood, fiberglass or other non-metallic material?
☐ Other (please specify):———

5. If you own or owned a Solar Furnace, does the collector have underneath the glass:

Fins or long slats? ☐ Yes ☐ No
Round cup? ☐ Yes ☐ No

6. What is the serial number of your Solar Furnace or solar collector?———

Note.— The serial number should appear on your warranty registration form. If you can't find your serial number, leave this answer blank.

7. Do you still own the Solar Furnace or solar collector?

☐ Yes ☐ No

8. If the answer to question 7 is no, did you:

☐ Sell the unit (either by itself or with your home)?
☐ Dispose of the unit without selling it or receiving any compensation?

Note.—If you sold the unit to someone else, please provide the name and address of the buyer:

_____

9. Were you ever a dealer for Solar Furnaces?

☐ Yes (please specify brand name of equipment you sold):———
☐ No

Note.—If you answered yes, please answer the following questions. If you answered no, please skip to Question 12.

10. Did you by the Solar Furnace or solar collector described above before you became a Solar Furnace dealer?

☐ Yes ☐ No

11. How many Solar Furnaces and Champion solar collector systems did you sell? (Do not count any units you bought for your own use and later sold second-hand.)

☐ None ☐ One or two ☐ More than two

12. Do you know anyone else who bought a Solar Furnace or Champion solar collector? If so, please provide their names and addresses:

_____
_____
_____

This completes our questions. If you have a copy of your bill of sale, warranty form, or other evidence of purchase, please enclose it with this form in the envelope we have provided. If you do not have anything like this, please return the form anyway. Evidence of purchase is *not* required for you to be eligible for a cash settlement, but will help us in reviewing your eligibility.

Remember: You must fill out this form and mail it to us by [return date] to be eligible for a full cash settlement.

Attachment C—[Champion letterhead]

[Date]

Dear : As part of an agreement with the Federal Trade Commission (FTC), Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. We have reviewed our records and the questionnaire

that you returned and have determined that you are eligible for a cash settlement under this program.

Amount of Your Cash Settlement

The tentative amount of your cash settlement is [tentative cash settlement amount]. This amount was determined based on the number of Solar Furnaces or solar collectors you purchased and the circumstances under which you purchased them. The amount of money you will actually receive may increase slightly if someone who is eligible decides not to accept a settlement, but this amount will *not* be lowered.

How To Obtain Your Cash Settlement

In order to obtain your cash settlement, you must sign and return the enclosed form entitled "Notice of Acceptance of Cash Settlement and Waiver of Claims." Please read this form and make your decision carefully. By signing and returning this form and accepting your cash settlement, you give up any rights you may have remaining under a warranty if you got a warranty from Champion. You also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you decide to accept the cash settlement and give up these rights, please sign the form and return it to us in the enclosed envelope. You *must* mail the signed form back to us by [return date] to make certain you receive your settlement. We will then mail you a check within the next two to four months. If we do not receive your signed form in time, you may get a smaller cash settlement or you may get nothing.

If you decide not to accept the cash settlement, please do not return the form. You will not give up any rights and you will not receive any money.

If you have any questions about this program, or if you change your address, please contact:

Champion Solar Program
c/o Champion Home Builders Co.
5573 E. North Street
Dryden, Michigan 48428
[Telephone number]

Remember: You must mail the signed waiver form to us by [return date].

Sincerely yours,

Champion Home Builders Co.

Enclosures.

Attachment D—Notice of Acceptance of Cash Settlement and Waiver of Claims

I hereby accept Champion's offer of a cash settlement, as contained in its letter of [date of Attachment C or F letter], in an amount not less than [tentative cash settlement amount].

In consideration of this cash settlement, I hereby release and discharge Champion Home Builders Co., its successors and assigns, and its directors, officers, agents, representatives, and employees, and its divisions and other subsidiaries, from any and all claims of every name and nature relating to solar energy equipment manufactured and sold by Champion Home Builders Co., including any claims I may have under any express or implied warranty, including any warranty of merchantability or fitness for particular use, from the beginning of time to the date of this instrument and forever after, except any claims for future personal injury or future property damage relating to the solar energy equipment.

(Date)_____
(Signature) _____
(Name) _____
(Address) _____
_____
(City, State and Zip Code)

Remember: You must sign this form and mail it to us by [return date].

Attachment E—[Champion letterhead]

[Date]

Dear : Our records show that you may have purchased a Solar Furnace or solar collector manufactured by Champion Home Builders Co. Champion has recently started a program to offer cash settlements of at least several hundred dollars each to certain people who purchased solar energy equipment sold under the "Champion" and other brand names. You may be eligible for a cash settlement under this program. Please read this letter and follow the steps listed below.

This program is part of an agreement between the Federal Trade Commission (FTC) and Champion. The FTC had alleged that Champion's Solar Furnaces and solar collectors did not provide as much heat as represented and required a great deal of maintenance and repairs. Although Champion does not admit this is true, we have agreed to offer these cash settlements.

How To Apply

In order to apply for a cash settlement, you *must* do the following:

(1) Fill our the enclosed questionnaire completely. This will be used to determine your eligibility for the cash settlement.

(2) If you owned more than one Solar Furnace or solar collector system, make extra copies of the questionnaire and fill out one for each Solar Furnace or solar collector system you owned.

(3) Return the completed questionnaire to us in the enclosed envelope. You must mail the questionnaire back to us by [return date] to make sure you are considered for the full cash settlement for which you may be eligible. If you are eligible for a cash settlement but we do not receive your completed questionnaire in time, you will receive no cash settlement.

Even if you no longer own the Solar Furnace or solar collector, or you were a dealer, or you bought a non-Champion brand, you may still be eligible for a cash settlement. Please fill out the questionnaire so that you may be considered.

How To Obtain Your Cash Settlement

Once we receive your completed questionnaire, we will determine if you are eligible for a cash settlement and let you know in writing within the next several months. If you are eligible, we will also tell you how much the settlement will be. Please let us know if you change your address in the next several months, so we can contact you again.

You will *not* have to return your Solar Furnace or solar collector if you decide to take the cash settlement. However, you *will* have to sign a waiver form which we will send you. By signing the waiver you will give up any rights you may have remaining under a warranty if you got a warranty from Champion. You will also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you have any questions about this program, please contact:

Champion Solar Program
c/o Champion Home Builders Co.
5573 E. North Street
Dryden, Michigan 48428
[Telephone number]

Remember: You must mail the completed questionnaire to us by [return date]. Also, please remember to let us know if you change your address.

Sincerely yours,

Champion Home Builders Co.

Enclosures.

Attachment F—[Champion letterhead]

[Date]

Dear : As part of an agreement with the Federal Trade Commission, Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. Some time ago, we sent you a letter notifying you of your eligibility for a cash settlement under this program. We also sent you a form to sign in order to accept your cash settlement.

We have received back your signed acceptance form. Unfortunately, we did not receive it in time to include you in the first group of people eligible for cash settlements. For that reason, the amount of the cash settlement you can receive has changed. We are sending you this letter to notify you of the change in your cash settlement, and to obtain your approval of the new amount.

Amount of Your Cash Settlement

The tentative amount of your cash settlement is now [tentative cash settlement amount]. The amount of money you will actually receive may increase slightly if someone who is eligible decides not to accept a settlement, but this amount will *not* be lowered.

How To Obtain Your Cash Settlement

In order to obtain your cash settlement, you must sign and return the enclosed form entitled "Notice of Acceptance of Cash Settlement and Waiver of Claims." You must do this even though you previously signed and returned a form.

Please read this form and make your decision carefully. By signing and returning this form and accepting your cash settlement, you give up any rights you may have remaining under a warranty if you got a warranty from Champion. You also give up your right to sue Champion for any existing claims you may have relating to your Solar Furnace or solar collector.

If you decide to accept the cash settlement and give up these rights, please sign the form and return it to us in the enclosed envelope. You *must* mail the signed form back to us by [return date] to make certain you receive your settlement. We will then mail you a check within the next two months. If we do not receive your signed form in time, you will receive no cash settlement.

If you decide not to accept the cash settlement, please do not return the form. You will not give up any rights and you will not receive any money.

If you have any questions about this program, or if you change your address, please contact:

Champion Solar Program
c/o Champion Home Builders Co.
5573 E. North Street

Dryden, Michigan 48428

[Telephone number]

Remember: You must mail the signed waiver form to us by [return date].

Sincerely,

Champion Home Builders Co.

Enclosures.

Attachment G—[Champion letterhead]

[Date]

Dear : As part of an agreement with the Federal Trade Commission (FTC), Champion Home Builders Co. is offering cash settlements to certain people who purchased Solar Furnaces and solar collectors manufactured by Champion. We have reviewed our records and the questionnaire that you returned and have determined that you are *not eligible* for this program, for the following reason:

☐ Your Solar Furnace or solar collector was not manufactured by Champion.
☐ You are not the original purchaser.
☐ You were a Champion dealer and sold three or more Solar Furnaces or solar collectors.
☐ You were a dealer for an International Solartherm Corporation licensee and sold one or more Solar Furnaces or solar collectors
☐ You previously received a refund or monetary award from Champion.
☐ Your information was received after the program had ended.
☐ Other: ———

If you believe that our determination is incorrect, please contact:

Champion Solar Program
c/o Champion Home Builders Co.
5573 E. North Street
Dryden, Michigan 48428
[Telephone number]

For a copy of the FTC agreement, write:

Federal Trade Commission
Public Reference Branch
Room 130
Washington, D.C. 20580

We regret that we cannot be of assistance to you.

Sincerely yours,
Champion Home Builders Co.

Attachment H—[Champion letterhead]

[Date]

Dear Sir/Madam: Our records indicate that you may own solar energy equipment manufactured by Champion Home Builders Co. As a result, we are sending you this important notice about your equipment.

Important Warning

Your Champion solar equipment contains wood and other flammable materials. Federal Government Agencies have recently expressed concern that wood in solar collectors may ignite when exposed to excessive heat over a long period of time. Although we do not expect a fire would occur under normal operating conditions, we recommend that these precautionary steps be taken.

1. Close the Reflector Shield When Your Solar Equipment Is Not in Use

Always cover the collector when the unit is not operating to prevent build-up of excessive heat. Close the reflector shield to cover the collector during months you are not using your equipment. The reflector shield should also be closed if a motor or controller stops working, or if you have a power outage. If you do not have a reflector shield, use a tarpaulin or similar material to cover the collector.

2. Never Smoke or Use an Open Flame Near the Equipment or Ductwork

Your Champion solar equipment and ductwork contain polyurethane foam which can release toxic smoke if ignited. Therefore, you should never smoke or use an open flame, such as a butane torch, near the equipment or ductwork. The two warning labels enclosed with this letter should be glued to the outside of the Solar Furnace at the motor maintenance opening, and to the exposed ductwork inside your house.

3. Install a Smoke Detector

We believe that all homes should be equipped with smoke detectors. If you don't already have one, you should consider purchasing and installing a smoke detector in your home.

If you have any questions about this notice, you may call us at [telephone number].

Sincerely,

Champion Home Builders Co.

Enclosures.

Attachment I

— WARNING —

Combustible Materials

Do not expose to open flames

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Champion Home Builders Co.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this time will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint issued by the Commission in this case charged Champion with violating Section 5 of the Federal Trade Commission Act by engaging in unfair and deceptive acts and practices in connection with the advertising, promotion, and sale of solar energy equipment. The complaint alleged that Champion's advertising and promotional literature misrepresented the performance, durability, reliability and quality of its solar energy equipment. In addition, the complaint alleged that Champion did not possess and rely on a reasonable basis for advertising and promotional claims the company made relating to the energy- and money-savings potential of its solar equipment. Finally, the complaint charged that Champion failed to disclose the prospective purchasers important information relating to problems in the operation and performance of its solar equipment. This information included facts about malfunctions and poor performance which would have been likely to affect consumers' decisions whether or not to buy solar energy equipment made by Champion.

Through the proposed consent order, Champion has agreed to:

1. Avoid making deceptive and unsubstantiated claims for solar energy equipment in the future.

2. Provide partial redress in the form of cash settlements to certain purchasers and dealers of solar energy equipment manufactured by Champion.

3. Notify current owners of steps they should take to minimize any potential for fire in Champion-manufactured solar energy equipment.

4. Comply with requirements for recordkeeping, distribution of the order, notification to the Commission, and submission of compliance reports to the Commission.

Background

In January of 1976 Champion Home Builders Co. purchased a license to manufacture a "Solar Furnace," a self-contained A-frame solar heating system capable of being connected to new or

existing homes. From the spring of 1976 until April of 1979, Champion built and sold more than 1,400 Solar Furnaces. Champion also manufactured and sold other types of solar energy equipment, including solar collector panels.

Champion sold its solar energy equipment through two separate marketing networks. Some equipment was sold under the Champion brand name by Champion's distributors and dealers, while the remaining equipment was sold through "licensees" and their distributors and dealers. The licensees were separate companies which purchased solar equipment from Champion and resold it under their own brand names.

Champion ceased manufacturing solar energy products sometime in 1978, and sold its Solar Division in April of 1979.

Part I—Prohibition of Misrepresentations

Part I of the order contains three provisions that prohibit Champion from making deceptive or unsupported product claims. The first provision forbids the company from making certain specific claims unless they are true and are adequately substantiated. In order to substantiate claims, Champion must possess and rely upon a competent and reliable test or other objective supporting evidence. The second provision requires that Champion substantiate any energy-savings claims for solar energy equipment. The third provision prohibits Champion from misrepresenting its corporate capabilities and various product attributes of its solar energy equipment.

These provisions are designed to correct specific violations of law which the Commission alleged in the complaint against Champion. Acceptance of this order is intended to ensure that, if Champion markets solar energy equipment in the future, any performance claims made for the equipment in the future, any performance claims made for the equipment are accurate and supported by objective evidence.

Part II—Redress to Purchasers and Dealers

Part II of the order requires Champion to pay cash settlements to certain persons who bought Champion-manufactured solar energy equipment. These payments are designed to compensate consumers for some of the losses they may have suffered as a result of Champion's practices. Persons who are eligible will be offered cash settlements ranging from a few hundred dollars to over one thousand dollars. The total amount Champion will pay in cash settlements will not exceed $550,000. The redress program is to be handled by Champion and all payments should be made within one year of the date of the order becomes final.

The order defines three classes of persons who may be eligible for cash settlements. They are: (1) Consumers who bought new Champion brand solar equipment; (2) consumers who bought new solar equipment made by Champion but sold under a different brand name; and (3) some small solar equipment dealers who bought equipment for their own use. Depending on the class they fall into and whether they still own their solar equipment, these eligible persons will be offered cash settlements of various amounts of money, up to a maximum of $1,500 for each unit they bought. Only original owners of solar equipment are eligible for the payments, but they are eligible even if they no longer own the equipment.

In order to receive the cash settlements, eligible persons will have to sign and return a waiver form giving up any legal claims they might now have against Champion. This includes any rights to receive service or repairs under a Champion warranty.

Part II of the order contains all of the procedural requirements and timetables for Champion to carry out the redress program. The order states that Champion must notify potentially eligible people about the program, send out questionnaires, determine who is actually eligible, and offer them cash settlements. Champion must then send cash settlements to all eligible persons who sign and return a waiver form. The order also provides for a second phase of the redress program for "latecomers" who learn about the program late or who miss some of the time deadlines for returning forms to Champion.

Acceptance of this order will have the immediate effect of compensating injured consumers and preventing the recurrence of unlawful practices by Champion. It should also serve to discourage other solar equipment manufacturers from making false and unsubstantiated claims and failing to disclose to consumers the existence of serious defects in their products.

Part III—Notification of Fire Prevention Procedures

Part III of the order requires Champion to notify current owners of solar energy equipment made by the company as to how to avoid the possibility of fire in their solar energy equipment. The notification consists of a written warning describing a possible risk of fire and three steps which owners should take as a precaution to minimize any hazard. Champion must also enclose with the notice two warning signs which owners are instructed to attach to their solar equipment. These provisions should have the effect of encouraging precautions by owners and thus of minimizing any potential for fire in solar energy equipment manufactured by Champion.

Parts IV–VII—Recordkeeping, Notification, Compliance

Part IV of the order requires Champion to maintain records which will help the Commission review the company's compliance with its duties under the order. Part V requires Champion to distribute the order to officers and employees of the corporation. Part VI orders Champion to notify the Commission of changes in its corporate structure. Finally, Part VII requires Champion to file with the Commission two reports describing its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-30628 Filed 11-5-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Resources Provisions

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to rewrite and reorganize our rules on resources under the Supplemental Security Income (SSI) program. These rules describe what we mean by resources, how we count resources and how resources effect eligibility for SSI benefits. Our purposes are to make these rules clearer and easier for the public to understand, to update current policy and to implement recent statutory changes.

DATE: Your comments will be considered if we receive them no later than January 7, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7414.

SUPPLEMENTARY INFORMATION: We have retitled, rearranged, and rewritten the rules in Subpart L to clarify and update the rules which are now in use. Subtitles are used in these rules to highlight those that are most important and make them easier to locate. We have moved the list of resources that are excluded under the SSI program by Federal laws, other than the Social Security Act, from the text of the regulations to an appendix. The appendix will be updated periodically.

We have also modified the rules to implement recent changes in the law that (1) deeming of resources from parents to children will stop at age 18 even if the child is still a student and that (2) eligibility will be based on an individual's resources in a month rather than a calendar quarter.

Resources—General

In § 416.1200 we give a general introduction to the resources subpart. We explain that the value of a person's resources is a basic factor in determining eligibility for SSI benefits.

Section 416.1201 defines terms that are used throughout the subpart. However, we have also added definitions to other sections where they specifically apply.

Section 416.1202 explains that, as a general rule, resources are any cash or other liquid assets or any real or personal property a person can use to meet his or her needs for food, clothing, or shelter. We have included a discussion to distinguish between liquid and non-liquid resources. Liquid resources are those items such as cash on hand, bank savings and checking accounts and similar items which can be quickly converted to cash (within 20 work days). It is necessary to distinguish between liquid and non-liquid resources because liquid resources cannot be excluded as property essential to self-support unless they are part of a trade or business. In addition, a person cannot use the conditional payment procedure if the liquid resources exceed a certain limit.

Section 416.1203 states what are not resources and lists some items that are not resources.

Section 416.1204 explains how much a person can have in resources and still get SSI benefits. This section also clarifies for the first time in the regulations that changes in resources during a month are not taken into account until the first day of the next month. Section 416.1204(d) and (e) also explain for the first time in regulations when income becomes a resource and when retroactive SSI benefits become a resource. Prior to April 1, 1982, SSI benefits which were received on a regular basis became a resource (as did other items of value held at the beginning of a quarter) if retained into the quarter following the quarter of receipt. There was, however, one exception. Retroactive SSI benefits did not count as a resource until the second quarter following the quarter of receipt. Beginning April 1, 1982, due to a change in the law (sec. 2341 of Pub. L. 97–35) we determine eligibility for SSI benefits on a monthly rather than a quarterly basis. (These rules were published as an NPRM in the **Federal Register** on October 29, 1981 (46 FR 53449)). As a result of this change, retroactive SSI benefits will not count as a resource until the first day of the fourth month following the month of receipt.

In § 416.1205, we explain that we value most resources by their equity value. The only exceptions are contained in the rules for treatment of automobiles which are discussed in § 416.1214 and the rules for alternative resource counting in § 416.1280. "Equity value" means the current market value of an item minus any legal debt on the item.

In addition, § 416.1205 is revised to show how we determine the value of a resource and when this value will be effective. The value is established as of the month in which information showing an estimate of the value is dated.

Resources We Do Not Count

The rules dealing with resources we do not count (called exclusions) are in §§ 416.1210 through § 416.1250. These rules explain when we do not count all or part of the value of a particular type of resource toward the resource limit.

Section § 416.1210 defines the home and explains that the home is not counted toward the resource limit, regardless of its value. We are modifying this rule to provide that when a person has sold a home and intends to buy another, we do not count the net proceeds from the sale until the person has had a reasonable time to buy another home and agrees to accept the SSI benefits as conditional payments while buying another home. We will consider 3 months from the date the person gets the net proceeds from the sale of a home to be a reasonable time to buy another home. However, if a person leaves the home to move into an institution, we will not count the former home as a resource as long as a dependent relative lives there.

Section § 416.1212 describes household goods and personal effects and explains when we count the value of household goods and personal effects as resources.

In § 416.1214, we explain the rules dealing with automobile(s). We indicate in this section that either equity value or current market value will be used to value an automobile depending on the situation. The rules for automobiles in this NPRM are essentially the same rules that were published in the **Federal Register** on July 24, 1979 (44 FR 43266) with interim effect. These rules were effective November 1, 1979. There is one exception. We have modified this section to provide for the total exclusion of an automobile necessary for transportation to perform essential daily activities in unusual climate and terrain. Current rules provide for this exclusion as part of the rules about property essential to self-support. This NPRM relocates this exclusion to § 416.1214. We invited public comments through September 24, 1979. Views were expressed by several commenters on the automobile interim rules and will be addressed when the rules in this recodified subpart are published in final.

The rules dealing with property essential to self-support are in §§ 416.1220 through § 416.1228. When we count the value of the resources persons have, we do not count the value of property essential to self-support, if it meets certain limitations. Property essential to self-support can include both real and personal property used in a trade or business, nonbusiness income-producing property, and property used to produce goods or services essential to daily activities. Property essential to self-support does not include the home as defined in § 416.1210.

Section 416.1220 describes property essential to self-support and explains how we count that property. This section provides value limitations for property essential to self-support which do not appear in existing regulations. In order to be excluded as property essential to self-support, income-producing property must not exceed $6,000 in equity value and it must yield a net annual return of 6 percent of the equity.

Sections 416.1226 through 416.1228 describe the conditions under which we exclude resources that beneficiaries use or set aside to complete an approved plan to become self-supporting. These rules are not new but have been in Subpart Q, Referral for Rehabilitation Services, Other Benefits, Other Services and Assistance. The rules are now being located in this subpart because they concern resources. These rules are also similar to the income rules on an approved plan for self-support that were published in the **Federal Register** on October 3, 1980 (45 FR 65541).

Section 416.1230 explains when we exclude a person's life insurance policies. We define the different types of life insurance policies a person may own and explain how life insurance is valued. We explain that we only count the cash surrender value of policies when the face value of all policies total more than $1,500. We also explain the conditions under which burial insurance policies or contracts are considered a resource.

Section 416.1240 describes how we treat assistance received because of a major disaster. This assistance and interest earned on the assistance is not counted toward the resource limit for a period of 9 months beginning with the month you receive the assistance and for up to an additional 9 months for good cause.

Section 416.1242 describes how we treat excluded resources that have been lost, damaged or stolen. We do not count any cash (including interest) or in-kind replacement of resources individuals receive for purposes of repairing or replacing lost, damaged or stolen excluded resources for a period of 9 months beginning with the month you received the cash or in-kind replacement. An extension of up to an additional 9 months is possible if there is a delay which is beyond the control of the beneficiary.

Section 416.1244 explains that we exclude an additional resource (that is, certain stock holdings) if a person is a native of Alaska.

Section 416.1250 describes the resources that are excluded under Federal laws other than the Social Security Act. These laws are listed in the appendix at the end of the Subpart.

Deeming of Resources

When a person applies for or receives SSI, we consider the value of the person's own resources, and we also deem (consider) the value of the resources of the person's ineligible spouse, ineligible parent or the spouse of a parent (if the eligible individual is a child under age 18), or an essential person if they live in the same household. The rules which explain deeming of resources are in §§ 416.1260 through 416.1269. These rules are similar to the final income deeming rules that were published in the **Federal Register** on October 3, 1980 (45 FR 65541).

Section 416.1260 explains that we deem resources to an eligible individual (spouse), or eligible child, because we expect an ineligible spouse, or ineligible parent living in the same household to use part of his or her resources to help take care of all or some of the eligible individual's needs. We deem resources of an essential person to the eligible individual because we have increased the benefit of the eligible individual to help provide for the needs of the essential person.

Section 416.1262 explains when we deem resources and how we determine the amount of resources we deem from an ineligible spouse to an eligible individual (spouse).

Section 416.1263 explains how resources are deemed from an ineligible parent to an eligible child. It includes the rule that, when there is more than one eligible child in the household, resources deemed from parents are divided equally among the eligible children. However, if a child has countable resources of his or her own, we deem from the parents only enough to make that child ineligible and apportion any excess deemed resources equally among the remaining eligible children. This rule is consistent with the rule on deeming of income under like circumstances as well as with the concept of treating parents and their eligible children as a unit when they live in the same household; that is, it considers that the unit will share its resources. This section also reflects the provision of section 203 of Pub. L. 96–265 which amends section 1614(c)(2) of the Social Security Act to eliminate deeming of parents' income and resources to students age 18 to 21. The law permits certain children who were receiving SSI in September 1980 to continue to have parental income and resources deemed to them until they reach age 21 if it would be to their advantage to do so. This change has been announced in a separate notice of proposed rulemaking as well as in these proposed regulations. This section also discusses for the first time situations where more than one eligible child is in the household.

We have also added new rules to the deeming situations in §§ 416.1262 and 416.1263 which are the result of a Commissioner's decision dated October 22, 1976. Pension funds owned by an ineligible spouse or parent will not be counted as the eligible individual's resources. We define pension funds as funds held in individual retirement accounts (IRA) or Keogh accounts as described by the Internal Revenue Code, or in a work-related pension plan.

Section 416.1264 describes how we deem resources to an eligible individual and eligible child from an ineligible spouse. It explains that we deem from an ineligible parent to an eligible parent only that amount of resources which, when combined with the eligible parent's own countable resources, would make a couple ineligible; that is, would exceed the $2,250 statutory limit for a couple. We then deem any remaining resources to the eligible child or children. (If the combined countable resources of the two parents do not exceed $2,250, there is nothing to deem to the child.) Although this policy has not previously been spelled out with respect to deeming of resources, it has been in regulations governing deeming of income since 1978. Thus, the rule provided in these regulations would clearly make the deeming of resources consistent with the deeming of income when the same set of circumstances exists.

Section 416.1266 describes how we deem resources to an eligible individual from an essential person.

Section 416.1269 discusses for the first time how a change in a person's living arrangement can affect the deeming of resources. This section also explains that we stop deeming resources to an eligible child the month after he or she reaches age 18 unless the child was between the ages of 18 and 21 in September 1980 and received an SSI benefit for that month and if deeming would be to the eligible child's advantage.

Section 504 of Pub. L. 96–265 provides, effective October 1, 1980, that income and resources of sponsors will be deemed to aliens under certain conditions. Rules to implement this provision are not included in these proposed regulations. They were published separately as an NPRM in the **Federal Register** on December 10, 1981 (46 FR 60470). We intend to include them

when these regulations are published in final.

Conditional Payments While Disposing of Excess Resources

If the value of a person's resources is greater than the maximum dollar limits set out in § 416.1204, a person may receive conditional payments for a short period of time if certain requirements are met. These rules are in §§ 416.1270 through 416.1276. One of these requirements is that the total value of a person's countable resources must not exceed $3,000 ($4,500 for a couple). Also, the person must agree to sell the excess resources (that is, the amount over $1,500 or $2,250 for a couple) and apply the proceeds toward repayment of the conditional payments. We have added new rules to allow some persons or couples whose homes are no longer excludable to qualify for conditional payments. They must agree to sell their former home and apply the proceeds of the sale toward repayment of the conditional payments.

Alternative Resource Counting Rules for Certain Individuals

Alternative resources rules aply to persons who receive SSI benefits because they are aged, blind or disabled and were transferred from State programs to the Federal SSI program when it began in January 1974. These persons must have received State assistance payments for the aged, blind or disabled for December 1973 under the provisions of the State plan which was in effect for October 1972, must continue to live in the same State, and must continue to be eligible for SSI benefits. We have added a statement that for purposes of these rules, an "SSI benefit" means a Federal benefit only and does not include any State supplement. Prior to the rules on the counting of income which were published in the **Federal Register** on October 3, 1980 (45 FR 65541), SSA interpreted an SSI benefit for the purpose of the alternative income rules to include receipt of a State supplementary payment. The income regulations qualified the rule by limiting and SSI benefit to a Federal payment. The qualification was necessary to implement the alternative income rules in a manner consistent with the Act. The alternative rules on resources are, therefore, being revised to make them consistent with the income rules and the Act. We intend to apply this interpretation in a limited manner so that it will have only future effect and will not be applied to determinations made prior to publication of these rules in final.

Sections 416.1280 through 416.1282 explain that for these persons converted from former State plans, we count resources under the rules in this subpart, or under the rules that would have applied under the State plan for October 1972, whichever results in lower countable resources.

Disposal of Resources for Less Than Fair Market Value

Section 5 of Pub. L. 96–611, which amends section 1613 of the Act, deals with the disposal of resources for less than fair market value for the purpose of establishing eligibility for SSI benefits. Proposed regulations implementing this change have been announced in a separate publication in the **Federal Register** (46 FR 51778) dated October 22, 1981, and do not appear in these proposed regulations.

Retrospective Monthly Accounting

These regulations include the provisions of section 2341 of Pub. L. 97–35. Section 2341 requires, with certain exceptions, the use of retrospective monthly accounting in the SSI program. The provision was effective April 1, 1982.

Prior to April 1 1982, an individual's eligibility for and amount of SSI benefits were determined on a quarterly basis. Under section 2341, eligibility for and the amount of SSI benefits are determined on a monthly basis. However, the method of determining eligibility differs from that used to determine benefit amount even though both are determined on a monthly basis. Eligibility for SSI benefits will always be determined based on income, resources and other relevant factors in the month for which the payment is to be made (the current month). If eligibility is found for the current month, the amount of the benefit to be paid for that month will be based on income and other relevant factors in a prior month.

Deeming of Resources Where Medicaid Eligibility is Affected

These proposed regulations do not include the special temporary rules on deeming of resources where Medicaid eligibility is affected. Those rules were published with interim effect on June 4, 1982 (47 FR 24274). The interim rules primarily address the problem of certain beneficiaries to SSI payments who remain unnecessarily institutionalized because returning home for less costly medical treatment would result in Medicaid ineligibility.

Burial Plots and Prepaid Burial Contracts

These proposed regulations do not include the rules on burial plots and prepaid burial contracts. Those rules were published with interim effect on August 17, 1982 (47 FR 35948). They specify that burial plots and prepaid burial contracts are not resources for purposes of determining eligibility for SSI. This change of policy was necessary so that SSI applicants and recipients who purchase burial plots do not risk losing their eligibility for SSI. Recently enacted legislation, the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, contains provisions dealing with the exclusion from resources of burial plots and certain funds set aside for burial expenses. We are considering what changes may be required in these currently effective regulations because of this legislation.

Appendix

Some Federal laws other than the Social Security Act exclude certain types of resources for SSI purposes. This NPRM lists the various statutes under headings according to the kind of resources they exclude.

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations do not have a significant economic impact on small entities because these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance. Sections 416.1227, 416.1271(c), and 416.1276(b)(1) include reporting requirements which OMB has approved under Nos. 0960–0045, 0960–0127, and 0960–0045, respectively.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: August 25, 1982.

Paul B. Simmons,

Acting Commissioner of Social Security.

Approved: October 19, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 416—[AMENDED]

It is proposed to revise Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations to read as follows:

Subpart L—Resources

General

Sec.
416.1200 Resources and SSI eligibility.
416.1201 Definition of terms.
416.1202 What are resources.
416.1203 What are not resources.
416.1204 The value of resource you can have.
416.1205 How we value resources.
416.1206 Resources we count.

Resources We Do Not Count

416.1210 Your home.
416.1212 Your household goods and personal effects.
416.1214 Your automobile.
416.1220 Property essential to self-support.
416.1226 You have an approved plan for self-support.
416.1227 What a plan to achieve self-support is.
416.1228 When we begin to count the resources excluded under a plan to achieve self support.
416.1230 Your life insurance.
416.1240 How we treat assistance received because of a major disaster.
416.1242 Replacement of your lost, damaged, or stolen excluded resources.
416.1244 Resources of a native of Alaska.
416.1250 Resources excluded by statutes other than the Social Security Act.

Deeming of Resources

416.1260 What is deeming.
416.1262 How we deem resources to you from your ineligible spouse.
416.1263 How we deem resources to you from your parent.
416.1264 How we deem resources to you and your eligible child from your ineligible spouse.
416.1266 How we deem resources to you from your essential person.
416.1268 When we stop deeming resources from an essential person.
416.1269 When a change in status affects use of deeming rules.

Conditional Payments While Disposing of Excess Resources

Sec.
416.1270 Conditional payments; general.
416.1271 Conditions for disposal.
416.1272 Time limits for disposal.
416.1274 Proceeds from disposition.
416.1276 Conditional payments relating to your home.

Alternative Resource Counting Rules for Certain Individuals

416.1280 General.
416.1281 When the alternative rules apply.
416.1282 How we apply the alternative rules in certain situations.

Appendix—List of types of resources provided by Federal laws other than the Social Security Act which are excluded under the SSI program.

Authority: Secs. 1102, 1611, 1613, 1614, and 1631 of the Social Security Act as amended; sec. 211 of Pub. L. 93–66; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1470, 86 Stat. 1471, 86 Stat. 1475, 87 Stat. 154; U.S.C. 1302, 1382, 1382b, 1382c, and 1383.

Subpart L—Resources

General

§ 416.1200 Resources and SSI eligibility

You are eligible for supplemental security income (SSI) benefits if you are an aged, blind or disabled person who meets the requirements described in Subpart B on eligibility and who has limited income and resources. Thus, the value of your resources is a major factor in deciding if you can receive SSI benefits. In applying the resource value limits in this subpart, we do not count all of your resources to determine your eligibility. We explain in the following sections what are resources and how we treat your resources for the SSI program. If the resources we do count exceed the limits, we cannot pay you SSI benefits. These rules apply to eligibility for the Federal benefit and to any optional or mandatory State supplement paid by us on behalf of a State (See Subpart T of this part for more information concerning State supplements).

§ 416.1201 Definition of terms.

As used in this subpart—

"Child" means someone who is not married, is not the head of a household, and is either under age 18 or is under age 22 and a student (see § 416.1856).

"Couple" means an eligible individual and his or her eligible spouse.

"Current market value" means the price an item would sell for on the open market in your locality.

"Equity value" means the current market value of an item minus any legal debt on the item.

"Spouse" means someone who lives with another person as that person's husband or wife (see §§ 416.1806–416.1811).

"We," "Us," or "Our" refers to the Social Security Administration.

"You" or "Your" refers to a person who is applying for, or already receiving, SSI benefits.

§ 416.1202 What are resources.

Resources are your cash or other liquid assets or any real or personal property you own and can use or convert to cash to meet your needs for food, clothing or shelter. Also, if your property (either real or personal) can be used to obtain food, clothing or shelter, we count it as your resource whether you intend to use it for those purposes or for some other purpose. There are two general kinds of resources, liquid and nonliquid, and we must count both of these in deciding if we can pay you.

(a) *Liquid resources.* Liquid resources are cash or other property which you can convert to cash within 20 work days. (Note: We count the value of the resource whether it has been converted to cash or not.) Examples of liquid resources are stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, bank accounts (savings and checking), certificates of deposit and similar items.

(b) *Nonliquid resources.* Nonliquid resources are all forms of property other than liquid resources, including those things you cannot ordinarily convert to cash within 20 work days. Examples of nonliquid resources are loan agreements, certain savings bonds, household goods, automobiles, trucks, tractors, boats, machinery, livestock, buildings and land.

§ 416.1203 What are not resources.

(a) *We do not count something as a resource if—*

(1) It has no cash value (for example, a nontransferable license, permit, passport, visa, etc.); or

(2) You cannot sell or trade it because someone else owns the resource with you, has the legal right to prevent you from selling your share of it, and enforces that right (that is, the co-owner refuses to consent to the sale). However, if you own property with someone else and that person is filing for or receiving SSI benefits, his or her refusal to consent to sell the property will not prevent us from counting the value of your share in the property as your resource.

Example: Two brothers, Tom and Joe, own a piece of real property worth $4,000. Each brother's share is worth $2,000. Joe files for SSI benefits and since his share of the property ($2,000) exceeds the allowable limit ($1,500), he must dispose of his share of the property to be eligible. However, Tom's consent is necessary for Joe to dispose of the property, and Tom refuses to give his consent. Therefore, the value of Joe's share of the property is not a countable resource as long as Tom's refusal is in effect.

(3) You cannot sell or trade it because no one will buy it from you or give you something of value for it.

(b) *Indian lands.* When we decide on the resources of a person who is an enrolled member of an Indian tribe which is recognized by the Federal Government, we do not count those lands that cannot be given away or sold without permission from the tribe, a tribal council or from an agency of the Federal Government.

§ 416.1204 The value of resources you can have.

(a) *Value limit.* If you are single, the most you can have in countable resources and still get SSI benefits is $1,500. If you have a spouse who is receiving SSI benefits, and we can consider the two of you an eligible couple (see §§ 416.1806–416.1811 and 416.1830), the value of your resources includes the value of your spouse's resources and the two of you cannot have more than $2,250. If you have a spouse with whom you are living who is not receiving SSI payments, the value of your resources include those deemed to you from your spouse (see § 416.1262) and cannot be more than $2,250. If you got assistance from a State in December 1973 under a State plan which was in effect for October 1972, State resource counting rules may be used to determine how much you have in countable resources and whether your resources make you ineligible, if applying these rules is to your advantage (see §§ 416.1280–416.1282).

(b) *Increase in value of resources.* If a resource increases in value or you acquire an additional resource or replace a resource during a month which makes the value of your resources go over the allowable limit, the increase in the value of your resources is counted as of the first day of the next month.

(c) *Decrease in value of resources.* If a particular resource decreases in value or the overall amount of your resources decreases, the new value is counted as of the first day of the month following the decrease.

(d) *When income becomes a resource.* Any income received in cash or in kind (See Subpart K of this Part) becomes a resource as of the first day of the next month if it is retained until then. If you sell a resource, what you receive will not count as income; it continues to be a resource.

(e) *When retroactive SSI payments become a resource.* Any SSI payment for months before the month of payment will not be counted as a resource until the first day of the fourth month after the month in which the payment was received.

§ 416.1205 How we value resources.

(a) When counting the value of your resources, we use equity value. For exceptions, see § 416.1214(b) on valuing automobiles and the alternative resource counting rules in §§ 416.1280–416.1282. To determine equity value, we first obtain the current market value of the resource and then subtract any legal debts on that particular resource. Current market value means the price of an item on the open market in your locality.

(b) The current market value of an item is established as of the month in which information showing an estimate of the value is dated. (See § 416.1204(b) and (c) for the effect on your eligibility if the value of a resource increases or decreases.)

Example: Aaron owns a piece of land which we determined to be worth $1,200 in February 1978. It is located three miles away from his home. There are no debts on the property. The piece of land is his only countable resource. He receives a tax assessment notice dated April 1982 which shows that the property is now worth $1,600. This becomes the value of the property that will be used to determine his eligibility for SSI. This newly established current market value will not affect his eligibility for SSI before May 1, 1982.

§ 416.1206 Resources we count.

We have described generally what resources are and are not (§§ 416.1202 and 416.1203) and what the value limit is for resources in the SSI program (§ 416.1204). We have different rules for considering different kinds of resources, such as a home, automobiles, life insurance, etc. These rules are described in §§ 416.1210–416.1248. In some situations we count all or part of the resources of certain people with whom you live as your own resources. These rules are described in §§ 416.1210–416.1269. Also, in some situations, if your resources would ordinarily keep you from getting SSI benefits, either when you apply for SSI benefits or after you have been receiving SSI benefits, we may be able to pay you for some months while you are trying to sell the resources, if you agree to pay us back after you sell them. We call these conditional payments and the rules are described in §§ 416.1270–416.1276. If you received assistance under a State plan for December 1973, alternative rules on your resource limits may help you. Those rules are described in §§ 416.1280–416.1282. In deciding whether you can get SSI benefits, we determine the kind of resources you have and apply the rules for counting each before arriving at a total value to see if you are below the resource limits.

Resources We Do Not Count

§ 416.1210 Your home.

(a) *Defined.* Your home is any property in which you have an ownership interest and which serves as your principal place of residence. This property includes the shelter in which you reside, the land on which the shelter is located and related outbuildings.

(b) *Home not counted.* We do not count your home regardless of its value. However, see §§ 416.1220–416.1224 when there is an income-producing property located on the home property that does not qualify under the home exclusion.

(c) *If you change your principal place of residence.* If you move out of your home, your home becomes a countable resource because it is no longer your principal place of residence. The equity value of your former home becomes a countable resource effective with the first day of the month following the month it is no longer your principal place of residence. If you intend to sell your home after you move out of it, we may be able to pay you conditional payments as described in § 416.1276(a). However, if you leave your home to live in an institution, we will not count your former home as your resource as long as a relative who depends on you for support continues to live there.

(d) *Proceeds from the sale of your home.* If you have sold your home we have different rules for treating the

proceeds depending on whether or not you intend to buy another home.

(1) *If you intend to buy another home.* If you have sold your home and intend to buy another home, we will not count the net proceeds you get from the sale as a part of your resources. The net proceeds will not be counted if you replace the home using the proceeds of the sale of your former home within a 3-month period of time and you agree in writing to accept SSI benefits during that period as conditional payments (see § 416.1276(b)). We do this because a person who intends to buy another house should be allowed enough time to obtain another shelter. If you buy another home and use less than all the proceeds of the home sale, we count only the remaining amount as your resources at the beginning of the month following the end of the 3-month period.

(2) *If you do not intend to buy another home.* If you do not intend to buy another home, the money (net proceeds) you get from the sale of your home will be counted as a resource on the first day of the month that begins after the date you sold your home.

§ 416.1212 Your household goods and personal effects.

(a) *Household goods.* Household goods are those items usually found in a home and used for living in and maintaining a home. Examples of household goods include your furniture, draperies, stove, vacuum cleaner, etc.

(b) *Personal effects.* Personal effects are items which you wear or use in a purely personal way. Examples of personal effects include your clothing, jewelry, grooming articles, recreational items, musical instruments, etc. Personal effects also include a wedding ring and an engagement ring and any medical or prosthetic devices that you or a member of your household need.

(c) *Value of household goods and personal effects.* We do not count the value of your household goods and personal effects toward the resource limit if their total equity value is not more than $2,000. If the total equity value is greater than $2,000, we count only the amount that is over $2,000, toward your resource limit. The value of a wedding ring and engagement ring as well as any medical or prosthetic devices is not counted at all.

§ 416.1214 Your automobile.

(a) *General.* We consider an automobile to be any type of vehicle you own and use for transportation. This includes passenger cars, trucks, or other sources of transportation such as animal drawn vehicles, boats, and snowmobiles. In determining a value of your automobile (or other source of transportation), we will consider independent valuations presented by you from established sales sources in your area.

(b) *How we count your automobile.* (1) An automobile may be excluded if it meets any of the following conditions:

(i) An automobile may be totally excluded regardless of value if it is used by you or a member of your household for employment;

(ii) An automobile may be totally excluded regardless of value if it is used by you or a member of your household for medical treatment of a specific or regular medical problem;

(iii) An automobile may be totally excluded regardless of value if it is specially equipped so that it can be used by you or another handicapped person in your household;

(iv) An automobile may be totally excluded regardless of value if it is necessary because of climate, terrain, distance, or similar factors or to provide necessary transportation to perform essential daily activities; or

(v) An automobile may be excluded to the extent that its current market value (not equity) does not exceed $4,500. If the current market value exceeds $4,500, we count the excess toward your resource limit.

(2) *How we count other automobiles you may have.* If you have more than one automobile, we can apply the rules in paragraph(b)(1) of this section to only one automobile. However, we apply those rules in whatever way is most advantageous to you. We then check to see if any other resource exclusion can be applied to your automobile(s). If no other exclusion applies, we treat your other automobile(s) as nonliquid resources and count their full equity value toward your resource limit (see § 416.1205).

(c) *Current market value of your automobile.* The current market value of your automobile is the average price that an automobile of that particular year, make, model, and condition can be sold for on the open market (to a private individual) in your locality.

Example 1. Henry owns a car with a current market value of $5,500. The car is not used for employment or medical reasons and is not specially equipped for use by a handicapped person or necessary to perform essential daily activities. Since only $4,500 of that value can be excluded, $1,000 of the car's value is counted toward Henry's resource limit of $1,500 ($5,500 − 4,500 = $1,000).

Example 2. Ellen owns a car with a current market value of $5,000 which she uses to obtain regular treatment for a medical problem. Although the car's value exceeds $4,500, the full value of the car is excluded from resorces because Ellen uses it in obtaining medical treatment.

Example 3. Brandon owns two cars, neither of which is used for employment or medical treatment. They are not specially equipped for use by a handicapped person. Also, neither car is needed to perform essential daily activities. Both are completely paid for. One car has a current market value of $2,800 and the other a current market value of $1,000. We can exclude either car under the $4,500 rule. It is more advantageous to Brandon to apply the current market value rule to the $2,800 car. Therefore, we count the full equity value of the other car.

§ 416.1220 Property essential to self-support.

(a) *General.* When we count the value of resources you have, we do not count the value of property essential to your self-support, within certain limits. We have different rules for considering this property depending on whether it is income-producing or not. Property essential to self-support can include real and personal property used in a trade or business (land, buildings, equipment and supplies, motor vehicles and tools, etc.), nonbusiness income-producing property (houses or apartments for rent, land other than home property, etc.) and property used to produce goods or services essential to your daily activities. Liquid resources other than those used as part of a trade or business are not property essential to your self-support. Property which is your principal place of residence qualifies under the home exclusions, so we do not consider it in evaluating property essential to self-support.

(b) *How we count income-producing property essential to self-support.* When we decide the value of property used in a trade or business or nonbusiness income-producing activity, we count only the equity value of the property. In order for income-producing property to be excluded as essential to self-support, the equity value of all the property must not exceed $6,000 and it must produce the equivalent of a net annual income of at least 6 percent of the equity value. However, we make an exception if the activity produces less than a 6 percent return due to circumstances beyond your control (for example, crop failure, illness, etc.), and there is a reasonable expectation that your activity will again produce a 6 percent return. If you own more than one piece of property and each produces income, we look at each to see if the 6 percent rule is met and then we total your equity value in all of those properties producing 6 percent to see if the total value is $6,000 or less. The equity values of those that do not meet the 6 percent rule are counted towards your allowable resource limit of

$1,500 for an individual ($2,250 for a couple). If the total equity in your properties producing 6 percent income is over the $6,000 equity limit, we count the amount of equity value exceeding $6,000 as a resource towards your allowable resource limit.

Example 1. Sharon has a small business in her home making handwoven rugs. The looms and other equipment used in the business have a current market value of $7,000. The value of her equity is $5,500, since she owes $1,500 on the looms. Sharon's annual income from the business after deducting tax return expenses is $400. Since the equity value of Sharon's looms and other equipment ($5,500) is under the $6,000 limit for property essential to self-support and her net income after expenses ($400) is greater than 6 percent of her equity value, her income-producing property is excluded from countable resources. The home is not considered in any way in valuing property essential to self-support.

Example 2. Charlotte operates a farm. She owns 3 acres of land on which her home is located. She also owns 10 acres of farm land not connected to her home. There are 2 tool sheds and 2 animal shelters located on the 10 acres. She has various pieces of farm equipment that are necessary for her farming activities. We exclude the house and the 3 acres under the home exclusion (see § 416.1210). However, we look at the other 10 acres of land, the buildings and equipment separately to see if their total equity value is no more than $6,000 and if the annual rate of return is 6 percent of their (equity) value. In this case, the 10 acres and buildings are valued at $4,000 and the few items of farm equipment and other inventory are valued at $1,500. Charlotte sells produce which nets her more than 6 percent for this year. The 10 acres and other items are excluded as essential to her self-support and they continue to be excluded as long as she meets the 6 percent annual return requirement and the value of the 10 acres and other items remain less than $6,000.

Example 3. Jean lives in her home and rents a few of the rooms and a small apartment. She does not furnish anything to the tenants except heat, electricity, and water. Her home is not considered in evaluating property essential to self-support. There are no other assets to be valued and counted. If Jean supplied furniture for the rooms and apartment, the furniture would be an income-producing asset and would have to be considered under the rules for property essential to self-support.

Example 4. Henry has an automobile repair business valued at $5,000. There are no debts on the property and bills are paid monthly. For the past 4 years the business has just broken even. Since Henry's income from the business is less than 6 percent of the equity value, the entire $5,000 is counted as his resources. Since this exceeds the $1,500 limit he is not eligible for SSI benefits.

(c) *How we count nonbusiness property used to produce goods or services essential to your self-support.* We will consider property to be essential for your self-support if it is used to produce goods or services necessary for your daily activities. This type of property includes real property such as land which is used to produce vegetables or livestock only for personal consumption in your household (for example, corn, tomatoes, chicken, cattle). We exclude property used to produce goods or services or property necessary to perform daily functions if the total equity value of the property does not exceed $6,000. Personal property which is required by your employer for work is not counted regardless of value, while you are employed. Examples of this type of personal property include tools, safety equipment, uniforms and similar items.

Example. Bill owns a small unimproved lot several blocks from his home. He uses the lot, which is valued at $4,800, to grow vegetables and fruit only for his own consumption. Since his equity in the property is less than $6,000, the property is excluded as necessary to self-support.

§ 416.1226 You have an approved plan for self-support.

If you are blind or disabled, we will not count any of your resources that are identified as necessary to fulfill a plan for achieving self-support which is in writing, has been approved by us and is being pursued by you.

§ 416.1227 What a plan to achieve self-support is.

A plan to achieve self-support must—

(a) Be designed especially for you;

(b) Be in writing;

(c) Be approved by us (a change of plan must also be approved);

(d) Be designed for an initial period of not more than 18 months. We may extend the period for up to another 18 months if you cannot complete the plan in the first 18-month period. We may allow a total of up to 48 months to fulfill a plan for a lengthy education or training program designed to make you self-supporting;

(e) Show your specific occupational goal;

(f) Show what resources you have or will receive for purposes of the plan and how you will use them to attain your occupational goal; and

(g) Show how the resource you set aside under the plan will be kept separate from your other funds.

§ 416.1228 When we begin to count the resources excluded under a plan to achieve self-support.

We will begin to count the resources that were excluded under your plan as of the first day of the month following the month in which any of these cricumstances occur:

(a) You fail to follow the conditions of your plan:

(b) You abandon your plan;

(c) You complete the time schedule outlined in the plan; or

(d) You reach your goal as outlined in the plan.

§ 416.1230 Your life insurance or burial insurance.

(a) *Definitions.*

(1) *Life insurance.* Life insurance is a contract between you and an insurer (company or association that sells insurance). The insurer agrees to pay your beneficiary a specified amount of money upon your death. There are 2 basic types of life insurance:

(i) *Ordinary or whole life* is a contract under which you pay premiums during your lifetime (or until a specified age) so that the company will pay a beneficiary upon your death. This type of life insurance has cash surrender value.

(ii) *Term insurance* is a contract under which you pay premiums for a specified or limited amount of time and the company pays the face value of the policy upon your death if death occurs with the specified time. Term insurance is not a resource and has no cash surrender value.

(2) *Burial insurance.* Burial insurance is a contract that specifies an amount of insurance that will be used to pay burial costs.

(3) *Cash surrender value.* Cash surrender value is the amount the company will pay you if you cancel your life or burial insurance policy. The cash surrender value of ordinary life insurance will increase if you continue to pay premiums or if you reinvest dividends instead of drawing them out.

(4) *Face value.* Face value is the specified basic (death) benefit of the policy. The face value does not include additions to the policy such as dividends or accidental death beneftis.

(b) *Valuing life insurance.* In determining the value of life insurance policies, we look at the face value of all life insurance policies you own. As long as you have the right to change the policy, we consider you the owner regardless of who pays the premiums. If the face value of all your life insurance policies (except term insurance) totals $1,500 or less, no part of the cash surrender value of the policies is counted toward your resource limit. If the face values total more than $1,500, we count the cash surrender value of all your policies toward your resources.

(c) *Valuing burial insurance.* Burial insurance will not be considered in computing the face value or cash surrender value of life insurance.

However, if the insured can cash in the burial insurance policy or burial contract, the cash surrender value will be considered a resource.

§ 416.1240 How we treat assistance received because of a major disaster.

(a) *Assistance you receive.* We exclude from your resources for a 9-month period any assistance you receive under the Disaster Relief Act of 1974 or another Federal statute because of a catastrophe which the President declares to be a major disaster. This 9-month period begins with the month you receive the assistance. Funds received under these requirements must be kept separate from other funds; otherwise, we will have to count them as we do the funds with which they are mixed.

(b) *Interest payments.* We exclude any interest earned on the assistance described in paragraph (a) from resources for a period of 9 months beginning with the month you receive the assistance.

(c) *Extension for good cause.* We can extend the 9-month periods in paragraphs (a) and (b) for up to an additional 9 months if we find you have good cause for not repairing or replacing the resource within the initial period. Good cause exists, for example, if you show that circumstances beyond your control prevent the repair or replacement, or contracting for the repair or replacement, of a home or other kinds of property within the initial 9-month period. If there is a finding of good cause, we count the unused cash (and interest) as a resource beginning with the month after the good cause extension period ends.

§ 416.1242 Replacement of your lost, damaged or stolen excluded resources.

The following rules apply only to your resources that are excluded (for example, your home, household goods and personal effects, or your automobile).

(a) *Source of replacement.* We do not count as a resource any cash (including any interest earned on that cash) or in-kind replacement you receive from any source for purposes of repairing or replacing your lost, damaged or stolen excluded resources. This rule applies if the cash (including the interest, see § 416.1151) or in-kind replacement is used to repair or replace lost, damaged or stolen property within 9 months beginning with the month you received the cash or in-kind replacement. Any of the cash (and interest) that is not used to repair or replace the excluded resource will be counted as a resource beginning with the calendar month after the 9-month period expires. Funds received under these requirements must be kept separate from other funds; otherwise, we will have to count them as we do the funds with which they are mixed.

(b) *Extension of 9-month period.* We can extend the 9-month period for up to an additional 9 months if we find you have good cause for not replacing or repairing the resource within the initial period. Good cause exists, for example, if you show that circumstances beyond your control prevent the repair or replacement, or contracting for the repair or replacement of the resource within the initial 9-month period. If there is a finding of good cause, we count any unused cash (and interest) as a resource beginning with the month after the good cause extension period ends.

§ 416.1244 Resources of a native of Alaska.

(a) *Resources we do not count.* If you are a native of Alaska, in addition to excluding other resources as provided under these rules, we do not count shares of stock you hold in a regional or village corporation during the period of 20 years in which the stock is not transferable, as provided by sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606, 1607). The 20-year period expires on January 1, 1992.

(b) *Native of Alaska.* "Native of Alaska" is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

§ 416.1250 Resources excluded by statutes other than the Social Security Act.

Some Federal laws other than the Social Security Act exclude resources for SSI purposes. We list these laws and their exclusions in the appendix at the end of this subpart. We update this appendix periodically.

Deeming of Resources

§ 416.1260 What is deeming.

(a) *General.* (1) If you live in the same household as your ineligible spouse, or if you are a child living in the same household as your parent, we look at that other person's resources to determination whether we must count (deem) them as your resources. If you have an essential person, we also look at that person's resources to decide if we must count them as your resources.

(2) We use the term "deeming" to identify the process of counting another person's resources as your own. When the rules for deeming apply, it does not matter whether you or the other person(s) share the deemed resources or consider the deemed resources of the other person(s) as actually available to you. We deem the resources of your parent (if you are a child under age 18) or ineligible spouse living in the same household with you because we expect that you will benefit from the resources. Similarly, we deem to you the resources of your essential person(s), since we pay you an extra amount to help meet the needs of the essential person. We do not deem any of the resources owned by a child living in your household to you unless that child is your essential person.

(b) *Deeming rules.* The way we deem resources varies depending upon whether you are on an eligible adult, eligible child, or an individual with an essential person.

(1) For deeming resources from your ineligible spouse, see § 416.1262.

(2) For deeming resources from your parent, see § 416.1263.

(3) For deeming resources from your ineligilbe spouse when you also have an eligible child, see § 416.1264.

(4) For deeming resources from your essential person, see § 416.1266.

(5) For provisions on change in status, see § 416.1269.

(c) *Definitions for deeming purposes.*

(1) "Ineligible spouse" means someone who lives with you as your husband or wife as defined in §§ 416.1806–416.1811 and who is not eligible for SSI benefits.

(2) "Ineligible parent" means a natural or adoptive parent, or the spouse (as defined in §§ 416.1806–416.1811 of a natural or adoptive parent who lives with you and is not eligible for SSI benefits. The resources of an ineligible parent can affect your eligibility for SSI only if you are a child.

(3) "Essential person" is someone who was identified as essential to your welfare under a State program that preceded the SSI program. (See §§ 416.141–416.1249 for the rules on essential persons.)

§ 416.1262 How we deem resources to you from your ineligible spouse.

If you and your ineligible spouse live in the same household, we deem your spouse's resources to you. We treat your and your spouse's resources as if you were an eligible couple and we combine your resources with any resources that your spouse may have before applying appropriate exclusions as described in §§ 416.1210–416.1250. Then, we exclude pension funds your ineligible spouse may have. We define pension funds as funds held in individual retirement accounts (IRA) or Keogh accounts as described by the Internal Revenue Code, or in a work-related pension plan. If the value of countable resources remaining

is $2,250 or less, you meet the resource eligibility requirement.

Example: A blind woman lives with her ineligible husband. The couple owns a home, a car valued at $5,000 which is used to obtain medical treatment, household goods and personal effects with an equity value of $2,200, and a bank account of $800. The home in which they live is totally excluded from countable resources. We do not count the value of the car ($5,000) since it is excluded because of its use to obtain medical treatment. We count $200 of the value of household goods and personal effects ($2,200–$2,000 = $200), and the $800 bank account for a total of $1,000 countable resources. Since $1,000 is less than $2,250 (couple limit), the blind spouse meets the resources eligibility requirement.

§ 416.1263 How we deem resources to you from your parent.

If you are a child under age 18 living with one or both of your parents, we deem the resources of the parent or parents with whom you live to you. If you were between the ages of 18 and 21 in September 1980, you may be considered a child as defined in § 416.1856, and if you received an SSI benefits for the month, the deeming rules can also apply until your 21st birthday (if use of these rules gives you a higher benefit) as long as you still meet the definition of a child and live with your parent(s).

(a) *Determination of your parents' resources.* We first determine the amount of resources your parents have, using the appropriate exclusions described in §§ 416.1210–416.1250. In addition, we exclude pension funds your parents may have. We define pension funds as funds held in individual retirement accounts (IRA) or Keogh accounts as described by the Internal Revenue Code, or in a work-related pension plan.

(b) *Allocations for your parents.* We then deduct an allocation for your parents. The amount of the allocation depends on whether you live with one or both of your parents.

(1) If you live in the same household with one parent, the allocation is $1,500 (the resource limit for one individual).

(2) If you live in the same household with both parents, the allocation is $2,250 (the resource limit for a couple).

(c) *Determination of your resources.* After we have applied the exclusions to your parents' resources and made an allocation for your parents, we consider that the remaining value of your parents' resources is yours. If you have any resources of your own, we apply the resource exclusions in §§ 416.1210–416.1250 to determine your countable resources. We add your countable resources to the value of your parents' resources that is deemed to you. If the total is $1,500 or less, you meet the resource eligibility requirement.

Example: A disabled child lives with both parents. The child owns no resources. The parents own their home, a car valued at $2,300 (paid for), household goods and personal effects valued at $2,100, a bank account of $1,200, and a piece of real property valued at $2,000 (paid for). We exclude the home, the car, and $2,000 of the value of the household goods and personal effects ($2,100 − $2,000 = $100 excess). We must count the bank account ($1,200), the value of the real property ($2,000) and the excess household goods and personal effects ($100), which total $3,300. We then subtract the parents' allocation of $2,250 which leaves countable resources of $1,050 to be deemed to the disabled child. Since the resources deemed to the child are less than $1,500 and there are no other resources, the child meets the resource eligibility requirement.

(d) *When you are not the only eligible child.* If your parents have more than one eligible child in the household, we first apply the exclusions and allocations to your parents' resources and then we divide the remainder equally among the eligible children. However, we do not deem more to an eligible child than the amount which, when combined with the child's own countable resources, makes him or her ineligible. If the share of parental resources deemed to a child makes that child ineligible because the child has other countable resources, we deem the value of any remaining parental resources to other eligible children in the household in the manner described in this paragraph.

Example. Jack and Bill are blind children who live with both parents. Bill has a bank account worth $800 and Jack owns no resources. After we apply the allowable exclusions and allocations to the parents' resources, the parents have remaining countable resources of $1,600 to be deemed. Ordinarily, we could divide the deemable resources evenly between Jack and Bill and attribute $800 to each child. However, since Bill already has $800 in resources (the bank account) we deem only enough to make him ineligible, $701 ($800 + 701 = $1,501) and deem the balance, $899, to Jack. The parents' $1,600 in countable resources must be deemed to both children and we do not deem more to Bill than the amount that makes him ineligible. Bill is ineligible and Jack is eligible based on resources.

§ 416.1264 How we deem resources to you and your eligible child from your ineligible spouse.

If you and your eligible child live in the same household with your ineligible spouse, we deem your ineligible spouse's resources first to you and then we deem any remainder to your eligible child as described in paragraphs (a) and (b) of this section.

(a) *Your ineligible spouse's resources.* We determine the amount of resources your ineligible spouse has by using the appropriate exclusions in §§ 416.1210–416.1250 and 416.1262–416.1263.

(b) *Your eligible child's resources.* (1) If your countable resources, including those which have been deemed to you from your ineligible spouse, as described in § 416.1262 are not more than $2,250, we do not deem any resources to your eligible child. We determine your child's eligibility by counting only the value of his or her own countable resources toward the resource limit of $1,500 (the limit for an eligible individual).

(2) If your countable resources are greater than $2,250 including the resources of your ineligible spouse which are deemed to you, we deem to your eligible child any of your ineligible spouses' resources which are not used to make you ineligible. We then follow the rules in § 416.1263 to determine the amount of your child's resources.

§ 416.1266 How we deem resources to you from your essential person.

(a) *Essential person's resources.* If you have an essential person, we deem all of that person's resources to you except those resources which are not counted because of other Federal statutes as described in § 416.1250.

(b) *Your SSI eligibility.* We apply the exclusions to which you are entitled as discussed in §§ 416.1210–416.1250 to your resources, including any deemed to you from your essential person. We then apply the amount of your countable resources toward the resource limits in § 416.1204 to determine whether you meet the resource eligibility requirements.

§ 416.1268 When we stop deeming resources from an essential person.

If the value of your resources, including the resources deemed to you from your essential person, is greater than the amount allowed in § 416.1204, we no longer consider this person to be your essential person. However, other deeming rules may then apply as follows:

(a) *Essential person is your spouse.* If the person who was your essential person is your ineligible spouse, we apply the deeming rules in § 416.1262 to determine if you are eligible.

(b) *Essential person is your parent.* If you are a child, and the person who was your essential person is your ineligible parent, we apply the deeming rules in § 416.1264 to determine if you are eligible.

§ 416.1269 When a change in status affects the use of deeming rules.

(a) *When you are no longer living in the same household with your spouse or parent.* If you and your ineligible spouse or parent stop living in the same household, we stop applying deeming rules with the first full month that one of you is absent, unless the absence is temporary. For example, if you leave the household in September with no intention of returning, the deeming rules no longer apply to you beginning in October.

(1) A temporary absence, for purposes of deeming, occurs when you or your ineligible spouse or parent leave the household but intend to, and do, return in the same month or the month immediately following. If the absence is temporary, we continue to deem. If you are a child and separate from your parents, it does not matter whether you are subject to parental control; the same rule applies, unless you are away at school as described in paragraph (2) of this section.

(2) If you are an eligible child who is away at school but comes home on some weekends or lengthy holidays and you are subject to the control of your parent, we consider you temporarily absent from your parents' household. However, if you are not subject to parental control, we do not consider your absence temporary and we do not deem parental resources to you. Being subject to parental control affects whether resources are deemed to you only if you are away at school.

(b) *When you move into the same household with your spouse or parent.* If you have not been subject to deeming rules and then move into a household with your ineligible spouse or parent, or if you become the spouse of an ineligible person, we start applying the deeming rules with the month following the change. For example, if you marry in September, the deeming rules apply to your spouse's resources beginning in October.

(c) *When you reach age 18.* If you are a child living with your parent, we stop deeming with the month following the month you reach age 18. For example, if you reach age 18 in June, the deeming rules do not apply to you beginning in July. However, if you are a child who was between the ages of 18 and 21 in September 1980 and received an SSI benefit for that month, we may continue deeming to you until age 21 if use of these rules gives you a higher benefit. You "reach" a certain age on the day before your birthday. For example, if your birthday is the first day of July, you reached a certain age on June 30.

Conditional Payments While Disposing of Excess Resources

§ 416.1270 Conditional payments; general.

We may be able to pay you monthly benefits to meet your basic needs while you are disposing of excess nonliquid resources. The rules are described in § § 416.1271–416.1274. Also, there are special rules for a conditional payment relating to the sale of your home. These rules are described in § 416.1276.

§ 416.1271 Conditions for disposal.

If the value of your resources is greater than the amounts set out in § 416.1204, you may receive conditional payments if—

(a) The value of your total countable resources, except for a home as described in § 416.1276(a), is not more than $3,000 or $4,500 if you live with your spouse;

(b) Your total countable liquid resources do not exceed 3 times the full amount of your monthly Federal benefit rate; and

(c) You agree in writing to:

(1) Dispose of your excess nonliquid resources within a specified period of time (see § 416.1272); and

(2) Repay from the net proceeds of the sale the payments advanced to you (see § 416.1274).

§ 416.1272 Time limits for disposal.

When we agree to pay you SSI payments on the condition that you sell excess nonliquid property, within a specified period of time—

(a) You must agree to dispose of—

(1) Real property over the allowable limits within 6 months; and

(2) Other resources over the allowable limits within 3 months.

(b) The time limit begins—

(1) On the date you sign the agreement; or

(2) If you are applying because you are disabled or blind, on the date we decide that you are disabled or blind if that date is later than the date you sign the agreement.

(c) We will extend the time period for 3 months if we find you have good cause for failing to sell your excess resources within the original time period.

(d) Good cause exists if you cannot sell the property for some reason beyond your control (for example, someone who has agreed to buy your property within the time period is unable to obtain necessary funds or you have as extended illness which keeps you from carrying out your agreement).

§ 416.1274 Proceeds from disposition.

You must use the net proceeds to repay us up to the amount of the conditional payments we made to you.

(a) Net proceeds are the sale price less—

(1) Legally binding debts against the property, such as a mortgage or tax lein; and

(2) Expenses of the sale such as taxes for transfer of property, advertising, legal fees, and other fees required to transfer title.

(b) You must use the net proceeds to pay us back for the conditional payments we made to you. We will determine the amount you must pay us by counting your resources as though you had the net proceeds at the time we started to pay you. We will subtract $1,500 from the total value of your countable resources, or if you are an eligible couple, $2,250. Any amounts over the $1,500 ($2,250) limit must be used to pay us back as follows:

(1) The full balance of the net proceeds if this is less than the payments you received; or

(2) The total amount of payments you received if the balance of the net proceeds is greater than the payments. NOTE: If any amount is left after you pay us back and it places you over the resources limit, you will be ineligible for SSI benefits.

§ 416.1276 Conditional payments relating to your home.

(a) *When you sell your home.* If the home which was your principal place of residence becomes a countable resource because you are no longer living there, yuou may receive conditional payments while you are selling your home. In making these conditional payments we apply the rules described in §§ 416.1271–416.1274. The only exception is that we substitute the value of your home plus $1,500 (or $2,250 if your have a spouse) for the value limits in § 416.1271(a)).

(b) *When you replace your home.* When you sell your home and intend to buy another home, we may not count the net proceeds you get from the sale as part of your resources. If you replace your home using the proceeds from the sale of your former home within 3 months from the closing date of your sale and you agree in writing to accept SSI benefits as conditional payments, the net proceeds will not be counted. A valid contract for the purchase of another home is considered to be a purchase and we exclude from countable resources the amount of the contract purchase price plus closing costs. If you have a contract for another home and that contract is not fulfilled

through no fault of your own (for example, the seller backs out), we will give you an additional 3 months.

(1) *Agreement to repay SSI conditional payments.* You must agree in writing to repay the total SSI benefits we have paid you for the months after you sell your home if you do not purchase another home. Also, if you purchase another home, and your new home purchase amount is less than the amount of the net proceeds from the sale of your previous home, you must agree to repay the SSI conditional payments from the period of the sale but only to the extent your excess proceeds are larger than the resource limit ($1,500 or $2,250) that applies to you.

(2) *How we determine the amount to be repaid.* If you do not buy another home, we determine the amount to be repaid by counting your resources as though you had the new proceeds from the sale of your former home at the time we started to pay you under the terms of the agreement. However, if you buy another home and use less than the proceeds you received from the sale of your former home, we determine the amount to be repaid by counting the unused part of the proceeds as your resources at the beginning of the month following the end of the 3-month period.

Alternative Resource Counting Rules for Certain Individuals

§ 416.1280 General.

(a) *What the alternative rules are.* If you received State assistance as an aged, blind, or disabled person for December 1973 and meet the requirements in § 416.1281, you qualify for use of alternative resource limit rules. We use whichever of the following set of rules is to your advantage:

(1) The SSI resource limit and exclusions described in this subpart; or

(2) The resources limit and exclusions that would have applied to you under the State plan for October 1972.

(b) *State plan.* As used in this subpart, "State plan for October 1972" means a State plan for providing assistance to the aged, blind or disabled under titles I, X, XIV, or XVI (AABD) of the Social Security Act. That plan must have been approved under the provisions of 45 CFR Chapter II as in effect for October 1972. If the alternative rules apply to you, we will use the method applied by the State under the State plan to evaluate your resources.

§ 416.1281 When the alternative rules apply.

(a) *Eligibility for the alternative rules.* You are eligible for the alternative resource rules if—

(1) You were eligible for, and received, assistance for December 1973 under a State plan in effect for October 1972;

(2) You have continued to live in that same State since December 1973;

(3) You were transferred to the SSI rolls and received a payment for January 1974; and

(4) You have not been ineligible for an SSI benefit for any period of more than 6 consecutive months. (For purposes of this alternative rule, an SSI benefit means a Federal benefit only; it does not include any State supplement.)

(b) *Living in the same State.* For purposes of this section, you have continued to live in the same State since December 1973 unless you left it at any time with the intention of moving to another State. If there is no evidence to the contrary, we assume that—

(1) If you leave the State for 90 calendar days or less, the absence is temporary and you still live in that State; and

(2) If you leave the State for more than 90 calendar days, you are no longer living there.

§ 416.1282 How we apply the alternative rules in certain situations.

(a) *When you have an eligible spouse.* If you and your eligible spouse both qualify for the alternative rules, we will determine the State plan resource limit and exclusions by applying the State rules for a couple.

(b) *When you have an essential person.* If you receive additional payments because an essential person (see § 416.243) lives in your home, we will determine your State plan resource limit and exclusions by applying the State plan rules for recipients with essential persons. If your essential person loses that status for any month after December 1973, we will determine your State plan resource limit and exclusions by applying the appropriate State plan rules for a recipient without an essential person.

(c) *When your spouse is not eligible for the alternative rules.* If you are eligible for the alternative rules but your spouse is not, we will determine your State plan resource limit and exclusions by applying the State plan rules for an individual.

(d) *When you are the surviving spouse of someone eligible for the alternative rules.* If you are an SSI beneficiary who is the surviving spouse of someone who was eligible under the alternative rules but you were not, we apply the Federal resource limits and exclusions to you.

Appendix—List of Type of Resources Excluded Under the SSI Program As Provided by Federal Laws Other Than the Social Security Act

Many Federal statutes in addition to the Social Security Act provide assistance or benefits for individuals and specify that the assistance or benefits must not be considered in deciding eligibility for SSI benefits. We have listed these statutes in this appendix and have placed them in categories according to the kind of assistance or benefits they provide or the persons who get them. The list gives the legal authority for the exclusion, for example, the name of the Federal statute, the public law number, and the citation. Each item briefly describes what the statute provides that will not eliminate SSI eligibility. More detailed information is available from a social security office or by reference to the statutes. When funds are received under these laws, they must be kept separate from other funds or they will be treated in the same way as the funds with which they are mixed.

We update this list periodically. However, when new Federal statutes of this kind are enacted, or existing statutes are changed, we apply the law currently in effect, even before this appendix is updated.

I. Food

(a) Value of food coupons under the Food Stamp Act of 1977, section 1301 of Pub. L. No. 95–113 (91 Stat. 968, 7 U.S.C. 2017(b)).

(b) Value of federally donated foods distributed under section 32 of Pub. L. No. 74–320 (49 Stat. 774) or section 416 of the Agriculture Act of 1949 (63 Stat. 1058, 7 CFR 250.6(e)(9)).

(c) Value of free or reduced price food for women and children under the—

(1) Child Nutrition Act of 1966, Section 11(b) of Pub. L. No. 89–642 (80 Stat. 889, 42 U.S.C. 1780(b)) and section 17 of that Act as added by Pub. L. No. 92–433 (86 Stat. 729, 42 U.S.C. 1786); and

(2) National School Lunch Act, section 12(e), as amended by section 3 of Pub. L. No. 94–105 (89 Stat. 515, 42 U.S.C. 1760(e)).

II. Housing and Utilities

(a) Assistance to prevent fuel cut-offs and to promote energy efficiency under the Emergency Energy Conservation Services Program or the Energy Crisis Assistance Program as authorized by section 222(a)(5) of the Economic Opportunity Act of 1964, as amended by section 5(d)(1) of Pub. L. No. 93–644 and section 5(a)(2) of Pub. L. No. 95–568 (88 Stat. 2294 as amended, 42 U.S.C. 2809(a)(5)).

(b) Fuel assistance payments and allowances under the Home Energy Assistance Act of 1980, section 313(c) of Pub. L. No. 96–223 (94 Stat. 299, 42 U.S.C. 8612(c)).

(c) Value of any assistance paid with respect to a dwelling unit under—

(1) The United States Housing Act of 1937;

(2) The National Housing Act;

(3) Section 101 of the Housing and Urban Development Act of 1965; or

(4) Title V of the Housing Act of 1949.

(d) Payment for relocating, made to persons displaced by Federal or federally

assisted programs which acquire real property, under section 216 of Pub. L. No. 91–646, the unform Relocation Assistance and Real Property Acquistion Policies Act of 1970 (84 Stat. 1902, 42 U.S.C. 4636).

III. Education and Employment

(a) Incentive allowances for individuals under section 124(a)(3) of the Comprehensive Employment and Training Act (CETA) (92 Stat. 1943, 29 U.S.C. 826(a)), also earnings and allowances paid to a youth in certain training or employment programs (applies to the youth and the youth's family) under section 446 of CETA (92 Stat. 1992, 29 U.S.C. 921).

(b) Grants or loans to undergraduate students made or insured under programs administered by the Secretary of Education under section 507 of the Higher Education amendments of 1968, Pub. L. No. 90–575 (82 Stat. 1063).

(c) Any wages, allowances, or reimbursement for transportation and attendant care costs, unless excepted on a case by case basis, when received by an eligible handicapped individual employed in a project under title VI of the Rehabilitation Act of 1973 as added by title II of Pub. L. No. 95–602 (92 Stat. 2992, 29 U.S.C. 795b(c)).

IV. Native Americans

(a) Revenues from the Alaska Native Fund paid under section 21(a) of the Alaska Native Claims Settlement Act, Pub. L. No. 92–203 (85 Stat. 713, 43 U.S.C. 1620(a)).

(b) Indian tribes—distribution of per capita judgment funds to members of—

(1) The Blackfeet and Gros Ventre Tribes under section 4 of Pub. L. No. 92–254 (86 Stat. 65, 25 U.S.C. 1264);

(2) The Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40–K under section 6 of Pub. L. No. 94–540 (90 Stat. 2504);

(3) Tribes or groups under section 7 of Pub. L. No. 93–134 (87 Stat. 468, 25 U.S.C 1407); and

(4) The Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation as authorized by section 2 of Pub. L. No. 95–433 (92 Stat. 1047, 25 U.S.C. 609c–1).

(c) Receipts from land held in trust by the Federal government and distributed to members of certain tribes referred to in section 6 of Pub. L. No. 94–114 (89 Stat. 579).

(d) Revenues from The Maine Indian Claims Settlement Fund and the Maine Indian Claims Land Acquisition Fund paid under section 5 of the Maine Indian Claims Settlement Act of 1980, Pub. L. No 96–420 (94 Stat. 1796, 25 U.S.C. 1728(c)).

V. Other

(a) Compensation provided volunteers in the foster grandparents program and other similar programs, unless determined by the Director of the Action Agency to constitute the minimum wage under sections 404(g) and 418 of the Domestic Volunteer Service Act of 1973 (87 Stat. 409, 413), as amended by Pub. L. No. 96–143 (93 Stat. 1077); 42 U.S.C. 5044(g) and 5058.

(b) Any assistance to an individual (other than wages or salaries) under the Older Americans Act of 1965, as amended by section 102(h)(1) of Pub. L. No. 95–478 (92 Stat. 1515, 42 U.S.C. 3020a).

[FR Doc. 82–30602 Filed 11–5–82; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 21001–202]

Revision of Patent Procedure

Corrections

In FR Doc. 82–29267 beginning at page 47744 in the issue for Wednesday, October 27, 1982, make the following corrections:

1. On page 47748, in § 1.6(a), the comma following "holidays" should be removed.

2. In § 1.6(b), the penultimate line, the word "so" should follow the word "was".

3. In § 1.6(c), the word "department" should be capitalized.

4. In the heading for § 1.7, the word "[federal]" should read "►federal◄".

5. In the heading for § 1.10, an "►" should precede the section number.

6. On page 47749, in § 1.41(a), the last line should read "by §§ 1.42, 1.43, and 1.47. (See § 1.60)]".

7. In § 1.41(c), the last line should read "the application (§ 1.63) can only be made in accordance with § 1.64.◄"

8. In § 1.46, the fourth line, the word "and" should be added after the word "made".

9. On page 47750 (§ 1.47(b)), the first column, the twenty-fifth line, the word "or" should read "of".

10. In § 1.48, the fifth line, after the word "only" insert the word "the".

11. In the same section, the ninth line, the word "verfied" should read "verified".

12. In § 1.52(c), the fifth line from the end, after the word "in" insert the word "a".

13. In the same section, the fourth line from the end, the word "or" should read "of".

14. In § 1.53(a), the seventh line, insert a comma after the word "parts".

15. In § 1.54(a), the first line, the word "part" should read "parts".

16. On page 47751, in the heading for § 1.57, the bracket following the heading should be removed.

17. On page 47752 (§ 1.63), in the first column, the paragraph designated (c), the word "paragaraphs" should read "paragraphs" and the word "fogein" should read "foreign". Also, in the third line of that paragraph, the phrase "oath of declaration" should read "oath or declaration".

18. In the heading for § 1.64, an "►" should precede the heading.

19. In § 1.65(a)(1), the second column, the sixth line from the end, the word "indentify" should read "identify".

20. In paragraph (b) of the same section, the word "relastionship" should read "relationship" and the word "iformation" should read "information".

21. In § 1.69(b), the third line from the end, the word "aftr" should read "after".

22. On page 47753, in § 1.70(a)(1), the tenth line from the end, add the material set out below following the word "assigns" and before the period: "more than twelve months prior to his or her international application. He or she must acknowledge a duty to disclose information he or she is aware of which is material to the examination of the application. He or she shall state whether or not any application for patent or inventor's certificate on the same invention has been filed in any foreign country, either by himself or herself, or by his or her legal representatives or assigns".

23. In the same paragraph, eight lines from the end, the comma after the word "country" should be removed. Three lines from the end the word "filing" should read "filed" and the comma immediately following should be removed.

24. At the end of § 1.98(a), five asterisks should appear below the text.

25. In § 1.99, the ninth line, the word "promptmess" should read "promptness".

26. In § 1.101(a), the tenth line, before the word "order" insert the word "the".

27. On page 47754, in § 1.132, the first line, the word "clain" should read "claim". In the fifth line from the end of that section, the word "lacing" should read "lacking".

28. In § 1.137(b), the third column of the page, the eighth line from the end, the word "extentions" should read "extensions".

29. On page 47755, in § 1.174(a), the third sentence from the end, the word "pating" should read "pasting". In the last line of that paragraph, a comma should be placed immediately before the word "or".

30. In the middle column, the paragraph designated "50", the reference to "1.30.1" should read "1.301".

31. On page 47756, in § 1.324, the sixth line, the word "ommission" should read "omission".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-FRL 2234-8]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate an ocean disposal site offshore of Tampa Harbor for continuing use for the disposal of dredged material. This proposed action is necessary to provide an ocean dumping site for the current and future disposal of dredged material from the Tampa Harbor Project in order to permit unrestricted access for interstate and foreign commerce to the Port of Tampa.

DATE: Comments must be received on or before January 3, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, D.C. 20460.

The draft Environmental Impact Statement (EIS) and other material considered in this proposed rulemaking are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, D.C.

Tampa-Hillsborough County Public Library, Special Collections Department, 900 North Ashley Street, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereinafter "the Act"), gives the administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is made pursuant to that authority.

The purpose of this notice is to provide the public an opportunity to comment on the proposed final designation, as an EPA approved ocean dumping site, of a site offshore of Tampa Harbor for the continuing disposal of dredged material. A more complete discussion of the factors considered by EPA and the basis for the proposed action may be found in the draft EIS.

The location of the dredged material site, known as Site 4, is approximately 17 nautical miles from Egmont Key, positioned in a square with coordinates as follows:

27d 32' 27"N., 83d 03' 46"W.;
27d 30' 27"N., 83d 03' 46"W.;
27d 30' 27"N., 83d 06' 02"W.;
27d 32' 27"N., 83d 06' 02"W.

The site occupies an area of 4 square nautical miles. Water depths within this area range from 21.8 to 24.1 meters.

On January 11, 1977, EPA designated two interim sites in the Tampa Bay area for the disposal of dredged material. 42 FR 2461 et seq. One site ("Site A") is located 13 miles from the mouth of Tampa Bay. The other site ("Site B") is located adjacent to Egmont Channel in the Gulf of Mexico. Dredged material was disposed of at Site B from 1969 to 1973, but not since then.

The sites were designated for a three-year period or until final site designation studies could be completed. On December 9, 1980, the interim designations were renewed until February 1983 pending completion of final site designation studies. 45 FR 81042. The Corps has disposed of dredged material at Site A from 1980 to the present.

In April 1982, Manatee County sued EPA and the Corps of Engineers with respect to the interim designation and continuing use of Site A for the disposal of dredged material. "Manatee County v. Gorsuch," 82-248-Civ.-T-GC. That litigation is now proceeding in the United States District Court for the Middle District of Florida.

The Tampa Harbor Project is a major new channel deepening project undertaken by the Corps of Engineers which will provide deep draft access to additional parts of the Tampa and Hillsborough Bay system. As of October 15, 1982, the Corps had disposed of approximately 4,738,742 cubic yards of material dredged in construction of the Tampa Harbor Project and in maintenance of two other navigation projects at Site A. The Corps currently has a contract for the dredging and disposal of material from two sections of the Tampa Harbor Project ("Section 2C(Portion)" and "Section 4 (Remainder)"). Section 4 (Remainder) has been completed, but, as of October 15, 1982, approximately 1,400,000 cubic yards remained from Section 2C (Portion). An additional 2,570,000 cubic yards remaining to be dredged from funded portions of the Tampa Harbor Project and disposed in the Gulf of Mexico are not yet under contract.

In order to avoid delay to and cost escalation for the Corps' Tampa Harbor Project, EPA has proposed to extend the interim designation of Site A, for the sole purpose of disposal of dredged material from Section 2C (Portion) of the Tampa Harbor Project. 47 FR 44122 (October 6, 1982.)

EPA has also proposed to designate Site 4 on an interim basis. 47 FR 44122 (October 6, 1982). This interim designation, which will expire upon the completion of the final site designation process, is proposed to provide a site for the disposal of dredged material (other than that from Section 2C (Portion)) after the current interim designation of Site A expires and before final designation of a site for continuing use takes place.

EPA has prepared a draft EIS entitled "Draft Environmental Impact Statement for Tampa Harbor, Florida Ocean Dredged Material Disposal Site Designation." This draft EIS evaluates the suitability for disposal of material dredged from the Tampa Harbor Project at the two existing sites (Site A and Site B) as well as at four shallow-water alternative sites (Sites 1, 2, 3, and 4). The draft EIS was filed with the EPA Office of Federal Activities on October 22, 1982, and a notice of availability for public review and comment was published in the **Federal Register** on October 29, 1982. 47 FR 49074.

An initial evaluation of the results of EPA surveys conducted in 1979 and 1980 at Sites A and B indicated that they might not be the best locations for receiving the planned amounts of dredged material. Consequently, a reconnaissance survey of alternative Sites 1, 2, and 3 was conducted in October 1981. This was followed by an intensive survey in May 1982 of existing Sites A and B, alternative Site 3, and a new area found to be more promising than any of the other sites surveyed.

These surveys showed that alternative Sites 1, 2, and 3 contained significant hard-bottom areas. Such hard-bottom areas are unsuitable for dredged material disposal because they contain, or are capable of containing, productive coral and sponge habitats valuable for recreational and commercial use. By contrast, Site 4 was found to contain few hard-bottom areas and appears to be a suitable disposal site.

The EIS contains pertinent information gathered by EPA from all of its surveys as well as other pertinent information on these sites. Based on the information presented in the EIS, Site 4 is the best site from an environmental standpoint because of the lack of hard-

bottom areas and the relative lack of unique communities which may be adversely affected by dredged material disposal.

The EIS also contains an evaluation of the statutory factors contained in Section 102(a) of the Act and § 228.6 of the EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, section 228.) This evaluation also supports the proposal to designate Site 4 for continuing use. A discussion of the most important of the criteria follows.

Location in relation to beaches and other amenity areas. The nearest developed beaches are 18 nautical miles away; there is little or no recreational diving, sport, or commercial fishing, and no known hard-bottom outcrops which might support commercial or sport fishing.

Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. Dispersion and horizontal transport will occur primarily to the north and south resulting from wind-induced seasonal current reversals. Vertical mixing is inhibited only during strong late-summer stratification. Influence from waters flowing out of Tampa Bay is less than at Site A, with sediments less likely than those at Site A to be transported back into the entrance channel.

Existence and effects of current and previous discharges and dumping in the area. No disposal has occurred at this site.

Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. No interference is expected with recreational or commercial interests, nor with shipping, mineral extraction, desalination, fish and shellfish culture, or areas of special scientific importance.

For a more complete discussion of factors used to evaluate this Site 4 and other sites in the area, interested persons should examine Chapter 2 of the draft EIS.

Based on the foregoing information, EPA is proposing to designate Site 4 for continuing disposal of dredged material. Management authority of this site will be delegated to the Regional Administrator of EPA Region IV.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities. The site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418.)

Dated: November 1, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water

PART 228—[AMENDED]

In consideration of the foregoing, Part 228 of Chapter I of Title 40 is proposed to be amended by adding a § 228.12(b)(15) an ocean dumping site for Region IV as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(15) Tampa Harbor Site 4—Region IV.
Location: 27d 32′ 27″N., 83d 03′ 46″W.; 27d 30′ 27″N., 83d 03′ 46″W.; 27d 30′ 27″N., 83d 06′ 02″W; 27d 32′ 27″N., 83d 06′ 02″W
Size: 4 square nautical miles
Depth: Ranges from 21.8 to 24.1 meters
Primary Use: Dredged material
Period of Use: Continuing use
Restriction: Disposal shall be limited to dredged material

[FR Doc. 82-30622 Filed 11-5-82; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 32 and 35

[CGD 80-009]

Correction of Miscellaneous Disparities in 46 CFR, Subchapter D, Tank Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the Tank Vessel regulations in Title 46 CFR to eliminate miscellaneous disparities and conflicts which have been noted and accumulated. The changes basically reflect solutions which have already been implemented through policy decisions and therefore should have minimal impact, and should result in less confusing regulations.

DATES: Comments must be received on or before December 23, 1982.

ADDRESSES: Comments should be sent to: Commandant (G-CMC/24), CGD 80-009, U.S. Coast Guard Headquarters, Washington, D.C. 20593. Comments may be delivered to and will be available for inspecton and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Lt. John Astley (G-MVI-2/24), Room 2612, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2190. Normal office hours are between 7:00 a.m. and 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. The comment submitted should include the name and address of the sender, identify this notice as CGD 80-009, the specific section of the proposal to which the comment applies, and give the reason for the comment. If an acknowledgement is desired a stamped, self-addressed postcard or envelope must be included. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will be beneficial.

Drafting Information

The principal persons involved in drafting this proposal are: LT Robert MURRAY, Project Manager, Office of Merchant Marine Safety, and LT Michael TAGG, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

This document proposes eight changes to the Tank Vessel regulations in Subchapter D of Title 46 CFR to eliminate minor disparities which have been noted over the last several years. Some of these disparities result from

conflicting requirements in the Pollution Prevention regulations in Subchapter O of Title 33 CFR which also address Tank Vessels. The remainder have been uncovered as daily usage of the regulations revealed a need for a modification. Some of the language has been revised with no substantive changes.

Each of the proposed changes is discussed as follows:

(1) *Cargo transfer piping.* When the Pollution Prevention regulations were issued in 1972 they contained a requirement in 33 CFR 156.120 that tank vessels utilize fixed piping for transferring oil of any grade. This was found to conflict with 46 CFR 32.50–15 which required fixed piping only for Grades A, B, and C cargo. The problem was compounded when the 1980 amendments to the Pollution Prevention regulations altered the requirement in 33 CFR 156.120 from "fixed piping" to "fixed connection" which, in some cases, could be a system of lesser quality than fixed piping. The proposed changes, therefore, would amend 46 CFR 32.50–15 to effect two results: (i) to provide for the transfer of *all* grades of cargo through a "fixed connection" system as is required in Title 33, and (ii) to specify the two systems which are acceptable as fixed connections.

These changes will eliminate the implied sanction in 46 CFR 32.50–15 of "drop loading" grades D and E cargoes through an open end hose in a hatch. Drop loading produces high concentrations of hydrocarbon vapor and static electricity which may result in a violent explosion. The proposal makes some exception for animal fats and vegetable oils which do not present such a hazard.

(2) *Tank barge security.* 33 CFR 155.810 requires that a security watch be maintained on any moored tank barge containing more cargo than normal residue after pump-out operations. 46 CFR 35.05–15(b)(2) does not differentiate between moored barges which contain cargo and those which do not. Instead the operator of a barge in either condition is given the option of maintaining a security watch or merely closing up the vessel by securing all hatches and posting appropriate warnings. This proposal would amend§ 35.05–15(b)(2) to require a security watch on any moored tank barge containing more cargo than normal residue after pump-out operations, but would continue to allow barges which are pumped out to be left with hatches secure and warnings posted.

(3) *Bolt in flanged connections.* 46 CFR 35.35–15(d) requires not less than three bolts per flange to be used for oil transfer connections, while 33 CFR 156.130(d)(2) requires not less than four bolts. The proposal would amend 46 CFR 35.35–15(d) to require not less than four bolts.

(4) *Smoking on tank vessels.* 46 CFR 35.50–5(d) prohibits smoking on the weather decks of tank vessels which are not gas free or which are alongside docks. The section also states that prior to the loading of Grades A, B, or C cargo the master or senior deck officer on duty must inspect the vessel and designate any area where smoking may be permitted with reasonable safety during the loading operation. On tank ships, a check for this inspection is specified on the Declaration of Inspection in 46 CFR 35.35–30(10). However, in specifying this requirement, no mention is made of the overall prohibition against smoking on the weather decks. As written, a person in charge might see an implication that he actually has the discretion to allow smoking on the weather deck. This implication was not intended. The prohibition of smoking on the weather decks is a well-accepted safety measure. Therefore, a slight editorial change is proposed to clarify the wording on the Declaration of Inspection. No additional reporting burden is imposed by this clarification as it is currently an existing requirement.

(5) *Addition to Declaration of Inspection.* 46 CFR 32.53–5 requires the master of a tankship to insure the proper operation of the vessel's inert gas system. The National Transportation Safety Board has recommended that this be incorporated into the § 35.35–30 Declaration of Inspection. This originated from a tankship explosion caused in part by the failure to utilize the inert gas system during the cargo transfer. The addition of the inert system operation to the Declaration of Inspection will emphasize the requirement. Since the operation of the system is currently required, the addition to the Declaration of Inspection will place no new burdens on the industry.

(6) *Tank vessels not in service.* 46 CFR 31.01–1(b) exempts tank vessels which are layed up, dismantled and out of commission from the requirements of Subchapter D. It is also the policy of the Coast Guard that any tank vessel which is removed from the bulk liquid cargo service is likewise exempt from these requirements, so long as the vessel is rendered safe from explosion and pollution. The proposal, therefore, incorporates this policy into the provisions of 46 CFR 31.01(b).

(7) *Inappropriate container references.* 46 CFR 35.30–40(a) makes several references to ICC specifications for containers for flammable liquid and gas fuels used as ship's stores. Specifications for these containers are now under Department of Transportation (DOT) and included in 49 CFR 171–179. This proposal, therefore, incorporates the proper references to DOT specifications and eliminates the inaccurate labeling description.

(8) *Dual requirements for transfer hose.* 46 CFR 32.50–30 stipulates a minimum design pressure for cargo hose on tank vessels of no less than 100 psi. However, 33 CFR stipulates a design pressure of 150 psi (33 CFR 155.800 and 154.500). The proposal, therefore, amends 46 CFR to conform with Title 33.

Regulatory Evaluation

These proposed regulations have been determined to be non-significant under guidelines set out in the "Policies and Procedures for Simplification, Analysis, and Review of Regulation" (DOT Order 2100.5 of May 22, 1980), and to be non-major under the criteria of Executive Order 12291. With one exception, the proposed regulations impose no new requirements. They merely correct provisions that conflict with more recently promulgated regulations. For example, one provision requires not less than three bolts per flange on oil transfer connections, while a parallel provision requires not less than four. Therefore, to be in compliance with both regulations, each connection must have not less than four bolts. This proposal would amend the three bolt provision to conform with the four without imposing any new burdens on the regulated industry.

The only new requirement proposed is the one discussed in paragraph (5) of this preamble. This provision would add a check on the performance of the vessel's inert gas system to the items listed on the Declaration of Inspection. The proper operation of the inert gas system when cargo is being off-loaded is currently required by other regulations. Adding this item to the checklist merely serves as a reminder to ensure that the requirement of other regulations is being met and adds no new burdens. Therefore, because the expected impact of these proposals is so minimal, a full regulatory evaluation is not warranted and none has been prepared.

The Regulatory Flexibility Act (P.L. 96–354, 5 U.S.C. 601) requires an analysis of the economic impact of the proposed regulations on small businesses and other small entities. The proposed regulations will amend several sections of the tank vessel regulations to

provide for internal consistency. The remaining changes have generally been implemented through policy decisions by the Coast Guard, so no new costs would be imposed on tank vessel operators. The proposed regulations would not overlap, duplicate, or conflict with any other rules. For these reasons, pursuant to § 605(b) of the Regulatory Flexibility Act, it is certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

OMB Control Numbers

Information collection requirements contained in these regulations at 46 CFR 35.35–30 have been approved by the Office of Management and Budget under 44 U.S.C. Chapter 35 and have been assigned OBM approval number 2115–0506.

List of Subjects

46 CFR Part 31

Tank vessels.

46 CFR Part 32

Tank vessels, Barges, Marine safety, Fire protection.

46 CFR Part 35

Tank vessels, Barges, Marine safety.

In consideration of the foregoing, it is proposed that Chapter 1 of Title 46, code of Federal Regulations be amended as follows:

PART 31—INSPECTION AND CERTIFICATION

1. By revising paragraph (b) of § 31.01–1 to read as follows:

§ 31.01–1 Inspections required—TB/ALL.

* * * * *

(b) Tank vessels which are layed up, dismantled and out of commission, and tank vessels removed from the bulk liquid cargo service are exempt from inspections required by law or regulations in this subchapter, provided that such vessels are cleaned of all cargo residue and maintained in a gas free condition.

* * * * *

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

2. By revising paragraph (a) of § 32.50–15 to read as follows:

§ 32.50–15 Cargo piping on tank vessels constructed on or after July 1, 1951—TB/ALL.

(a) All tank vessels constructed or converted after July 1, 1951, shall install a fixed cargo piping system arranged so as to avoid excessive stress at the joints. The joints on piping of two inches and more in diameter must be flanged, welded, or of another approved type. Connection at bulkheads shall be made so that the plating does not form part of a flanged joint. Piping may be carried through bunker spaces and deep tanks when run through a pipe tunnel. When the pipe is extra heavy, all joints are welded and bends are installed to provide for expansion and contraction, the pipe tunnel may be omitted.

(1) Tank vessels carrying only Grades D and E cargo may use a portable piping system in lieu of fixed piping, provided:

(i) The hose complies with 33 CFR 154.500 or the portable piping complies with 46 CFR Part 56;

(ii) The connections comply with 33 CFR 156.130;

(iii) The system has a closure which forms a vapor-tight seal on the tank opening through which the cargo is transferred. The closure must be bolted or dogged in place and have the hose and drop line connected to it;

(iv) The system has a metallic drop line which complied with 46 CFR 153.282, except for the carriage of animal fats or vegetable oils;

(v) A shutoff valve is at or near the point of entry into the tank.

* * * * *

3. By revising § 32.50–30 to read as follows:

§ 32.50–30 Cargo hose—TB/ALL.

Cargo hose carried on tank vessels shall be suitable for oil service and designed to withstand the pressure of the shutoff head of the cargo pump or pump relief valve setting, less static head, but in no case less than 150 pounds per square inch.

Note.—For additional requirements concerning cargo hose, reference 33 CFR 145.500, 155.800 and 156.170.

PART 35—OPERATIONS

4. By revising paragraph (b) of § 35.05–15 to read as follows:

§ 35.05–15(b) Watchman for a tank vessel—TB/ALL.

* * * * *

(b) *Unmanned barge.* (1) A strict watch of each unmanned barge in tow will be maintained from the towing vessel while underway.

(2) When a barge in moored and contains more cargo that the normal clingage and unpumpable bilge or sump residues, the barge will be kept under surveillance of a person responsible for the security of the barge and for keeping unauthorized persons off the barge.

(3) When a barge is moored and contains no cargo but is not gas free, it shall be maintained under surveillance as required in paragraph (1), or, all cargo tank hatches shall be clearly marked in not less than three inch lettering "DANGER–KEEP OUT," and all hatch covers will be closed and dogged down in such a way that the hatch cannot be opened by the use of the bare hands alone.

5. By revising § 35.30–40 to read as follows:

§ 35.30–40 Flammable liquid and gas fuels, as ship's stores—TB/ALL.

(a) Flammable liquids and gases other than diesel fuel to be used as fuel for approved equipment shall be marked, labeled, and stowed as follows:

(1) Stowage shall be in containers conforming to DOT, ICC, and A.S.M.E. specifications, or in a portable safety container having the approval of a recognized testing laboratory, and which are authorized for the contents.

(2) The contents will be marked on the containers, and the containers will be labeled in accordance with DOT requirements for flammable liquids and gases.

(3) Containers must be stowed on or above the weather deck in locations designated by the master. Containers specified in paragraph (1) which do not exceed a capacity of five gallons may be stowed below the weather deck in a paint or lamp locker.

(b) Diesel fuel must be stowed in locations designated by the master.

6. By revising paragraph (a) to read as follows:

§ 35.35–15(a) Connecting for cargo transfer—TB/ALL.

(a) Movement of the vessel shall be considered to insure safe cargo transfer. Suitable material shall be used in joints and in couplings to insure that connections are tight. Under no circumstances shall less than four bolts be used in a bolted flanged coupling.

* * * * *

7. By revising paragraphs (d) and (j) of § 35.35–20 to read as follows:

§ 35.35–20 Inspection prior to transfer of cargo—TB/ALL.

* * * * *

(d) All cargo connections have been made to the vessel's pipeline, and not through an open end hose through a hatch.

* * * * *

(j) When loading Grades A, B, and C cargoes whether smoking may be permitted in areas other than the weather deck with reasonable safety.

* * * * *

8. By revising § 35.35–30 to read as follows:

§ 35.35-30 "Declaration of Inspection" for tankships—T/ALL.

(a) After the completion of the § 35.35-20 inspection but before approving the start of cargo transfer, the master or senior deck officer will prepare the following Declaration of Inspection in duplicate. The original shall be kept aboard and the duplicate provided to the terminal supervisor or representative. The terminal supervisor or representative may, upon demand, inspect the vessel to satisfy himself that its condition is as stated on the Declaration of Inspection.

(b) The Declaration of Inspection shall read as follows:

Declaration of Inspection Prior to Bulk Cargo Transfer

Date _____
Vessel _____
Port of _____

I, _____, being the master or senior deck officer in charge of the transfer of bulk, flammable and combustible cargo about to be undertaken, do certify that I have personally inspected this vessel with reference to the following requirements set forth in § 35.35-20, Code of Federal Regulations, and that opposite each of them I have indicated that the regulations have been complied with.

(1) Are warnings displayed as required?

(2) Is there any repair work in way of cargo spaces being carried on for which permission has not been given?

(3) Have cargo connections been properly made and are cargo valves properly set?

(4) Have all cargo connections for loading been made to the vessel's pipelines?

(5) Are there any fires or open flames present on the deck or in any compartment which is located on, facing, open and adjacent to the main deck of the vessels on which the cargo connections have been made?

(6) Has the shore terminal or other tank vessel concerned reported itself in readiness for transfer or cargo?

(7) Are sea valves connected to the cargo system closed?

(8) If Grades A, B, and C cargoes are to be loaded and boiler fires are lighted, had an inspection been made to determine that they may be operated with reasonable safety?

(9) If Grades A, B, and C cargoes are to be loaded and galley fires are lighted, has an inspection been made to determine that they may be operated with reasonable safety?

(10) If Grades A, B, and C cargoes are to be loaded, has an inspection been made to determine whether smoking is to be permitted in areas not on the weather decks?

(11) If smoking is to be permitted in areas not on the weather decks, have spaces been designated for this purpose?

(12) Is the inert gas system being operated as necessary to maintain an inert atmosphere in the cargo tanks in compliance with 46 CFR 32.53-5?

The OMB approval number for § 35.35-30 is 2115-0506.

(46 U.S.C. 391a; 49 CFR 146(n)(4))

Dated: October 26, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 82-30405 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC-92, Notice No. 82-9]

Qualifications of Drivers; Handicapped Driver Waiver Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is seeking comments on a proposal to amend the Federal Motor Carrier Safety Regulations (FMCSR) to expand the current Handicapped Driver Waiver Program (hereafter referred to as the Waiver Program) to cover the operations of hazardous materials-laden and passenger-carrying vehicles in interstate or foreign commerce. This proposal is being advanced because accident statistics do not indicate that individuals who have suffered the loss or impairment of a limb and who are granted waivers drive more unsafely than nonhandicapped drivers. Furthermore, the FHWA is proposing to rescind the requirement for a coapplicant motor carrier for each waiver application. This action will permit handicapped drivers who have waivers to present themselves to any motor carrier for immediate employment.

DATE: Comments must be received on or before December 23, 1982.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted, preferably in triplicate, to Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety (BMCS), (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh St., SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FMCSR prohibit an individual who has lost a limb or has a limb impairment from driving in interstate or foreign commerce (49 CFR 391.41(b)(1) and (2)); however, upon application to the BMCS, waivers of this prohibition may be granted on a case-by-case basis with two exclusions: (1) a handicapped driver who intends to drive a hazardous materials-laden vehicle, and (2) a handicapped driver who intends to drive a passenger-carrying vehicle. On June 12, 1980, a notice of request for public comment (NRPC) was published in the **Federal Register** (45 FR 39872). It solicited comments on the continuing rationale for these two exceptions to the Waiver Program.

The exceptions were included in the initial waiver rule in 1964 because of the type of equipment involved, the inherent dangers of hazardous materials cargo transportation, and the potential of a catastrophic bus accident. Prior to publishing the NRPC, the BMCS collected and analyzed data concerning the issue of whether the exceptions should be eliminated.

In the NRPC, the BMCS related the history of the Waiver program and discussed the rationale for the two exceptions. Studies were cited which showed handicapped drivers to be associated with increased traffic violations and accidents. Also discussed was the difference in operations among general commodity, passenger, and hazardous materials cargo transportation. Comments were requested on the validity of the BMCS' rationale.

Comment Summary and Appraisal

The BMCS received 57 written comments. Thirty-one commenters argued to retain the exceptions, 18 argued to grant relief and accept applications, six argued positions not relevant to this rulemaking, and two expressed no preference.

The 31 commenters who urged retention are classified as follows: one individual, 12 motor carriers, five motor carrier associations, one representative of a union, two insurance companies, one local government agency, seven State agencies, and two Federal Government officials. The 18 commenters who argued to eliminate the two exceptions are classified as follows: three individuals, four motor carriers, two representatives of two unions, five State agencies, two Federal Government officials, and two handicapped advocacy organizations. Two individual commenters expressed no preference toward a particular point of view. All these comments have been carefully considered.

The comments of those supporting retention of the present rule with its

exceptions are summarized and appraised as follows:

1. *Comment:* Several commenters related that if relief is granted, intrastate commerce will certainly be affected. They related that the intrastate bus accident rate is 12.94 times higher than the rate for interstate bus travel.[1] The Commissioner of Education for the State of Missouri stated that Missouri does not permit persons who have missing limbs to drive school buses because of the deep concern for the safety of its children.

BMCS Appraisal: In 1973, the BMCS studied the frequency of accidents per million miles driven of its Waiver Program participants.[2] The accident statistics for drivers who were granted waivers indicated that the accident frequency for that group was identical to the frequency of accidents prevailing at that time for all nonhandicapped commercial drivers. It has been observed that handicapped drivers present no greater risk than nonhandicapped drivers when evaluated under the Waiver Program. No evidence was submitted that showed handicapped drivers have contributed to the high frequency of intrastate bus accidents. In addition, the FMCSR are minimum qualifications and do not prevent a motor carrier from enacting policies imposing more stringent or additional qualifications, requirements, examinations, or certificates.

2. *Comment:* One bus company pointed out that considerable ability in eye-hand-foot coordination is necessary for bus drivers and that it is unlikely a handicapped person could adequately handle all contingencies a bus driver encounters.

BMCS Appraisal: The BMCS recognizes the considerable eye-hand-foot coordination requirements needed by bus drivers. This requirement may be even more important to tractor-trailer drivers, considering the increased number of forward speeds (clutch and gearshift manipulations), vehicle weight, and need to maneuver the vehicle. The BMCS concludes that the portion of the Waiver Program which requires a demonstration of ability, the Skill Performance Evaluation (SPE), adequately evaluates the eye-hand-foot coordination task, as well as numerous other tasks which cover some 216 individual driving safety items. These tasks are assessed under actual work conditions over an average 35–50-mile prescribed course, which is run twice to eliminate possible driver error due to nervousness. Also, the waiver may require equipment modifications to compensate for a deficiency of eye-hand-foot coordination. It is believed that an individual evaluation can be made which will eliminate those candidates who do not have adequate eye-hand-foot coordination.

3. *Comment:* Many commenters, including the New York City Fire Department, felt the exceptions should be retained because of the major responsibilities of the hazardous materials cargo driver in emergency situations such as: using the fire extinguisher, retrieving documents, climbing up on a cargo tank to check hatchcovers and valves, and performing other vehicle inspection tasks.

BMCS Appraisal: The Waiver Program's SPE provides numerous tasks which are used to directly evaluate the driver's use of emergency equipment. One section of the SPE requires demonstration of proficiency with a fire extinguisher. The BMCS periodically updates its procedures and could introduce additional items or procedures unique to hazardous materials-laden or passenger-carrying vehicles for testing during the SPE. The BMCS has surveyed it safety personnel to identify driver safety-related job tasks unique to hazardous materials-laden or passenger-carrying vehicles. Those safety-related job tasks identified would be assessed through a revised SPE.

4. *Comment:* The American Bus Association (ABA) pointed out that courts recognize numerous lives are dependent on the safety practices of passenger carriers. Hodgson v. Greyhound Line, Inc., 499 F. 2d 859 (7th Cir. 1974). The ABA states that the public's perception of bus safety influences its level of travel by bus. A bus driver's job tasks (lifting luggage of considerable weight, as much as 100 pounds) and responsibilities (emergency passenger evacuation and assisting the handicapped) are too difficult for those with a missing or impaired limb.

BMCS Appraisal: The BMCS concurs that passenger carriers must concentrate on safety, but submits that the accident frequency of drivers who have waivers is the same as that of nonhandicapped drivers, indicating that the selective factors used in the administration of the Waiver Program are working. It is believed that, generally, the perceptions of the public have changed considerably since the passage of the Rehabilitation Act of 1973 and that ridership will not suffer if a qualified handicapped driver operates a passenger-carrying vehicle. One ABA concern was that a handicapped driver could not lift luggage. Lifting luggage is not a safety-related task. It is the employer's responsibility to evaluate whether a handicapped employee can accomplish nonsafety-related job tasks.

5. *Comment:* The American Insurance Association, which claims to underwrite 45 percent of all insurance policies for ICC-regulated motor carriers, cites the increased responsibilities of the hazardous materials cargo drivers and the potential for a catastrophic accident as reasons to retain the exceptions.

BMCS Appraisal: As previously stated, the BMCS' appraisal of its Waiver Program does not substantiate an increased accident frequency for its handicapped drivers who have waivers as compared to nonhandicapped commercial drivers. It is believed that the ability to perform any different responsibilities required of drivers who operate hazardous materials-laden vehicles can be evaluated through the Waiver Program's SPE.

6. *Comment:* The American Trucking Associations Inc. (ATA), restates the rationale contained in the NRPC on which the present exceptions to the Waiver Program are based. It adds that the average cost of an accident involving a hazardous materials cargo is approximately $14,500, while the average cost of an accident involving a general commodity is only $8,000. The ATA repeats the point made in the NRPC that the cargo itself represents a risk to safety in the case of a hazardous materials cargo, whereas if there is damage or spillage of a general commodity, the cargo presents little risk to the public safety. In the case of a hazardous materials cargo spill or release, it could be a major public health problem.

The ATA further states, that the proposed rule change would impose undue burden on the motor carrier industry. According to the ATA, its members are presently, "* * * being confronted by a host of State and local government regulations restricting the movement of hazardous materials cargoes throughout their jurisdictions. The removal of the exceptions will assure that proliferation of such restrictions becomes even more widespread, resulting in further inability to effectively and safely transport hazardous materials cargoes on our Nation's highways."

BMCS Appraisal: The BMCS is aware of the potential public health consequences of a major hazardous materials cargo accident and because of this would work closely with hazardous materials cargo carriers to ensure that

[1] National Safety Council, *Accident Facts*, Chicago, IL, 1979, Ed.

[2] A copy of the study has been placed in the public docket for review by all interested parties.

each handicapped applicant is adequately evaluated in his or her safety-related duties and responsibilities. Each Waiver Program participant is individually monitored with respect to accidents and traffic offenses. Restrictions can be applied to the waiver if warranted, and the waiver can be withdrawn.

A new evaluation study of the Waiver Program was instituted in 1979. Sufficient quantity of new data for statistical analysis and evaluation will be available in 1983. Review of 1979 through 1981 data indicates that the Waiver Program participants' accident frequency has not changed from that of 1973 and that those handicapped drivers granted waivers present no greater accident risks than nonhandicapped drivers.

The comments of those requesting the elimination of the exceptions are summarized and appraised as follows:

In general, most commenters expressed the opinion that the BMCS was discriminating against the handicapped. Basically, they argued the BMCS has not proven its case on either point of its rationale presented in the NRPC that: (1) Handicapped drivers are greater risks, and (2) passenger and hazardous materials cargo transportation are different in terms of vehicles, accident type, and severity from general commodity transportation and the resultant conclusion that higher standards are necessary. Most of these commenters thought the BMCS could make an individual determination as it already does in its present Waiver Program for general commodity drivers.

1. *Comment:* One commenter, ARMIRA, Corp., a motor carrier presently employing two Waiver Program participants says it has had good success with them, but believes their usefulness is lessened by the fact that neither can operate hazardous materials-laden vehicles. The ARMIRA believes the present exclusions financially penalizes these two drivers. If the rule is changed, ARMIRA would use these two drivers to transport hazardous materials-laden vehicles.

BMCS Appraisal: The comments of ARMIRA support the proposal of allowing drivers with waivers to transport hazardous materials-laden vehicles. Its position also verifies that it is ready to utilize its two handicapped drivers to transport hazardous materials-laden vehicles.

2. *Comment:* The State Board of Vocational Education for West Virginia states that the BMCS cited studies are not reflective of handicapped commercial drivers.

BMCS Appraisal: The BMCS concurs that the drivers in the studies it cited were not commercial drivers and that its Waiver Program participants' accident frequency is the same as nonhandicapped commercial drivers. However, it is concluded that the studies cited in the NRPC do indicate increased accidents for the handicapped automobile drivers and thus necessitates a good evaluation program.

3. *Comment:* The International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America (IBT) argues that blanket exclusions are discriminatory and unjustified because the BMCS does certify the ability of some handicapped drivers. Further, the IBT states that the BMCS' data support the similar accident and violation history of its Waiver Program's participants as compared to the nonhandicapped truck driver. The IBT cited numerous legal cases to substantiate its claim that the exclusions violate the Rehabilitation Act of 1973.

BMCS Appraisal: The proposed rulemaking would permit the BMCS to evaluate those handicapped drivers who intend to drive vehicles transporting passengers or hazardous materials cargoes.

4. *Comment:* The Department of Human Resources for the State of North Carolina points out that DuPont's on-the-job analysis of accidents associated with handicapped workers shows them to be safer than nonhandicapped workers. The Department suggests that since the data are mixed on the safety risks of the handicapped, the correct approach is to make individual decisions on a case-by-case basis which is exactly what the BMCS is presently doing for current waiver applicants who intend to engage in general commodity transportation.

BMCS Appraisal: It is concluded that some handicapped populations, if not properly evaluated, have shown an increase in accident frequency. However, as previously stated, the Waiver Program participants' accident frequency is the same as that of the nonhandicapped commercial population. Because of this, it is believed that applications from handicapped drivers who intend to transport hazardous material cargoes or passengers can be tested and evaluated within the Waiver Program.

5. *Comment:* The Disability Rights Education Defense Fund, Inc. presented a legal analysis centering on the allegation that the BMCS has not demonstrated a rational basis for the current exceptions. It also argues that even if there were support for the basis rule, there is no reason to make bus and hazardous materials drivers ineligible for waivers. The Waiver program, it submits, will eliminate unsafe operations.

BMCS Appraisal: The Waiver Program would be open to drivers of buses and vehicles transporting hazardous material cargoes under this rulemaking proposal.

The comments of those expressing no preference are summarized and appraised as follows:

1. *Comment:* Two individual commenters who expressed no preference concerning the retention or elimination of the exceptions asked the BMCS to decide the issue on the merits of the comparison of the frequency of accidents of Waiver Program participants to that of nonhandicapped interstate commercial drivers. One commenter suggested elimination of the Waiver Program if no difference were found in the above comparison.

BMCS Appraisal: The BMCS has assessed the frequency of accidents of its Waiver Program participants and found it equivalent to that of the nonhandicapped interstate commercial drivers. As addressed earlier in this notice of proposed rulemaking (NPRM), the BMCS has a second ongoing analysis which will be completed in 1983. The BMCS finds no evidence to substantiate eliminating the Waiver Program. As previously stated, the studies cited in the NRPC indicate safety problems associated with handicapped drivers (private automobile drivers). The BMCS believes the reason the frequency of accidents for the Waiver Program drivers is equivalent to that of nonhandicapped drivers is because the SPE provides the capability to discern those applicants who have adequately compensated for their handicap. The BMCS experience shows that a carefully screened Waiver Program participant can meet all of the physical demands of the driver profession. This does not mean all applicants meet the demands, since some applicants have failed the evaluation.

Based on the comments to the NRPC and an analysis of available accident data, it is proposed to amend the waiver rule at 49 CFR 391.49 to permit handicapped drivers who are granted a waiver to operate hazardous materials-laden or passenger-carrying vehicles in interstate or foreign commerce.

The Coapplicant Requirement

A second change this NPRM proposes is a rescission of the requirement under 49 CFR 391.49 for a coapplicant motor carrier for each waiver application.

Comment was not requested on this proposal in the NRPC when it was published in the **Federal Register** (45 FR 39872) on June 12, 1980. The proposed change is generated by the BMCS' observations of its Waiver Program.

At present, an application for waiver is submitted by both the driver applicant and the motor carrier for whom the driver applicant intends to drive. It was determined that the requirement for a coapplicant motor carrier may be responsible for lost employment opportunities due to the time required to process the waiver. At present, it can take from less than ten days to four weeks from application to the issuance of a waiver. Even if all waivers could be granted in ten days, this is generally nine days more than it takes to hire a nonhandicapped driver.

One reason for the coapplicant requirement is to protect the handicapped driver from being employed by a motor carrier with unsafe practices. Coapplicant motor carriers are checked for their compliance with the FMCSR. If found in noncompliance, a handicapped driver is dissuaded from obtaining employment with that particular motor carrier. This same level of protection is not afforded to nonhandicapped drivers. The nonhandicapped driver's means of protection is the ability to readily change employers. The rescission of the coapplicant requirement will afford handicapped drivers who have been granted waivers the same readily available ability to change employers and, thus protect themselves from motor carriers with unsafe practices.

A second reason for a coapplication requirement is the need to monitor those individuals granted a waiver and to collect data to evaluate the Waiver Program (OMB number 2125–0091). Individual monitoring and data collection needs are still necessary. If a driver is having numerous accidents or committing traffic violations, it is important to address these incidents when they are happening rather than wait two years until the renewal application. The proposed change would not alter the responsibility of a motor carrier who hires a driver with a waiver. It would, however, minimize the paperwork burden to the motor carrier who employs on a regular basis a driver with a waiver. It would significantly reduce the paperwork burden to those motor carriers who hire a driver with a waiver for a single trip or on an intermittent, casual, or occasional basis.

Upon employing a driver with a waiver, as a "regularly employed driver," a motor carrier must agree to file (within 15 days) with the Regional Federal Highway Adminstrator, in the region in which the driver legally resides, the following information: The motor carrier's name, address, Federal Highway Administration Motor Carrier Identification Number (FHWA–MCIN), and a description of certain items on the vehicle that the motor carrier employs the driver to operate. The motor carrier who employs a driver with a waiver on a regular basis must also agree to file (within 30 days) the following information on the driving activities of the driver: reports of all accidents, arrests, suspensions, revocations, withdrawal of driving licenses, permits or privileges, and traffic convictions involving the driver.

A motor carrier who employs a driver with a waiver for a singe trip or on an intermittent, casual or occasional basis need not file information pertaining to its name, address, FHWA–MCIN, and vehicle description items, but must agree to file (within 30 days), with the Regional Federal Highway Administrator, in the region in which the driver legally resides, information on the driving activities mentioned above. The duties and responsibilities of any motor carrier who employs a driver with a waiver, whether as a regularly employed driver, or for a single trip, or on an intermittent, casual, or occasional basis will be stated on the waiver provisions. A copy of the waiver form must be in the driver's possession when driving. The driver must give a copy to all motor carriers that employ the driver, whether it be on a regular, single trip, intermittent, casual, or occasional basis.

Waiver Renewal

A change is proposed in the waiver renewal procedures that will eliminate the necessity for a medical evaluation summary upon renewal, if: (1) The handicap condition is of an impaired limb type as listed in § 391.41(b)(2), and (2) in the initial or a previous medical evaluation summary, the physiatrist or orthopedic surgeon states that the condition is likely to remain medically stable over the lifetime of the driver applicant. This provision does not apply to conditions under § 391.41(b)(1) since in conditions of amputation, which require prostheses, (1) the remaining portion of a limb that has been amputated may further degenerate over time, (2) the prosthetic prescription may need to be changed, or (3) the prosthesis may wear out. This proposal will reduce the financial burden on waiver renewals for those waiver program participants who have been initially found disqualified under 49 CFR 391.41(b)(2).

Conclusions

The NRPC has generated considerable and diverse comments from many vantage points. They include motor carriers, union representatives, rehabilitation specialists and physicians, State, Federal and local representatives, motor carrier associations, insurance companies, and other concerned individuals. For the most part, the motor carrier industry and its associations requested retention of the exceptions which make drivers intent on driving hazardous materials-laden or passenger-carrying vehicles ineligible to apply for a waiver. Their concerns center on perceived safety risks, economic disadvantages, passenger aversion to traveling on a bus operated by a handicapped driver, or increased insurance premiums.

Since no specific data was presented which clearly refuted the NRPC's cited handicapped driver studies (private passenger car drivers), it is concluded that handicapped individuals are associated with increased risks to safety on the highway. However, the BMCS' own Waiver Program statistics on the frequency of accidents of its participants compare favorably with those of nonhandicapped interstate commercial drivers. Therefore, it is believed that a program which provides safeguards to assure reasonable control and safety standards can adequately evaluate individual handicapped drivers. At present, the BMCS monitors all accidents and violations of its Waiver Program participants. Additional restrictions on participants are imposed if warranted by their traffic records.

No comment of significance was received contending that vehicular differences are so great between general commodity and hazardous materials-laden or passenger-carrying vehicles that the differences would reasonably constitute a rationale for continuing the exclusions of these types of operations from the Waiver Program. Also, the argument that handicapped drivers cannot handle emergency situations involving hazardous materials-laden or passenger-carrying vehicles is not persuasive. The BMCS' Waiver Program presently evaluates the handicapped driver's ability to handle the vehicle. The SPE can be altered to evaluate tasks related to hazardous materials cargo transportation or passenger-carrying operations. A survey is being completed to identify those safety-related driver job tasks unique to hazardous materials-laden or passenger-carrying vehicles. Those tasks identified will be

incorporated into the SPE which is given to every Waiver Program applicant.

This NPRM also proposes to eliminate the coapplicant requirement from waiver applications. This was not discussed or commented on in the NRPC. The elimination of the coapplicant requirement will permit handicapped drivers who have been granted waivers to present themselves to motor carriers for immediate employment. This is a procedural change and will grant a measure of relief from the regulatory burden both to the driver applicants who are applying for waivers and to the motor carriers from whom the applicant is seeking employment.

Finally, to reduce the financial burden on handicapped drivers who have been granted a waiver it is proposed that handicapped drivers (those found qualified for a waiver of § 391.41(b)(2)) not be required to submit a medical evaluation summary with renewal applications, if their condition is certified in the initial or a previous medical evaluation summary as likely to remain medically stable over the lifetime of the individual.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

A draft regulatory evaluation has been prepared and is available for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided under the heading "For Further Information Contact." It is believed, based on information currently available to the BMCS, that the impact of this action on small business entities would be minimal, but beneficial. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant impact on a substantial number of small entities.

PART 391—[AMENDED]

In consideration of the foregoing, the FHWA proposes to amend Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Subchapter B, Part 391, as set forth below.

Section 391.49 is revised to read as follows:

§ 391.49 Waiver of certain physical defects (OMB number 2125-0091).

(a) A person who is not physically qualified to drive under § 391.49(b) (1) or (2) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, if the Regional Federal Highway Administrator has granted a waiver to that person.

(b) A letter of application for a waiver must be submitted by the person who seeks a waiver of a physical disqualification. The application must be addressed to the Regional Federal Highway Administrator in the region in which the driver legally resides. The address for each regional office is listed in § 390.40 of this subchapter. The letter of application shall contain—

(1) Name of the driver applicant, street address (number and street, or rural route, or post office box), city, State, and zip code;

(2) A description of the applicant's limb impairment for which a waiver is requested;

(3) The number of years experience in operating the type of vehicle(s) described in paragraph (b)(4) of this section and total number of years experience driving all types of motor vehicles; and

(4) A description of the vehicle(s) the driver applicant intends to drive:

(i) Motor vehicle make, and model;

(ii) Description of any vehicle modification(s) made for the driver applicant (attach photograph(s) where applicable);

(iii) Type of brake system;

(iv) Types of steering (manual or power);

(v) Number of semitrailers or full trailers to be towed in combination;

(iv) Description of type of trailer(s) (e.g., van, flatbed, cargo tank, etc.) and;

(vii) Drive train:

(A) Transmission type (manual, or automatic, and number of forward gears (speeds));

(B) Auxiliary transmission (if any), number of forward gears; and

(C) Variable speed rear axle (if any), number of gear ratios.

(c) The letter of application shall be accompanied by—

(1) A copy of the medical examination made pursuant to § 391.43;

(2) A copy of the medical examiner's certification made pursuant to § 391.43(e);

(3) A medical evaluation summary conducted by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon;

(i) The driver shall provide the physiatrist or orthopedic surgeon a description of the job tasks the driver applicant will be required to perform;

(ii) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(1), the summary shall include an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a commercial motor vehicle; or

(iii) If the medical evaluation summary applies to a driver applicant disqualified under § 391.41(b)(2), the summary shall include an explanation as to how and why the impaired area interferes with the driver's ability to perform normal tasks associated with the operation of a commercial motor vehicle. The summary shall also assess whether the condition will likely remain medically stable over the driver applicant's lifetime;

(4) A description of the driver applicant's prosthetic or orthotic device, if any'

(5) A copy of the driver applicant's waiver of certain physical defects issued by the individual State(s), where applicable; and

(6) A copy of the driver applicant's State motor vehicle driving record for the past 3 years in each State where a motor vehicle driver's license or permit has been obtained.

(d) *Agreement.* A motor carrier who employs a driver with a waiver agrees to the following—

(1) File within 15 days with the Regional Federal Highway Administrator in the region in which the driver legally resides, the following:

(i) Name of the motor carrier;

(ii) Street address of the motor carrier (number and street, or rural route, or post office box), city, State, and ZIP code;

(iii) Name of the driver;

(iv) Federal Highway Administration Motor Carrier Identification Number, if known;

(v) Items listed in paragraph (b)(4) of this section;

(vi) A statement certifying that the driver is fully qualified to drive a motor vehicle under the rules in Part 391; and

(vii) Motor carrier official's signature, title and date signed. Dependent upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signatory to the agreement shall be an officer, partner, or the proprietor.

(2) File within 30 days with the Regional Federal Highway Administrator in the region in which the driver legally resides, reports of all accidents, suspensions, revocations, and withdrawals of driving licenses, permits or privileges, and traffic convictions involving the handicapped driver.

(3) *Exception:* A motor carrier employing a driver with a waiver for a single trip, or on an intermittent, casual, or occasional basis need not file the items listed in paragraph (d)(1) of this section. A motor carrier who employs a

driver with a waiver for a single trip, or on an intermittent, casual, or occasional basis must report those items in paragraph (d)(2) of this section. The motor carrier must retain a copy of the waiver in the driver's qualification file for 3 years after the driver's employment by the motor carrier ceases.

(e) The waiver authorizes the driver to operate in interstate or foreign commerce when—

(1) the driver is employed by a motor carrier complying with the requirements of paragraph (d) of this section; and

(2) the driver is in compliance with the conditions specified in the waiver.

(f) The Regional Federal Highway Administrator may require the driver applicant to demonstrate the driver's ability to safely operte a motor vehicle(s) similar to the motor vehicle the driver intends to drive in interstate or foreign commerce.

(g) The Regional Federal Highway Administrator may deny the application or may grant it in whole or in part and issue a waiver subject to such terms, conditions, and limitations as deemed consistent with the public interest. A waiver is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date. A waiver renewal application shall be submitted by the driver holding the waiver to the Regional Federal Highway Administrator, in the region in which the driver legally resides, and contain the following:

(1) Name and address of the driver;

(2) Effective date of the current waiver;

(3) Expiration date of the current waiver;

(4) Total miles driven under the current waiver;

(5) Number of accidents incurred while driving under the current waiver, including date of the accident(s), number of fatalities, number of injuries, and the dollar amount of property damage;

(6) A current medial examination;

(7) A medical evaluation summary pursuant to paragraph (c)(3) of this section if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable. Refer to (c)(3)(iii) for conditions under § 391.41(b)(2) which may be considered medically stable;

(8) A copy of driver's current State motor vehicle driving record for the period the current waiver has been in effect;

(9) Notification of any change in the type of vehicle the driver will operate; and

(10) Driver's signature and date signed.

(h) If the Regional Federal Highway Administrator grants a waiver, the driver applicant will be notified by letter, which will set forth the terms, conditions, and limitations of the waiver. A motor carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver shall be retained in the motor carrier's file for 3 years after the driver's employment ceases. The driver applicant shall have the waiver (or a legible copy) in his/her possession whenever on duty.

(i) The Regional Federal Highway Administrator may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and a reasonable opportunity to appeal.

(j) Falsifying information in the letter of application, the renewal application, or in the information required under the agreement in paragraph (d) of this section by either the applicant or motor carrier is prohibited.

(49 U.S.C. 304,1655, 49 CFR 1.48)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

List of Subjects in 49 CFR Part 391

Motor carrier—driver qualifications, Motor carrier—handicapped drivers.

Issued on: October 28, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety Federal Highway Administration.

[FR Doc. 82-30546 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket Nos. 80-14 and 25 Notices 6 and 51]

Consumer Information Regulations; Uniform Tire Quality Grading; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration. (NHTSA), DOT.

ACTION: Proposed rule; extension of public comment deadline.

SUMMARY: NHTSA has recently issued a series of three related documents (2 interim final rules with request for comments and 1 proposed rule) involving the effects of deleting the tire tables in Federal Motor Vehicle Safety Standard (FMVSS) 109 on the manner in which tire test loads are to be determined for purposes of compliance testing under FMVSS 109 and for purposes of the Uniform Tire Quality Grading Standards. See 47 FR 25930, June 15, 1982; FR 34990, August 12, 1982; and 47 FR 36260, August 19, 1982. Test loads under both regulations were previously determined by reference to the FMVSS 109 tables. However, given the deletion of those tables, the three documents invited comments on alternative methods for specifying test loads.

The Rubber Manufacturers Association, on October 7, 1982, requested that the comment deadlines for the three documents be extended from August 16, October 12 and 18, respectively, to December 13, 1982, to permit additional time to prepare comments and recommendations. Under the agency's Rulemaking Procedures, this request was timely filed only with regard to the October 18 comment deadline. See 49 CFR 553.19. However, given the intimate relationship between these documents and the many complex technical issues involved, the agency in a previously issued document (47 FR 49407, Nov. 1, 1982), reopened the comment period for the June 15 and August 12 interim final rules is herein granting the request to extend the comment deadline for the August 19 Proposed Rule.

DATE: Comments on this document must be received on or before December 13, 1982.

ADDRESS: Comments on these documents should refer to the docket numbers set forth above and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. F. Cecil Brenner, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-1740)

(Secs. 103, 119, and 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 29, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-30370 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 47, No. 216
Monday, November 8, 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.

ACTION

National Voluntary Service Advisory Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Voluntary Service Advisory Council (Council) will be held on November 30 and December 1 in Washington, D.C. On November 30, 1982, the Council will meet as a whole from 9:00 A.M.–12:00 noon, and in Subcommittees from 2:30 P.M.–5:00 P.M. at ACTION, 806 Connecticut Avenue, NW., Washington, D.C. For specific room locations of the meetings contact Mark Blitz, Assistant Director for Policy and Planning at (202) 254–7630. On December 1, 1982, the Council will meet from 9:00 A.M.–12 noon in the Old Executive Office Building, SE Corner of 17th and Pennsylvania Avenue, NW., Washington, D.C.

The purposes of this meeting are to conduct ongoing discussions of ACTION policy and programs, to meet with ACTION staff, and to review the criteria to be used for evaluating the nominees submitted for the Volunteer Action Awards. In accordance with the determination of the Director of ACTION, the Council meeting on December 1, 1982 and the Council's Subcommittee on Awards meeting during the afternoon of November 30, 1982 which both involve the award evaluation process will be closed to the public pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, NW., Washington, D.C. 20525 during the regular working hours of 8:30 A.M. to 5:15 P.M.

Signed this 1st day of November 1982 in Washington, D.C.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 82–30588 Filed 11–5–82; 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Decision Notice and Finding of No Significant Impact; Pacific Crest National Scenic Trail Relocation Angeles and Sequoia National Forests; Kern and Los Angeles Counties, California

Background

The 1968 National Trails System Act (ACT) designated the Pacific Crest National Scenic Trail (PCNST). Responsibility for administration of the trail was assigned to the Secretary of Agriculture, and he delegated this responsibility to the Chief of the Forest Service. As required by the Act, the original route (Published Route) for the PCNST was published in the Tuesday, January 30, 1973, **Federal Register**, (Vol. 38, No. 19, Part 11, 38 FR 2832).

Approximately 45 miles of the PCNST in the vicinity of Antelope Valley and Oak Creek Canyon, Los Angeles and Kern Counties, California, have not been constructed. As provided in Section 7(b) of the Act, this section of the trail is to be relocated to a new route in the same general vicinity. This relocation is not considered to be substantial, and will meet the needs of the trail user while reducing impacts on adjacent private lands.

The relocation to preserve the purposes for which the PCNST was established is based on two Environmental Assessments entitled "Antelope Valley-Tejon Segment, Pacific Crest National Scenic Trail" and "Alternative Route for the Desert Segment of the Pacific Crest National Scenic Trail" prepared by the Angeles and Sequoia National Forests, respectively.

Decision

Based on the analysis and evaluations described in the Environmental Assessments, it is my decision to adopt Alternative 4 for the Antelope Valley-Tejon Segment and Alternative A for the Desert Segment. The appendix to this Decision Notice provides a detailed description of the route relocation.

In the analysis for the Antelope Valley-Tejon Segment, five (5) alternative routes were considered, including a "no-action" alternative. These routes are summarized here:

No-Action—The National Trails Systems Act mandated that a trail be constructed. Therefore, the "No-Action" alternative for this segment of the trail did not meet the intent of Congress, nor did it meet the needs of the trail user.

Alternative 1—This is an all-road alternative, utilizing existing road rights-of-way, with the majority of the distance along 90th Street West (Willow Springs Road), joining the published route at Oak Creek Canyon.

Alternative 2—This is a road-aqueduct right-of-way combination, utilizing existing road rights-of-way along 170th Street West, 90th Street West (Willow Springs Road), and the City of Los Angeles, Department of Water and Power underground aqueduct right-of-way, joining the published route at Oak Creek Canyon.

Alternative 3 (Published Route)—This is an all-trail alternative utilizing an existing State aqueduct right-of-way, traversing through private land and ending at the eastern boundary of the Tejon Ranch.

Alternative 4 (Foothill Route)—This is an all-trail alternative, utilizing the City of Los Angeles, Department of Water and Power underground aqueduct right-of-way, traversing through private land and ending at a tie point with the Sequoia National Forest Desert Segment.

In the analysis for the Desert Segment, four (4) alternative routes were considered. These routes are summarized here:

Published Route—The Published Route follows the south bank of Oak Creek by way of Horsethief Canyon and around Bison Mountain to Tejon Ranch.

Alternative A—This route begins at the intersection of Willow Springs Road and Oak Creek Canyon Road and climbs immediately to the ridge crest proceeding southwesterly along the ridgelines of Pitney and Burham Canyons, crossing a section of BLM lands east of Pitney Canyon. Just west of Burham Canyon, the Trail takes a southwesterly direction, traversing Gamble Springs Canyon and Tylerhorse Canyon, ending at the Angeles National

Forest-Sequoia National Forest tie point identified in Alternative 4.

Alternative B—This route begins at the intersection of Willow Springs Road and Oak Creek Canyon Road and coincides with Alternative Route A to the point where Alternative Route A turns south near Burham Canyon. From here, Alternative Route B proceeds west along the upper ridges above Burham Canyon, Gamble Springs Canyon and Tylerhorse Canyon to Tejon Ranch.

Alternative C—This route begins east of the intersection of the Willow Springs and Oak Creek Roads, turns south crossing the Oak Creek Canyon Road, follows the Willow Springs Road through low elevations before turning west to cross the Willow Springs Road to climb about 300 meters (1,000 feet) to join Alternatives A–B.

Considerable public involvement took place, including consultation with the California subgroup of the PCNST Advisory Council. This resulted in the identification of the following issues and concerns which were used as criteria to guide the decision:

- Minimize impact on private land
- Protect water quality and assure water availability
- Provide public access to the trail
- Minimize cost
- Minimize impacts on wildlife and cultural resources
- Maintain the PCNST concept
- Maximize use of public land or rights-of-way

The public was clearly opposed to the Published Route because of the adverse effect the trail would have on private lands. Also, ranching practices, subdivision development, mining operations and other private land activities conflict with recreation objectives for the trail.

Alternatives 4 and A minimize the impact on private lands by utilizing existing public land and a right-of-way along the City of Los Angeles under ground aqueduct. California Portland Cement Company operations, private land development, and a major portion of the Tejon Ranch operations are avoided by selection of these alternatives.

Water quality and availability problems associated with the Published Route are eliminated by utilizing water from the aqueduct, where feasible, and from a spring located in Tylerhorse Canyon.

Access points for the Published Route were limited to the beginning and end of the combined segments, a distance of 51 miles, without trespass on private land by the trail user. Alternatives 4 and A have several access points available.

Alternatives 4 and A are located away from the critical habitat of the California Condor, and endangered species of bird. Use of the Published Route would likely jeopardize the continued existence of the California Condor and adversely modify its critical habitat.

Alternatives 4 and A both maintain the PCNST concept by maximizing user experience in terms of recreation activities, interpretive opportunities, and the variety in landscapes.

Both Alternatives are the lowest cost, and therefore, are the economically preferred alternatives.

Finding of No Significant Impact

I have determined, based on the two environment assessments, 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 factors:

(a) Alternative 4 and Alternative A, with included mitigation measures, will protect cultural resources, plants, and animals, including the California Condor, an endangered species.

(b) Impacts on private lands have been minimized by using public lands, existing public rights-of-way, or locating along property boundaries.

(c) The critical concerns of the public have been mitigated.

(d) There are no irreversible resources commitments or irretrievable loss of natural resources.

(e) There are no apparent adverse cumulative or secondary effects.

(f) The physical and biological effects are limited to the trail tread and trail camps.

(g) A balance is achieved between local short-term uses of renewable resources and the maintenance and enhancement of long-term productivity.

(h) No wetlands of floodplains are involved.

(i) The proposal is in accord with the intent of Congress through the National Scenic Trails Act, Section 7(b).

The Environmental Assessments are available for public review during regular working hours in the following Forest Service offices:

Angeles National Forest, 150 S. Los Robles Avenue, Suite 300, Pasadena, CA 91101

Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257

Forest Service, USDA, Room 4241–S, 12th and Independence Avenue, SW, Washington, DC 20013

Questions regarding this Decision Notice should be directed to:

Ed Medina, Lands Staff, Angeles National Forest, 150 South Los Robles Avenue, Suite 300, Pasadena, CA 91101—Telephone (213) 557–0050, Ext. 332; or

Norman Arseneault, Recreation Staff, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257—telephone (209) 784–1500

Implementation of this trail relocation may take place immediately. This decision is subject to administrative review pursuant to 36 CFR 211.19.

Dated: November 2, 1982.

R. Max Peterson,

Chief.

APPENDIX

Pacific Crest National Scenic Trail Relocation; Angeles and Sequoia National Forests; Los Angeles and Kern Counties, CA

This minor relocation is proposed under the provisions of Section 7(b) of the National Trails Systems Act (82 Stat. 919; U.S.C. 1241–1249). The following wording changes to the Tuesday, January 30, 1973 **Federal Register**, (Vol. 38, No. 19, Part II, 38 FR 2832) are recommended:

Page 2836, column 2, paragraph 2, lines 3–20 and paragraph 3, lines 1–4.

Delete: "* * * erly through the El Tejon Ranch, follows Cameron Creek and Oak Creek and climbs into the Tehachapi Mountains, passing to the south of Double Mountain, switches back into Cottonwood Creek, crosses Cottonwood Creek road and climbs to Liebre Twins. It continues southwesterly on the ridge between Little Oak Creek and El Paso Creek. Staying on the ridge, the Trail passes Marble Springs Canyon. It continues along the ridge of the Tehachapi Mountains between Beartrap Canyon and Sycamore Canyon to the head of Cottonwood Canyon. The Trail turns southeasterly down Cottonwood Canyon to the Kern County-Los Angeles County line. It then turns southerly to Quail Lake and the San Andreas Rift Zone and enters the Angeles National Forest to the east of Bald Mountain.

It then passes on the east side of West Liebre Lookout and winds along the ridge of the Liebre Mountains easterly by radio tower between Bear Canyon and Cow Spring Can * * *."

Add: "* * * erly, follows Cameron Ridge and climbs into the Tehachapi Mountains. The Trail crosses Tylerhorse Canyon, and then heads southerly switching back down to the eastern bench of Cottonwood Canyon to the Los Angeles D.W.P. Aqueduct. Following the California Aqueduct west for one mile, the trail intersects 270th Street. Following 270th Street south, it crosses Highway 138,

then heads southwesterly to Cow Springs Canyon, Crossing Oakdale Road at Horse Trail Campground. Then the trail goes south winding up Horse Camp Canyon to the ridge of Liebre Mountains, and easterly along the ridge past Cow Spring Canyon."

Page 2837, column 3—

Delete the following described private lands:

SAN BERNARDINO MERIDIAN

Township	Range	Section
5 North	14 West	1.
11 North	14 West	36.
12 North	14 West	36.
7 North	15 West	34.
10 North	15 West	6 and 7.
11 North	15 West	25, 26, 27, 28, 31, 32, 33.
10 North	16 West	12, 13, 14, 15, 19, 20, 22 and 30.
7 North	17 West	3.
8 North	17 West	19, 30, 31 and 32.
9 North	17 West	3, 4, 5, 6, 7 and 8.
10 North	17 West	24, 25, 26, 34 and 35.
8 North	18 West	24.
9 North	18 West	11, 12, 13 and 14.

Add the following described private lands:

SAN BERNARDINO MERIDIAN

Township	Range	Section
11 North	14 West	1, 2, 3, 10, 15, 16, 20, 21, 29, and 31.
11 North	15 West	25 and 36.
10 North	15 West	1, 11, 15, 16, 22, 27 and 33.
9 North	15 West	3, 10, 11, 15, 16, 19, 20 and 21.
9 North	16 West	23, 24, 27, 28 and 33.
8 North	16 West	4, 9, 17, 18 and 19.
8 North	17 West	24, 25, 26 and 35.

The above route relocation also requires changes of the map base shown on pages 2924, 2925, 2926 and 2927 of the original **Federal Register** publication. Map Exhibits A, B, and C showing the relocation are available for inspection at the offices and addresses listed above.

[FR Doc. 82-30499 Filed 11-5-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Reporting Requirements by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On September 29, 1982, the Office of Management and Budget approved the following new reporting requirements: Reporting requirements contained in new Part 320 of the Procedural Regulations, "Procedures for Awarding Japanese Charter Authorizations"—approved through September 30, 1984, under OMB No. 3024-0055.

On October 18, 1982, the Office of Management and Budget approved the extension of the following reporting requirements: Reporting requirements contained in Part 325 of the Procedural Regulations, "Essential Air Service Procedures"—extended through June 30, 1985, under OMB No. 3024-0037.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

October 29, 1982.

[FR Doc. 82-30637 Filed 11-5-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permit Filed under Subpart Q of the Board's Procedural Regulations; see, 14 CFR 302.1701 et. seq.; week ended October 29, 1982.

Subpart Q Applications

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

Date filed	Docket No.	Description
Oct. 25, 1982	41066	Empresa Guatemalteca De Aviacion, c/o Philip Schleit, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Application of Empresa Guatemalteca De Aviacion pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that the board amend its said Foreign Air Carrier Permit authorizing the foreign air transportation of persons, property and mail: (A) So as to include Houston Texas as a coterminal point on route 2. The amended permit should authorize the holder to operate between Guatemala and Houston either (1) nonstop; (2) via the coterminal point New Orleans (without local traffic between New Orleans and Houston) or (3) via Mexico City (without local traffic rights between Mexico City and Houston); and (B) So as to include Cancun, Mexico as an intermediate point between Guatemala and the coterminal points Houston, Texas, New Orleans, Louisiana and Dallas/Ft. Worth, Texas; and (C) So as to include Merida, Mexico as an intermediate point between Guatemala and the coterminal points Houston, Texas, New Orleans, Louisiana and Dallas/Ft. Worth, Texas. Answers may be filed by November 22, 1982.
Oct. 26, 1982	41070	Maersk Air I/S, c/o Peter J. Nickles, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044. Application of Maersk Air I/S pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of its existing authority. Maersk also requests amendment of that authority to include Norway and Sweden within Maersk's "homeland" (along with Denmark) and such further amendment to or revision of its permit as needed to comport with amendments to Board regulations and modifications to Board practice occurring since the terms of Maersk's existing permit were established in 1977. Accordingly, Maersk requests authority to engage in foreign charter air transportation of persons and/or property, separately or in combination, as follows: A. Between any point or points in Denmark, Norway or Sweden and any point or points in the United States; B. Between a point or points in the United States and a point or points not in either Demark, Norway, Sweden or the United States, provided such charters stop over for at least two consecutive nights in Denmark, Norway or Sweden; and C. Between any point or points in the United States and any point or points not in either Denmark, Norway, Sweden or the United States which charters do not stop over in Denmark, Norway or Sweden for at least two consecutive nights. Answers may be filed by November 23, 1982.
Oct. 27, 1982	41071	Akron/Canton Airlines, Inc., c/o Edmond L. Sikorovsky, Calfee, Halter & Griswold, 1800 Central National Bank Building, Cleveland, Ohio 44144. Application of Akron/Canton Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a "Type I" certificate of public convenience and necessity which would authorize it to engage in the interstate and overseas air transportation of persons. ACA also requests authorization to engage in the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions. Conforming Applications, Motions to Modify Scope, and answers may be filed by November 26, 1982.

Date filed	Docket No.	Description
Oct. 29, 1982	41077	American International Airways, Inc., c/o Howard S. Boros, Boros & Garofalo, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of American International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to engage in: "the interstate and overses air transportation of persons, property and mail between all points in the United States, its territories and possession." Conforming Applications, Motions to Modify Scope, and Answers may be filed by November 26, 1982.
Oct. 28, 1982	40850	Aeronaves Del Peru S.A., c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Supplemental Exhibits in support of the Application of Aeronaves Del Peru S.A. Answers may be filed by November 26, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-30636 Filed 11-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41074]

Miami-Madrid-Tel Aviv Route Proceeding; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., November 2, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-30639 Filed 11-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41032]

Jet USA Airlines Fitness Investigation; Notice of Hearing

Notice is hereby given that a Hearing in the above-entitled proceeding is assigned to be held on December 7, 1982, at 9:30 a.m. (local time), Room 1027, Main Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., November 3, 1982.

Elias C. Rodriquez,

Chief Administrative Law Judge.

[FR Doc. 82-30638 Filed 11-8-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Louisiana Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p. on December 2, 1982, at the Warwick Hotel, 1315 Gravier Street, New Orleans, Louisiana 70112. The purpose of this meeting is to plan followup to the block grant project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson Dr. Louis C. Pendleton, 1514 Gary, Shreveport LA 71103, (318) 424-1297; to the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio TX 78204, (512) 730-5570.

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

Dated at Washington, D.C., November 2, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-30560 Filed 11-5-82; 8:45 am]

BILLING CODE 6335-01-M

New York Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission originally scheduled for November 18, 1982, at New York, New York (FR Doc. 82-29716, page 47900) has been changed.

The new location will be the Summit Hotel, 569 Lexington Avenue, 2nd Floor Conference Room, New York, NY 10017. The time and date will remain the same.

Dated at Washington, D.C., November 2, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-30561 Filed 11-5-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-053]

Birch 3-Ply Doorskins From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding

SUMMARY: On March 18, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on birch 3-ply doorskins from Japan. The review covered the sixteen known manufacturers and ten known exporters of this merchandise to the United States and generally the period January 1, 1980 through January 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. The Department received comments from two interested parties. Following our analysis of the comments we have made no changes in the final results from those contained in our preliminary results of review.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1976, a dumping finding with respect to birch 3-ply doorskins from Japan was published in

the **Federal Register** as Treasury Decision 76–48 (41 FR 7389). On March 18, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 11737–8) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of birch 3-ply doorskins, manufactured in a variety of glue types, sizes, and colors. Birch 3-ply doorskins are currently classifiable under item numbers 240.1420, 240.1440, and 240.1460 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of sixteen manufacturers and ten exporters of Japanese birch 3-ply doorskins to the United States. This review covers all twenty-six firms and generally the period from January 1, 1980 through January 31, 1981.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on our preliminary results. We received written comments from the Hokkaido Plywood Manufacturers' Association ("the Association") and Mitsui & Co.

Comments: For one of the manufacturers, Sanmoku Lumber Co., the Department used third country sales as the basis for foreign market value. The sales used were made through a related trading company, Mitsui & Co., which in turn sold through a related subsidiary in the third country, Canada. Since the prices between Sanmoku, Mitsui, and the Mitsui subsidiary were all between related parties, we used the selling price to the first unrelated purchaser in Canada as the basis for foreign market value. For sales to the unrelated Canadian purchasers the terms of sale were f.o.b. Hokkaido ports. The basis for United States price was purchase price from Sanmoku to unrelated trading companies in Japan, or exporter's sales price to the first unrelated American buyer where Sanmoku sold through Mitsui (Japan) and Mitsui (U.S.A.). The terms of sale for the former sales were f.o.b. Hokkaido and for the latter were ex-warehouse in the United States. In comparing United States price with foreign market value, we adjusted both for loading charges and Japanese inland freight where United States price was based on purchase price, and we made certain additional adjustments to the United States price where it was based on exporter's sales price.

The Association and Mitsui argue that we should make a level of trade adjustment when comparing the sales made to unrelated Canadian purchasers to those sales made to unrelated trading companies in Japan.

Department's Position: We disagree. Mitsui sells to the independent Canadian purchasers on the same terms that it buys from Sanmoku, that is, f.o.b. Hokkaido. Therefore, any differences in level of trade are due purely to other expenses arising from selling the merchandise to the Canadian purchasers. We have received no evidence to suggest what these expenses are or their magnitude. The mark-up to Mitsui (Canada) over the price paid by Mitsui (Japan) to Sanmoku (and indeed that latter price) involves only related parties, and there is no indication that this represents the selling expenses incurred in making the sales to the Canadian customer. In sum, we have no evidence that the selling expenses involved in the Canadian sales are more or less than those involved in selling to the unrelated trading companies in Japan. Therefore, we disallowed the claimed adjustment.

Final Results of the Review

After analysis of the comments received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Manufacturer (exporter)	Time period	Percent of margin
Marutama Industries Co., Ltd.:		
Mitsubishi Corp.)	Feb. 1, 1980 to Jan. 31, 1981.	0
Mitsui & Co., Ltd.	Jan. 1, 1980 to Jan. 31, 1981.	0
Nichimen Co., Ltd.	Feb. 1, 1980 to Jan. 31, 1981.	0
Toyo Menka Kaisha, Ltd.	do	0
Matsumoku Industries, Ltd.:		
C. Itoh & Co., Ltd.	Feb. 1, 1980 to Jan. 31, 1981.	4.3
Mitsubishi Corp.	do	4.3
Nitta Veneer: C. Itoh & Co., Ltd.	do	0
Sanmoku Lumber Co., Ltd.:		
C. Itoh & Co., Ltd.	Feb. 1, 1980 to Jan. 31, 1981.	3
Associated Lumber Co., Ltd.	Jan. 1, 1980 to Jan. 31, 1981.	2.7
Mitsui & Co., Ltd.	do	1.2
Toyo Menka Kaisha, Ltd.	Feb. 1, 1980 to Jan. 31, 1981.	4.3
Sattsuru Veneer Co., Ltd.:		
C. Itoh & Co., Ltd.	do	0
Mitsubishi Corp.	do	0
Mitsui & Co., Ltd.	Jan. 1, 1980 to Jan. 31, 1981.	0
Toyo Menka Kaisha, Ltd.	Feb. 1, 1980 to Jan. 31, 1981.	0.2
Yuasa Trading Co., Ltd.	do	0
Teshiogawa Lumber Co., Ltd.: Ikeuchi Industry Co., Ltd.	do	0
Ataka & Co.	Feb. 1, 1980 to Jan. 31, 1981.	[1]5
Fujikawa Veneer Co., Ltd.	do	[1]0
Hokusei Plywood	do	[1]5
Iwakura Gumi:		
Mitsubishi Corp.	Feb. 1, 1980 to Jan. 31, 1981.	[1]0
Toyo Menka Kaisha	do	[1]0
All other exporters	do	[1]7.2
Keisei Lumber Co., Ltd.	do	[1]0
Kiyosato Rinsan:		
Nissho-Iwai	do	[1]1.6
All other exporters	do	[1]0.7
Okura & Co	do	[1]1.8
Shingu Shoko	do	[1]0
Showa Lumber	do	[1]0
Tokiwa Plywood	do	[1]1.6

[1] No shipments during the review period.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries with purchase or export dates during the periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese birch 3-ply doorskins from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The Department waives the deposit requirement for Sattsuru Veneer (exporter Toyo Menka), since the margin is *de minimis.* For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the current period. These deposit requirements, and the waiver for Toyo Menka's exports of this merchandise manufactured by Sattsuru Veneer, shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of February 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: October 28, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 82-30617 Filed 11-5-82; 8:45 am]

BILLING CODE 3510-25-M

Results of Examination of Possible Transshipments of Television Receiving Sets From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Results of Examination of Possible Transshipments.

SUMMARY: The Department of Commerce has examined imports of television receivers from four Taiwanese manufacturers to determine whether the shipments are transshipments of television receivers from Japan. These firms were not included in the results of examination published in the **Federal Register** on June 5, 1981, since we had not received sufficient information at that time. We have now received sufficient information and have completed our analysis for these firm.

Our analysis indicates no transshipments of Japanese television receivers by any of the four Tawianese firms examined. Interested parties were afforded an opportunity to submit written comments on the results of the examination. No comments were received.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Larry T. Hampel or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C., telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1971, the Treasury Department published in the **Federal Register** a dumping finding concerning television receiving sets from Japan as Treasury Decision 71-76 (36 FR 4597). On April 7, 1977, the U.S. Customs Service suspended liquidation of entries of television receivers from Taiwan and Korea pending a determination whether exports from those countries were actually transshipments of television receivers from Japan subject to T.D. 71-76.

On January 2, 1980, the authority for administering the antidumping duty law (including the authority to determine whether merchandise is subject to an order) was transferred from the Treasury Department to the Department of Commerce ("the Department").

The Department published the results of its examination of possible transshipments in the **Federal Register** on June 5, 1981 (46 FR 30167-68). Those results covered 22 of the 26 known firms in Taiwan, Korea, Hong Kong, and Singapore exporting televisions to the United States. The results did not cover four Taiwanese firms for which analysis had not been completed due to insufficient information. Since that time the Department received additional information, and we have now completed our analysis of these firms.

Interested parties were afforded an opportunity to submit written comments on the results of this examination. The Department received no comments.

Results of the Examination

From our examination of television exports from Taiwan, we conclude that the following firms are not transhipping television receiving sets from Japan:

Firm	Review period
A.O.C. International	1/1/79-3/31/80
Sylvania Philco (Taiwan)	7/1/78-3-31-80
Shirasuna Electric	4/1/78-3/31/80
United Electronic International	1/1/78-3/31/80

We previously requested the U.S. Customs Service to resume liquidation of all entries of televisions from Hong Kong, Korea, Singapore, and Taiwan, with the exception of shipments from the firms named above.

As a result of this examination, the Department will request the Customs Service to resume liquidation of all entries of television receivers from Taiwan

Judith Hippler Bello,

Acting Deputy Assistant Secretary, Import Administration.

November 1, 1982.

[FR Doc. 82-30619 Filed 11-5-82; 8:45 am]

BILLING CODE 3510-25-M

Viscose Rayon Staple Fiber From Italy; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on viscose rayon staple fiber from Italy. The review covers the only known exporter of this merchandise to the United States, Snia Fibre S.p.A. (formerly Italviscosa), and the period June 1, 1981 through May 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the margin calculated on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: J. Linnea Bucher or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On December 14, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 60869-70) the final results of its last administrative review of the antidumping finding on viscose rayon staple fiber from Italy (44 FR 33878-9, June 13, 1979) and announced its intent to conduct the next administrative review by the end of June 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of only one exporter of Italian viscose rayon staple fiber to the United States, Snia Fibre S.p.A. (formerly Italviscosa). The review covers the period June 1, 1981 through May 31, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of

18.6%, based on the margin calculated on the last known shipments by Snia Fibre, shall be required on all shipments of Italian viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

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

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

November 1, 1982.

[FR Doc. 82-30618 Filed 11-5-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 354]

Marine Mammals; Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, Scientific Research Permit No. 354 issued to Dr. Donald B. Siniff, Department of Ecology and Behavioral Biology, University of Minnesota, Minneapolis, Minnesota 55455, on October 15, 1981 (46 FR 51629) is modified to allow the radio tagging of 30 newly independent young Weddell seals, in lieu of 30 adult Weddell seals.

Accordingly, Section A-1.a. of Permit No. 354 is deleted and replaced by:

"a. 210 adults may also be instrumented with radio frequency and/or sonic tags; and 30 newly independent young may be fitted with radio frequency tags as described in the modification request."

This modification becomes effective upon publication in the **Federal Register**.

The Permit, as modified, is available for review in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Dated: November 2, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-30651 Filed 11-582; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service

Marine Mammals; Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1983 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Asociacion Nacional de Armadores de Buques Congeladores de Pesquerias Varias (ANAVAR), Puerto Pesquero, Edificio Vendores, Of. 1A6, Apartado de Correos, 1078, Vigo, Spain, has applied for a Category 1: "Towed or Dragged Gear" general permit to take 20 small cetaceans and 20 phocid seals in the North Atlantic Ocean.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written comments on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: November 2, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-30652 Filed 11-5-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Ms. Susan Shane (P127A).

b. Address: biology Applied Sciences Building, University of California, Santa Cruz, California 95064.

2. Type of Permit: Scientific Research.

3. Name and number of animals: Pacific long-finned pilot whale (Globicephala melaena scammoni) up to 2000.

4. Type of take: Potential harassment while observing, photographing, and recording in order to investigate social behavior.

5. Location of activity: Santa Catalina Island, California.

6. Period of activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 2, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-30653 Filed 11-5-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Charges for Certain Cotton Apparel Products from the Philippines

November 4, 1982

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Deleting charges for cotton velveteen jackets in T.S.U.S.A. number 383.3460 from the level of restraint established for Category 335 pt. (infants' cotton coats), produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1982 (adding these charges to the level established for Category 335 pt. (women's and girls' cotton coats)). This will result in a reduction of 6,721 dozen in imports currently charged to the level for Category 335 pt. (infants') with a corresponding increase to the amount charged to Category 335 pt. (women's and girls'). In addition T.S.U.S.A. number 383.3460 is being deleted from the coverage of the level for Category 335 pt. (infants' cotton coats) and added to the coverage of the level for Category 335 pt. (women's and girls').

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22, and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, an investigation was made of the data discrepancy in Category 335. As a result of that investigation, we determined that imports in T.S.U.S.A. number 383.3460 would be more appropriately charged to the level of restraint established for women's and girl's cotton coats in Category 335 pt. (Non-Traditional).

EFFECTIVE DATE: November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61688) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 335, produced or manufactured in the Philippines which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to delete T.S.U.S.A. 383.3460 (cotton velveteen jackets) from the coverage of the level of restraint previously established for Category 335 pt. (infants' cotton coats) and to add T.S.U.S.A. number 383.3460 to the coverage of the level of restraint previously established for Category 335 pt. (women's and girls' cotton coats) and to adjust the imports charged to both levels of restraint accordingly.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customers,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends but does not cancel, the directive of December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines.

Effective on November 9, 1982, you are directed to exclude T.S.U.S.A. number 383.3460 from the coverage of the level of restraint established for Category 335 pt. (Infants' cotton coats/Traditional), produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1982. T.S.U.S.A. number 383,3460 should be added to the coverage of the level of restraint established for Category 335 pt. (women's and girls' cotton coats/Non-Traditional) for the same period.

Also effective November 9, 1982, the amount of 6,721 dozen should be deducted from charges made to the level of restraint established for Category 335 pt. (traditional) and added to the level of restraint established for Category 335 pt. (Non-Traditional) in the directive of December 14, 1982. This reduction accounts for merchandise in T.S.U.S.A. number 383.3460, exported during the agreement year which began on January 1, 1982 and imported during the period which began on January 1, 1982 and extended through October 25, 1982.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exeption to the rule-making provisions of 5 U.S.C 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–30799 Filed 11–5–82; 9:09 am]

BILLING CODE 3510–25–M

DEPARTMENT OF EDUCATION

National Center for Education Statistics; Collection of Information and Data Acquisition

AGENCY: Department of Education.

ACTION: Notice of Collection of Information and Data Acquisition.

SUMMARY: The Secretary of Education changes the reporting data for NCES Form 2404–2 (finance) to March 1 of the year following the end of the data collection year being reported. All other reporting dates for the Vocational Education Data System (VEDS) remain as previously announced.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. Morgan, VEDS Section Chief, National Center for Education Statistics, 400 Maryland Avenue, SW., Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: Section 161(a) of the Vocational Education Act of 1963, as amended, (20 U.S.C. 2391(a)) requires the Secretary and the Administrator of NCES to develop and operate a "Vocational Education Data and Accounting System" (VEDS) utilizing uniform definitions and standard data elements. States participating in programs under the Vocational Education Act must comply with the reporting requirements established for the VEDS. A notice establishing general reporting dates for VEDS was published in the **Federal Register** on April 22, 1980 (45 FR 27018).

Due to the variety of procedures the States use for collecting and auditing financial data as well as their different fiscal years, it is necessary to establish a new reporting date for the submission of finance data. States are hereby informed that the reporting date for NCES form 2402–2 (finance) is changed from December 1st to March 1st of the year following the end of the data collection year being reported.

Therefore the reporting date for NCES Form 2404–2 for 1981–1982 is changed to March 1, 1983. The December 1, 1982 reporting date for Program Enrollment and Completion Reports for 1981–1982 and Student Follow-up Reports for 1980–81 is unchanged.

Dated: November 1, 1982.

Fred W. Decker,

Acting Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 82-30634 Filed 11-5-82, 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CI62-38-001, et al.]

Texaco Inc., et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

November 1, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the National Gas Act for authorization to sell natural gas in interstate commerce or to abandon 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 November 17, 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 385.211, .214). 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft [3]	Pressure base
CI62-38-001, D, Oct. 7, 1982	Texaco Inc., P.O. Box 2420, Tulsa, Okla. 74102	Panhandle Eastern Pipeline Co., N.E. Carthage Field, Texas County, Okla.	([1])	
CI62-1041-001, D, Oct. 8, 1982	Diamond Shamrock Corp., (successor to the Shamrock Oil & Gas Corp.), P.O. Box 631, Amarillo, Tex. 79173.	Natural Gas Pipeline Co. of America, McKee Plants, Moore County, Tex.	([2])	
CI64-71-001, D, Oct, 12, 1982	Texaco Inc. (operator), *et al.*, P.O. Box 2420, Tulsa, Okla. 74102.	Panhandle Eastern Pipeline Co., N.W. Midwell Field, Cimarron County, Okla.	([3])	
CI61-1646-000, D, Oct. 4, 1982	Energy Reserves Group, P.O. Box 1201, 217 North Water Street, Wichita, Kans. 67201.	Cities Service Gas Co., Quinlan Northwest Field, Hugoton-Anadarko Area, Woodward County, Okla.	([4])	
CI69-327-000, E, Oct. 15, 1982	Eugene Shoal Oil Co. (successor in interest to Union Oil Co. of California), Union Oil Center, Room 932, P.O. Box 7600, Los Angeles, Calif. 90051.	Transcontinental Gas Pipe Line Corp., Block 253 (OCS-G-1031) and Block 252 (OCS-G-1529), Ship Shoal Block 252 Field, Ship Shoal Area, Offshore, La.	([5])	15.025
CI79-540-001, E, Oct. 15, 1982	....do	Texas Gas Transmission Corp., Blocks A-531 (OCS-G-2696), A-536 (OCS-G 2697) and A-537 (OCS-G 2698), High Island Block A-537 Field, South Addition, High Island Area, Offshore Tex.	([6])	14.65
CI80-203-001, E, Oct. 15, 1982	....do	Southern Natural Gas Co., Block 150 (OCS-G 2642), Block 194 Field, Mississippi Canyon Area, Offshore La.	([7])	15.025
CI60-225-000, Oct. 19, 1982	Phillips Petroleum Co., 336 Home Savings and Loan Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Tunstill Plant, Reeves County, Tex.	([8])	14.73
CI82-324-000, F, July 19, 1982	El Paso Exploration Co., (partial successor in interest to Henry Black Drilling Co. Inc.) (Operator), *et al.*, P.O. Box 1492, El Paso, Tex. 79978.	El Paso Natural Gas Co., Spraberry Field, Upton County, Tex.	([10])	14.73
CI83-7-000, A, Oct. 5, 1982	Arco Oil & Gas Co., division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., High Island Area Blocks A-563 and A-564, Offshore Texas.	([11])	14.73
CI83-8-000, A, Oct, 4, 1982	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Michigan Wisconsin Pipe Line Co., High Island Area, High Island Block 318 Field, Offshore Tex.	([12])	14.73
CI83-9-000, B, Oct. 5, 1982	R. Lacy Inc., *et al.*, P.O. Box 2146, Longview, Tex. 75601.	Lone Star Gas Co., a Division of Enserch Corp., Carthage Field, Panola County, Tex.	([13])	
CI83-10-000, A, Oct. 6, 1982	McMoRan-Freeport Oil Co., P.O. Box 6800, Metairie, La. 70009.	Florida Gas Transmission Co., Matagorda Island Blocks 527, 528 and 555, Offshore Tex.	([13])	14.73
CI83-11-000, A, Oct. 6, 1982	....do	....do	([13])	14.73
CI83-14-000, A, Oct. 6, 1982	CNG Producing Co., One Canal Place, Suite 3100, New Orleans, La. 70130.	Texas Eastern Transmission Corp., Block 295 (OCS-G-3999), Ship Shoal Area, Offshore La.	([14])	14.73
CI83-15-000, B, Oct. 12, 1982	Bellwether Exploration Co., 1630 Welton Street, Suite 300, Denver, Colo. 80202.	Michigan Wisconsin Pipe Line Co., NE/4 Section 9, T27N, R18W, Woods County, Okla.	([15])	
CI83-16-000, A, Oct. 15, 1982	Odeco Oil & Gas Co. and Murphy Oil Corp., 1600 Canal Street, New Orleans, La. 70161.	Trunkline Gas Co., High Island Block A-542, in the Gulf of Mexico. Offshore Tex.	([16])	14.65
CI83-17-000, A, Oct. 15, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189.	Texas Eastern Transmission Corp., East Cameron Block 336, Offshore La.	([17])	15.025
CI83-18-000, A, Oct. 15, 1982	....do	Michigan Wisconsin Pipe Line Co., High Island Block A-499, Offshore Tex.	([18])	14.65
CI83-19-000, F, Oct. 15, 1982	Eugene Shoal Oil Co. (successor in interest to Union Oil Co. of California), Union Oil Center, Room 932, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corp., Block A-382, East Addition, South Extension and Blocks A-572, A-573, and A-596, South Addition Block A-573 Field, High Island Area, Offshore Tex.	([19])	14.65

Docket No. and date filed	Applicant	Purchaser and Location	Price Per 1,000 ft³	Pressure base
CI83-20-000, F, Oct. 15, 1982	....do	United Gas Pipe Line Co., Block 32 (OCS-0196), Eugene Island Area, Offshore La.	([20])	15.025
CI83-21-000, A, Oct. 18, 1982	Koch Industries, Inc., P.O. Box 2256, Wichita, Kans. 67201.	Texas Eastern Transmission Corp., Ship Shoal Block 295 (OCS-G-3999), Offshore La.	([21])	15.025
CI83-22-000, B, Oct. 18, 1982	Sun Gas Division, Sun Exploration and Production Co., (formerly Sun Oil Co.), P.O. Box 20, Dallas, Tex. 75221.	Mobil Oil Corp., East Texas Field, Gregg County, Tex.	([22])	
CI83-23-000, A, Oct. 18, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189.	Michigan Wisconsin Pipe Line Co., High Island Blocks A-563 and A-564, Offshore Tex.	([18])	14.65
CI83-24-000, B, Oct. 18, 1982	Edwin L. Cox, (operator), *et al.*, 3800 First National Bank Building, Dallas, Tex. 75202.	Southern Natural Gas Co., Marrero Field, Jefferson Parish, La.	([24])	
CI83-25-000, A, Oct. 19, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Tex. 79189.	Michigan Wisconsin Pipe Line Co., High Island Block A-582, Offshore Tex.	([18])	14.65
CI83-26-000, A, Oct. 19, 1982	....do	Michigan Wisconsin Pipe Line Co., High Island Block A-567, Offshore Tex.	([18])	14.65
CI72-685-000, Oct. 19, 1982	Phillips Petroleum Co., 336 Home Savings and Loan Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Tunstill Plant, Reeves County, Tex.	([6])	14.73
CI68-1027-001, E, Oct. 15, 1982	Eugene Shoal Oil Co., (successor in interest to Union Oil Co. of California), Union Oil Center, Room 932, P.O. Box 7600, Los Angeles, Calif. 90051.	Transcontinental Gas Pipe Line Corp., Block 269 (OCS-G-1036), Block 274 Field, Ship Shoal Area, Offshore La.	([25])	15.025

[1] Acreage was released.
[2] The subject leases have expired or terminated by their own terms and were not included in the rollover contract dated March 16, 1982.
[3] Leases have been released.
[4] Effective September 1, 1982, Energy Reserves Group sold its interest in the acreage covered by the leases and units.
[5] By sale and Transfer of Interest documents dated September 16, 1982, pursuant to a Sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Blocks 253 (OCS-G-1031), and 252 (OCS-G-1529), to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest, to render service previously authorized by the Commission in Docket No. CI69-327.
[6] By Sale and Transfer of Interest documents dated September 16, 1982, pursuant to a Sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Blocks A-531 (OCS-G-2696), A-536 (OCS-G-2697) and A-537 (OCS-G-2698) to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest to render service previously authorized by the Commission in Docket No. CI79-540.
[7] By a Sale and Transfer of Interest documents dated September 16, 1982, pursuant to a Sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Block 150 (OCS-G-2642) to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest, to render service previously authorized by the Commission in Docket No. CI80-203.
[8] Applicant is filing to add additional delivery point.
[9] By Assignment dated January 1, 1981, El Paso Exploration Company acquired the subject properties and requested this certificate of public convenience and necessity be effective as of that date.
[10] Applicant is filing under Casinghead Gas Contracts dated November 3, 1952, and June 20, 1958, as amended. The sale of natural gas to El Paso is currently covered under the certificate of public convenience and necessity issued to Henry Black Drilling Company, Inc. (Operator), *et al.* ("Drilling Company") at Docket No. G-15439.
[11] Applicant is filing under Gas Purchase Contract dated September 29, 1982.
[12] Applicant is filing under Gas Purchase Contract dated September 10, 1982.
[13] Ordering Paragraph (C) of the Order issued on June 26, 1981, in Docket Nos. CP75-123-006 and CP75-141-004 requires a filing for a partial abandonment authorization to reflect the change in the sale of 20% of the referenced contract gas from Lone Star to Natural.
[14] Applicant is willing to accept a certificate conditioned to the applicable national rate as determined by the Natural Gas Policy Act of 1978.
[15] Well has become non-commercial.
[16] Applicant is filing under Gas Purchase Contract dated June 11, 1982.
[17] Applicant is filing under Gas Purchase Contract dated September 17, 1982.
[18] Applicant is filing under Gas Purchase Contract dated September 20, 1982.
[19] By Sale and Transfer of Interest documents dated September 16, 1982, pursuant to a sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Blocks A-382, A-572, A-573 and A-596 to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest, to render service previously authorized by the Commission in Docket No. CI77-828 applicable only to Blocks A-382, A-572, A-573 and A-596
[20] By a Sale and Transfer of Interest document dated September 16, 1982, pursuant to a Sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Block 32 (OCS-0196) to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest, to render service previously authorized by the Commission in Docket No. G-7193 applicable only to Block 32.
[21] Applicant is filing under Gas Purchase Contract dated September 28, 1982.
[22] The primary terms of all the Casinghead Gas Contract ended January 1, 1978, but the contracts would continue on a year-to-year basis, and would be terminated any January 1, by written notice. Sun served a timely notice to terminate effective January 1, 1979.
[23] NOT USED.
[24] Due to the depletion of reserves, the wellhead pressure is now and will continue to be insufficient to allow delivery into Southern Natural's pipeline.
[25] By a Sale and Transfer of Interest document dated September 16, 1982, pursuant to a Sale of Oil and Gas Properties Agreement executed on September 14, 1982, effective September 30, 1982, as to the assets and October 1, 1982 as to production from said assets, Union Oil Company of California assigned all of its right, title and interest in Block 269 (OCS-G-1036) to Eugene Shoal Oil Company, a wholly owned subsidiary of Union. Eugene Shoal herein seeks authorization, as successor in interest, to render service previously authorized by the Commission in Docket No. CI68-1027.

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. 82-30488 Filed 11-5-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-552-000]

Alabama-Tennessee Natural Gas Co.; Application

November 3, 1982.

Take notice that on September 27, 1982 Alabama-Tennessee Natural Gas Company (Applicant) P.O. Box 918, Florence, Alabama, 35631, filed in Docket No. CP82-552-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery into storage, withdrawal, transportation, and sale of natural gas in interstate commerce, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks authority to inject into storage each year until the year 2000, up to a maximum of 2,000,000 Mcf of natural gas per year and the withdrawal and redelivery of equivalent volumes on a daily basis, not to exceed 20,000 Mcf per day to its customers. It is indicated that such gas would be delivered into the storage facilities of Mid-Continent Gas Storage Company (Mid-Continent) by displacement through the facilities of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), United Gas Pipe Line Company (United), Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), and Northern Illinois Gas Company (NiGas) and withdrawn from storage and delivered to Applicant's existing customers by displacement through the facilities of NiGas, Midwestern Gas Transmission Company (Mid-Western), and Tennessee.

Applicant states that during the period beginning April 1, 1983, through October 31, 1983, and each year thereafter until the year 2000, when there is gas available from Tennessee, its supplier, under the terms of its

contract with Tennessee, which is not required by Applicant's on-system customers, up to 2,000,000 Mcf of such gas would be delivered into storage facilities of Mid-Continent by displacement through the facilities of Tennessee, United, and Northern. It is further stated that during the winter months of November through March of each year, equivalent volumes would be available for withdrawal from the storage facilities of Mid-Continent and redelivered to those customers of Applicant desiring such peak day service up to a total volume of 20,000 Mcf per day. It is indicated that such gas would be in addition to the previously agreed upon volumes for fuel and shrinkage in accordance with the revelant transportation contracts.

Applicant alleges that the requested authorization would enable it to avoid the payment of take-or-pay obligations which it is estimated may amount to $1,000,000 per month for each of the months in which the storage injection service would be rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion for leave to intevene 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. 82-30569 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-7-000]

Baltimore Gas and Electric Co.; Application

November 2, 1982.

Take notice that on October 26, 1982, Baltimore Gas and Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $375,000,000 principal amount of short-term debt to be issued from time to time with maturities not later than December 31, 1984.

Any person desiring to be heard or to make protest with reference to said application should on or before November 24, 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 385.211 and 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30570 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-549-000]

Cities Service Gas Co.; Application

November 3, 1982.

Take notice that on September 24, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-549-000 an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment by reclaim of certain facilities on its transmission system and of interruptible direct deliveries of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to discontinue the sale of gas to Arrowhead Asphalt Company (Arrowhead) in Miami, Oklahoma, and reclaim the meter and regulator facilities used to make this sale. The sale commenced in 1970 pursuant to budget-type authorization issued in Docket No. CP70-75. Applicant states that Arrowhead has not paid for gas delivered to it and now owes Applicant $68,452.51. Applicant asserts that action has been taken against Arrowhead in the District Court of Ottawa County to collect this delinquent account.

Applicant states that the salvage value of the facilities to be reclaimed is approximately $2,320 with a cost to reclaim of $2,110.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion 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. 82-30571 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-2-000]

Columbia Gulf Transmission Co.; Application

November 3, 1982.

Take notice that on October 1, 1982, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP83-2-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessary authorizing the transportation of natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a best-efforts basis, 25,000 Mcf per day of Tennessee's gas produced from South Timbalier 53, offshore Louisiana, pursuant to a gas transportation agreement dated June 4, 1982. Applicant would transport the gas from the South Timbalier 37 project through Applicant's 24-inch pipeline that intersects the South Timbalier Project 37 pipeline and deliver a thermally equivalent quantity of gas to Tennessee at the terminus of the Blue Water Project located near Egan, Louisiana. Applicant asserts it would transport such volumes of gas for Tennessee through Applicant's available capacity in its East Lateral and redeliver to Tennessee a thermally equivalent quantity of gas, reduced by 1.05 percent of the total volume for unaccounted-for gas.

It is stated Tennessee would pay Applicant a rate of 2.64 cents per Mcf of gas received for transportation at the South Timbalier point of receipt. It is further stated that the minimum monthly bill would be 66⅔ percent of the daily quantity of 25,000 Mcf per day multiplied by the transportation rate of 2.64 cents and multiplied by the number of days in the month.

Applicant indicates that the transportation service commenced on June 4, 1982, under the authorization issued pursuant to Section 284.221 of the Commission's Regulations. Applicant submits that the proposed service is the most practical and economic way of making the South Timbalier gas supplies available to Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion 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. 82-30562 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-281-001]

Columbia Gulf Transmission Co.; Petition To Amend

November 3, 1982.

Take notice that on October 4, 1982, Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP80-281-001 a petition to amend the order issued July 3, 1980, in Docket No. CP80-281 pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize the construction of gas supply facilities in excess of the single project cost limitation of $2,500,000 onshore and $3,500,000 offshore for the calendar year 1981, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on July 3, 1980, it was issued a budget-type certificate authorizing, *inter alia*, the construction of gas supply facilities as defined in § 157.7(b) of the Commission's Regulations, for an indefinite period commencing the date of the order. Total annual expenditures were limited to $20,000,000 with no single onshore project cost to exceed $2,500,000 and with no single offshore project cost to exceed $3,500,000.

Petitioner indicates that while the total cost for all gas supply facilities constructed, pursuant to authorization in Docket No. CP80.281, is within the $20,000,000 annual cost limitation, the cost of constructing (1) pipeline and valves necessary for compressors in St. Landry Parish, Louisiana (St. Landry Project) was $2,725,919 and (2) a pipeline to connect Petitioner's affiliate, Columbia Gas Development Corporation's (Columbia Development), platform in West Cameron 426, offshore Louisiana, to an interconnection with Petitioner's 6-inch supply line in West Cameron 479 (West Cameron 426 Project) was $4,512,944.

Petitioner submits that initial cost estimates indicated the St. Landry Project would be constructed within the $2,500,000 cost limitation for onshore projects and the decision was made to construct the facilities under Petitioner's budget-type authorization. Subsequently, after a more detailed analysis was made of the work to be performed and bids were obtained for construction and for the required materials and supplies, it is asserted that work orders were issued reflecting a total estimated cost of less than $2,500,000. Construction was commenced in September 1981.

Petitioner indicates that a variety of factors contributed to the cost overrun which it experienced. It asserts that the major factor was an increase in contract cost. Installation contract costs were increased as a result of the reallocation of funds for the installation of pipeline blow down stacks, valves, piping and operators of contract compressor units, it is explained. Additionally, Petitioner states that due to soil conditions, foundation piling was required and adverse weather added 38 days to the contractor's time on the job.

Petitioner also submits that initial cost estimates and later detailed analysis of the work to be performed indicated that the West Cameron 426 Project would be constructed within the $3,500,000 cost limitation for offshore projects. Construction was commenced in February 1981.

Petitioner indicates a major factor contributing to the cost overrun was an increase in contract cost due to (1) costs

associated with the contractor's unanticipated encounter of "sugar sand," (2) weather downtimes, (3) an unanticipated foreign pipeline crossing, (4) extra work on a riser, and (5) an underwater tie-in excluded from the original budget by oversight.

Petitioner, therefore, requests waiver of the single project limitation for onshore and offshore projects and amendment of the July 3, 1980, order to the extent required to authorize the construction of the St. Landry and West Cameron 426 Projects.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30563 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-557-000]

Consolidated Gas Supply Corp.; Application

November 3, 1982.

Take notice that on September 30, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-557-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline tap facilities and the transportation and delivery of an average daily quantity of 10,000 Mcf of natural gas to Gulf Energy Processing Corporation (Gulf) in Pleasants County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed to construct and operate tap facilities for the delivery of gas to a connection between Applicant's production gathering lines and Gulf's plant and tap facilities required to accept redelivery of residue gas at a connection to be made between Gulf's plant and Applicant's transmission Line No. TL-345. It is indicated the estimated cost of these facilities, which would be financed from funds on hand, is $78,000.

It is stated that as a consideration for the gas processing and treatment services to be rendered by Gulf, Applicant has agreed that Gulf may retain all liquefiable hydrocarbons removed from the raw gas stream and that Gulf, in turn, has agreed to reimburse Applicant for the heating value reduction resulting from processing at a rate equal to Applicant's monthly average cost of gas purchased from West Virginia producers. As a further consideration for Gulf's making field gas marketable and raising its pressure from field to transmission pressure, Applicant states that it has agreed to reimburse Gulf for all reasonable and necessary compression costs, including fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion 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. 82-30564 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-459-000]

Consumers Power Co.; Application for Approval of Rates

November 3, 1982.

Take notice that on September 14, 1982, Consumers Power Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. ST82-459-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.123(b)(2) of the Commission's Regulations for approval of its rate for the transportation, including storage, of certain natural gas supplies on behalf of Michigan Wisconsin Pipe Line Company (Mich Wis), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement dated August 12, 1982, Applicant has agreed to provide certain transmission and storage services for Mich Wis. It is submitted that Mich Wis would cause to be delivered to Applicant up to 10,000,000 Mcf of natural gas for storage injection beginning on September 15, 1982. Applicant asserts that it would store gas for the account of Mich Wis using existing storage fields that are owned and operated by Applicant. It is proposed further that at the direction of Mich Wis, Applicant would withdraw and redeliver stored volumes, with the provision that no withdrawals would begin prior to June 14, 1984. It is asserted that the points of delivery and redelivery would be the existing interconnections between Applicant and Michigan Consolidated Gas Company in the vicinity of Northville and St. Clair, Michigan.

Applicant proposes a transportation rate consisting of a one time injection fee of 9.148 cents per million Btu, and beginning on November 15, 1982, a monthly holding fee of 4.574 cents per million Btu on all gas held in storage under the agreement. Applicant proposes that this rate remain in effect until September 14, 1983, and that thereafter a rate of 3.293 cents per million Btu on the average daily volume (for the month) held in storage under the agreement be charged. Further,

Applicant proposes that in the event the term of the agreement is extended, Applicant would have the right to adjust the applicable monthly charge.

Applicant submits that the proposed rates are fair and equitable and not in excess of the rates and charges interstate pipelines would be permitted to charge for providing similar service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30572 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-543-000]

Delhi Gas Pipeline Corp.; Application

November 3, 1982.

Take notice that on September 21, 1982, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-543-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations for long-term authorization to transport natural gas on behalf of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to the terms of a transportation agreement with Northern dated November 25, 1980, Applicant would receive natural gas at various points of delivery on Applicant's Western Oklahoma System and transport and redeliver equal quantities of natural gas to Northern in Beaver County, Oklahoma. It is stated that the transportation service commenced on December 1, 1980, as set forth in a report filed with the Commission on January 21, 1981, in Docket No. ST81-146. It is further stated that a report was filed on August 5, 1982, extending said transportation service on a self-implementing basis until December 1, 1984.

Applicant further states that it now proposes to continue said transportation service for five years and one month until January 1, 1990. Applicant requests that said long-term authorization be made effective as of December 1, 1984, the date upon which the current authorization expires. Applicant states that it would continue to receive gas from Northern at various points in Roger Mills and Blaine Counties, Oklahoma, and would transport and redeliver equal quantities of natural gas to Northern at points in Beaver County, Oklahoma.

Applicant estimates that the daily and total volumes of natural gas to be transported during the remainder of the term of the transaction would be 30 billion Btu and 55,680 billion Btu, respectively. Applicant states that the transportation fee to be charged Northern would be 37.89 cents per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30573 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-13-000]

Florida Gas Transmission Co.; Application

November 3, 1982.

Take notice that on October 7, 1982, Florida Gas Transmission Company (Applicant) filed in Docket No. CP83-13-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Natural Gas Pipeline Company of America (NGPL) from Nueces County, Texas, to Matagorda County, Texas, all as more fully described in its application which is on file with the Commission and open to public inspection.

It is stated that by order issued March 28, 1980, in Docket No. CP79-471, Applicant was authorized to transport up to 3 billion Btu per day of natural gas that NGPL purchased from the Laguna Madre Field Area, Kleberg and Nueces Counties, Texas. It is indicated Applicant received the natural gas at its facilities in Mustang Island, Nueces County, Texas and redelivered such gas to NGPL's facilities in Matagorda County, Texas. Abandonment of the transportation service is requested because of a drained depletion of gas supply from Laguna Madre Field Area. It is asserted that production ceased from the Field in March 1981, and NGPL's having determined that production would not resume at such Field, requested by letter dated July 19, 1982, termination of the July 1, 1979, transportation agreement with Applicant. Applicant, therefore, requests authorization for abandonment of the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion 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, unles otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30574 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-61-000]

Indianapolis Power & Light Co.; Filing

November 2, 1982.

Take notice that Indianapolis Power & Light Company (Indianapolis) on October 25, 1982, tendered for filing Modification No. 7 dated as of June 1, 1982, to the Interconnection Agreement dated December 2, 1968, as heretofore amended (1968 Agreement), between Indianapolis and Southern Indiana Gas and Electric Company (Southern Indiana), designated Indianapolis Rate Schedule FPC No. 6.

Indianapolis states that Section 1 of Modification No. 7 cancels Service Schedule D of the 1968 Agreement and substitutes a new Service Schedule D which provides for an increase in the Demand Charge for Short Term Power from $0.85 to $1.05 per kilowatt per week and from $0.14 to $0.18 per kilowatt per day for Short Term Power sold (purchased) for periods less than one week. Indianapolis further states that Section 2 of said Modification cancels Service Schedule F of the 1968 Agreement and substitutes a new Service Schedule F which provides for an increase in the Demand Charge for Limited Term Power (Firm) from $4.50 to $5.50 per kilowatt per month.

A copy of this filing has been sent to Southern Indiana and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 17, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30575 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-7-000]

Louisiana Resources Co.; Application

November 3, 1982.

Take notice that on October 5, 1982, Louisiana Resources Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. CP83-7-000, an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Sections 284.123(b)(2) and 284.127 of the Commission's Regulations for authorization of firm natural gas transportation service in excess of 2 years proposed to be rendered on behalf of Southern Natural Gas Company (Southern), and for approval of Applicant's transportation rates, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement dated July 10, 1982, it proposes to transport up to 150 billion Btu of natural gas per day for Southern from various points of Applicant's contiguous mainline facilities located in southern Louisiana to any other points located on those same facilities. Such transportation would be performed on a firm basis for the fifteen-year primary term of the agreement, and on an interruptible basis thereafter. It is indicated that upon reasonable notice to Applicant, Southern would be permitted to tender or receive to or from Applicant each day up to the full contract demand at any point on Applicant's system which Southern would elect in its sole discretion.

For such service, Applicant proposes a two-part rate. The first part is an initial commodity rate of 16.44 cents per million Btu transported and redelivered. Applicant represents that such a rate is the result of competitive factors and is less than that which would be cost justified. The second part is a minimum annual charge which would be equal to the commodity rate times 80 percent of the applicable contract quantity multiplied by the number of days in the year. Southern would be permitted to make up any charges during the 5-year period following each year in which a minimum charge is assessed. Applicant alleges that both components are fair and equitable and not more than an interstate pipeline would be permitted to charge for providing a similar transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30565 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-243-001]

Northern Border Pipeline Co.; Petition To Amend

November 3, 1982.

Take notice that on October 7, 1982, Northern Border Pipeline Company (Petitioner), 224 South 108th Avenue, Omaha, Nebraska 68103, filed in Docket No. CP82-243-001 a petition to amend the order issued May 21, 1982, in Docket No. CP82-243-000 pursuant to Section 7(c) of the Natural Gas Act so as to conform the authorization granted by said order to the actual construction which Applicant has undertaken, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued May 21, 1982, in Docket No. CP82-243-000 it was authorized, among other things, to construct interconnecting facilities consisting of a tee, side valve, and blind flange in order to accommodate requests by various pipeline companies for potential points of receipt and delivery of natural gas along Petitioner's system. In addition, Petitioner was authorized to install up to $1,000,000 of prospective interconnect facilities prior to its in-service date, it is explained.

Petitioner states that it did not install certain interconnect facilities authorized to be constructed for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) which facilities were to serve as delivery points in Murray

County, Minnesota, Hamlin County, South Dakota and Brown County, South Dakota. It is asserted that after closer review and economic evaluation Northern indicated that the market potential did not justify those projects. Petitioner also states that it did not install three interconnect facilities jointly requested by United Gas Pipe Line Company, Natural Gas Pipeline Company of America, and Northern. Such facilities it is submitted, were to serve as receipt points for natural gas produced in the Williston Basin Area and transported by laterals jointly proposed in Docket No. CP81–498–000 now withdrawn. It is stated that two interconnect facilities were installed to accommodate the receipt of such natural gas in Montana-Dakota Utilities Company's (MDU) proceeding in Docket No. CP82–522–000. Hence it is asserted that the excluded interconnects are no longer required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30566 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP79–80–019 and CP80–7–002]

Overthrust Pipeline Co. and Mountain Fuel Supply Co.; Petitions To Amend

November 3, 1982.

Take notice that on September 30, 1982, Overthrust Pipeline Company (Overthrust), 79 South State Street, Salt Lake City, Utah 84147, in Docket No. CP79–80–019, and Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, in Docket No. CP80–7–002, filed to amend the order issued March 12, 1982, in Docket Nos. CP79–80 and CP80–7, respectively, pursuant to Section 7 of the Natural Gas Act so as to authorize Overthrust to provide line pack gas and to include in its rate base the cost of such natural gas to be purchased from Mountain Fuel and so as to permit Mountain Fuel to use an existing interconnection between the facilities of Mountain Fuel and Overthrust for transportation and delivery of line pack gas to Overthrust, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Petitioners request amendment of the order issued March 12, 1982, in Docket Nos. CP79–80 and CP80–7 so as to permit Overthrust to include the cost of line pack gas in its rate base and to permit Mountain Fuel to transport and deliver such gas to Overthrust.

Overthrust states that it has agreed to provide the line pack for the Overthrust segment of the Trailblazer Pipeline System. It is asserted that pursuant to a gas service agreement between Overthrust and Mountain Fuel dated August 23, 1982, Overthrust proposes to purchase approximately 250,000 Mcf of natural gas under Mountain Fuel's existisng Wyoming Rate Schedule T–1 for use as line pack for the Overthrust segment of the Trailblazer System. Mountain Fuel proposes to deliver and Overthrust proposes to receive the gas at an existing interconnection between their facilities at Mountain Fuel's Kanda Compressor Station in Sweetwater County, Wyoming. Petitioners state that no new facilities are proposed.

It is stated that originally the transportation contracts reflected ownership of line pack by the individual shipper. Overthrust asserts that its facilities would eventually serve a number of shippers other than the initial shippers. Overthrust avers that its ownership of the line peak gas would be a simple appropriate method of matching burdens and benefits for all shippers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30567 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–57–000]

Public Service Company of New Hampshire; Filing

November 2, 1982.

Take notice that on October 21, 1982 Public Service Company of New Hampshire (PSNH) tendered for filing revised sheets to its transmission tariff (FERC Electric Tariff, Original Volume No. 1), which (1) revise the joint rate provision and (2) reduce the rate of return on common equity from 19.5% to 17.5%. The Company requests that both changes be made effective retroactively as of February 7, 1982 when the tariff became effective subject to refund in Docket No. ER82–141–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 17, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30577 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP78–7–002]

Sea Robin Pipeline Co.; Petition To Amend

November 3, 1982.

Take notice that on September 30, 1982, Sea Robin Pipeline Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP78–7–002 a petition to amend the order issued December 20, 1977, in Docket No. CP78–7 pursuant to Section 7(c) of the Natural Gas Act so as to authorize

Petitioner to increase the contract demand level applicable to the transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner and Natural have entered into an amendatory agreement dated July 23, 1981, whereby the gas transportation agreement between the parties, dated August 16, 1977, is further amended to provide for an increase in the transportation contract demand level applicable to Natural. Petitioner indicates that it presently transports gas produced from Blocks 142 and 143, South Marsh Island Area, offshore Louisiana, for Natural under its FERC Gas Tariff Rate Schedule X–23, from an interconnection with Petitioner's facilities in Block 127, South Marsh Island Area, offshore Louisiana, to the terminus of Petitioner's system near Erath, Vermilion Parish, Louisiana. The presently effective contract demand level applicable to Natural under Rate Schedule X–23 is said to be 2,000 Mcf per day.

It is explained that Natural has purchased, or is negotiating to purchase, from Kerr-McGee Corporation additional volumes of gas to be produced at Blocks 142 and 143, South Marsh Island Area, offshore Louisiana, and desires that Petitioner transport such additional gas under the amendatory agreement. Accordingly, Petitioner requests authorization increasing the total contract demand level applicable to Natural under Rate Schedule X–23 from 2,000 Mcf per day to 7,000 Mcf per day.

Petitioner indicates that for the additional service it would utilize the same delivery point and redelivery point as it was to render the present transportation service and that this proposal would not require any new facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30578 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST82–476–000]

Sun Gas Transmission Company, Inc.; Application for Approval of Rates

November 3, 1982.

Take notice that on September 20, 1982, Sun Gas Transmission Company, Inc., (Applicant), P.O. Box 20, Dallas, Texas 75221, filed in Docket No. ST82–476–000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.123(b)(2) of the Commission's Regulations for approval of its rates for the transportation for and redelivery of natural gas to Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement with Tennessee dated March 24, 1982, Applicant has agreed to transport gas attributable to Tennessee's interest in various wells in the Lelong Field area in Desoto Parish, Louisiana. It is proposed that the gas attributable to the interest of Tennessee would be delivered to Tennessee at a point of interconnection in Natchitoches Parish, Louisiana. It is further stated that the agreement is to be for an initial term of two years and for a longer term thereafter. It is submitted that intitially, approximately 1.5 billion Btu per day would be transported on behalf of Tennessee, with a projected total of 2,007 billion Btu to be delivered during the two-year period.

Applicant proposes a transportation rate of 21.2 cents per million Btu as an intitial base transportation charge for the transportation service proposed. Applicant asserts that this transportation charge is both fair and equitable and is a rate comparable to the rates for like transportation service on file with the Louisiana Commissioner of Conservation.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–30579 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–544–000]

Tennessee Gas Pipeline Co.; Application

November 3, 1982.

Take notice that on September 21, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82–544–000 an applicant pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity for blanket authorization to transport gas and to make interruptible sales of natural gas to off-system customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell up to 129,100,000 Bcf of natural gas during the remainder of 1982, and 381,500,000 Bcf in 1983 on a limited-term and interruptible basis. Applicant states that this volume of gas is temporarily surplus to its system requirements and that unless action is taken to alleviate its short-term surplus, Applicant estimates that by 1983 potential take-or-pay claims may reach $300–$400 million. Applicant proposes to make sales on a self-implementing basis under procedures similar to those set forth in Part 284 of the Commission's Regulations. It is stated that the self-implemented sales would be limited to a term of one year with extensions of one year, unless disallowed by the Commission.

Applicant proposes the following restrictions for each off-system sales and transportation transaction:

(1) Sales would be made at no less than a 100 percent load factor rate.

(2) Transportation rates would comply with Section 284.103 of the Regulations.

(3) The term of each sale would not exceed one year, provided that extensions of one year would be permitted upon notice to the

Commission within sixty days of the expiration of the initial term, unless disallowed by the Commission prior to the expiration of the initial term.

(4) No individual sale would exceed 200,000 Mcf per day without prior authorization.

(5) Revenues in excess of out-of-pocket expenses would be flowed through to Applicant's customers and/or treated in Applicant's current rate cases before the Commission.

(6) Applicant would notify the Commission within 48 hours after the commencement of deliveries to any off-system customer. Such notice would include the identity of the customer, end-use of the gas, dates of commencement and projected termination of the sale, maximum daily volume, sales and transportation rates.

(7) Sales and transportation contracts would be filed within 30 days after the commencement of deliveries.

(8) Applicant would file in this docket a monthly report of sales and transportation revenues from each transaction hereunder.

(9) The Commission would retain the authority to set any transaction for public hearing within 30 days of the commencement of deliveries. After hearing and upon recommendation of the presiding judge, the Commission could terminate sales and transportation pending final order.

(10) Sales and transportation would be fully interruptible and subject to the availability of sufficient supply and capacity to serve Applicant's existing customers without detriment or disadvantage.

(11) To the extent facilities are necessary to make sales hereunder, Applicant would only construct facilities within the limitations of its budget certificate issued in Docket No. CP80–83, or its blanket certificate issued in Docket No. CP82–413–000, when accepted.

Applicant also requests the Commission to authorize the abandonment of such sales and transportations pursuant to Section 7(b) of the Natural Gas Act, effective upon expiration of each contract for service under the blanket authorization herein sought.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 or its designee on this application if no motion 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 and permission and approval to abandon are required by the public convenience and necessity. If a motion 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. 82–30580 Filed 11–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP79–80–018 and CP82–555–000]

Trailblazer Pipeline Co. et al.; Application and Petition To Amend

November 3, 1982.

Take notice that on September 29, 1982, Trailblazer Pipeline Company (Trailblazer), 122 South Michigan Avenue, Chicago, Illinois 60603, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, Northern Natural Gas Company, Division of InterNorth Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska; and Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, Charleston, West Virginia 25325 filed in Docket Nos. CP79–018 and CP82–555–000 a joint petition to amend the order issued in Docket No. CP79–80 and an application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act so as to permit Trailblazer to include in its rates the cost of testing, packing, and purging the Trailblazer Segment of the Trailblazer Pipeline System with gas from Natural, Northern, and Columbia and to authorize Natural, Northern, and Columbia to transport and deliver such gas, all as more fully set forth in the petition and application which is on file with the Commission and open to public inspection.

Specifically, Trailblazer requests amendment of the order issued March 12, 1982, in Docket No. CP79–80 so as to permit Trailblazer to include in its rates the cost of testing, purging, and packing the Trailblazer Segment with gas obtained from Columbia, Natural, and Northern. The total amount of line pack, test and purge gas to be purchased is estimated to be 1,000,000 Mcf.

It is stated that originally the transportation contracts reflected ownership of line pack by the individual shippers. Trailblazer avers that its facilities would eventually serve a number of shippers other than Natural, Northern, and Columbia. Trailblazer asserts that ownership of the line pack gas by Trailblazer would be a simple appropriate method of matching benefits and burdens for all shippers.

In Docket No. CP82–555–000 Columbia, Natural, and Northern request authorization to the extent required to effectuate the direct sale and delivery of gas to Trailblazer. It is indicated that each applicant would provide one-third of the required line pack and purge gas at the Cheyenne interconnect.

Applicants propose the sale of gas to Trailblazer at the following rates based upon existing rate schedules for the respective companies:

Applicant	Rate
Northern	Then effective Rate Schedule PO–1 Zone 1 Rate.
Natural	Then effective Rate Schedule DMQ–1 Rate at the actual Rate Schedule DMQ–1 load factor for the most recent 12 months, minus any Gas Research Institute (GRI) surcharge.
Columbia	Then effective Rate Schedule CDS Rate at actual Rate Schedule CDS load factor for the most recent 12 months, minus any GRI surcharge.

Any person desiring to be heard or to make any protest with reference to said application and petition to amend should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion for leave to intervene is timely filed, or 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30581 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-554-000]

Transcontinental Gas Pipe Line Corp. and Mid Louisiana Gas Co.; Application

November 3, 1982.

Take notice that on September 27, 1982, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, and Mid Louisiana Gas Company, 300 Poydras Street, New Orleans, Louisiana 70130 (Mid Louisiana) filed in Docket No. CP82-554-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a deferred exchange of gas between Transco and Mid Louisiana and the temporary storage of such gas by Transco for Mid Louisiana, 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 pursuant to the terms of such exchange arrangement Transco would make available to Mid Louisiana 525,263 dekatherms (dt) equivalent of gas at Transco's Hester Gas Storage Field in St. James Parish, Louisiana (Hester Field) on November 1, 1982, or as soon thereafter as the Commission authorizes this arrangement, but in no event would Transco make such gas available to Mid Louisiana after March 31, 1983. It is indicated Mid Louisiana would redeliver to Transco 525,263 dt equivalent of gas, or such lesser quantity in equivalent heating value as Mid Louisiana may have received from Transco, at the Hester Field during the period April 1, 1983, through October 31, 1983, and there would be no charge by either party for this service.

Transco also seeks authority to provide a temporary storage service for Mid Louisiana for the gas which Transco would make available to Mid Louisiana as described above. Such storage service would be rendered at the Hester Field, and it is stated that pursuant to the terms of such storage service Transco would store up to 517,500 dt equivalent of gas to be made available to Mid Louisiana pursuant to the exchange arrangement. Further, it is indicated that upon request by Mid Louisiana, Transco would withdraw up to 25,875 dt equivalent per day and redeliver such gas to Mid Louisiana at Ethel, East Feliciana Parish, Louisiana, and that Mid Louisiana would be able to request withdrawals and deliveries of the subject gas from November 1, 1982, through March 31, 1983.

It is stated that for the temporary storage service, Transco would charge Mid Louisiana (1) a storage demand charge of $297,000, (2) a storage capacity charge of $84,000, (3) a withdrawal charge of 1.8 cents per dt equivalent withdrawn for Mid Louisiana's account, and (4) a transportation charge of $97,750 for related transportation of the subject gas. It is stated that such rates are based upon the same unit charges as the rates which Transco is currently charging Mid Louisiana pursuant to a long-term storage service which Transco is rendering to Mid Louisiana at the Hester Field.

It is asserted that the Hester Field currently has available 6,400,000 Mcf of authorized but unallocated capacity and that no field facilities other than those presently authorized, and no additional base gas, would be required to render the proposed temporary storage service.

It is indicated that Mid Louisiana needs the gas during the 1982-83 winter heating season to meet the peak and winter season requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30582 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-271-001]

United Gas Pipe Line Co.; Petition To Amend

November 3, 1982.

Take notice that on September 13, 1982, United Gas Pipe Line Company (Petitioner) P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP80-271-001 a petition to amend the order issued March 25, 1981, in Docket No. CP80-271-000 pursuant to Section 7(c) of the Natural Gas Act so as to delete the authorization to construct and operate a 1,300 horsepower station and appurtenant facilities in Bienville Parish, Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states the order of March 25, 1981, authorized the construction and

operation of a 6,000 horsepower compressor station and appurtenant facilities in Panola County, Texas, to be known as the Carthage Junction Station, and a 1,300 horsepower compressor station in Bienville Parish, Louisiana, to be known as the Ringgold Station. Petitioner states that the Ringgold Station was to be installed to compress surplus volumes from the Carthage area for transportation to Monroe, Louisiana, but that to date the projected surplus conditions have not occurred. Petitioner further states that it was authorized in another docket to construct a 30-inch pipeline from Natchitoches to LaSalle Parishes, Louisiana, which in conjunction with the Carthage Junction would reduce volume flow in the Carthage area and subsequently eliminate the need to compress gas through the proposed pipeline. As a result, Petitioner asserts that the additional compression at the Ringgold Station is no longer necessary.

Accordingly, Petitioner proposes that the Commission amend the order issued March 25, 1981, to delete the authorization to construct and operate the Bienville station.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30583 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP67-286-001]

United Gas Pipe Line Co. and Transcontinental Gas Pipe Line Corp.; Petition To Amend

November 3, 1982.

Take notice that on October 1, 1982, United Gas Pipe Line Company (United), United Energy Plaza, 600 Travis, Houston, Texas 77002 and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP67-286-001 a joint petition to amend the order issued July 24, 1967 [1] as amended, in Docket No. CP67-286, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the exchange of natural gas from a new delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that the July 24, 1967, order, as amended, authorized them to exchange up to 150,000 Mcf of gas, at points in Texas, Louisiana, and Mississippi. Petitioners request authorization to establish an additional delivery point to United at Starks, Calcasieu Parish, Louisiana, pursuant to an amendatory letter agreement between them dated October 29, 1979. It is asserted that no additional facilities would be required to effectuate deliveries at this point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30568 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-52-000]

Washington Water Power Co.; Filing

October 26, 1982.

Take notice that on October 21, 1982, Washington Water Power Company (Washington) tendered for filing a service schedule applicable to what Washington refers to as a Letter Agreement which applies to the sale of 50,000 kilowatts of firm capacity. The Letter Agreement between Washington and the Montana Power Company is effective from October 1, 1982, through June 30, 1984.

Washington requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-30585 Filed 11-5-82; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL-2240-6]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers, Office of Standards and Regulations, Information Management Section (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Water Programs

- Title: Construction Grants Consolidated Request (EPA ID 0827).

Abstract: This information collection request consolidates the specific activities required to implement EPA's municipal wastewater treatment construction grants program under the Clean Water Act. EPA collects this information at the time of proposal and during construction of a wastewater treatment facility. The information is used to determine if the facility meets statutory requirements and is in accordance with sound planning principles and prudent use of federal funds.

Respondents: State and local governments.

• Title: Notice of Purge for New Coal Preparation Plants (EPA ID 1007).

Abstract: New Coal Preparation Plants are generally subject to zero discharge requirements under the Coal Mining Effluent Limitation Guidelines (40 CFR Part 434). However, if necessary for operation, an occasional wastewater purge may be allowed if the facility submits advance written notice to the permit authority.

Respondents: Coal preparation plants.

Toxics Programs

• Title: Premanufacture Notification Interim Policy (EPA ID 0573).

Abstract: The Premanufacture Notification Interim Policy clarifies the information EPA requires from anyone who intends to manufacture or import a new chemical substance under the Toxic Substances Control Act. Notification must be submitted to EPA at least 90 days prior to manufacture or import and must contain general identification and production information as well as specific test data. EPA uses these data to determine the safety of the chemical in the uses proposed.

Respondents: Chemical manufacturers or importers.

• Title: Final Exemption for Site-Limited/Low Volume (EPA ID 0852).

Abstract: This information collection request outlines the criteria for manufacturers/importers of site-limited intermediates and low-volume chemicals to apply for an exemption from premanufacturers notification requirements under TSCA. EPA uses the information to verify that exemption requirements have been met.

Respondents: Chemical manufacturers and importers.

Solid Waste Programs

Title: Information Requirements for RCRA Closure and Post-Closure Plans (EPA ID 0807).

Abstract: In order to obtain a RCRA permit, owners and operators of hazardous waste treatment, storage, and disposal facilities must prepare plans for properly closing their facilities. These plans give notice to the public about a closing facility; ensure minimum post-closure maintenance; and ensure control or elimination of waste, leachate, and contaminated rainfall or waste decomposition products.

Respondents: Owners and operators of hazardous waste treatment, storage, and disposal facilities.

Title: Information Requirements for RCRA Land Disposal Facilities (EPA ID 0995).

Abstract: Under the Resource Conservation and Recovery Act, owners and operators of hazardous waste land disposal facilities must maintain certain records relating to the technical design and operation and the administration of their facilities. They must also submit specific information for Part B of their permit applications. This information enables the Regional Administrator to set permit conditions for design and operation of the facility. EPA varies the number of Part B responses required annually; each facility submits this information only once.

Respondents: Owners and operators of hazardous waste land disposal facilities—surface impoundments, landfills, waste piles and land treatment facilities.

Air Program

Title: Information Collection for the Selective Enforcement Audit Program (EPA ID 0011).

Abstract: Information obtained from eight car manufacturers allows EPA to determine emissions conformity of new automobiles via Selective Enforcement Aduits (SEAs). Additionally, 18 manufacturers voluntarily submit QA assembly-line emissions data quarterly (utilized in selecting classes for SEAs). SEAs are conducted throughout the production year.

Respondents: Automobile manufacturers.

Comments on this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, SW., Washington, D.C. 20460; and

Geoffrey White, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: October 27, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82-30621 Filed 11-5-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS 140021; TSH-FRL-2240-7]

American Management Systems, Inc. and Target Data Systems, Inc.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will provide to American Management Systems (AMS), Inc., and TARGET Data Systems (TARGET), Inc., a subcontractor to AMS, access on EPA premises to information submitted by manufacturers, processors, and importers of chemical substances under section 8 (a) and (d) of the Toxic Substances Control Act (TSCA). Some of this information may be claimed confidential. Under EPA guidance, AMS and TARGET will develop, maintain, and operate computer software which will facilitate the collection, storage, processing, and analysis of this TSCA information.

DATE: Access to information submitted to EPA and claimed confidential will take place no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under section 8(a) of TSCA, 15 U.S.C. 2607(a), manufacturers, importers and processors of chemical substances are required to submit basic information on use, release, and exposure to enable EPA to set priorities for testing chemicals and for assessing chemical risk. Under section 8(d), 15 U.S.C. 2607(d), manufacturers, processors, and distributors of chemicals will be required to submit lists of health and safety studies. Some of the information submitted under these sections of TSCA may be claimed confidential.

Under its contract with EPA (No. 68-01-5146), American Management Systems Inc., with guidance from EPA,

will convey tasks to TARGET Data Systems, Inc., and will itself perform tasks to develop, maintain, and operate software to assist in the collection, storage, processing and analysis of confidential TSCA data at the secure computer data center at EPA's regional office in Research Triangle Park, North Carolina. AMS and TARGET will require access to information submitted under section 8 (a) and (d) of TSCA.

In accordance with 40 CFR 2.306(j), it has been determined that access to TSCA confidential business information by AMS and TARGET will be necessary for the satisfactory performance of work under this contract.

AMS and TARGET are legally required under the terms of their respective contracts to safeguard from any unauthorized disclosure the confidential business information to which they receive access from EPA or which they generate during the performance of their work. Neither AMS nor TARGET will remove any confidential business information from EPA premises.

AMS and TARGET personnel will be required to sign a nondisclosure agreement before they are permitted access to confidential information. AMS and TARGET are required to treat all confidential business information in accordance with the requirements of the "TSCA Confidential Business Information Security Manual" and the "Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual."

Dated: October 26, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-30624 Filed 11-5-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140024; TSH-FRL-2240-8]

Tracor Jitco, Inc.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, Tracor Jitco, Inc., of Rockville, Maryland, information which has been or will be submitted by manufacturers and importers under section 5 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed confidential. Tracor Jitco, Inc., will review this information and use it to perform literature searches on the health and environmental effects of the chemical substances or analogs and submit the results to EPA.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, 15 U.S.C. 2604, EPA must determine whether or not certain chemical substances or mixtures may present an unreasonable risk of injury to health or the environment from their manufacture, processing, distribution in commerce, use, or disposal. As a component of the unreasonable risk determination, the Agency must ascertain whether or not there is potential for a health and/or environmental hazard or risk from exposure to the substances or mixtures in question. To accomplish this, EPA will require the assistance of outside experts. Tracor Jitco, Inc., of Rockville, Maryland, is assisting EPA in conducting literature searches to locate studies which have been done on these chemical substances or mixtures (Contract No. 68-01-6651). In particular, the contractor will be searching the literature for material on health and environmental effects of PMN substances and their analogs.

Under 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to Tracor Jitco, Inc. Under the terms of the contract, EPA will provide the contractor with information submitted in premanufacturing notices (PMN's), including chemical identity, manufacturer identity, product formulation, and specific processes used to manufacture or process new chemical substances, as well as other information related to the uses, release rates, exposure levels, and assessment of potential hazard and/or risk to health and the environment of new chemical substances.

Under the EPA Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual, Tracor Jitco, Inc., has been authorized to have access to this information. EPA has approved the contractor's security plan and has conducted the required inspection of its facilities and found them to be in compliance with the provisions of the manual.

EPA is publishing this notice to inform all submitters of PMN's that Tracor Jitco, Inc., will receive confidential business information in PMN's from EPA. After completing the literature searches, Tracor Jitco, Inc., will return all confidential business information to EPA.

The Tracor Jitco, Inc., personnel will be required to sign a nondisclosure agreement before they are permitted access to confidential business information. Tracor Jitco, Inc., is required to treat all such information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual.

Dated: October 26, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-30620 Filed 11-5-82; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-42026; THS-FRL-2224-2]

Toxic Substances; 4-Chlorobenzotrifluoride; Response to Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and Request for Comments.

SUMMARY: The Ninth Report of the Interagency Testing Committee (ITC) designated the chemical 4-chlorobenzotrifluoride (4-CBTF) for health and environmental effects testing consideration. Following the designation, Occidental Chemical Corporation, the sole American manufacturer of 4-CBTF, presented to the EPA plans for testing the health and environmental effects of 4-CBTF. The Agency has tentatively concluded that the program appears acceptable in lieu of a test rule. Consequently, at this time, the EPA is not initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require health or environmental effects testing of 4-CBTF. This notice constitutes the Agency's response to the ITC's designation of 4-CBTF, as mandated by section 4(e) of TSCA. Interested persons are invited to comment on this tentative decision.

DATE: All comments should be submitted on or before January 7, 1983.

ADDRESS: Written comments should bear the document control number

OPTS-*42026* and should be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-409, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, Washington, D.C. 20460. Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) authorizes EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC may designate up to 50 of its recommendations at any one time for priority consideration by EPA. EPA is required to respond within 12 months of the date of designation, either by initiating rulemaking under section 4(a) or publishing in the **Federal Register** reasons for not doing so.

The ITC placed 4-CBTF on its priority testing list published in the **Federal Register** of October 30, 1981 (47 FR 5456) and designated it for testing for chronic effects, chemical fate, and bioconcentration. The reasons for the ITC's recommendations were (1) the high production volume of 4-CBTF, (2) positive results in two short term assays (sister chromatid exchange and unscheduled DNA synthesis), (3) the detection of 4-CBTF in the edible portion of 3 species of freshwater fish in the Niagara River, and (4) the lack of data on environmental fate and transport.

II. Health and Environmental Effects

4-CBTF is a clear, colorless liquid at room temperature with a naphthalene-like odor. Hooker Chemicals and Plastics Corporation (now Occidental Chemical Corporation) in Niagara Falls, New York, reported a 1977 production volume of 10-50 million pounds in the TSCA Inventory (Ref. 28). Occidental is the only major producer of 4-CBTF in the United States. The major use of 4-CBTF is as an intermediate in the manufacture of dinitroaniline herbicides such as trifluralin (Ref. 11). The main route of environmental entry of 4-CBTF is leaching and runoff from disposal sites. Hooker disposed of 8,500 tons of benzotrifluoride and benzotrifluoride derivatives in the Hyde Park Landfill in Niagara Falls between 1953 and 1975 (Ref. 12). Low levels of 4-CBTF have been detected in Bloody Run Creek, which is a drainage ditch leading from the landfill to the Niagara River, and in fish in the river (Refs. 7 and 30). Occidental is no longer disposing of waste in the landfill and, has provided confidential information showing that environmental releases from the manufacture of 4-CBTF have been reduced considerably (Ref. 8).

The Agency found no specific information on the transport and fate of 4-CBTF in the environment. 4-CBTF has low water solubility (29.1±4.8 ppm at 23°C) and a relatively high vapor pressure of 5.8 mm Hg at 20°C and would be expected to evaporate from surfaces into the atmosphere (Refs. 9 and 10). The evaporation half-life of 4-CBTF from water can be estimated to be about 7.06 hours at a depth of 1 meter (Refs. 4 and 20). Adsorption to organic sediments may be a competing process in the environment. The soil adsorption coefficient of 4-CBTF, calculated from its water solubility, indicates that 4-CBTF would be expected to adsorb to organic matter in soils and sediments (Refs. 3 and 13). The Agency has no information on the biodegradability of 4-CBTF or on chemical transformation processes relevant to determining the persistence of this compound in the environment.

The ITC was concerned about the potential of 4-CBTF to bioconcentrate. Calculated bioconcentration factors ranging from 92 to 396 indicate that 4-CBTF has a low to moderate potential to bioconcentrate (Refs. 14, 21, and 29). These estimates have not been experimentally verified for 4-CBTF. The compound has been detected at levels of 0.17 to 2.0 ppm in the edible portion of fish taken from the Niagara River (Ref. 30).

4-CBTF has been characterized as being moderately toxic to aquatic organisms on an acute exposure basis (Refs. 25 and 26). The potential chronic effects of 4-CBTF to aquatic organisms have been characterized in a 21-day chronic study with Daphnia (LC50, 0.05 mg/1) and in an early life-stage test. The maximum acceptable toxicant concentration (MATC) for fathead minnows and larvae was estimated to be greater than 0.54 mg/l and less than 1.4 mg/l. (Refs. 5 and 27).

4-CBTF shows low acute toxicity when given orally to rats (LD_{50}>6.7g/kg) or applied dermally to rabbits (LD_{50}>2.7g/kg) (Refs. 23 and 24). The acute inhalation toxicity (LD_{50}) in rats was reported to be 33 mg/1 for a 4-hour exposure (Ref. 2). A 90-day subchronic oral toxicity study in rats was modified according to an FDA protocol used to evaluate the safety of low level exposure to contaminants (Ref. 6). The no-effect level was judged to be 45 mg/kg/day or greater since no toxic effects were observed in the study.

The mutagenicity of 4-CBTF has been investigated in bacterial, yeast and cell culture systems. The results were negative in the microbial mutagenesis systems tested (*Salmonella, E. Coli* and *Saccharomyces*) (Ref. 15). No evidence of mutagenic material was found in mouse urine in an *in vivo/in vitro* urine assay (Ref. 18). However, this conclusion may not be accurate because of questions about the experimental design. Statistically significant increases were observed in the sister chromatid exchange assay using L-5178Y cells when tested both with and without activation (Ref. 17). In cell culture systems, 4-CBTF gave negative results in both the forward mutation assay with mouse lymphoma cells (L5178Y) and the *in vitro* transformation assay using BALB/3T3 cells (Refs. 16 and 19). The latter study was conducted without metabloic activation making the results inconclusive. 4-CBTF was reported to induce unscheduled DNA synthesis in EUE cells; however, no details of the study were provided (Ref. 1).

III. Proposed Testing

Occidental Chemical Corporation presented a detailed testing proposal for 4-CBTF to the EPA in August, 1982 (Ref. 22). The Occidental proposal consists of tiered systems for testing both health and environmental effects, with lower tier tests acting as triggers to additional testing or as stop points following review of the data with EPA personnel. The health effects testing program is divided into four major testing segments: (1) Acute toxicity screen which has already been completed, (2) base set of tests, (3) conditional tests, and (4) additional mammalian testing, with three full program reviews (December 1983, March 1984, and March 1985). The environmental effects testing is divided into: (1) Screening tests (acute toxicity, physical/chemical properties), (2) base set of tests, and (3) conditional tests, with one full program review occurring in November 1983.

The Occidental testing program will develop base sets of data for both environmental and health effects. For environmental effects, the base set data

are derived from complete and partial life cycle tests using *Daphnia* and fathead minnow respectively, bluegill flowthrough bioaccumulation tests, soil adsoprtion/desorption tests, volatilization from water and photolysis in water studies, and anaerobic and aerobic aquatic metabolism investigations. The complete and partial life cycle tests are already completed; the other studies are scheduled to be completed in August 1983. For health effects, the base set data are derived from subchronic exposure studies, primary metabolic studies (already completed), and mutagenicity and cell transformation studies (to be completed in August, 1983). Occidental is proposing to conduct a new 90–day subchronic toxicity study (scheduled for completion by November, 1983) because the existing study did not include a dose level at which toxic effects were observed. After a review of results from the base set tests by Occidental and EPA personnel, a determination will be made if further studies are necessary, such as metabolic, reproductive, teratogenci, and atmospheric fate studies. Depending on the outcome of the base set tests, other testing such as carcinogenicity or effects on benthic organisms also may need to be considered.

Occidental will supply EPA with the name and address of the laboratory(ies) conducting the tests under this agreement. Occidental has agreed to adhere to the Good Laboratory Practice Standards issued by the U.S. Food and Drug Administration as published in the Federal Register of December 22, 1978 (43 FR 59986). All testing protocols will be reviewed and approved by EPA. Occidental also has agreed to permit laboratory audits/inspections in accordance with the procedures outlined in TSCA section 11 at the request of authorized representatives of the EPA for the purpose of determining compliance with this agreement. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practices.

Occidental has further agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained as specified in the FDA Good Laboratory Practice Standards and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

Occidental understands that the Agency plans to publish in the Federal Register a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Finally, Occidental understands that failure to conduct the testing according to the specified protocols and failure to follow Good Laboratory Practices may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

IV. Decision Not To Require Testing

The proposed Occidental testing program addresses the ITC's recommendations concerning chronic effects, chemical fate and bioconcentration testing for 4–CBTF. The Agency, therefore, is proposing not to require testing under section 4 of TSCA.

For implementing TSCA section 4, EPA generally accepts subchronic toxicity testing as a surrogate for chronic toxicity testing, with the exception of oncogenicity, delayed toxicity and age-related endpoints. The ITC did not indicate concern for these, and EPA is aware of no data indicating that 4–CBTF may cause delayed or age-related effects. Therefore, it is the Agency's view that the proposed 90-day subchronic toxicity study of 4–CBTF is likely to provide adequate data to reasonably predict its non-oncogenic chronic toxicity.

In EPA's view, the two mutagenicity tests reported to be positive for 4–CBTF (sister chromated exchange and unscheduled DNA synthesis) do not, in the light of the other negative mutagenicity test results, warrant initiation of a lifetime oncogenicity bioassay at this time. Neither did the ITC recommend oncogenicity testing. The additional mutagenicity and cell transformation tests to be performed by Occidental will provide a basis for deciding whether oncogenicity testing is needed.

Although the ITC did not specifically recommend further testing for mutagenicity, there is some basis for concern as to the mutagenic potential of 4–CBTF because of the positive results reported in two studies. Occidental has proposed doing a chromosomal aberrations testing battery which, along with the gene mutation testing already completed, comprises the mutagenicity testing that EPA normally requires as the first tier of a section 4 test rule. If the results of the proposed tests indicate the need for additional testing, EPA may either come to an agreement with Occidental to do the additional testing or, if that proves unsatisfactory, EPA reserves the right to promulgate a test rule.

EPA also has concluded that the testing completed or committed to under the Occidental environmental testing program can be expected to yield data sufficient to reasonably predict the chemical fate and bioconcentration potential of 4–CBTF. The base set testing focuses on the aquatic environment, which is where 4–CBTF has been detected. Atmospheric fate testing will depend on the results of the base set tests and the development of suitable procedures for evaluating 4–CBTF's fate in the atmosphere. If the results of Occidental's testing or other data indicate the need for additional testing which Occidental does not agree to perform, EPA reserves the right to promulgate a test rule.

Because of the expectation that data received from the testing already undertaken and committed to by Occidental will permit EPA to reasonably determine or predict the effects of concern highlighted by ITC, and the fact that the testing will be conducted more expeditiously than would be possible under a test rule, EPA has tentatively concluded not to initiate rulemaking to require testing at this time. EPA's conclusion that the test data provided will serve to reasonably predict these effects is reinforced by the provision for inspections to verify that the testing is being properly conducted. In addition, the data developed by Occidental will be available to the public on a similar basis as the results of a test rule.

In order to provide the same type of opportunity for public input that would be served by public comment on a proposed test rule, EPA is soliciting comments on the Occidental program and the Agency decision to accept it in lieu of section 4(a) rulemaking. After considering these comments, EPA will either publish in the Federal Register a final notice of acceptance of a negotiated test program or will initiate rulemaking under section 4(a) of TSCA.

V. References

(1) Benigni R, Dogliotti E. 1980. UDS studies on environmental chemicals. Mutat Res 71:217.

(2) Bio/dynamics Inc. 1979. An acute inhalation toxicity study of parachlorobenzotrifluoride in the rat. Project No. 78–7132. Niagara Falls, N.Y.: Hooker Chemical Corp.

(3) Briggs GG. 1973. A simple relationship between soil adsorption of organic chemicals and their octanol/water partition coefficients. Proc Br Insectic Fungic Conf, 7th (1973): 83–86.

(4) Dilling WL. 1977. Interphase transfer processes. II. Evaportation rates of chloromethanes, ethanes, ethylenes, propanes, and propylenes from dilute aqueous solutions. Comparisons with theoretical predictions. Environ Sci Technol 11(4): 405–409.

(5) EG&G, Bionomics. 1981 (Mar.). The toxicity of parachlorobenzotrifluoride (PCBTF) to fathead minnow (*Pimephales promelas*) embryos and larvae. Report BW–81–3–838. Niagara Falls, N.Y.: Hooker Specialty Chemical Division.

(6) Elars Bioresearch Laboratories, Inc. 1981 (June). Gas chromatographic assay, PCBTF and modified 90-day gavage and reproductive study in rats. Parts I and II. Niagara Falls, N.Y.: Hooker Chemical Co.

(7) Elder Va, Proctor BL, Hites RA. 1981. Organic compounds found near dump sites in Niagara Falls, N.Y. Environ Sci Technol 15 (10): 1237–1243.

(8) Gelfand, S. 1982. Hooker Research Center, Niagara Falls, N.Y. Letter to Steven D. Newburg-RINN, Environmental Protection Agency, Washington, D.C. Confidential.

(9) Hooker Chemicals and Plastics Corp. 1980 (Mar. 10). Niagara Falls, N.Y. Solubility of p–chloro– benzotrifluoride in water. Interoffice memorandum from R. J. Brombos and N. Cortellucci.

(10) Hooker Chemicals and Plastics Corp. 1981 (Jan.). Material safety data sheet: p–chlorobenzotrifluoride. Niagara Falls, N.Y. 14302.

(11) Ifeadi CN. 1975. Battelle Columbus Labs. Screening study to develop background information and determine the significance of air contaminant emissions from pesticide plants. Washington, D.C.: Strategic Studies Unit, Office of Pesticide Programs, U.S. Environmental Protection Agency. Contract 68–02–0611, Task 12. EPA 540/9–75/026. PB 244–734.

(12) Interagency Task Force on Hazardous Wastes. 1979 (Mar.). Draft report on hazardous wastes disposal in Erie and Niagara counties, New York.

(13) Kenaga EE. 1980. Predicted bioconcentration factors and soil sorption coefficients of pesticides and other chemicals. Ecotoxicol Environ Saf 4:26–38.

(14) Kenaga EE, Goring CAI. 1980. Relationship between water solubility, soil sorption, octanol-water partitioning, and concentration of chemicals in biota. In: Aquatic toxicology. ASTM STP 707. Eaton JG, Parrish PR, Hendricks AC, eds. Philadelphia, PA: American Society for Testing and Materials, pp. 78–115.

(15) LBI. 1978a (Aug.). Litton Bionetics, Inc. Mutagenicity evaluation of parachlorobenzotrifluoride (PCBTF) in the Ames *Salmonella*/microsome plate test. Final report. LBI Project 20988. Niagara Falls, N.Y.: Hooker Specialty Chemicals Division.

(16) LBI. 1978b (Nov.). Litton Bionetics, Inc. Mutagenicity evaluation of parachlorobenzotrifluoride in the mouse lymphoma forward mutation assay. Final report. LBI Project 209899. Niagara Falls, N.Y.: Hooker Specialty Chemicals Division.

(17) LBI. 1979a (Jan.). Litton Bionetics, Inc. Mutagenicity evaluation of parchlorobenzotrifluoride (PCBTF) in the sister chromatid exchange assay in L5178Y mouse lymphoma cells. Final report. LBI Project 20795. Niagara Falls, N.Y.: Hooker Specialty Chemicals Division.

(18) LBI. 1979b (June). Litton Bionetics, Inc. Mutagenicity evaluation in a *in vivo/in vitro* urine assay. Final report. LBI Project 20838. Niagara Falls, N.Y.: Hooker Specialty Chemicals Division.

(19) LBI. 1980 (Oct.). Litton Bionetics, Inc. Evaluation of p-chlorobenzotrifluoride in the *in vitro* transformation of BALB/3T3 cells assay. Final report. LBI Project 20992. Niagara Falls, N.Y.: Hooker Chemicals Corp.

(20) Mackay D, Leinonen PJ. 1975. Rate of evaporation of low-solubility contaminants from water bodies to atmosphere. Environ Sci Technol 9(13):1178–1180.

(21) Neely WB, Branson DR., Blau GE. 1974. Partition coefficient to measure bioconcentration potential of organic chemicals in fish. Environ Sci Technol 8:13 1113–1115.

(22) Occidental Chemical Corporation [Hooker Industrial & Specialty Chemical], 4-Chlorobenzotrifluoride Proposal for Voluntary Testing Program, August 23, 1982.

(23) Raltech Scientific Services, Inc. 1978 (Oct. 12). Acute dermal toxicity (LD_{50}) in albino rabbits. RT No. 8072227. Niagara Falls, N.Y.: Hooker Chemicals Corp.

(24) Raltech Scientific Services, Inc. 1979. Acute oral toxicity (LD_{50}) in albino rats. RT No. 8072227. Niagara Falls, N.Y.: Hooker Chemicals Corp.

(25) UCES. 1979a (June 27). Union Carbide Environmental Services. The acute toxicity of parachlorobenzotri-fluoride to the rainbow trout *Salmo gairdneri* Richardson. UCES Project 11506–81–08. Niagara Falls, N.Y.: Hooker Chemicals and Plastics Corp.

(26) UCES. 1979b (June 27). Union Carbide Environmental Services. The acute toxicity of parachlorobenzotri-fluoride to the water flea *Daphnia magna* Straus. UCES Project 11506–81–06. Niagara Falls, N.Y.: Hooker Chemicals and Plastics Corp.

(27) UCES. 1979c (Nov. 30). Union Carbide Environmental Services. *Daphnia magna* chronic study testing parachlorobenzotrifluoride (97 percent active ingredient). UCES Project 11507–18. Niagara Falls, N.Y.: Hooker Chemicals and Plastics Corp.

(28) USEPA. 1979. U.S. Environmental Protection Agency. TSCA inventory of producers of chemicals in commerce for 1977. Washington, D.C.: Office of Toxic Substances, USEPA.

(29) Vieth GD, Macek KJ, Petrocelli SR, Carroll J. 1980. An evaluation of using partition coefficients and water solubility to estimate bioconcentration factors for organic chemicals in fish. In: Aquatic Toxicology, ASTM STP 707. Eaton JG, Parrish PR, Hendricks AC, eds. Philadelphia, PA: ASTM, pp. 116–129.

(30) Yurawecz MP. 1979. Gas-liquid chromatographic and mass spectrometric identification of chlorinated trifluorotoluene residues in Niagara River fish. J Assoc Off Anal Chem 62(1):36–40.

VI. Public Record

The EPA has established a public record for this testing decision (docket number OPTS–42026). This record includes:

(1) **Federal Register** notice designating 4-CBTF to the priority list.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday in Room E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: October 29, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–30625 Filed 11–5–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

November 1, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsiblilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register.** This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents are available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for extension with revision

1. Report title: Quartely Report of Interest Rates on Selected Direct Consumer Installment Loans.

Agency form number: FR 2835.

Frequency: Quarterly.

Reporters: Commercial banks that are members of the Federal Reserve System.

SIC Code: 602.

Small businesses are not affected.

General description of report: 704 responses annually; 1,760 hours needed to complete the form on an annual basis; average response time of 2½ hours; respondent's obligation to reply is voluntary (12 U.S.C. 248(a)); confidentiality is not promised; cost to the Federal Government is approximately $25,037 annually; cost to the public is approximately $26,400 annually; 1 form is submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

This report collects interest rate information on selected consumer installment loans from a sample of member banks. Information provided by this report is needed in assessing interest rate developments, and is used in general financial analysis for monetary policy purposes.

2. Report title: Commercial Bank Report on Consumer Installment Credit.

Agency form number: FR 2571.

Frequency: Monthly.

Reporters: Commercial banks.

SIC Code: 602.

Small businesses are affected.

General description of report: approximately 3,576 responses annually; approximately 2,146 hours neded to complete the form on an annual basis; average response time of 36 minutes; respondent's obligation to reply is voluntary (12 U.S.C. 248 (a) and (i)); confidentiality is promised; cost to the Federal Government is approximately $61,094 annually; cost to the public is approximately $32,184 annually; 1 form is submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

This report collects information from a sample of member banks on the amount of consumer installment credit outstanding by type of loan. This commercial bank information forms a component of the estimate of total consumer installment credit at all lender groups which is used in generl finanical analysis for monetary policy purposes.

3. Report title: Quartely Gasoline Company Report.

Agency form number: FR 2580.

Frequency: Quarterly.

Reporters: Gasoline and home heating oil retailers.

SIC Code: 554.

Small businesses are not affected.

General description of report: 48 responses annually; 7 hours needed to complete the form on an annual basis; average response time of 9 minutes; respondent's obligation to reply is voluntary (12 U.S.C. 353 *et seq.*); confidentiality is not promised; cost to the Federal Government is approximately $400 annually; cost to the public is approximately $105 annually; 1 form is submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

This report collects the amount outstanding of retail credit card accounts. These data are included in the non-installment credit component of total consumer credit which is used by the Federal Reserve in general financial analysis for monetary policy purposes.

Request for extension with adjustment to burden

1. Report title: Monthly Survey of Industrial Electricity Use.

Agency form numbers: FR 2009A, B.

Frequency: Monthly.

Reporters: Public and privately-owned electric utilities and self-generators.

SIC Code: 491, 261–265, 281, 286, 331, 333.

Small businesses are not affected.

General description of report: approximately 4,800 responses; approximately 3,732 hours needed to complete the form on an annual basis; average response time of three quarters of an hour per report; respondent's obligation to reply is voluntary; a pledge of confidentiality is promised; cost to the public is approximately $111,960 on an annual basis; cost to the Federal Goverment is approximately $111,500 on an annual basis; two forms submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

The report collects information on the volume of electric power sold to mining or manufacturing establishments or generated by such establishments for their own use. Survey results are used as a proxy for physical production measures in certain categories for the Industrial Production Index.

Request for extension without revision

1. Report titles: Applications for and to Cancel Federal Reserve Stock-National bank; Nonmember bank; Member bank.

Agency form numbers: FR 2030, FR 2030A, FR 2056, FR 2086A, FR 2086B.

Frequency: On occasion.

Reporters: Member banks, nonmember banks, national banks.

SIC Code: 602.

Small businesses are affected.

General description of report: approximately 3,180 responses; approximately 3,180 hours needed to complete the form on an annual basis; average response time is 1 hour per report; respondent's obligation to reply is mandatory; a pledge of confidentiality is not promised; cost to the public is approximately $63,200 on an annual basis; cost to the Federal Government is approximately $30,000 on an annual basis; 5 forms submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

These applications are used when either an organizing bank subscribes to Federal Reserve Bank stock; when a state nonmember is converting to a natl. bank and thus needs to subscribe to FRB stock; when a member increases or decreases their holdings of FRB stock; when a nonmember cancels its holdings of FRB stock; or when a natl. bank converts to a nonmember and thus must cancel its FRB stock.

2. Report title: Report on Loans Granted to Executive Officers During Preceding Quarter.

Agency form number: FR 2105S.
Frequency: Quarterly.
Reporters: State member banks.
SIC Code: 602.
Small businesses are not affected.

General description of report: approximately 4,084 responses; approximately 4,084 hours needed to complete the form on an annual basis; average response time is 1 hour per report; respondent's obligation to reply is mandatory; a pledge of confidentiality is promised; cost to the public is approximately $81,680 on an annual basis; cost to the Federal Government is approximately $60,780 on an annual basis; 1 form is submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

Each member bank of the Federal Reserve System is required to report quarterly all extensions of credit made by the bank to its executive officers since the bank's previous report.

3. Report title: Letter Advising Federal Reserve System of Consummation of Proposed Acquisition of Bank and/or Nonbank Company.

Agency form number: N/A.
Frequency: On occasion.
Reporters: Bank Holding Companies.
SIC Code: 671.
Small businesses are affected.

General description of report: approximately 1,075 responses; approximately 8,600 hours needed to complete the form on an annual basis; average response time is 8 hours per report; respondent's obligation to reply is mandatory; a pledge of confidentiality is promised; cost to the public is approximately $172,000 on an annual basis; cost to the Federal Government is approximately $150,000 on an annual basis; 1 form submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

Letters transmitting approval of bank holding company formations require filing of certain financial and managerial data which, when provided by the affected organization, constitutes the latter's registration as a bank holding company. These and transmittal letters on other types of bank holding company acquisitions may also contain various commitments or conditions about which the applicant upon fulfillment, must notify the Federal Reserve System.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–30554 Filed 11–5–82; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of First City Bank-Westheimer Plaza, N.A., (a proposed new bank), Houston, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than December 2, 1982.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–30556 Filed 11–5–82; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Proposed de novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York (data processing activities; eastern United States): To engage through its subsidiary, ChemNetwork Processing Services, Inc. in providing data processing and data transmission services, data bases and facilities for the internal operations of CNYC, including Chemical Bank and all other CNYC subsidiaries; providing to others data processing and transmission services, facilities, data bases or access to such services, facilities or data bases by any technologically feasible means for financial, banking or economic data; and providing to others excess capacity and time sharing on data processing or transmission equipment or facilities. These activities will be performed from offices in Somerset, New Jersey. The service area of the company will be the eastern United States. Comments on this application must be received not later than December 1, 1982.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *RepublicBank Corporation*, Dallas, Texas (mortgage banking activities; Texas): To expand the service area of its

subsidiary, Republic National Mortgage Corporation of Texas; the activities in which the Republic National Mortgage Corporation of Texas will engage are making and acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and servicing loans and other extensions of credit for others. These activities will be conducted from offices located in Dallas, and Lubbock, Texas; the proposed expanded service area for the conduct of these activities will be the State of Texas. Comments on this application must be received not later than December 2, 1982.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30555 Filed 11-5-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Hongkong and Shanghai Banking Corporation,* Hongkong, B.C.C. (leasing and financing activities; United States): To engage through its existing indirect subsidiary, U.S. Concord, Inc., in leasing and installment financing activities and to act as agent, broker or adviser for such activities, from two additional *de novo* offices in Los Angeles and New York City, serving the entire continental United States. Comments on this application must be received not later than December 1, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Louisiana Bancorp, Inc.,* Crowley, Louisiana (leasing activities; United States): To engage through its *de novo* subsidiary, Louisiana Bancorp Leasing Company, Crowley, Louisiana, in making leases of personal property from an office in Crowley, Louisiana, serving the entire United States. Comments on this application must be received not later than November 19, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation,* Albuquerque, New Mexico (mortgage banking and servicing activities; State of New Mexico and west Texas): To engage through its subsidiary, First City Mortgage Company, in originating, selling and servicing real estate loans of all types for its own account and for the accounts of others. These activities would be conducted from an office in Albuquerque, New Mexico, serving the States of New Mexico and west Texas, with additional loan production offices to be located in other cities in New Mexico. Comments on this application must be received not later than December 1, 1982.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30552 Filed 11-5-82; 8:45 am]

BILLING 6210-01-M

Barnett Banks of Florida, Inc.; Proposed Acquisition of Great American Banks, Inc.

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Great American Banks, Inc., North Miami, Florida, and thereby indirectly acquire its nonbank subsidiary American Bancshares Insurance Agency, Inc.

Applicant states that these proposed subsidiaries would engage in the sale of credit related insurance directly related to extensions of credit by its subsidiary banks. These activities would be performed from offices of Applicant's subsidiary in North Miami, Florida, and the geographic areas to be served are Monroe, Dade, Broward, Hillsborough, Pinellas, and Alachua Counties, Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accomplished by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views of requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 29, 1982.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30553 Filed 11-5-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval

under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Union Bankshares, Inc.*, Morrisville, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of Union Bank, Morrisville, Vermont. Comments on this application must be received not later than December 2, 1982.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers National Banc Corp.*, Canfield, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers National Bank of Canfield, Canfield, Ohio. Comments on this application must be received not later than December 2, 1982.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Citizens Bancorporation of South Carolina, Inc.*, Columbia, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of First-Citizens Bank and Trust Company of South Carolina, Columbia, South Carolina. Comments on this application must be received not later than December 2, 1982.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Goreville Bancorporation, Inc.*, Goreville, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Goreville State Bank, Goreville, Illinois. Comments on this application must be received not later than December 2, 1982.

E. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First National Bankshares, Inc.*, Logansport, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The First National Bank of Logansport, Logansport, Indiana. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than December 2, 1982.

Board of Governors of the Federal Reserve System, November 2, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30558 Filed 11-5-82; 8:45 am]

BILLING CODE 6210-01-M

Old Kent Financial Corp.; Acquisition of Bank

Old Kent Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with the successor by consolidation to Pacesetter Financial Corporation, Grand Rapids, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 2, 1962.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-30557 Filed 11-5-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Senior Executive Service Performance Review Board Membership

AGENCY: Office of the Secretary, HHS.

ACTION: Listing of members of this Department's Senior Executive Service Performance Review Boards.

DATE: Performance Review Boards effective October 13, 1982.

FOR FURTHER INFORMATION CONTACT: Merle G. Forney, 202:426-2753.

Title 5, U.S. Code Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Federal Performance Review Board Members

Faye G. Abdellah
Richard H. Adamson
Clifford Allen
Pamela G. Bailey
Calvin B. Baldwin, Jr.
Albert Balows
Francisco R. Bayo
David D. Bayse
Edwin D. Becker
Peter J. Bersano
James D. Bloom
Gerald L. Boyd
Gerald H. Britten
Everett F. Bryant
Charles C. Carter
Bruce A. Chabner
Thomas N. Chase
Lois R. Chatham
Philip S. Chen, Jr.
Sandy Crank
Lester M. Crawford
Martin M. Cummings
Juan A. del Real
Vincent T. DeVita, Jr.
Philip J. DiBenedetto
Carl D. Douglass
Walter R. Dowdle
John C. Eberhart
Joyce D. K. Essien
Joseph N. Exendine
Jacob J. Feldman
Frederick K. Goodwin
Robert A. Goyer
R. Alexander Grant
Jerome C. Green
Richard C. Greulich
Darrel J. Grinstead
Elizabeth J. Haglund
M. Gene Handelsman
George E. Hardy, Jr.
Lowell T. Harmison
Elliott S. Harris
Ronald W. Hart
Teresa A. Hawkes
Joseph R. Held
Joseph P. Hile
Donald R. Hopkins
Robert A. Israel
James S. Jeffers
Irving G. Kagan
Martin L. Kappert
John H. Kelso
John D. Kennedy
Roland E. King
Jin H. Kinoshita
Henry G. Kirschenmann, Jr.
Ruth L. Kirschstein
Richard M. Krause
Carl Kupfer
Richard P. Kusserow
James D. Lawrence
Claude J. Lenfant
Joseph R. Leone
Rose M. Lepore
A. David Lester
Bryan Luce
Michael W. Maher
Thomas E. Malone
Jaime L. Manzano
John E. Marshall
Warren A. Master
F. Lynn May
Charlene G. McCants
Robert F. McClernan
Thomas S. McFee
Edward E. McManus
Marjory E. Mecklenberg
Gerald F. Meyer
Harry M. Meyer, Jr.
J. Donald Millar
Bryan B. Mitchell
Edward J. Montminy
Joesph A. Mottola
Thomas P. Murphy
David Newhall III
Stuart L. Nightingale
A. Mark Novitch
Marie U. Nylen
Gregory F. O'Conor

Vincent T. Oliverio	Frank H. Seubold
Jack Orloff	Richard E. Shute
Julie C. Ponquinette	James B. Sidbury, Jr.
Arnold W. Pratt	Clay E. Simpson, Jr.
Alan S. Rabson	Vivian L. Smith
David P. Rall	James A. Solomon
Joseph E. Rall	Dale W. Sopper
William F. Raub	DeWitt Stetten, Jr.
Darrel A. Regier	James S. Stockdale
Robert L. Ringler	Michio Suzuki
Jo Anne B. Ross	George A. Thompson
Robert J. Rubin	Larry J. Tomayko
Jay T. Sanford	Lorraine B. Torres
Thomas Scarlett	Robert L. Trachtenberg
Stephen S. Schiaffino	James A. Walsh
Fred Schutzman	William C. Watson, Jr.
Kenneth W. Sell	Storm H. Whaley
Robert F. Sermier	Frances L. White

Non-Federal Performance Review Board Member

James O. Mason

Date: October 19, 1982.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 82-30646 Filed 11-5-82; 8:45 am]

BILLING CODE 4150-04-M

Senior Executive Service Performance Awards (Bonuses)

AGENCY: Office of the Secretary, HHS.

ACTION: To signify intent of the Department of Health and Human Services to grant SES Performance Awards.

FOR FURTHER INFORMATION CONTACT: Evelyn Kirby, 202-426-2753.

Notice is hereby given that pursuant to section 5384 of Title 5 of the U.S. Code, the Department of Health and Human Services will grant performance awards to members of the Senior Executive Service for FY 82 performance.

Checks will be distributed no later than December 31, 1982.

Dated: October 19, 1982.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 82-30647 Filed 11-5-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[Docket No. N-82-1181]

Performance of Legal Work Associated with GNMA Held Mortgages; Register of Single Family Foreclosure Attorneys

AGENCY: Government National Mortgage Association (GNMA), HUD.

ACTION: Notice—Application for Register of Single Family Foreclosure Attorneys.

SUMMARY: The Government National Mortgage Association (GNMA) maintains a register of attorneys to perform foreclosure work required on GNMA held, single family mortgages. Attorneys may apply for listing on that register.

FOR FURTHER INFORMATION CONTACT: Eleanor Roberts Lewis, Assistant General Counsel for Finance, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Telephone (202) 755-7260. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association is the owner and holder of a large number of single family mortgages acquired under various programs authorized by the Congress. Servicing of these mortgages is carried out in behalf of GNMA by designated financial institutions and mortgage companies. The need for legal work in connection with this servicing is limited almost entirely to foreclosure actions. In the event of a foreclosure, GNMA bears all of the costs of paying for the action and is liable for any and all shortfalls for conventional mortgages and those shortfalls not covered by claim payments under the FHA and VA programs.

GNMA requires its designated mortgage servicers to utilize only attorneys registered with GNMA for foreclosure actions. On request of a mortgage servicer, GNMA advises the servicer of an appropriate attorney on the register. Since June 23, 1978, listing on that register has been by open application. (See 43 FR 27246.) Attorneys desiring to be added to the register may do so by making application by letter to the Finance Division, Office of General Counsel, Room 9238, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. The letter should include:

1. Name of applicant (firm or individual).

2. Business address and telephone (principal office or office from which foreclosures will be conducted).

3. Bar Membership (where and when admitted).

4. Experience in mortgage foreclosures.

Those attorneys who are currently on the register based on compliance with the notice published at 43 FR 27246 must reregister under the terms of this notice within 2 years of the publication date of this notice. Attorneys registering under the terms of this notice must reapply every three years. Attorneys who do not reapply as required by this paragraph will be deleted from the register.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting and recordkeeping provisions that are included in this notice have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect.

(Secs. 306 and 309 of the National Housing Act as amended; 12 U.S.C. 1721 and 1723a.)

Dated: October 22, 1982.

Robert W. Karpe,

President, Government National Mortgage Association.

[FR Doc. 82-30559 Filed 11-5-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-978]

California; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal, Correction

October 27, 1982.

In Federal Register Document No. 77-17649, appearing on page 31497 of the Tuesday issue of June 21, 1977, the twenty-fourth line of the first paragraph reading Secs. 10, 12, 14, 18, 20, 22, 24, 26, 28, 32, is corrected to read Secs. 10, 12, 14, 18, 20, 22, and 24; Sec. 25, S½SW¼, SW¼SE¼; Sec. 26, 28, 32.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-30605 Filed 11-8-82; 8:45 am]

BILLING CODE 4310-84-M

Availability of Technical Reports

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of 22 Technical Reports prepared in association with the draft Environmental Impact Statement (EIS) on Public Service Company of New Mexico's Proposed New Mexico Generating Station and Possible New town (NMGS) San Juan, Mckinley, Rio Arriba and Sandoval Counties, New Mexico.

SUMMARY: The Bureau of Land Management (BLM), New Mexico State Office, is announcing the availability of 22 Technical Reports developed as a basis for writing the draft

Environmental Impact Statement (EIS) mentioned above.

These Technical Reports provide detailed information on the affected environment, methods used for impact analysis and related data supportive of the analysis and conclusions presented in the EIS in the following subject areas:

1. Purpose and Need.
2. Project Description.
3. Alternatives to the Project.
4. Site Alternatives.
5. Permit Reconnaissance.
6. Air Quality.
7. Geologic Setting.
8. Mineral Resources.
9. Peleontology.
10. Hydrology.
11. Water Quality.
13. Vegetation.
14. Wildlife and Aquatic Biology.
15. Threatened and Endangered Species.
16. Cultural Resources.
17. Visual Resources.
18. Recreation Resources.
19. Wilderness Values.
20. Transportation.
21. Social and Economic Conditions.
22. Land Use Controls and Constraints.

These reports are intended for use in conjunction with the draft and final NMGS EIS and with other environmental documents related to the BLM's San Juan Basin Action Plan (SJBAP). The SJBAP considers six separate but interrelated proposals within the San Juan Basin Area of northern New Mexico, including the NMGS EIS, the San juan River regional Coal Leasing EIS, the Bisti, De-na-zin and Ah-she-sle-pah Wilderness Study Areas Proposal EIS. The Ute Mountain Land Exchange Environmental Assessment (EA) and the Bisti Coal Lease Exchange EA.

The draft NMGS EIS will be filed with the Environmental Protection Agency and released for public review on November 30, 1982. Comments on the draft EIS and associated Technical Reports will be due by close of business February 7, 1983, at the BLM New Mexico State Office. Because of the large volume of material presented in the Technical Reports, the BLM is distributing these reports in advance of the the draft EIS to provide as much time as possible for public review. The technical reports will be available for public review at the places indicated on the list at the end of this Notice. Copies will also be available from the BLM New Mexico State Office, U.S. Post Office and Federal Building, Santa Fe, for a copy fee.

Informational public meetings are scheduled for December 1982 to provide a public forum to clarify questions and concerns about the SJBAP proposals and the related environmental documents, which will all have been issued by the time.

The meetings are scheduled as follows:

December 14, Civic Center, Farmington, 3 to 9 PM
December 14, Convention Center, Albuquerque, 3 to 9 PM
December 15, Chapter House, Crownpoint, 3 to 9 PM
December 16, Holiday Inn, Gallup, 3 to 9 PM
December 16, Kachina Lodge, Taos, 3 to 9 PM

In addition, formal public hearings will be held in January 1983 to solicit public comments on the SJBAP Proposals.

These meetings are scheduled as follows:

January 10, Chapter House, Crownpoint, beginning at 1:00 PM
January 12, Civic Center, Farmington, beginning at 9:00 AM
January 14 (and 15 if necessary because of the number of registrants), Four Seasons Motor Lodge, Albuquerque, I–40 and Carlisle Blvd., beginning at 9:00 AM (each day)

ADDRESS: Inquiries related to the NMGS EIS and its Technical reports should be sent to: State Director (934A), Bureau of Land Management, U. S. Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Leslie M. Cone, NMGS Project Manager, Room 122, Federal Building, Cathedral Place, P.O. Box 1449, Santa Fe, NM 87501. Phone: (505) 988–6184 FTS 476–6184.

Daniel C. B. Rathbun,
Acting State Director.

Technical Report Titles

1. Purpose and Need.
2. Project Description.
3. Alternatives to the Project.
4. Site Alternatives.
5. Permit Reconnaissance.
6. Air Quality.
7. Geologic Setting.
8. Mineral Resources.
9. Paleontology.
10. Soil; Prime and Unique Farmlands.
11. Hydrology.
12. Water Quality.
13. Vegetation.
14. Wildlife and Aquatic Biology.
15. Threatened and Endangered Species.
16. Cultural Resources.
17. Visual Resources.
18. Recreation Resources.
19. Wilderness Values.
20. Transportation.
21. Social and Economic Conditions.
22. Land Use Controls and Constraints.

Locations Where NMGS Technical Reports Are Available for Review

Bureau of Land Management Offices

New Mexico State Office:

NMGS Project Staff (934A), Room 122, Federal Building, Cathedral Place, P.O. Box 1449, Santa Fe, NM 87501, (505) 988–6184, FTS 476–6184

San Juan Energy Project Staff (911), Room 126, Federal Building, Cathedral Place, Santa Fe, NM 87501, (505) 988–6226, FTS 476–6226

Public Affairs Staff (912), Room 2016, U.S. Post Office and Federal Building, P.O. Box 1449, Santa Fe, NM 87501, (505) 988–6316, FTS 476–6316

Division of Resources (930), 509 Camino De los Marquez, Suite 3, P.O. Box 1449, Santa Fe, NM 87501, (505) 988–6212, FTS 476–6212

Albuquerque District Office, 3550 Pan American Freeway N.E., P.O. Box 6770, Albuquerque, NM 87107, (505) 766–2455, FTS 474–2455

Farmington Resource Area Headquarters, 900 La Plata Road, P.O. Box 568, Farmington, NM 87401, (505) 325–3581

Taos Resource Area Office, Montevideo Plaza, P.O. Box 1045, Taos, NM 87571, (505) 758–8851

Socorro District Office, 198 Neel Avenue, P.O. Box 1219, Socorro, NM 87801, (505) 835–0412, FTS 476–6280

Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, NM 88001, (505) 524–8551, FTS 571–8312

Roswell District Office, 1717 W. Second Street, P.O. Box 1397, Roswell, NM 88201, (505) 622–7670, FTS 476–9251

Carlsbad Resource Area Headquarters, 114 S. Halagueno Street, P.O. Box 506, Carlsbad, NM 88220, (505) 887–6544

Other Department of the Interior Agencies

*Bureau of Indian Affairs,** Albuquerque Area Office, 123 4th Street, P.O. Box 2088, Albuquerque, NM 87198, (505) 766– 3374, FTS 474–3374

*Bureau of Indian Affairs,** Eastern Navajo Agency, P.O. Box 328, Crownpoint, NM 87313, (505) 786–5228

*Bureau of Indian Affairs,** Navajo Area Office, Box M—Mail Code 305, Window Rock, Arizona 86515, (602) 871–5151, FTS 479–5314

*Bureau of Reclamation,** Upper Colorado Regional Office, 125 S. State Street, P.O. Box 11568, Salt Lake City,

* Cooperating agencies.

Utah 84147 (801) 524–5463, FTS 588–5463

*Minerals Management Service**, South Central Region, 505 Marquette Avenue N.W., Suite 815, Albuquerque, NM 87102, (505) 766–1173, FTS 474–1173

*Minerals Management Service**, Resource Evaluation Office, 411 N. Auburn, Farmington, NM 87401, (505) 327–7397, FTS 572–6254

*National Park Service**, Southwest Regional Office, 1100 Old Santa Fe Trail, Santa Fe, NM 87501, (505) 988–6375, FTS 476–6375

*National Park Service**, Environmental Coordination Office, Pinon Building, 1220 St. Francis Drive, P.O. Box 728, Santa Fe, NM 87501, (505) 988–6681, FTS 476–6681

*U.S. Fish and Wildlife Service**, Field Supervisor, Ecological Services, 3530 Pan American Highway, Suite C, Albuquerque, NM 87107, (505) 766–3966, FTS 479–3966

*U.S. Geological Survey (WRD)**, 505 Marquette Avenue, Room 720, Albuquerque, NM 87101, (505) 766–2810, FTS 474–2817

Other Federal Agencies and Organizations

*Environmental Protection Agency**, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2716, FTS 729–2716

*Navajo Tribe**, c/o Division of Resources, P.O. Box 308, Window Rock, Arizona 86515, (602) 871–6592

*Pueblo of Zia**, General Delivery San Ysidro, NM 87053, (505) 867–3304

*Soil Conservation Service**, 424 N. Mesa Verde, Aztec, NM 87410, (505) 334–9437

*U.S. Corps of Engineers**, P.O. Box 1580, Albuquerque, NM 87103, (505) 766–2657, FTS 474–2657

*USDA, Forest Service**, 717 Gold Avenue, Albuquerque, NM 87102, (505) 474–1676, FTS 474–1676

*USDA, Forest Service**, District Ranger, Mt. Taylor Ranger District, 201 Roosevelt Avenue, Grants, NM 87020, (505) 287–8833

USDI, Bureau of Land Management, Division of Rights-of-Way (330), 18th and C Streets, NW, Washington, D.C. 20240, (202) 343–5441, FTS 343–5441

USDI, Bureau of Land Management, Denver Service Center, (D–460), Technical Publications Library, Denver Federal Center, Bldg. 50, Denver, Colorado 80225, (303) 234–2368, FTS 234–2368

New Mexico State Agencies

*New Mexico State Environmental Improvement Division**, 725 St. Michaels Drive, P.O. Box 968, Santa Fe, NM 87503, (505) 827–5271, ext. 2416

*New Mexico Energy and Minerals Department**, 525 Camino De Los Marquez, P.O. Box 2770, Santa Fe, NM 87503, (505) 827–3326

*New Mexico Historic Preservation Bureau**, State Historic Preservation Officer, 505 Don Gaspar Avenue, Santa Fe, NM 87503, (505) 827–2108

*New Mexico Natural Resource Department**, Villagra Building, Santa Fe, NM 87503, (505) 827–5531

*New Mexico Public Service Commission**, Bataan Memorial Building, Santa Fe, NM 87503, (505) 827–3361

*New Mexico State Engineer's Office**, Bataan Memorial Building, Santa Fe, NM 87503 (505) 827–2423

*New Mexico State Planning Office**, 505 Don Gaspar Avenue, Santa Fe, NM 87503, (505) 827–5191

Other Organizations

Public Service Company of New Mexico, Alvarado Square, P.O. Box 2268, Albuquerque, NM 87158, (505) 848–2700

Woodward-Clyde Consultants, Inc., 3 Embarcadero Center, Suite 700, San Francisco, California 94111, (415) 956–7070

Public and University Libraries

Reading copies of the NMGS EIS and associated Technical Reports will be available at the following public and university libraries:

State/Public Libraries

Albuquerque Public Library, 501 Copper Avenue NW, Albuquerque, NM 87102

Aztec Public Library, 201 W. Chaco, Aztec, NM 87401

Crownpoint Community Library, c/o Lioness Club, P.O. Box 731, Crownpoint, NM 87313

Cuba Public Library, Box 5, La Jara, Cuba, NM 87027

Farmington Public Library, 302 N. Orchard, Farmington, NM 87401

Gallup Public Library, 115 W. Hill Avenue, Gallup, NM 87301

Mother Whiteside Memorial Library (Public), 525 W. High Street, P.O. Box 96, Grants, NM 87020

New Mexico State Library, 326 Don Gaspar Avenue, Santa Fe, NM 87503

Harwood Foundation Library, 25 LeDoux, P.O. Box 766, Taos, NM 87571

University/College Libraries

University of New Mexico, General Library, Albuquerque, NM 87131

Navajo Community College Library, Shiprock Branch, P.O. Box 580, Shiprock, Arizona 87420

Northern New Mexico Community College, P.O. Box 250, Espanola, NM 87532

San Juan College, 4601 College Blvd., Farmington, NM 87401

University of New Mexico, Gallup Campus, Learning Resources Center, 200 College Road, Gallup, NM 87301

New Mexico State University/Grants, 1500 Third Street, Grants, NM 87020

New Mexico Highlands University, Connelly Library, National Avenue, Las Vegas, NM 87701

College of Santa Fe, Fogelson Memorial Library, St. Michael's Drive, Santa Fe, NM 87501

[FR Doc. 82–29529 Filed 11–5–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Intent To Prepare an Environmental Impact Statement; Outer Continental Shelf; Oil and Gas Leasing Proposals

Pursuant to § 1501.7 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act of 1969, the Department of the Interior is announcing its intent to prepare Environmental Impact Statements (EIS) for the offshore oil and gas leasing proposals known as Outer Continental Shelf (OCS) Sales Nos. 82, 85, 88, 89, 90, 92, 94, 98, and 102.

The EIS analysis for each of these proposals will focus on the potential environmental effects of leasing the identified area. Alternatives to be considered in each EIS include options to modify, delay, or withdraw the proposed lease offering. Each EIS will also include an environmental description of the entire planning area in order to provide the best and most complete information available for decisionmaking.

Federal, State, or local governments, environmental groups, and interested individuals having questions concerning the proposed action on the EIS and those wishing to assist the Minerals Management Service in determining the scope of the EIS should contact the individuals listed in each of the following sections.

1. OCS Sale No. 82—North Atlantic Planning Area. This proposed sale is presently scheduled for February 1984. The draft EIS is tentatively scheduled for release in May 1983. Comments bearing on the scope of this EIS should be addressed to Richard Wildermann, Chief, Environmental Assessment Division, Minerals Management Service, Atlantic OCS Region, 26 Federal Plaza, Federal Building, Suite 32–120, New York, New York 10278, telephone (212) 264–5580 or Archie Melancon, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston,

Virginia 22091, telephone (202) 343–6264. Comments should be received by February 28, 1983.

2. OCS Sale No. 85—The Barrow Arch Planning Area in Alaska. This proposed sale is presently scheduled for February 1985. The draft EIS is tentatively scheduled for release in May 1984. Comments bearing on the scope of this EIS should be directed to Raymond Emerson, Chief, Arctic Branch, Environmental Assessment Division, Minerals Management Service, Alaska OCS Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by October 28, 1983.

3. OCS Sale No. 88—The Gulf of Alaska/Cook Inlet Planning Area in Alaska. This preposed sale is presently scheduled for October 1984. The draft EIS is tentatively scheduled for release in January 1984. Comments bearing on the scope of this EIS should be addressed to Frederick Sieber, Chief, Sub-Arctic Branch, Environmental Assessment Division, Minerals Management Service, Alaska OCS Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by June 30, 1983.

4. OCS Sale No. 89—The St. George Planning Area in Alaska. This proposed sale is presently scheduled for December 1984. The draft EIS is tentatively scheduled for release in March 1984. Comments bearing on the scope of this EIS should be addressed to Frederick Sieber, Chief, Sub-Arctic Branch, Environmental Assessment Division, Minerals Management Service, Alaska OCS Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service, Mail Stop 644, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by August 31, 1983.

5. OCS Sale No. 90—The South Atlantic Planning Area. This proposed sale is presently scheduled for January 1985. The draft EIS is tentatively scheduled for release in April 1984. Comments bearing on the scope of this EIS should be addressed to Richard Wildermann, Chief, Environmental Assessment Division, Minerals Management Service, Atlantic OCS Region, 26 Federal Plaza, Federal Building, Suite 32–120, New York, New York 10278, telephone (212) 264–5580, or Archie Melancon, Minerals Management Service (MMS–644), 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by February 28, 1983.

6. OCS Sale No. 92—The North Aleutian Basin Planning Area in Alaska. This proposed sale is presently scheduled for April 1985. The draft EIS is tentatively scheduled for release in July 1984. Comments bearing on the scope of this EIS should be addressed to Frederick Sieber, Chief, Sub-Arctic Branch, Environmental Assessment Division, Minerals Management Service, Alaska OCS Region, P.O. Box 1159, Anchorage, Alaska 99510, telephone (907) 276–2955, or Ralph Ainger, Minerals Management Service MMS–644), 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by December 31, 1983.

7. OCS Sale No. 94—Eastern Gulf of Mexico Planning Area; Sale No. 98—Central Gulf of Mexico Planning Area; and sale No. 102—Western Gulf of Mexico Planning Area. These sales are tentatively scheduled for May 1985 (Sale No. 98); August 1985 (Sale No. 102); and November 1985 (Sale No. 94). The draft EIS is tentativley scheduled for release in August 1984. Comments bearing on the scope of the EIS should be addressed to Douglas Elvers, Chief, Environmental Assessment Division, Mineral Management Service, Gulf of Mexico OCS Region, P.O. Box 7944, Metarie, Louisiana 70010, telephone (504) 837–4720, or Richard Miller, Minerals Management Service (MMS–644), 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (202) 343–6264. Comments should be received by February 28, 1983.

Dated: November 2, 1982.

Harold Doley,

Director, Minerals Management Service.

[FR Doc. 82-30606 Filed 11-5-82; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 22, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 23, 1982.

Bruce MacDougal,

Acting Chief of Registration, National Register.

CONNECTICUT

Hartford County

New Britain, *Walnut Hill Park*, W. Main St.

New Haven County

Waterbury, *Bishop School*, 178 Bishop St.
Waterbury, *Waterbury Clock Company (The Movement Shop Complex)*, North Elm, Cherry Sts. and Cherry Ave.

GEORGIA

Crisp County

Cordele, *United States Post Office*, 102–104 6th St.

KENTUCKY

Clark County

Winchester, *Hickman, William, House*, 31 W. Hickman St.

Graves County

Mayfield, *U.S. Post Office*, 9th St. and Broadway

Oldham County

Goshen vicinity, *Hermitage, The*, Off U.S. 42
Goshen vicinity, *Locke-Mount House*, S of Goshen off U.S. 42
LaGrange vicinity, *Sale, Reuben, House*, 3700 Smith Lane

MICHIGAN

Chippewa County

Sugar Island, *Church, Philetus S., House*, North Shore Rd.

Ingham County

Lansing, *Moon, Darius B., House*, 216 Huron St.

Kent County

Grand Rapids, *Loraine Building*, 124 E. Fulton St.

Washtenaw County

Ann Arbor, *First National Bank Building*, 201 S. Main St.

MISSISSIPPI

Clairborne County

Alcorn vicinity, *Canemount*, N of Alcorn off MS 552

Washington County

Greenville, *Atterbury House*, 148 N. Broadway

MISSOURI

Jackson County

Kansas City, *Tocama, The (Netherlands Hotel)*, 3835 Main St.

MONTANA

Valley County

Fort Peck, *Fort Peck Theatre*, Missouri Ave.

NEW JERSEY

Burlington County

Pemberton vicinity, *Jones, Benjamin, House (Halstead)*, Pemberton-Browns Mills Rd.

Hudson County

Jersey City, *Hamilton Park Historic District Extension (Boundary increase)*, Jersey Ave. and 10th St.

Morris County

Chatham, *Bower, David S., House (Harvey M. Lum House)*, 427 Main St.
Long Valley vicinity, *Flocktown Schoolhouse*, Flocktown and Naughright Rds.

Warren County

Phillipsburg vicinity, *Hixson-Skinner Mill Complex*, Still Valley Rd.

OHIO

Coshocton County

Gambier vicinity, *Nichols, Eli, Farm*,

Cuyahoga County

Cleveland, *Wade Park District*, Roughly bounded by E. 105 St., East Blvd., Chester and Euclid Aves.

Franklin County

Columbus, *Columbus Transfer Company Warehouse*, 55 Nationwide Blvd.

Greene County

Yellow Springs vicinity, *Grinnell Mill Historic District*, Grinnell Mill and Bryan Park Rd.

Cuyahoga County

Cleveland, *Allen Memorial Medical Library*, 11000 Euclid Ave.

Hamilton County

Cincinnati vicinity, *Pine Meer (William C. Schott House,)*, 5336 Cleves-Warsaw Pk.
Cincinnati, *Bauer Apartments*, 2015–2017 Madison Rd.
Montgomery, *Blair House*, 7844 Remington Rd.

Lorain County

Lorain, *Antlers Hotel*, SW. Erie and Washington Aves.

Meigs County

Rock Springs, *Meigs County Fairgrounds, Grandstand and Racetrack*, OH 124

Mercer County

Celina, *Celina Main Street Commercial Historic District*, Roughly bounded by Walnut, W. Livingston, Ash and Warren Sts.

Morrow County

Mount Gilead, *Trimble, James S., House*, 187 Iberia St.

Muskingum County

Zanesville, *Fairmont Avenue Historic District*, Fairmont Ave.

VIRGINIA

Alexandria (Independent City), *Stabler-Leadbeater Apothecary Shop*, 105–107 S. Fairfax St.

Henry County

Stanleytown, *Stoneleigh*, VA 606

Richmond County

Simons Corner, *Woodford*, VA 610
Staunton (Independent City), *Oakdene*, 605 E. Beverley St.

WISCONSIN

Dane County

Madison, *First Church of Christ Scientist*, 315 Wisconsin Ave.

Sheboygan County

Sheboygan, *Kohler, John Michael, House*, 608 New York Ave.

[FR Doc. 82-30612 Filed 11-5-82; 8:45 am]
BILLING CODE 4310-70-M

Canaveral National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 1:00 p.m. on Thursday, December 2, 1982, in the City Council Chambers of the Titusville City Hall, 555 South Washington Avenue, (U.S. 1), Titusville, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development and operation of the Canaveral National Seashore. The agenda will include reorganization of the Commission and a discussion of the seashore's current operational thrusts.

The members of the Advisory Commission are as follows:

Mr. James Reinman, Chairman
Mr. James Powell
Mr. Ney C. Landrum
Ms. Doris Leeper
Mr. Sion Faulk
Mr. Peter E. Cardiff

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, Post Office Box 2538, Titusville, Florida 32780, Telephone 305/867–4675. Minutes of the meeting will be available for public inspection at part headquarters approximately 4 weeks after the meeting.

Dated: October 28, 1982.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 82-30609 Filed 11-5-82; 8:45 am]
BILLING CODE 4310-70-M

Standards for Documentation of Historic Buildings, Sites, Structures or Objects

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service announces the availability of proposed documentation standards for public comment and review. These standards are intended for the use of Federal, State, local, and private agencies and by individuals who prepare documentation for inclusion in the Historic Amercian Buildings Survey (HABS) and Historic American Engineering Record (HAER) collections in the Library of Congress. Such documentation is submitted to the National Park Service's HABS/HAER office in Washington for review and accpetance into the HABS and HAER collections, or to the National Park Service's regional offices for review and acceptance and, if accepted, subsequent transmittal to the HABS/HAER office in Washington.

ADDRESS: The proposed documentation standards are available from the HABS/HAER office, Attn: Ms. Kim Hoagland, National Park Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert J. Kapsch, Chief, HABS/HAER (Telephone: 202–272–3527)

SUPPLEMENTARY INFORMATION: The HABS and HAER programs are the national historical architectural and engineering documentation programs of the National Park Service which produce documentation incorporated into the HABS and HAER collections in the Library of Congress. The documentation produced, which is generally in the form of measured drawings, photographs, and written data, is made available by the Library of Congress to the public, researchers, and scholars.

These standards are intended for use in the development of HABS and HAER documentation. HABS and HAER documentation is developed in a number of ways. First, and most usually, the National Park Service employs summer teams of student architects, engineers, historians, and architectural historians to develop HABS and HAER documentation under the supervision of National Park Service professionals. Second, these standards are intended

for use by the National Park Service for producing HABS and HAER documentation in conjunction with restoration or other preservation treatment drawings of historic buildings entrusted to the National Park Service's care. Third, these standards are intended for those agencies which pursuant to Section 110(b) of the National Historic Preservation Act, as amended, record to HABS or HAER standards those historic buildings or structures about to be demolished or substantially altered as a result of Federal agency action or assisted action (referred to as mitigation documentation projects). Fourth, these standards are intended for the use of those individuals and organizations who wish to prepare documentation to HABS/HAER standards and donate that documentation to the HABS and HAER collections.

These standards form the core of HABS and HAER documentation. They will be supplemented by other material describing more specific guidelines such as line weights for drawings, preferred techniques for architectural photography and formats for written data. This supplemental material will be developed from the final HABS/HAER standards. Based on public comment received, these standards will be appropriately revised and issued as the final HABS/HAER standards for architectural and engineering documentation projects.

Russell T. Dickenson,

Director, National Park Service.

[FR Doc. 82-30811 Filed 11-5-82; 8:45 am]

BILLING CODE 4310-70-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

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 164030 (Sub-II–1TA), filed October, 1982. Applicant: ALBERTI VAN & STORAGE CO., INC., 18930 Gaithersburg Laytonsville Road, Gaithersburg, MD 20879–4197. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Household goods, as defined,* between points in MD, VA, WV and the DC, on the one hand, and, on the other, points in the US (except AK and HI). An underlying ETA seeks 120 days authority. Applicant intends to interline with other carriers at Atlanta, GA; Biloxi, MS; Boston, MA; Columbus, OH; Chicago, IL; Jacksonville, FL; Minneapolis, MN; Nashville, TN; Philadelphia, PA; San Antonio, TX; Salt Lake City, UT; St. Louis, MO; San Diego, CA; Seattle, WA. Supporting shipper(s): US Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 163846 (Sub-II–1TA), filed October 20, 1982. Applicant: MALO INC., d.b.a. CHARTER BUS SERVICE, 1630 Westwood Ave., Cincinnati, OH 45214. Representative: Norman A. Murdock, 4037 Glenway Ave., Cincinnati, OH 45205. *Passengers and their baggage,* between points in the states of OH, KY, IN, WV, PA, TN, and MI for 270 days. Supporting shipper(s): Seton Council Knights of Columbus, 4301 Glenway Ave., Cincinnati, OH 45205, Price Hill/Western Hills Kiwanis Club, 10152 Zig Road, Cincinnati, OH 45242, St. Simon's Men's Social Club, 825 Pontius Road, Cincinnati, OH 45238.

MC 153287 (Sub-II–4TA), filed October 20, 1982. Applicant: DRESSER TRANSPORTATION SERVICES, INC., 400 W. Wilson Bridge Road, Worthington, OH 43085. Representative: George C. Sanders, 4445 Weaver Court North, Hilliard, OH 43026. Conrtract Irregular: *Mining machinery parts and equipment, materials and supplies used in the manufacture and repair of mining machinery* between Columbus, Ohio on the one hand and on the other all points in AL, CO, IL, IN, KY, MD, MI, NV, NJ, NY, PA, TN, UT, VA, WV, WY for 270 days. Under continuing contract with Jeffrey Mining Machinery Division of Columbus, OH. Supporting shipper(s): Jeffrey Mining Machinery Division, Dresser Industries Inc., 274 E. First Ave., Columbus, OH 43216.

MC 109856 (Sub-II–1TA), filed October 21, 1982. Applicant: MERCURY VAN SERVICE, INC., 18930 Gaithersburg-Laytonsville Road, Gaithersburg, MD 20879–4197. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Household goods, as defined,* between points in MD, VA, WV and the DC, on the one hand, and, on the other, points in the US (except AK and HI) for 270 days. An underlying eta seeks 120 days authority. Applicant intends to interline with other carriers at New Orleans, LA; Denver, CO; Kansas City, MO; Norfolk, NE; Los Angeles, CA; Chicago, IL; Pontiac, IL; Indianapolis, IN; Hartford, CT; and Macon, GA. Supporting shipper(s): U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 163937 (Sub-II–1TA), filed October 19, 1982. Applicant: RELIABLE TRANSPORT, INC., 1520 Waynesburg Rd., SE., Canton, OH 44707. Representative: Stephen L. Oliver, 275 E. State St. Columbus, OH 43215. *Coal,* between Guernsey County, OH, on the one hand, and, on the other, Monroe, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Camp Corporation, 1220 E. Elm Ave., Monroe, MI 48161.

MC 164294 (Sub-II–1TA), filed October 19, 1982. Applicant: RUDDLE TRUCKING, INC., P.O. Box 123, Riverton, WV 26184. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Lumber and lumber products,* from Pendleton and Grant Counties, WV, to points in KY, IL, IN, TN, OH, VA, MD, PA, NJ, NY, NC, SC, and DE. An underlying ETA seeks 120 days authority. Supporting shipper(s): Allegheny Wood Products, Inc. of Petersburg, WV.

MC 146807 (Sub-II–32TA), filed October 19, 1982. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131 Wilkes Barre, PA 18701. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular, *plastic and plastic products* between points in AL, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, and WI under continuing contract with Exxon Chemical Americas, Pottsville, PA for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): Exxon Chemical Americas, P.O. Box 395, Pottsville, PA 17901.

MC 164292 (Sub-II–1TA), filed October 19, 1982. Applicant: EUGENE HELMICK t/a SOUTHERN BANANA COMPANY, 3712 Mechanicsville Pike, Richmond, VA 23178. Representative: Calvin F. Major, 200 W. Grace St., P.O.B. 5010, Richmond, VA 23220. Contract, irregular: *Bananas, in bulk,* from Charleston, SC; Wilmington, DE; Newark, NJ; Baltimore, MD and New York, NY to Richmond, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Great A & P Tea Co., 2 Paragon Dr., Montvale, NJ 07645.

MC 162983 (Sub-II–1TA), filed October 19, 1982. Applicant: JOSEPH TUZZE d.b.a. TUZZE TRUCKING, 56 Cottage St., Carbondale, PA 18407. Representative: Peter Wolff 722 Pittston Ave., Scranton, PA 18505. *Glass beads* between Carbondale, PA, on the one hand, and, on the other, points in NJ and NY, for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): North Eastern Safety Products, Inc., 60 Dundaff St., Carbondale, PA 18407.

MC 155342 (Sub-II–2TA), filed October 25, 1982. Applicant: GWD EXPRESS, INC., P.O. Box 396, Pioneer, OH 43554. Representative: A. Charles Tell, Baker & Hostetler, 110 E. Broad St., Columbus, OH 43215. *Metal products* between points in Williams County, OH, on the one hand, and, on the other, points in the US west of ND, SD, NE, KS, OK, and TX for 270 days. Supporting shipper(s): Chase Brass & Copper Company, P.O. Box 39548, Solon, OH 44139.

MC 40600 (Sub-II–1TA), filed October 25, 1982. Applicant: THE HATHAWAY TRANSFER, INCORPORATED, 910 S. Belmont Street, Box 518, Bellaire, OH 43906. Representative: F. James Hathaway, President, P.O. Box 518, Bellaire, OH 43906. *Meats and Packing House Products* from points in Belmont County, OH, to points in Monongalia, Marion, Harrison, Barbour, Wentzel, Taylor, Tyler, and Preston Counties, WV for 270 days. Supporting shipper(s): The Rath Packing Co., 108 Dalmation Drive, Bethel Park, PA 15102.

MC 150339 (Sub-2–56 TA), filed October 25, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: R. M. Evans (same as applicant). Contract; irregular: *Industrial air filters,* from Kenly, NC, to points in IL, GA, MA, MI, MS, NJ, NY, OK, TX, MO, OH, PA, IA, DC, VA, FL and WV, under continuing contract(s) with Servodyne Industries, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Servodyne Industries, Inc., P.O. Box 817, Kenly, NC 27542.

MC 129453 (Sub-III–1TA), filed October 25, 1982. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 3901 Grove Port Road, Columbus, OH 43207. Representative: ROBERT J. GALLAGHER, ESQ., 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. *Household Goods,* as defined by the Commission, *General Commodities* (except Class A & B Explosives and Commodities in Bulk) restricted to transportation for the United States Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY for 270 days. An underlying eta seeks 120 days authority supporting shipper(s) (1) Cartwright International Van Lines, Inc., 11901 Cartwright Avenue, Grandview, MO 64030, (2) Wainwright Transfer Corp. of VA, P. O. Box 1854, Quantico, VA 22134, (3) Sunland Moving & Storage, 9700 Railroad Avenue, El Paso, TX 79924, (4) AFI Worldwide Forwarders, 5725 Paradise Drive, Suite 500 Corte Madera, CA 94925, (5) H C & D Forwarders International, Inc., P. O. Box 4475, Burlingame, CA 94010, (6) Starck Van Lines, Inc., RD #1 Burgettstown, PA 15021, (7) Metropolitan Movers, Inc., 10303 Portland Avenue, Tacoma, WA 98445, (8) Sunshine Van & Storage, Inc., 1333 N. Brunnel Parkway, Lakeland, FL 33805, (9) Chip Services, Inc., 431 Hecker Street, Belleville, IL, (10) Gulf Forwarding, Inc., P. O. Box 468, Biloxi, MS 39533, (11) Swift International, Inc., 7901 4th Street, North, Suite 308, St. Petersburg, FL 33735–6500, (12) Metropolitan Van & Storage, Inc., 115 W. Channel Road, Benicia, CA 94510, (13) Central Van & Storage, 1954 A. Friendship Drive, El Cajon, 92020.

MC 164372 (Sub-II–1TA), filed October 25, 1982. Applicant: TAKOMA TRANSFER AND STORAGE COMPANY, INC., 4011 Penn Belt Place, Forestville, MD 20747. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Household goods,* as defined, between points in the United States east of MN, IA, MO, AR, and LA for 270 days. An underlying ETA seeks 120 days authority. Applicant intends to interline with other carriers at Phila., PA; Trenton, NJ; New York, NY; Jacksonville, FL; Pensacola, FL; Cherry Point, NC; and Atlanta, GA. Supporting shipper(s): U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 128504 (Sub-3–2TA), filed October 25, 1982. Applicant: JAMES M. BARNETT and Mrs. JAMES M. BARNETT d.b.a. BARNETT'S MOVING & STORAGE, Rt. 4, P.O. Box 726, Kosciusko, Mississippi 39090. Representative: Mrs. James M. Barnett (same address as applicant). *Used household goods restricted to the transportation of traffic handled for the Department of Defense, General Service Administration,* or *United States Government* between points in the United States. Supporting shipper: there are six (6) support statements attached to the application which may be examined at the Interstate Commerce Commission Regional Office, Atlanta, Georgia.

MC 161054 (Sub-3–1TA), filed October 27, 1982. Applicant: PIPER INDUSTRIES, INC., 1195 Harbor Avenue, Memphis, TN 38113–9990. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, Northwest, Washington, D.C. 20036. *Small electrical appliances,* from Alamogordo, NM, to the facilities utilized by Canton Sales & Storage Co., in Hinds and Madison Counties, MS. Supporting shipper: Canton Sales & Storage Co., P.O. Box 529, Canton, MS, 39046.

MC 128469 (Sub-3–1TA), filed October 27, 1982. Applicant: A & A TRANSFER & STORAGE, INC., 113 Hollywood Blvd., NW., Fort Walton Beach, FL 32549. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036–5391. *Household goods,* between points in the U.S. (including AK and HI, but excluding ND and MT), restricted to the transportation of traffic handled for or on behalf of the U.S. Government. Support for this application is provided in a traffic exhibit, as authorized by Commission Order of September 13, 1982.

MC 120905 (Sub-3–1TA), Filed October 27, 1982 Applicant: F & S

MOVING & STORAGE, INC., 250 East Bayview Avenue, Biloxi, MS 39503. Representative: David Earl Tinker 1000, Connecticut Ave., NW., Suite 1112, Washington, DC 20036–5391. *Household goods,* between points in the U.S. (including AK and HI, but excluding ME, ND and SD), restricted to the transportation of traffic handled for or on behalf of the U.S. Government. Support for this application is provided in a traffic exhibit, as authorized by Commission Order of September 13, 1982.

MC 150423 (Sub-3–2TA), filed October 27, 1982. Applicant: SOUTHERN CONTAINER TRANSPORT, INC., 3306 Palm Island Road, Jacksonville Beach, FL 32250. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except classes A and B explosives, household goods, commodities in bulk and hazardous materials),* between points in Chatham County, GA, on the one hand, and, on the other, points in the United States east of the Mississippi River. Supporting shipper: Barber Blue Sea, Travis Field Road, P.O. Box 186, Savannah, GA 31402.

MC 164407 (Sub-3–1TA), filed October 27, 1982. Applicant: M/A–COM TRANSPORTATION, INC., P.O. Box 199, Catawba, NC 28609. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *General commodities, except Classes A and B explosives,* between points in the U.S., except AK and HI, under continuing contract with M/A–COM, Inc. and its wholly owned subsidiaries. Supporting shipper: M/A–COM, Inc., P.O. Box 199, Catawba, NC 28609.

MC 164371 (Sub-3–1TA), filed October 25, 1982. Applicant: COMMODITY CARRIER CORPORATION, 942 Escambia Street, Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Lumber,* from points in Georgia to Jacksonville, FL; *Pallets,* from Jacksonville, FL to points in Georgia; *Brick,* from Augusta and Macon, GA and Columbia, SC to Jacksonville, FL; *Steel,* from Jacksonville, FL to points in the United States in and east of ND, SD, NE, KS, OK and TX; *Masonry and Cement,* from Harleyville, SC and Atlanta, GA to Jacksonville, FL; from Jacksonville, FL to points in Georgia on and south of Interstate 20; *Fencing and Fencing Materials,* between Jacksonville, FL on the one hand, and, on the other, points in NY, NJ, MD, PA, NC, SC, GA and AL. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the ICC Regional Office, Atlanta, GA.

MC 164398 (Sub-3–1TA), filed October 29, 1982. Applicant: CAMION'S, INC., 744 Forestdale Boulevard, Birmingham, AL 35214. Representative: Gerald D. Colvin, Jr., 601–09 Frank Nelson Building, Birmingham, Alabama 35203—3668. *Contract carrier;* Irregular Routes; *General Commodities (except Classes A and B explosives, commodities in bulk, and Household Goods),* Between points in the US (except AK and HI) under continuing contract with Decor, Inc. Supporting shipper: Decor, Inc., 3900 Commerce Ave., Fairfield, AL 35064.

MC 164097 (Sub-3–1TA), filed October 29, 1982. Applicant: GREENVILLE SOUTH TOURS, INCORPORATED, 111 North Main Street, Greenville, SC 29602. Representative: Archibald W. Black, 109 East North Street, Greenville, SC 29602. *Passengers and their baggage in charter and special operations* beginning and ending at points in Anderson, Greenville, and Spartanburg Counties SC and extending to points in GA, NC and TN. Supporting shipper(s): Hyatt Regency, 220 North Main St., Greenville, SC 29601 and Greenville Chamber of Commerce, P.O. Box 10048, Greenville, SC 29603.

MC 164114 (Sub-3–1TA), filed October 29, 1982. Applicant: NORTH FLORIDA TRANSPORT SERVICE, Route 1, Box 595, Summerfield, FL 32691. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *Contract carrier;* irregular; *General Commodities (except Classes A and B explosives and household goods),* between points in the U.S. under continuing contract(s) with Lykes Pasco Packing Company, Dade City, FL. Supporting shipper: Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525.

MC 149133 (Sub-3–25TA), filed October 29, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Boulevard, Post Office Box 7191, Charlotte, NC 28217. Representative: Charles L. Garrison (same as above). *Contract carrier,* irregular routes; Fans and Accessories, between points in TN, NC, SC and GA. Restricted to service performed under a continuing contract or contracts with Robbins & Meyers, Inc. of Memphis. Supporting shipper: Robbins & Meyers, Inc., 1616 Panama Street, Memphis, TN 38108.

MC 158280 (Sub-3–2TA), filed October 29, 1982. Applicant: W. F. MEADOWS, INC., 6028 Maddox Rd. Morrow, GA 30260. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133. (1) *Shortening, Salad Dressing, Salad Oil, Flour, Paper Products and related Food Items,* from Atlanta, GA; Jackson, MS; Birmingham, AL; Mooreville, IN; and Chattanooga, TN to Tampa, FL; (2) *Dog Food,* from Royston, GA to points in FL, AL, SC, NC, and TN. Supporting shippers: Collins Food Service, 4947 Distribution Dr., Tampa, FL and Delite Feeds, Inc., 301 Railroad St., Royston, GA 30662.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 6992 (Sub-4–7TA), filed October 26, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (same address as applicant). Transporting *household goods, as defined by the Commission,* between points in the U.S. (except AR and HI), under continuing contract(s) with Rockwell International for 270 days. Supporting shipper: Rockwell International, 600 Grant Street, Pittsburgh, PA 15219.

MC 120794 (Sub-4–1TA), filed October 26, 1982. Applicant: O'MARA MOVING & STORAGE, INC., 1240 S. Adams, Freeport, IL 61032. Representative: Michael D. O'Mara, 4 E. South St., Freeport, IL. 61032. *Contract* irregular, *Items used in the production of charcoal grills, gas grills, electric grills, water coolers and water fountains.* Between points IN and IL, and between points in IL and WI, under continuing contracts with King-Seeley Thermos Co. Freeport, IL. Supporting shipper: King-Seeley Thermos Co., 1555 IL 75 East, Freeport, IL. 61032.

MC 145807 (Sub-4–6TA), filed October 22, 1982. Applicant: DERBY TRANSPORT, INC., 609 1st Ave. N., Box 695, Weyburn, Sask., Canada S4H 1P1. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Contract Carrier,* Irregular Routes: *Lumber and wood products,* between points of entry on the International Boundary Line between the U.S. and Canada located in ND, MN and MT, on the one hand, and, on the other, points in IL, IN, MN and IA. *Restriction:* Restricted to performance of a service under a continuing contract or contracts with Burrows Lumber, Inc. of Winnipeg, Manitoba, Canada, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Burrows Lumber, Inc., 301–1200 Pembina Hwy., Winnipeg, Manitoba, Canada R3T 2A7.

MC 149284 (Sub-4–3TA), filed October 25, 1982. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, 1942 7th Street,

Columbus, IN 47201. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: transporting *mineral wool and insulating material* between the facilities of Knauf Fiberglass GMBH located at or near Shelbyville, IN, on the one hand, and, on the other, points in CA, NV, OR and WA for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Knauf Fiberglass GMBH, 240 Elizabeth Ave., Shelbyville, IN 46176.

MC 151726 (Sub-4–2TA), filed October 25, 1982. Applicant: SHEYENNE VALLEY LUMBER CO., POB 276, Leonard, ND 58052. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Building materials,* (1) From points in ID, MT, OR and WA, to points in MN, ND and SD, and (2) from Minneapolis, MN, to points in ND and SD, for 270 days. An underlying ETA seeks up to 120 days authority. Supporting shipper: Reserve Supply Co., POB 1372, 5110 Main Street, Minneapolis, MN 55440.

MC 156461 (Sub-4–4TA), filed October 26, 1982. Applicant: BURWICK'S, INC., Route 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Building materials* from ports of entry on the U.S.-Canada International Boundary line located in MT to points in MT, WA, ID and UT. *Restriction:* Restricted to traffic originating at the facilities of IKO Industries, Ltd. in Calgary, Alberta. Supporting shipper: IKO Industries, Ltd., P.O. Box 1325, 1600 42nd Ave., S.E., Calgary, Alberta, T2P 2L2.

MC 160334 (Sub-41TA), filed October 25, 1982. Applicant: H.J.M. DELIVERY, INC., P.O. Box 06963, Detroit, MI 48206. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Such commodities as are dealt in or used by manufacturers of electrical equipment and supplies and lighting fixtures,* from Croswell, MI and Newark, OH and the commercial zones thereof to Chicago, IL and the commercial zone thereof. An underlying ETA seeks 120 days authority. Supporting shipper: General Electric Supply Company Division of General Electric Company, 777 Church Road, Elmhurst, IL 60126.

MC 160574 (Sub-4–2TA), filed October 21, 1982. Applicant: A. BRANDWEIN & COMPANY, 3190 Doolittle Drive, Northbrook, IL 60062. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603. *Contract,* Irregular: (1) *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between Chicago, IL, and points in its commercial zone, on the one hand, and, on the other, points in IN, IA, MI, OH and WI, under continuing contract(s) with Adams Foam Rubber Company and Ideal Box Company of Chicago, IL, and Harris-Hub Company, Inc., of Harvey, IL; (b) between Edison, OH, on the one hand, and, on the other, points in IN, IL, IA, MI and WI, under continuing contract(s) with J. G. Clark Company of Edison, OH; (c) between Huntingburg and Ferdinand, IN, on the one hand, and, on the other, points in IL, IA, MI, OH and WI, under continuing contract(s) with DMi Furniture Inc. of Huntingburg, IN, and (2) *empty drums, cement and sand* (except in bulk), from Chicago, IL, to Milwaukee, Madison and Beloit, WI; Fort Wayne and Indianapolis, IN, and Cincinnati, OH, under continuing contract(s) with American Backhaulers Corporation of Chicago, IL, for 270 days. Supporting shippers: Adams Foam Rubber Company, Inc. 4737 South Christiana Ave., Chicago, IL 60632; Ideal Box Co. 4800 South Austin Ave., Chicago, IL 60638; Harris-Hub Company, Inc. 15600 South Commercial, Harvey, IL 60426; J. G. Clark Company, Edison, OH 43320; DMi Furniture Inc., State Road 64, P.O. Box 129, Huntingburg, IN 47542, and American Backhaulers Corporation, 407 South Dearborn Street, Room 985, Chicago, IL 60605. 6 Supporting shippers.

MC 163711 (Sub-4–2TA), filed October 26, 1982. Applicant: McCOY OF WISCONSIN, INC., d.b.a. FOODLINER, P.O. Box 956, Monroe, WI 53566. Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601. *Food and related products and gift items* between Green, Dane and LaCrosse Counties, WI on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. Supporting Shipper: Swiss Colony Stores, Inc. and Swiss Colony, Inc. of Monroe, WI.

MC 163948 (Sub-4–1TA), filed October 22, 1982. Applicant: SID AND TINA ROLLINGS d.b.a. ROLLINGS TRUCKING, a partnership, Box 273, Hudson, SD 57034. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103. *Metal products, lumber and wood products and machinery,* between points in Woodbury, Plymouth, Cherokee, Sioux, Lyon, O'Brien and Osceola Counties, IA and Minnehaha, Lincoln, Union, Turner, Hutchinson, and Yankton Counties, SD, on the one hand, and, on the other, points in Nebraska, Doniphon County, KS, Minnehaha County, SD, Nobles County, MN, Sioux County, IA, Dane County, WI, Cass County, ND, Jasper County, IN, and Chicago, IL and points in its commercial zone. Supporting Shipper: Agri-Steel Equipment, 1510 Central, Hawarden, IA 51023.

MC 164365 (Sub-4–1TA), filed October 22, 1982. Applicant: PAUL A. FRANKO, JR., d.b.a. WEST TOWN AUTO BODY, 1313 Sentry Drive, Waukesha, WI 53186. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Metal products* from Waukesha, WI to points in IL, IA, and MN. Underlying ETA seeks 120 days authority. Supporting Shipper: Sullivan Corporation, 809 Philip Drive, Waukesha, WI 53186, J & L Plate Machine Works, 809 Philip Drive, Waukesha, WI 53186, and Gartland Foundries, Inc., 525 Progress Drive, Waukesha, WI 53186.

MC 164381 (Sub-4–1TA), filed October 25, 1982. Applicant: JOHN J. WAGGONER, JR. d.b.a. JOHN WAGGONER TRUCKING, 9300 Fleming Rd., Dexter, MI 48130. Representative: Jack L. Schiller, 111–56 76th Dr. Forest Hills, NY 11375. *Contract,* irregular: transporting *books* from the facilities of Malloy Lithographing, Inc., located at or near Ann Arbor, MI, to Chicago, IL; Pinola, IN and Columbus, OH under account with Malloy Lithographing, Inc., of Ann Arbor, MI for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Malloy Lithographing, Inc. 5411 Jackson Rd., Ann Arbor, MI 48106.

MC 164383 (Sub-4–1TA), filed October 25, 1982. Applicant: JAMES McDONNELL d.b.a. H & M TRUCKING, c/o 2 Markland Dr., Morrision, IL 61270. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602. Ammonium Nitrate fertilizer in bags between LaSalle and Grundy Counties, IL, on the one hand, and, on the other, the Chicago, IL Commercial Zone, for interstate movement to points in the U.S. Supporting shipper: E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

MC 164385 (Sub-4–1TA), filed October 25, 1982. Applicant: BRIGHAM TRUCKING, INC., 4777 E. Duck Lake Road, Grawn, MI 49637. Representative: James M. Leibenguth, Attorney at Law, 445 S. Airport Road, Traverse City, MI 49684. *Contract irregular:* Hauling used automobiles and vans from Traverse City, MI, to points in WHI, OH, MI and FL, under continuing contract with Wares Automobile Sales, Inc., of Traverse City, MI. Supporting shipper: Wares Automobile Sales, Inc., 720 E. 8th St., Traverse City, MI 49684.

MC 164391 (Sub-4–1TA), filed October 26, 1982. Applicant: WAYNE TRANSPORTATION, INC., 32 West 140 Glos, P.O. Box 154, Wayne, IL 60184.

Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601. *Contract;* irregular; *ink, glue, cartons, boxes, fibreboard, pulpboard and materials, equipment and supplies used in the manufacture, sale and distribution thereof* under contract with Field Container corporation and its subsidiaries between points in IL, Detroit and Flint, MI and Edison, OH for 270 days. Supporting shipper: Field Container Corporation, 1500 Nicholas Boulevard, Elk Grove Village, IL, 60007.

MC 164392 (Sub-4–1TA), filed October 26, 1982. Applicant: METZGER & SON TRUCKING COMPANY, Box 8, Silver Lake, IN 46982. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491. *Contract;* irregular; transporting *Feeder livestock conveyors, bins, cribs and grain storage, and materials, equipment and supplies in return movements,* from the facilities of CTB, Inc. at Milford, IN to points in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with CTB, Inc., P.O. Box 632, State Road 15, Milford, IN 46542. Applicant has applied for emergency temporary authority for 120 days. Supporting shipper: CTB, Inc., P.O. Box 632, State Road 15, Milford, IN 46542.

MC 164394 (Sub-4–1TA), filed October 25, 1982. Applicant: J & C CARTAGE, INC. 13231 Conant Avenue, Detroit, MI 48212. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *office supplies, store fixtures, commercial refrigeration equipment and household appliances* between Wayne County, MI and Lucas and Wood Counties, OH. An underlying ETA seeks 120-day authority. Supporting shipper: United Stationers, Inc., 32432 Capital Drive, Livonia, MI 48150.

MC 15317 (Sub-4–2TA), filed October 27, 1982. Applicant: CROWN TRANSIT LINES, INC., 1650 North 14th St., Springfield, IL 62702. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St. Springfield, IL 62703. *Passengers and baggage and small packages incidental thereto in charter and special operations* between Morgan and Sangamon Counties, IL, on the one hand, and points in the U.S. (except AK & HI), on the other hand. Supporting shippers: There are nine (9) statements of support attached with this application.

MC 15735 (Sub-4–37TA), filed October 28, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Rockwell International Corp. and its subsidiaries. Supporting shipper: Rockwell International Corporation of Pittsburgh, PA.

MC 144927 (Sub-4–20TA), filed October 28, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Steve Martin (address same as applicant). *Glassware* from plantsite of J. G. Durand, International at Millville, NJ to Montgomery, AL; Chicago, IL; St. Louis, and Kansas City, MO; Los Angeles, CA; Nashville, TN; Jackson, MS; Dallas, TX; Oklahoma City, OK; Boston, MA; Buffalo, and New York, NY; Pittsburg, PA; Cleveland, Columbus, and Akron, OH; Detroit, MI; Indianapolis, IN; Louisville, KY; Washington, D.C.; Alexandria, VA; and Atlanta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: J. D. Durand International, Wase Blvd., Millville, NJ 08332.

MC 147644 (Sub-4–13TA), filed October 27, 1982. Applicant: J. M. C. TRANSPORT, INC., 1719 Potters Ln., Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. *Such commodities* as are dealt in or used by manufacturers and distributors of vegetable oil products, between Louisville, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Louisville Edible Oil Products, Inc., 1303 S. Shelby St., Box 32540, Louisville, KY 40232.

MC 146761 (Sub-4–2), filed October 28, 1982. Applicant: P. J. TRUCKING, INC., P.O. Box 376, Summit, IL 60501. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 59456, (414) 722–2848. *Contract* irregular: *disinfectant water treatment compound; cleaning, washing, scouring compounds; swimming pool compounds; softeners; textiles; polishing compounds; chemicals; prepared foods; beverage preparations; candy or confectionary; toilet preparations; shampoos; magazines or periodicals; drug or medicines* between points in the Chicago, IL commercial zone, Niles, IL and Wixom, MI on the one hand, and, on the other, points in CA, GA, MI, NJ & TX under a continuing contract with Shaklee Corporation of San Francisco, CA. Supporting shipper: Shaklee Corporation Shaklee Terraces, 444 Market St., San Francisco, CA 94111.

MC 150631 (Sub-4–4TA), filed October 28, 1982. Applicant: HENRY W. FREDENBERG, LTD., Route 1, 2360 Uphoff Road, Cottage Grove, WI 53527. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract* irregular; *food and related products and pet foods* between points in WI on the one hand, and, on the other hand, points within CA, IL, MN, MO and OK. Restriction: restricted to transportation performed under a continuing contract(s) with Miller Surplus Sales. Supporting shipper: Miller Surplus Sales, 1125 Jonathon, Madison, WI 53707.

MC 156088 (Sub-4–5), filed October 28, 1982. Applicant: R & S TRUCK LEASING, INC., 1651 Walker Road, Muskegon, MI 49442. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Pulp, paper, paper tapes and related products,* between Sparta, MI on the one hand, and on the other, points in NJ. An underlying ETA seeks 90 days authority. Supporting shipper: Tesa Corporation, 324 Union Avenue, Sparta, MI 49345.

MC 164451 (Sub-4–TA), filed October 28, 1982. Applicant: POLYOCK FARMS TRUCKING, INC., Box 43, Zenda, WI 53195. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Contract* irregular; *Plastic and rubber products,* between Chicago, Il on the one hand, and, on the other, points in WI; St. Louis, MO; Detroit, MI; Louisville, KY; and, Cincinnati and Cleveland, OH. Supporting shipper: Arrow Plastic Manufacturing Co., 2332 West Logan Boulevard, Chicago, IL 60647.

MC 164453 (Sub-4–1), filed October 28, 1982. Applicant: CHARLES WEATHERLY d.b.a. WEATHERLY TOURS, 300 Pendleton Avenue, Anderson, IN 46016. Representative: Charles Weatherly (same as above). *Passengers and their baggage in the same vehicle, in charter operations,* between places of origin in the counties of Howard, Grant, Tipton, Hamilton, Marion, Hancock, Madison, Henry and Delaware in the state of IN, and extending to the contiguous continental U.S. and return. Supporting shipper: Wilson Boys Club, Inc., 1017 W. 19th St., P.O. Box 2311, Anderson, IN 46011; Community Action-Madison County Headstart, Anderson, IN 46011; and Anderson Chapter of the Gospel Music Workshops of America, Inc., 2412 Eckhouse, Anderson, IN 46011.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 139973 (Sub-5–16TA), filed October 25, 1982. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Compressors and pumps,* from the facilities of Energair America, Division of Ingersoll Rand Company, Davidson, NC to points in CA, IL, NJ, and TX. Supporting shipper: Ingersoll Rand Company, Piscataway, NJ.

MC 141364 (Sub-5–2TA), filed October 25, 1982. Applicant: AFFILIATED TRANSPORTATION SYSTEMS, INC., 2124 Washington Street, Lawton, OK 73501. Representative: Charles J. Kimball, 1600 Sherman, No. 665, Denver, CO 80203. *Household goods* between points in the U.S. (except AK, HI and ND). Supporting shipper: Department of Defense, Falls Church, VA.

MC 146853 (Sub-5–13TA), filed October 25, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, Iowa 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Such commodities as are dealt in or used by manufacturers and distributors of beer,* between St. Paul, MN; Phoenix, AZ; La Crosse, WI; Seattle, WA and Omaha, NE, on the one hand, and, on the other, Casper, WY. Supporting shipper: J & K, Inc., d.b.a. S & S Distributing, Casper, WY.

MC 148437 (Sub-5–10TA), filed October 26, 1982. Applicant: BORK TRANSPORT, INC., 2843 Ingersoll, Des Moines, IA 50312. Representative: William L. Fairbanks, 2400 Financial Center, Des Moines, IA 50309. *Petroleum products, in bulk,* between points in IL, IA, MN, MO and WI, restricted to traffic originating at or destined to facilities utilized by Ashland Petroleum Company. Supporting shipper: Ashland Petroleum Company, Ashland, KY.

MC 151841 (Sub-5–2TA), filed October 25, 1982. Applicant: R. L. HARRISON TRUCKING CO., INC., 1107 Airlane Dr., Benton, AR 72015. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St. N.W., Washington, DC 20004. *Alcoholic beverages and distilled spirits,* from Louisville, Owensboro, Bardstown, Clermont, KY, and Lawrenceburg, IN, to points in CA and NV. Supporting shipper(s): J. P. Keating Co., Sacramento, CA and American Mart, Las Vegas, NV.

MC 164144 (Sub-5–1TA), filed October 25, 1982. Applicant: BUSTER SHOEMAKE d.b.a. SHOEMAKE EQUIPMENT RENTAL, P.O. Box 82946, Oklahoma City, OK 73148. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Contract, irregular; *beer and malt beverages,* from St. Louis, MO, to points in Shawnee, Norman and Oklahoma City, OK under continuing contracts with Bryson, Inc. Supporting shipper: Bryson, Inc., Oklahoma City, OK.

MC 164272 (Sub-5–1TA), filed October 25, 1982. Applicant: ALAN K. ROBINSON d.b.a. ROBINSON TRUCKING, 6137 NW 6th Street, Lincoln, NE 68521. Representative: Lavern R. Holdeman, 1610 South 70th Street, No. 200, Lincoln, NE 68506. *Metal Products,* from the facilities of Central Nebraska Tubing and Brownie Manufacturing Co., Inc., at or near Waverly, NE, to points in IA, MO, AR and KS.

MC 164367 (Sub-5–1TA), filed October 25, 1982. Applicant: STAPLES TRUCK LINE, INC., P.O. Box 216, Blackwell, OK 74631. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *Sacked flour,* from Blackwell, OK to Austin, Ft. Worth and Mesquite, TX. Supporting shipper: International Multifood Corp., Minneapolis, MN.

MC 164403 (Sub-4–1TA), filed October 26, 1982. Applicant: TRIPCO TRUCKING, 1106 West Sheridan, Shenandoah, IA 51601. Representative: James L. Davis (same as applicant). (1) *Hydraulic lift gates for pick ups, yard windmills, and parts and accessories thereof,* from the facilities of Woodbine Manufacturing at Woodbine, IA to Atlanta, GA and Whittier, CA. (2) *Laundry detergent* from the facilities of Triple K Manufacturing at Shenandoah, IA to Savannah, GA. Supporting shippers: Woodbine Mfg., Woodbine, IA and Triple K Mfg., Shenadoah, IA.

MC 164384 (Sub-4–1TA), filed October 25, 1982. Applicant: A. H. CHANEY, INC., 9900 Woody Drive, El Paso, TX 79925. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. *Sand, rock, gravel, precoated rock, asphalt materials, ores and minerals, in bulk,* between points in Gaines County, TX, on the one hand, and, on the other, points in Lea, Roosevelt, Curry and Quay Counties, NM. Supporting shippers: Aristera Company, Lubbock, TX.

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 159142 (Sub-6–3TA), filed October 22, 1982. Applicant: C AND C TRANSPORTATION, 6275 E. 39th Ave., Denver, CO 80207. Representative: Ross Van Derhule (same as applicant). *Meat, meat products, and meat byproducts* (1) between Denver, CO, on the one hand, and, on the other, points in IL, IN, MI, NY, OH, and PA, and (2) between Denver, CO, on the one hand, and, on the other, Phoenix, AZ; San Francisco, CA; Minneapolis, MN; St. Louis, MO; El Paso, TX; Houston, TX; and Seattle, WA; for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Cattle King Beef Company, 5590 High St., Denver, CO 80216; Mr. Steak, Inc., 5100 Race Ct., Denver, CO 80216.

MC 164400 (Sub-6–1TA), filed October 26, 1982. Applicant: CHEROKEE TOURS, 7313 Fairytale St., Citrus Heights, CA 95610. Representative: Denis S. Fowler (same as applicant). *Passengers and their baggage* in the same vehicle in special and charter operations between CA, OR, WY, NV, UT, AZ, AK and ports of entry on the U.S.-Canadian border in WA, ID and MT for 180 days. Supporting shippers: There are 5 shippers. Their statements may be examined in the office listed.

MC 42487 (Sub-6–72TA), filed October 25, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract carrier,* Irregular routes, *Salt in packages and blocks.* From Clearfield, Lake Point, Little Mountain, Saltair, and Solar, UT to points in IL, IN, IA, MO, OH and WI, for 270 days. Supporting shipper: Domtar Industries, Inc., 4825 N. Scott St., Suite 419, Schiller Park, IL 60176.

MC 161976 (Sub-6–2TA), filed October 20, 1982. Applicant: LORA L. DALLUM d.b.a. DALLUM TRUCKING, 1020 W. 100th Place, Northglenn, CO 80221. Representative: Loral L. Dallum (same as above). Contract Carrier, Irregular routes: Building Materials, between: Santa Fe county, NM and points in CO, for the account of Western Gypsum Co., for 270 days. Supporting shipper: Western Gypsum Co., P.O. B. 2636, Santa Fe, NM 87501.

MC 93734 (Sub-6–1TA), filed October 26, 1982. Applicant: DeWITT TRANSFER & STORAGE CO., P.O. B. 82109, San Diego, CA 92138. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20423. *Household goods, as defined by the Commission, General Commodities* (except Class A & B explosives and Commodities in Bulk) restricted to the transportation for the U.S. Government, between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT,

VA, WA, MD, WV, WI, and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 9 shippers. Their statements may be examined in the office listed.

MC 161930 (Sub-6–2TA), filed October 25, 1982. Applicant: FLEENOR BROS. LTD., 328 Panorama Crescent, Courtenay, B.C., Canada V9N 6V2. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. *Contract carrier*—irregular routes: (1) *Red cedar skakes and shingles* from the ports of entry on the international boundary line between the U.S. and Canada located in WA, to points in AZ and CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Watkins Sawmills Ltd., P.O.B. 3280, Mission, B.C., V2V 4J4.

MC 154735 (Sub-6–2TA), filed October 22, 1982. Applicant: JAKE'S CRANE & RIGGING, INC., 6109 S. Industrial Rd., Las Vegas, NV 89118. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Mining and Construction Materials, Equipment and Supplies,* between points in NV, WA, OR, NM, CO, OK, TX, WY, ID, MO and OH, and to tack the applied for authority at points in the State of NV with Applicant's existing authority authorizing service between points in CA, NV, UT and AZ, for 270 days. An underlying ETA seeks 90 days authority. Supporting shipper: There are twelve (12) shippers. Their statements may be examined at the Regional Office listed.

MC 146422 (Sub-6–1TA), filed October 25, 1982. Applicant: DELBERT F. JOHNSTON, 2601 Gore Road, Pueblo, CO 81006. Representative: Charles M. Williams, 1600 Sherman St., No. 665, Denver, CO 80203. *Corrugated board containers* from the facilities of Packaging Corporation of America, Inc., at or near Commerce City, CO to points in NM for 270 days. Supporting shipper: Packaging Corporation of America, Inc., 5150 Brighton Blvd, Denver, CO 80022.

MC 159075 (Sub-6–3TA), filed October 22, 1982. Applicant: WILLIAM P. JONES, d.b.a. JONES BROS. TRUCKING, P.O. Box 4414, Missoula, MT 59806. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. (1) *Iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), (1) between Sherman, TX; Peoria and Chicago, IL; and Santa Clara, CA, on the one hand, and, on the other, points in the U.S. (except AZ, CA, ID, IL, MT, MN, NY, ND, OR, PA, SD,, TX, WA, WY, AK, and HI); and (2) between Sedalia, MO, on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Keystone Group, a Division of Keystone Consolidated Industries, Inc., 7000 Southwest Adams St., Peoria, Il 61607.

MC 75138 (Sub-6–1TA), filed October 21, 1982. Applicant: OGDEN TRANSFER AND STORAGE COMPANY, 2105 Wall Ave., Ogden, UT 84401. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. *Household goods,* as defined, (1) between points in the U.S. in and west of MN, WI, IL, MO, AR, and LA, and (2) between those points in the U.S. in and west of MN, WI, IL, MO, AR, and LA, on the one hand, and, on the other, points in the U.S. east of MN, WI, IL, MO, AR and LA (except VT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Department of Defense, 5611 Columbia Pike, Falls Church, VA 22041.

MC 164388 (Sub-6–1TA), filed October 25, 1982. Applicant: FRANK O. WRIGHT, d.b.a. "PARKINSON T & T", 240 King St., Delta, CO 80416. Representative: Dale E. Isley, Esq., 50 S. Steele St., No. 330, Denver, CO 80209. *General Commodities* (except Classes A & B explosives, commodities in bulk, and hazardous materials) between points in Mesa, Delta, Montrose, Gunnison and Denver Counties, CO for 270 days. There are eleven supporting shipper statements attached to this application which may be inspected at the San Francisco Regional Office.

MC 164389 (Sub-6–1TA), filed October 25, 1982. Applicant: DALE A. SEVERNS, JR., 10062 Chase St., Broomfield, CO 80020. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: (1) *Machinery, metal products and commodities which because of their size or weight require the use of special handling or equipment, T1(a) between Westminster, CO on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with the Apparatus Division of General Cable Co. of Westminster, CO; (b) between Sumter, OR, Denio, NV, Humboldt, AZ, Price, UT, and Denver, CO commercial zones on the one hand, and on the other, points in the U.S. (except AK and HI), under continuing contract(s) with American Mine Services, Inc. of Denver, CO; (2) Lumber and wood products,* (a) between points in CA, ID, MT, WA and OR on the one hand, and, on the other, points in CO, WY and KS under continuing contract(s) with Click Lumber Co. and Geddes Lumber Co., both of Denver, CO, for 270 days. Supporting shippers: American Mine Services, Inc., 4705 Paris St., Denver, CO 80239; Click Lumber Co., 1711 W. Colfax, Denver, CO 80204; Geddes Lumber Co., 1711 W. Colfax, Denver, CO 80204; and General Cable Co. Apparatus Division, 5600 W. 88th Ave., Westminster, CO 80030.

MC 164104 (Sub-6–3TA), filed October 21, 1982. Applicant: SITTER'S TRANSPORT LIMITED, 406 1st Ave., Kindersley, Saskatchewan S0L 1S0. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Ground clay* from Christmas Valley, OR to points on the U.S.-Canada International Boundary Line in ID, MT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Oil-Dri West, Inc., Christmas Valley, OR 97641.

MC 126327 (Sub-6–11TA), filed October 25, 1982. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Metal frames and plastic articles,* from Maricopa and Pinal Counties, AZ, to points in Santa Clara County, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Memorex Corporation, 2400 Condensa St., Santa Clara, CA 95051.

MC 153082 (Sub-6–2TA), filed October 25, 1982. Applicant: TRANS CONTINENTAL TRANSPORT, INC., 2661 Federal Way, P.O. Box 7583, Boise, ID 83707. Representative: Paul R. Blomberg (same as applicant). *Metal products* (except household goods and except class A and B explosives) between points in Jefferson County, AL; Whiteside and Cook Counties, IL; Lake County, IN; Muscatine County, IA; Wayne County, MI; Stark, Cuyahoga and Trumbull Counties, OH; and Northampton and Allegheny Counties, PA, on the one hand, and, on the other, points in Maricopa and Pima Counties, AZ; Denver, Pueblo, El Paso, Larimer, Fremont and Weld Counties, CO; ID; Yellowstone County, MT; Bernalillo County, NM; OR; Dallas and Tarrant Counties, TX; UT; King, Cowlitz, Grays Harbor and Kitsap Counties, WA; and Natrona and Sweetwater Counties, WY, for 270 days. Supporting shipper: Azcon Steel, P.O.B. 501, Pleasant Grove, UT 84062.

MC 164458 (Sub-6–1TA), filed October 28, 1982. Applicant: TERRY ANDERSEN, d.b.a. TERRY ANDERSEN TRUCKING, 5102–70th Ave. N.E., Olympia, WA 98506. Representative: (same as applicant), *Contract Carrier,* Irregular routes: *Furniture and fixtures,* from Kent, WA to points in OR and CA and from CA and OR to Kent, WA for the

account of A-America, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: A-America, Inc. 18405–72nd Ave. S.W. Kent, WA 98188.

MC 41098 (Sub-6–10TA), filed October 27, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street N.W., Washington, D.C. 20006. *Contract,* irregular: *Household goods* between points in the U.S. under continuing contract(s) with Employee Transfer Corporation of Chicago, IL. for 270 days. Supporting shipper: Employee Transfer Corporation of Chicago, IL 60606.

MC 41098 (Sub-6–11TA), filed October 27, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, transporting *general commodities* (except commodities in bulk and classes A and B explosives) between points in the U.S. under continuing contracts with Rockwell International Corporation of Pittsburgh, PA, for 270 days. Supporting shipper: Rockwell International Corporation, 600 Grant St., Pittsburgh, PA 15219.

MC 154510 (Sub-6–2TA) filed October 27, 1982. Applicant: INLAND CORPORATION, P.O. Box 1528, Farmington, NM 87401. Representative: Dale E. Isley, Esq., 50 S. Steele St., No. 330, Denver, CO 80209. *Commodities in bulk,* between points in La Plata, Montezuma, Dolores, San Juan, San Miguel, Ouray, Montrose and Mesa Counties, CO; San Juan, Grand and Emery Counties, UT; McKinley, Rio Arriba and Sandoval Counties, NM; and Apache County AZ, for 270 San Juan, days. Supporting shipper: Shell Oil Co., P.O. Box 2099, Houston, TX 77001.

MC 164187 (Sub-6–1TA) filed October 27, 1982. Applicant: LAN NGUYEN CHU AND TED NGUYEN d.b.a. LUCKY RENO TOURS, 2250 Mission St., San Francisco, CA 94110. Representative: Lan Nguyen Chu (same as applicant). *Passengers and their baggage,* in charter and special operations, between points in San Francisco, Oakland and San Jose, CA on the one hand, and, on the other, points in NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined in the office listed.

MC 138505 (Sub-6–7TA) filed October 28, 1982. Applicant: METROPOLITAN CONTRACT, SERVICES, INC., 6000 South Ulster, Suite 206, Englewood, CO 80111. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Contract, irregular,* transporting *such commodities as are dealt in by retail department stores and hardware stores,* between St. Louis, MO and points in St. Charles and St. Louis Counties, MO, on the one hand, and, on the other, points in Calhoun, Greene, Jersey, Macoupin, Montgomery, Bond, Clinton, Washington, Perry, Randolph, Monroe, St. Clair and Madison Counties, IL, under a continuing contract or contracts with Central Hardware CO. for 270 days. Supporting shipper: Central Hardware Co., 111 Boulder Industrial Drive, Bridgeton, MO 63044.

MC 96931 (Sub-6–2TA) filed October 28, 1982. Applicant: VALDEZ TRANSFER, INC., P.O. Box 6985, Phoenix, AZ 85009. Representative: Marshall Kragen, 1919 Pennsyvania Avenue NW., Suite 300, Washington, D.C. 20006. *Contract carrier,* irregular routes: *semiconductor products and equipment, material, and supplies used in the manufacture thereof,* between points in Maricopa County, AZ, on the one hand, and, on the other, points on the U.S.-Mexico border in AZ, for 270 days. Supporting shipper: Motorola, Inc., Semiconductor Sector, 5005 E. McDowell Road, Phoenix, AZ 85008.

[FR Doc. 821–30601 Filed 11–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 2, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

No. MC–F–14982, filed October 26, 1982. CAROLINA FREIGHT CORPORATION (North Carolina Highway 150 East, P.O. Box 697, Cherryville, NC 28021)—CONTROL—CAROLINA FREIGHT CARRIERS CORPORATION (North Carolina Highway 150 East, Cherryville, NC 28021), and CARDINAL CONTRACT CARRIERS, INC. (P.O. BOX 1728, Concord, NC 28025). Representative: Francis W. McInerny, Suite 502, Solar Bldg., 1000 16th St., N.W., Washington, D.C. 20036.

Carolina Freight Corporation, a non-carrier, seeks authority to acquire control of Carolina Freight Carriers Corporation, a common carrier, Cardinal Contract Carriers, Inc., a contract and a common carrier, and Motor Carrier Insurance, Ltd., a non-carrier. Carolina Freight Carriers Corporation currently controls Cardinal Contract Carriers, Inc., and Motor Carrier Insurance, Ltd., through direct ownership of all of the latters' capital stock. C. Grier Beam, who controls Carolina Freight Corporation, seeks authority to control the carriers through the transaction.

Carolina Freight Carriers Corporation holds authority under No. MC–2253 to transport *general commodities* (with exceptions) and specified commodities including, but not limited to, *textile products, machinery, food and related products, wood products, rubber and plastic products,* etc., over a network of regular and irregular routes between specified points in the United States (except AK and HI).

Cardinal Contract Carriers, Inc., holds authority under Docket No. MC–154105 as a contract carrier to transport *general commodities* (with exceptions) between points in the U.S. under contracts with specified shippers and as a common carrier to transport *general commodities* (with exceptions) between points in the United States (except AK and HI).

Control of Cardinal Contract Carriers, Inc., by Carolina Freight Carriers Corporation was authorized by the Commission in Docket No. MC–F–14605.

Carolina Freight Carriers Corporation presently controls CaroTrans, Inc., which is a transitory company that will go out of existence on consummation of the proposed transaction.

[FR Doc. 82–30600 Filed 11–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

For the following please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–191

Decided: October 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 163781, filed October 22, 1982. Applicant: PRADON CONSTRUCTION & TRUCKING CO., INC., 2020 West 83rd, Odessa, TX 79762. Representative: William D. Lynch, 1003 West 6th Street, Austin, TX 78703, (512) 472–1101. Transporting *Mercer commodities,* between points in TX, OK, LA, NM, CO, WY, AZ, CA, UT, ND, MS, MT, AR, SD, NE, NV, and KS.

MC 164371, filed October 25, 1982. Applicant: COMMODITY CARRIER CORPORATION, 942 Escambia Street, Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Duval County, FL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 164341, filed October 21, 1982. Applicant: ALVIN M. STRICKLAND d.b.a. STRICKLAND TRUCKING, 4519 W. Knox St., Tampa, FL 33614. Representative: Alvin M. Strickland (same address as applicant), (813)–886–0454. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Florida Steel Corporation, of Tampa, FL.

MC 164340, filed October 21, 1982. Applicant: PATTERSON TRUCKING, INC., Box 56, Line Lexington, PA 18932. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *commodities in bulk,* between points in CA, CT, DE, KY, MA, MD, MI, NJ, NY, OH, PA, RI, VA, WV and DC.

MC 164291, filed October 19, 1982. Applicant: CURTIS KNIGHT, E. E. STAFFORD, and B. H. KNIGHT, d.b.a. EVER READY BUS LINE, 6614 South Western Ave., Los Angeles, CA 90047. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067, (213)–879–5955. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Los Angeles County, CA, and extending to points in the U.S. (except AK and HI).

MC 161981, filed October 20, 1982. Applicant: JERRY J. LEVASSEUR d.b.a. LEVASSEUR MOUNTAIN EXPRESS, 16542 Cedar Heights Drive, Pioneer, CA 95666. Representative: Jerry J. LeVasseur (same address as applicant), (209)–295–7015. Transporting *lumber and related products*, between points in OR and WA, on the one hand, and, on the other, points in CA.

MC 150301 (Sub-25), filed October 19, 1982. Applicant: Representative: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Country Roads, Inc., of Belding, MI.

MC 148560 (Sub-14), filed October 22, 1982. Applicant: GOLD STAR, INC., 130 Davidson Ave., Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with First National Supermarkets, Inc., of Maple Heights, OH.

MC 146761 (Sub-5), filed October 22, 1982. Applicant: P. J. TRUCKING, INC., P.O. Box 376, Summit, IL 60501. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Shaklee Corporation, of San Francisco, CA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 1, Room 2379.

MC 124411 (Sub-27), filed October 22, 1982. Applicant: SULLY TRANSPORT, INC., 601 8th St., Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *kerosene*, between St. Paul, MN, on the one hand, and, on the other, points in IA.

MC 96931 (Sub-4), filed October 22, 1982. Applicant: VALDEZ TRANSFER, INC., P.O. Box 6985, Phoenix, AZ 85009. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20006, (202) 466–3778. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Motorola, Inc., Semiconductor Sector, of Phoenix, AZ.

MC 87730 (Sub-31), filed October 20, 1982. Applicant: R. W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 14251 (Sub-9), filed October 21, 1982. Applicant: APPLIED DISTRIBUTION SYSTEMS CORP., 3275 Alum Creek Dr., Columbus, OH 43207. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164301 filed October 20, 1982. Applicant: CAPRI TRANSPORT LTEE, 515 Ste. Catherine St., West, Room 207, Montreal, Quebec, Canada H3B 1B4. Representative: Adrien R. Paquette, 200 St. James St., Room 900, Montreal, Quebec, Canada H2Y 1M1, (514) 842–1864. Transporting *lumber and empty containers*, between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This decision has been made in accordance with statutory provision of the Bus Regulatory Act of 1982 with great weight being given to the mandates set forth in the National Transportation policy.

MC 531 (Sub-467), filed October 20, 1982. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant), (713) 748–1000. Transporting *bulk commodities*, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 2 at 202–275–7030.

Volume No. OP2–272

Decided: October 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2202 (Sub-684), filed October 22, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, (301) 986–1410. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Company, of Chicago, IL.

MC 15643 (Sub-16), filed October 20, 1982. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 82138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036 (202) 785–0024. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with E-Systems, of Dallas, TX.

MC 110683 (Sub-200), filed October 19, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, U.S. Hwy 11, Staunton, VA 24401 Representative: Francis W. McInerny, Suite 502, Solar Bldg., 1000 16th St. NW, Washington, DC 20036, 202–783–8131. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Air Products and Chemicals, Inc., of Allentown, PA.

MC 121473 (Sub-4), filed October 14, 1982. Applicant: VENCO TRUCKING, INC., R.D. 3 Emlenton, PA 16373. Representative: John E. McFate, 229 Elm St., Oil City, PA 16301 (814) 676–2736. Transporting *general commodities*, (except classes A and B explosives and household goods), between points in the U.S, under continuing contract(s) with Pennzoil Products Company, of Houston, TX.

MC 124333 (Sub-40), filed October 19, 1982. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Joseph F. Fogarty (same address as applicant) 302–652–0508. Transporting *petroleum and petroleum products*, between points in DE, NJ, and PA, under continuing contract(s) with F. C. Haab Company, Inc., of Philadelphia, PA, and Ryder Truck Rental, Inc., Division of Ryder System, Inc., of Auburn, MA.

MC 129903 (Sub-21), filed October 21, 1982. Applicant: EMPORIA MOTOR FREIGHT, INC., Route 5, Box 1103, Emporia, KS 66801. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103 (901) 526–2900. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 142913 (Sub-4), filed October 20, 1982. Applicant: TRAVIS TRANSPORT, INC., 3546 Vandalia Rd., Des Moines, IA 50317. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309 (515) 245–4300. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authortiy please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2373.

MC 147853 (Sub-3), filed October 19, 1982. Applicant: MOYER & SONS, INC., 301 Marshall St., P.O. Box 733, Gaithersburg, MD 20877. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877 (301) 840–8565. Transporting *household goods*, between points in the U.S (except AK and HI).

MC 148093 (Sub-2), filed October 20, 1982. Applicant: MIDWEST INDUSTRIAL FUEL, INC., 615 Sumner St., P.O. Box 385, La Crosse, WI 54601. Representative: Joseph E. Ludden, 2707 South Ave. P.O. Box 1567, La Crosse, WI 54601, 608–788–2000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in La Crosse County, WI, on the one hand, and, on the other, points in IA and MN, under continuing contract(s) with Domtar Industries, Inc., Sifto Salt Division, of Schiller Park, IL.

MC 151583 (Sub-4), filed October 21, 1982. Applicant: UTF CARRIERS, INC., Benson Rd., Middlebury, CT 06749. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 153492 (Sub-1), filed October 18, 1982. Applicant: JOHN M. CORCORAN d.b.a. CORCORAN'S DRIVEAWAY, 1713 Bracknel Blvd., Rockford, IL 61103. Representative: John M. Corcoran (same address as applicant) 815–633–7740. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rock River Ford, Inc., of Rockford, IL.

MC 153862 (Sub-3), filed October 18, 1982. Applicant: E & F TRUCKING, INC., R.D. No 3, Denver, PA 17517. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, 717–761–0520. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Tioga, Lycoming, Northumberland, Dauphin, Cumberland, York, Lancaster, Lebanon, Schuylkill, Montour, Columbia, Sulllivan, Bradford, Susquehanna, Wyoming, Luzerne, Wayne, Lackawanna, Pike, Monroe, Carbon, Northampton, Lehigh, Berks, Philadelphia, Montgomery, Chester, Delaware, and Cumberland Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155022 (Sub-5), filed October 21, 1982. Applicant: PROCHNOW FARMS, INC., Rte. 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *such commodities* as are dealt in, used by, and sold by manufacturers and distributors of disposable medical supplies, between points in Cobb County, GA and Middlesex County, NJ, on the hand, and, on the other, those points in the U.S., in and east of ND, SD, CO, and NM.

MC 155143 (Sub-1), filed October 21, 1982. Applicant: NEW DIXIE TRANSPORTATION CORP., P.O. Box 112, Providence Forge, VA 23140. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229,(804) 282–3809. Transporting *ammonium sulfate*, between Hopewell, VA, on the one hand, and, on the other, points in KY, NC, OH, SC, TN, VA, and WV.

MC 157692 (sub-1), filed October 20, 1982. Applicant: KRONEBUSCH FARMS, INC., RR No.1, Box 3, Altura, MN 55910. Representative: Joseph E., Ludden, P.O. Box 1567, 2707 South Ave., La Crosse, WI 54601, (608) 788–2000. Transporting *food and related products*, between points in Manitowoc County, WI, and Wabasha County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160043 (Sub-1), filed October 6, 1982. Applicant: RICHARD GREER TRUCKING, INC., P.O. Box 10864, Mehlville, MO 63129. Representative: B. W. LaTourette, Jr., 11 So. Meramec, Suite 1400, St. Louis MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, between points in the U.S., under continuing contract(s) with (1) United Bags, Inc., (2) Loose Leaf Metals, Inc., (3) Allen Foods, Inc., (4) Halben Foods Manufacturing Co., Inc., (5) Allen Frozen Food Inc., (6) Bensinger's Inc., (7) Northwestern Bottle Company, (8) Krane Manufacture Co., and (9) Clinton, Inc., all of St. Louis, MO and (10) Loose Leaf Hardware, Inc., of West Memphis, AR, (11) Friday Canning Corporation, of New Richmond, WI, (12) Charleswood Laminating, of Wright City, MO, and (13) Golden Dipt Company, of Millstadt, IL.

MC 160302 (Sub-1), filed October 21, 1982. Applicant: THOMAS INDUSTRIES EXPRESS, INC., P.O. Box 769, 1700 Gilvert St., Hopkinsville, KY 42240. Representative: J. D. Youngblood, 207 E. Broadway, P.O. Box 35120, Louisville, KY 40232, (502) 582–3771. Transporting *paper and business forms*, between points in the U.S. under continuing contract(s) with Moore Business Forms, Inc., of Paducah, KY, and (2) *steel bins and steel shelving*, between points in the U.S., under continuing contract(s) with Nestier Corporation, of Dawson Springs, KY.

MC 164062, filed October 14, 1982. Applicant: BIRCHWOOD TRANSPORT, INC., P.O. Box 639, Kenosha, WI 53141. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53103, 414–273–7410. Transporting *such commodities* as are dealt in or used by chain grocers, food business houses, and restaurants, between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Chart House, Inc., of Lafayette, LA, (b) Echo Lake Farm Produce Co., Inc., of Burlington, WI, (c) Evans Brothers Co., Inc., of Waukesha, WI, (d) H. H. Post Incorporated, of Denver, CO, (e) Kenosha Beef International, Inc., and its wholly owned

subsidiary, Birchwood Meat and Provision Co., Inc., both of Kenosha, WI, (f) Packerland Packing Company, Inc., of Green Bay, WI, (g) The Sonneveldt Company, of Grand Rapids, MI, (h) Village Supply, Inc., of Des Moines, IA, (i) Wyatt Distributing Company, Inc., of Warrenton, MO, and (j) McMahon Food Co., Inc., of Noblesville, IN.

MC 164282, filed October 15, 1982. Applicant: GRANDCHAMP TRUCKING, 435 S.W. Liberty Bell Dr., Beaverton, OR 97006. Representative: Joe E. Grandchamp, 2116 Ocean Beach Hwy., Longview, WA 98632, (206) 423–9293. Transporting *building materials,* between points in WA, ID, MT, OR, WY, CA, NV, UT, CO, AZ, NM, on the one hand, and, on the other, points in WA, and OR.

MC 164343, filed October 22, 1982. Applicant: SIOUX LINE LTD., P.O. Box 5531, SU Station, Fargo, ND 58105. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MN, ND, and SD, on the one hand, and, on the other, points in the U.S (except AK and HI).

Volume No. OP2–274

Decided: October 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 64423 (Sub-4), filed October 25, 1982. Applicant: FREY'S MOTOR EXPRESS, INC., R.D. 3, Fox Farm Rd., P.P. Box 196, Phillipsburg, NJ 08865. Representative: James M. Cope (same address as applicant), 215–253–7181. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 135203 (Sub-2), filed October 19, 1982. Applicant: TEPICO, INC., 150 Lincoln Boulevard, Middlesex, NJ 08846. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Synray Corporation, of Kenilworth, NJ.

MC 140493 (Sub-5), filed October 20, 1982. Applicant: R & J INDUSTRIES, INC., P.O. Box 266, Elizabeth, NJ 07207. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 145093 (Sub-3), filed October 22, 1982. Applicant: J. C. TRANSPORT CORPORATION, 49 Roulston Rd., P.O. Box 496, Windham, NH 03087. Representative: Samuel L. Watts, 54 Middlesex Turnpike, Burlington, MA 01803, (617) 273–3530. Transporting *such commodities* as are used in the manufacture, sale, and distribution of computer and computer parts, (1) between points in MA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, MD, ME, MI, NH, NJ, NY, OH, PA, RI, TX, VA, VT, WV, and DC, and (2) between points in MA and points in the U.S. (except AK and HI).

MC 151403 (Sub-2), filed October 15, 1982. Applicant: WM. L. AMMANN, 49 Cardinal Lane, Highland, IL 62249. Representative: Wm. L. Ammann (same address as applicant), 618–654–8269. Transporting *general commodities* (except classes A and B explosives, household goods and bulk commodities), between St. Louis, MO, points in St. Louis, St. Charles, Jefferson, Franklin and Warren Counties, MO, and Clinton, Madison, Marion, Monroe, St. Clair and Washington Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155162 (Sub-1), filed October 15, 1982. Applicant: BRUCE J. HAWLEY, 22920 S.W. 82nd Ave., Tualatin, OR 97062. Representative: Bruce Hawley (same as applicant), (503) 638–6312. Transporting *machinery,* between points in OR, on the one hand, and, on the other, points in CA and WA.

MC 155342 (Sub-1), filed October 22, 1982. Applicant: GWD EXPRESS, INC., P.O. Box 396, Pioneer, OH 43554. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *metal products,* between points in Williams County, OH, on the one hand, and, on the other, those points in the U.S. west of ND, SD, NE, KS, OK, and TX (except AK and HI).

MC 158923 (Sub-1), filed October 25, 1982. Applicant: JOHN R. VALENTINO TRUCKING, R.D. #2, Box 9B, Cochranville, PA 19330. Representative: John R. Valentino (same address as applicant), (215) 593–2186. Transporting *such commodities* as are dealt in or used by animal and poultry feed business houses, between points in CT, NH, VT, OH, IN, ME, MA, and RI.

MC 161033 (Sub-1), filed October 18, 1982. Applicant: CARDINAL CONTAINER, INC., 500 Nordhoff Pl., Englewood, NJ. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (201) 569–2236. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, NY, OH and PA.

MC 163203, filed October 25, 1982. Applicant: MITCHELL A. HAUSKINS d.b.a. MITCH HAUSKINS TRUCKING, Box 213, Elmore, MN 56027. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, (612) 339–4546. Transporting *feed and feed ingredients and fabricated metal products,* between points in MN, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, NE, ND, SD, and WI.

MC 163223 (Sub-1), filed October 19, 1982. Applicant: FULTON HAULING COMPANY, INC., 11470 North Fulton Industrial Blvd., Alpharetta, GA 30201. Representative: Richard J. Reynolds III, 1400 Candler Bldg., 127 Peachtree St., N.E., Atlanta, GA 30043, (404) 658–8093. Transporting *cement,* between points in GA, NC, SC, and TN.

MC 164222, filed October 14, 1982. Applicant: THE BURKHARDT CORPORATION, 6516 S.W. 20th Court, Plantation, FL 33317. Representative: Gerard J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, 305–434–7621. Transporting *electric lamps, and bulbs, tile, flooring, roofing, cement, lumber and such commodities* used in the sale and manufacture of lumber, between points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN AND VA.

MC 164223, filed October 14, 1982. Applicant: BRUCE HEGNE, d.b.a. HEGNE TRUCKING SERVICE, P.O. Box 2594, Reno, NV 89505. Representative: Robert L. Crowell, 402 North Carson St., P.O. Box 1000, Carson City, NV 89702. Transporting *building materials, food and related products, beer, wine, and alcoholic beverages,* between points in Washoe, Carson and Churchill Counties, NV, and points in CA.

MC 164363, filed October 22, 1982. Applicant: RIGGERS, INC., 11 East Seventh St., Richmond, VA 23224. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th Street NW., Washington, DC 20004, (202) 737–1030. Transporting *commodities which because of their size or weight require the use of special handling or equipment,* between points in MD, NC, SC, VA, WV, and DC.

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–10

Decided: October 2, 1982.

By the Commission, Review Board No. 2, M;embers Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 15735 (Sub-57), filed October 8, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Standard Oil (Indiana) of Chicago, IL.

MC 78644 (Sub-3), filed October 19, 1982. Applicant: COPPES TRANSFER, INC., Box 718, Yarmouth, IA 52660. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting (1) *chemicals*, between points in IA, IL, MN, MO,NE KS, and WI, and (2) *lawn and garden machinery*, between Omaha, NE, and points in Washington County, IA, on the one hand, and, on the other, points in KS, IL, and IN.

MC 96725 (Sub-3), filed October 19, 1982. Applicant: M.SMITH, INC., 131st and 107th Ave., Orland Park, IL 60462. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, (312) 953–0330. Transporting *such commodities* as are dealt in or used by agricultrual equipment, contruction equipment, motor vehicle manufacturers, and lawn and leisure product dealers and manufacturers, between points in the U.S. (except AK and HI).

MC 146234 (Sub-2), filed October 19, 1982. Applicant: BURNHAM TRUCKING COMPANY, INC., Box 393, 4101 W. Burnham St., Milwaukee, WI 53201. Representative: B. A. Klimek, 30 W. Monroe St., Chicago, IL 60603, (312) 346–0300. Transporting *lumber and wood products*, and *metal products*, between points in the U.S. (except AK and HI).

MC 148764 (Sub-7), filed October 13, 1982. Applicant: BUFFALO FUEL CORP., 2445 Allen Ave., Niagara Falls, NY 14303. Representative: August A. Iacovitti (same address as applicant), (716) 285–9101. Transporting (1) *minerals*, (2) *clay, concrete, stone or glass products*, and (3) *steel products*, between points in AL, CT, GA, IL, IN, KY, LA, ME, MD, MA, MI, MN, NH, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and WY.

MC 149054 (Sub-3), filed October 21, 1982. Applicant: THOMAS OVERLAND EXPRESS, INC., P.O. Box 2251, Mobile, AL 36601. Representative: Frank D. Hall S, Suite 202, 1750 Old Springhouse Lane, Atlanta, GA 30338, (405) 451–0401. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 151004 (Sub-5), filed October 12, 1982. Applicant: WARNACO TRUCKING CORP. 350 Lafayette St., Bridgeport, CT 06601. Representative: John F. Ryan (same address as applicant), (203) 579–8006. Transporting *clock parts*, between Dallas, TX, and points in Middlesex County, MA, under continuing contract(s) with Dallas Lighthouse for the Blind, Inc., of Dallas, TX.

MC 160745, filed October 15, 1982. Applicant: ARLYN ROWAN, d.b.a. ARLYN ROWAN TRUCKING, 425 S. Lincoln Ave., Fleming, CO 80728. Representative: Arlyn Rowan (same address as applicant), (303) 265–2121. Transporting *clay, concrete, glass or stone products*, between points in McPherson and Franklin Counties, KS, on the one hand, and, on the other, points in Weld, Larimer, Boulder, Denver, Adams, Jefferson, Logan, Arapahoe, and Morgan Counties, CO, and Laramie County, WY.

MC 163464, filed October 19, 1982. Applicant: TRANS SET CORP., P O. Box 250, Smiths, AL 36877. Representative: W. P. Leffler, P.O. Box 298, Smiths, AL 36877, (205) 298–1667. Transporting *mobile homes, mobile offices, modular structures*, and *portable buildings*, between points in AL and GA.

MC 164115, filed October 19, 1982. Applicant: TRAILCON, INC., 1527 Vandall St., Mendota Hts., MN 55118. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Ramsey County, MN, on the one hand, and, on the other, points in MN, and LaCrosse and Douglas Counties, WI.

MC 164164, filed October 7, 1982. Applicant: MORGAN DALE GRIGGS AND NATHAN MORGAN GRIGGS, d.b.a. N.M. GRIGGS COMPANY, 859 E. Highway 78, Brawley, CA 92227. Representative: Morgan Dale Griggs (same address as applicant), (714) 344–6141. Transporting *construction and farm machinery*, between points in AZ, on the one hand, and, on the other, points in CA.

MC 164194, filed October 13, 1982. Applicant: GOLDEN DONUT COMPANY, 3855 Hamilton Rd., Columbus, GA 31904. Representative: W. H. Tomlinson, 1601 13th St., Suite B, Columbus, GA 31901, (404) 322–8404. Transporting *doughnuts and pastries*, between points in GA, on the one hand, and, on the other, points in AL, under continuing contract(s) with GA–ALA Donut Co., Inc., d.b.a. Krispy Kreme Donut Company, of Columbus, GA, and ITT Continental Baking Company, of Rome, GA.

MC 164354, filed October 20, 1982. Applicant: TITAN TRANSFER INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Transporting *building materials* and *clay, concrete, glass and stone products*, between points in the U.S. (except AK and HI), under continuing contract(s) with TAMKO Asphalt Products, Inc., of Joplin, MO.

For the following, please direct status inquires to Team 4 at 202–275–7669.

Volume No. OP4–017

Decided: November 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 30237 (Sub-48), filed October 19, 1982. Applicant: YEATTS TRANSFER COMPANY, P.O. Box 666, Altavista, VA 24517. Representative: Eston H. Alt (same address as applicant), (804) 369–5695. Transporting *plastic products*, between points in Greenup County, KY, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, MO, AR and LA.

MC 99737 (Sub-5), filed October 18, 1982. Applicant: SUPERLINE TRANSPORTATION COMPANY, INC., 111 Braley Rd., E. Freetown, MA 02717. Representative: John DeGrazia (same address as applicant), (617) 642–7558. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in MA, IL, IN, MI, OH, and WI.

MC 115496 (Sub-139), filed October 19, 1982. Applicant: LUMBER TRANSPORT, INC., P.O. Box 312, Cochran, GA 31014. Representative: Kim G. Meyer, P.O. Box 56282, Atlanta, GA 30303, (404) 523–1717. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141187 (Sub-62), filed October 19, 1982. Applicant: BLUFF CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: Elmer Kernan (same address as applicant), (901) 396–2201. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with American Cyanamid Company of Wayne, NJ and Lakeside Packing Company of Manitowoc, WI.

MC 145797 (Sub-18), filed October 19, 1982. Applicant: NANCY TRANSPORTATION, INC., 11 Hilltown Village Center, Chesterfield, MO 63017. Representative: R. Thomas Grasso (same address as applicant), (314) 532–7035. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146336 (Sub-30), filed October 19, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Valu-Rite Pharmacies, Inc., of Grand Prairie, TX.

MC 146336 (Sub-31), filed October 19, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Glazer's Wholesale Drug Company, Inc., of Dallas, TX.

MC 148407 (Sub-3), filed October 19, 1982. Applicant: CHEMICAL DISTRIBUTORS, INC., 2262 N.W. Nicolai St., P.O. Box 10763, Portland, OR 97210. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Cargill Incorporated, of Lynwood, CA.

MC 149387 (Sub-4), filed October 19, 1982. Applicant: DEAN BRENNAN TRANSPORT, INC., 2529 Hwy 42, Manitowoc, WI 54220. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *food and related products*, between points in the U.S. (except AK and HI). CONDITION: Applicant seeks to convert its permits into a certificate with the filing of this application, therefore issuance of a certificate in this proceeding is subject to coincidental cancellation, of the permits in MC–149387 Sub 1X, issued March 9, 1982, and MC–149387 Sub 2, issued April 29, 1982.

MC 152706 (Sub-7), filed October 19, 1982. Applicant: MIDWEST OIL TRANSIT, INC., P. O. Box 68083, Indianapolis, IN 46268. Representative: Robert B. Hebert, Suite 1600, One Indiana Square, Indianapolis, IN 46204, (317) 632–6262. Transporting *chemicals and related products*, between Louisville, KY, and points in Tazewell and Macon Counties, IL, and Lawrence County, OH, on the one hand, and, on the other, Indianapolis, IN.

MC 163046, filed October 19, 1982. Applicant: VOYAGER II TRAVELS, INC., 3752 E. 127th St., Cleveland, OH 44105. Representative: Christopher L. Gibbon, 1215 Terminal Tower, Cleveland, OH 44113, (216) 781–1212. Transporting *passengers and their baggage*, in special and charter operations, between points in Cuyahoga County, OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 164247, filed October 14, 1982. Applicant: AAA TRANSPORTATION, INC., 14805 E. Moncrieff Pl., Aurora, CO 80011. Representative: Blythe Elkerton (same address as applicant), (303) 371–2990. Transporting *building materials, supplies and equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with AAA Wholesale, Inc., of Aurora, CO.

MC 164267, filed October 19, 1982. Applicant: L. G. MOORE TRUCKING, P. O. Box 48, Modesto, WA 98563. Representative: Jim Pitzer, 15 South Grady, Suite 321, Reston, WA 98055–3273, (206) 235–1111. Transporting *food and related products*, and (2) *lumber and wood products*, between points in WA and CA.

MC 164277, filed October 19, 1982. Applicant: RICHARD C. PUTMAN, d.b.a., R. C. PUTMAN TRUCKING, P. O. Box 105, Caroga Lake, NY 12032. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5868. Transporting *commodities in bulk*, between points in AL, GA, IL, IN, MD, MS, NC, NJ, NY, OH, PA, SC, TN, and VA.

MC 164286, filed October 19, 1982. Applicant: EVANS AND SON TOURS, INCORPORATED, d.b.a CALIFORNIA TOUCH OF CLASS, 2502 W. 115th St., Inglewood, CA 90303. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, Ca 92702, (714) 667–8107. Transporting *passengers and their baggage*, in the same vehicle, in round-trip charter operations, beginning and ending at points in Los Angeles County, CA and extending to points in AZ, NV, OR, WA, CO, TX, OK, and FL.

Volume No. OP–019

Decided: November 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams.

MC 16567 (Sub-9), filed October 15, 1982. Applicant: J. L. SCHEFFLER TRANSPORT, INC., 1801 W. Fulton St., Chicago, IL 60612. Representative: Julius L. Scheffler, Jr., (same address as applicant), (312) 733–4733. Transporting *general commodities* (except classes A and B expolosives, household goods, and commodities in bulk), between points in IL, IN, MI, MN, MO, and WI.

MC 29886 (Sub-388), filed October 19, 1982. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 3408 Wisconsin Avenue NW., Suite 202, Washington, D.C. 20016, (202) 363–1848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S in and west of ND, SD, WY, CO, and NM, on the one hand, and, on the other, points in the U.S (except AK and HI).

MC 51146 (Sub-865), filed October 19, 1982. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Thomas E. Vanderberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7690. Transporting (1) *paper and paper products*, and (2) *plastic products*, between points in the U.S., under continuing contract(s) with Menasha Corporation, of Neenah, WI.

MC 116086 (Sub-3), filed October 21, 1982. Applicant: LAWRENCE FREIGHT LINE, INC., 1321 North 3rd St., Lawrence, KS 66044. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044, (913) 843–0110. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Shawnee, Jefferson, Douglas, Johnson, Miami, Wyandotte, Leavenworth, and Atchison Counties, KS, on the one hand, and, on the other, points in Buchanan, Clinton, Platte, Ray, Clay, Lafayette, Jackson, Cass, and Johnson Counties, MO.

MC 143406 (Sub-8), filed October 12, 1982. Applicant: MICHEL PROPERTIES, INC., Stensersen Lane, Cockeysville, MD 21030. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814, (301) 657–2636. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of the Permits in Nos. MC–143406 (Sub-2), MC–143406 (Sub-3), MC–

143406 (Sub–P4X), MC–143406 (Sub–6), and MC–143406 (Sub-7), served April 28, 1981, May 14, 1981, June 23, 1981, July 22, 1982, and September 21, 1982, respectively. This is a conversion application filed under 49 U.S.C. 10923(e).

MC 144927 (Sub-49), filed October 19, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, US. 24 W., Remington, IN 47977. Representative: Steve Martin (same address as applicant), (219) 261–3461. Transporting *metal products* and *chemicals products*, between points in the U.S. (except AK and HI).

MC 151826 (Sub-7), filed October 21, 1982. Applicant: J & S TRUCK SERVICE, INC., P.O. Box 807, Lexington, NC 27292. Representative: C. Jack Pearce, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, (202) 786–0048. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152267 (Sub-3), filed October 20, 1982. Applicant: JET-REST TRANSPORTATION COMPANY, INC., South Carolina Hwy. 14, Greer, SC 29651. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *machinery*, between points in Greenville County, SC, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 164207, filed October 13, 1982. Applicant: A-LINE, LTD., 2000 S. 71st St., Philadelphia, PA 19142. Representative: Robert B. Einhorn, 3220 P. S. F. S. Bldg. 12 S. 12th St., Philadelphia, PA 19107, (215) 922–1400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MA; CT, NY, NJ, PA, DE, MD, MI, IL, IN, OH, WV, VA, NC, SC, GA, FL, AL, MS, TN, KY, LA, AR, TX, OK, MO, IA, WI, MN, NE, KS, WY, CO, NM, AZ, UT, NV, CA, OR, WA, and DC. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Permits Nos. MC–151710, MC–151710 (Sub-No. 1), and MC–151710 (Sub-No. 2).

MC 164266, filed October 19, 1982. Applicant: MICHAEL LLOYD, d.b.a. PINE TREE TRUCKING, 13912 E. Lomitas, La Puente, CA 91746. Representative: Michael Lloyd (same address as applicant), (213) 333–2421. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Cascade West Transportation Brokers, of Lake Oswego, OR.

MC 164317, filed October 20, 1982. Applicant: E & H TRANSFER, INC., P.O. Box 1303, Woodward, OK 73801. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *Mercer commodities*, between points in OK, on the one hand, and, on the other, points in AR, CO, KS, LA, NM, TX, and WY.

Volume No. OP4–021

Decided: November 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams.

FF 626, filed October 20, 1982. Applicant: BEST FORWARDERS, INC., 4419 Van Nuys Blvd., Suite No. 300, Sherman Oaks, CA 91403. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *freight forwarder*, in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 105457 (Sub-106), filed October 22, 1982. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., Charlotte, NC 28206. Representative: John Luckadoo (same address as applicant), (704) 373-1933. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with E.I. DuPont de Nemours & Company, Inc., of Wilmington, DE.

MC 115557 (Sub-44), filed October 22, 1982. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: VERNE T. MAHOOD, (same address as applicant), (814) 365–5811. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in PA, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an applicatio under 49 USC 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, room 2410.

MC 136086 (Sub-20), filed October 22, 1982. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Ave., Fontana, CA 92335. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. ι840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, KS, MT, NV, NM OK, OR, TX, UT, WA, and WY.

MC 142407 (Sub-5), filed October 21, 1982. Applicant: ROLL-ON, INC., Rt No. ι3, Box 36C, Brevard, NC 28712. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555.Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Clinton County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143036 (Sub-2), filed October 22, 1982. Applicant: CUSTOM TOWING, INC., 5951 Marion Dr., Denver, CO 80216. Representative: David E. Driggers, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861–4028. Transporting *transportation equipment*, between points in CO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150136 (Sub-5), filed October 21, 1982. Applicant: JOE SICILIA, INC., N. 5523 Julia, Spokane, WA 99207. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *farm machinery and implements*, between points in the U.S., under continuing contract(s) with Saunders & Ott, Inc., of Fairfield, WA.

MC 151667 (Sub-8), filed October 22, 1982. Applicant: J. F. LOMMA, INC., 286 Central Ave., S. Kearny, NJ 07032. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, DE, MD, ME, MA, NC, NH, NJ, NY, OH, PA, RI, VT, VA, WV and DC, on the one hand and, on the other, points in the U.S. (except AK and HI).

MC 151726 (Sub-2), filed October 21, 1982. Applicant: SHEYENNE VALLEY LUMBER CO., P.O. Box 276, Leonard, ND 58052. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *building materials*, (1) between points in CA, ID, MT, OR, WA and WY, on the one hand, and, on the other, points in the MN, ND, SD, and WI, and (2) between points in MN, ND, SD, and WI.

MC 152176 (Sub-3), filed October 22, 1982. Applicant: SAIN & HEAVNER TRUCKING, Rt. 1, Box 316, Vale, NC 28168. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211.

(805) 799–9122. Transporting *such commodities* as are dealt in by food supermarkets, between points in the U.S., on the one hand, and, on the other, points in Mecklenburg and Union Counties, NC, under continuing contract(s) with Harris-Teeters Super Markets, Inc., of Charlotte, NC.

MC 162696, filed October 21, 1982. Applicant: GENE MILLER, 1919 Ashland Ave., Sheboygan, WI 53081. Representative: Richard D. Armstrong, 925 Hyland Dr., Stoughton, WI 53589, (608) 873–8929.. Transporting (1) *building materials*, (2) *clothing and related products*, (3) *commodities in bulk*, (4) *food and related products*, (5) *furniture* and *fixtures*, and (6) *pulp, paper and related products*, between points in WI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 164336, filed October 21, 1982. Applicant: WINTERLAND EXPRESS, INC., 1729 13th Ave., N., Grand Forks, ND 58201. Representative: Dale F. Kuzel (same address as applicant), (701) 746–5134.. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, MN, MT, ND, SD, and WI, on the one hand, and, on the other hand, points in the U.S. (except AK and HI).

MC 164356, filed October 22, 1982. Applicant: R. PEDRONCELLI TRUCKING, 27 Vermont Terrace, Southington, CT 06489.. Representative: Joseph Crispino, 25 Berlin Ave., P.O. Box 71, Southington, CT 06489, (203) 628–9617. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Radnor Manufacturing, Inc., of Southington, CT.

Volume No. OP4–023

Decided: November 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams.

MC 42487 (Sub-1063), filed September 13, 1982, previously noticed in the FR issue of September 29, 1982, and republished this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company, of Piscataway, NJ and its wholly-owned subsidiaries Ingersoll-Rand Company, Northern Research & Engineering Co., of Woburn, MA; The Torrington Company, of Torrington, CT; The Torrington Company, of Cairo, GA Clinton, SC, Dahlonega, GA, Honea Path, SC, Rutherfordton, NC, South Bend, IN, Sylvania, GA, Thomaston, CT, Union, SC, Walhalla, SC, Waterbury, CT, and Syracuse, NY; Ingersoll-Rand Company, LCN Closers Division, of Princeton, IL, Ingersoll-Rand Company, Von Duprin Division of Indianapolis, IN, Ingersoll-Rand, Von Duprin Ltd, of Chambly, Quebec, Canada, Ingersoll-Rand Company, Schlage Electronics Division, of Santa Clara, CA; Western Land Roller Company, of Hastings, NE, McCartney Manufacturing Division, of Baxter Springs, KS; Lee Norse Company, of Charlerio, PA, Beckley, WV, Indiana, PA, Benton, IL, Price, UT, Taylorville, IL, Paisley, PA, Wise, VA, and Manson Machine Company, of Taylorville, IL; Sier-Bath Gear Company, Inc., of North Bergen, and Ridgefield, NJ; Terry Corporation, of Windsor, CT, Terry Corp., of East Lyme, CT and Terry Corp. (Terry Southwest), of Houston, TX; California Pellet Mill Company, of San Francisco, CA, Sparks, NV, Crawsfordsville, IN, N. Kansas City, MO, and Freeport, IL; S & S Corporation, of Cedar Bluff, and Bristol, VA, Renewal Parts, Cedar Bluff, VA, E. M. Hill Machine Co., Inc., of Walpole, MA, Schlage Lock Co., of San Francisco, CA Rocky Mount, NC, Security, CO, Colorado Springs, CO and Reno NV. NOTE: The purpose of this republication is to include the subsidiaries of Ingersoll-Rand Company, which were previously ommitted.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–237

Decided: October 28, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 69938 (Sub-4), filed October 14, 1982. Applicant: B V & G TRANSPORT CO., P.O. Box 723, 1557R State St., Granite city, IL 62040. Representative: Joel H. Steiner, 135 South LaSalle St., Suite 2106, Chicago, Il 60603, (312) 236–9375. Transporting *building materials* between points in AR, IL, IN, IA, KS, KY, TN, NE, MO, MI, OH, and WI.

MC 108859 (Sub-88), filed October 14, 1982. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North, Escanaba, MI 49829. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, 608–257–9521. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 115818 (Sub-16), filed October 21, 1982. Applicant: WESTBURY TRANSPORT, INC., 93–59 183rd St., Jamaica, NY 11423. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with Miami Interior Design Warehousing and Delivery, Inc., of Medley, FL.

MC 141988 (Sub-3), filed October 19, 1982. Applicant: C. F. HEARN, INC., 101 Main St. Box 6, Colon, NC 27236. Representative: Cleveland Floyd Hearn (same address as applicant), 919–776–1123. Transporting *passengers* and their baggage in the same vehicle with passengers in charter operations, beginning and ending at points in Alamance, Chatham, Cumberland, Durham, Guilford, Harnett, Hoke, Johnston, Lee, Montgomery, Moore, Orange, Randolph, Robeson, Sampson, and Wake Counties, NC, an extending to points in the U.S. (except AK and HI).

MC 142899 (Sub-5), filed October 20, 1982. Applicant: CORRUGATED CARRIERS, INC., 8998 L. Street, Suite 131, Omaha, NE 68127. Representative: Steven L. Crouse, (same address as applicant), (402) 339–6600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CO, IA, KS, MO, NE, MN, and SD.

MC 144678 (Sub-45), filed October 19, 1982. Aplicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant), 913–648–5540. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears Roebuck and Co., of Chicago, IL.

MC 146329 (Sub-15), filed October 19, 1982. Applicant: W–H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in WI and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148569 (Sub-10), filed October 18, 1982. Applicant: JAMES BRUCE LEE &

STANLEY LEE, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, 900 East 162nd St., South Holland, IL 60473, (312) 596–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Proctor Products, Inc., of Chesterfield, MO; Wilson Leather Company, Inc., of St. Louis, MO; and W. C. Reynolds Co., of St. Louis, MO.

MC 152068 (Sub-5), filed October 14, 1982. Applicant: HOC–EXPRESS, INC., 125 N. Elizabeth, Wichita, KS 67203. Representative: Clyde N. Christey, KS. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, 913–233–9629. Transporting *non-metallic minerals,* between points in MT, SD, NE, WY, and UT, on the one hand, and, on the other, points in AR, KS, NE, LA, OK, and TX.

MC 152238 (Sub-20), filed October 20, 1982. Applicant: CALIFORNIA–AMERICAN TRUCKING, INC., 1215 S. Main St., Yreka, CA 96097. Representative: John R. Harleman, P.O. Box E, Yreka, CA 96097, 916–842–1271. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, IL, IN, MD, MI, NY, OH, OR, PA, TX, UT, WA, and WI.

MC 152928 (Sub-2), filed October 21, 1982. Applicant: SEA RAIL PIGGYBACK SERVICES, INC., 4901 West 31st St., Cicero, IL 60650. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *general commodites* (except classes A and B explosives, household goods, and commodities in bulk), between points in CO, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NY, OH, TN, TX, and VA, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NY, OH, OK, PA, TN, TX, VA, WV, and WI.

MC 153668, filed October 21, 1982. Applicant: CHALLENGE TRANSPORTATION, INC., Route 2, Box 116, Jefferson, TX 75657. Representative: J. Michael Alexander, Suite 301, Allied Bank-Southwest, 5801 Marvin D. Love Freeway, Dallas, TX 75237–2385, (214) 339–4108. Transporting (1) *Mercer commodities,* (2) *machinery* and (3) *metal products,* between points in the U.S. (except AK and HI).

MC 154419 (Sub-3), filed October 20, 1982. Applicant: ENID TRANSPORT, INC., 1303 S. 63th St., Enid, OK 73702. Representative: C. L. Phillips, Classen Terrace Bldg., Room 248, 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3884. Transporting *non-alcoholic beverages* between points in Garfield County, OK, on the one hand, and, on the other, points in TX.

MC 156299 (Sub-2), filed October 19, 1982. Applicant: BILL HILL d.b.a. HILL TRUCKING, 104 Castle Ave., Paragould, AR 72450. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201 (501) 375–3022. Transporting *shock absorbers* between points in the U.S. (except AK and HI), under continuing contract(s) with Monroe Auto Equipment Company of Monroe, MI.

Volume No. OP5–238

Decided: October 28, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 157488 (Sub-2), filed October 19, 1982. Applicant: ROY M. WESSELS, d.b.a. D & K TRANSPORTATION, P.O. Box 818, Lewiston, ID 83501. Representative: Roy Wessels (same address as applicant) (208) 743–3212. Transporting *lumber and wood products,* between points in WA, ID, OR, CA, AZ, ND, SD, UT, CO, WY, NE, NV, MN, IA, KS, and MT, under continuing contract(s) with Inland Forest Products, of Clarkston, WA.

MC 158618, filed October 19, 1982. Applicant: SCHNEIDER TRUCKING CO., INC., 326 East Stonehedge, Suite 19G, Salt Lake City, UT 84107. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (502) 397–9900. Transporting *Mercer commodities* between points in AR, CA, CO, ID, KS, LA, MT, NV, OK, TX, UT, and WY.

MC 159659 (Sub-1), filed October 21, 1982. Applicant: J WAY STERILE SERVICE, INC., 639 Ramsey Avenue, Hillside, NJ 07205. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068 (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contracts(s) with (a) Medical Action Corporation, of Plainview, NY, and (b) South Mountain Medical Company, of Asheville, NC.

MC 160279 (Sub-4), filed October 20, 1982. Applicant: MBPXL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. Transporting *such commodities* as are dealt in by home improvement centers between points in the U.S. (except AK and HI), under continuing contract(s) with Star Lumber & Supply Co., Inc., of Wichita, KS.

MC 160669, filed October 15, 1982. Applicant: SUNRAY COOPERATIVE TRUCKING, INC., Building 123, Naval Shipyard, San Francisco, CA 94124. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518 (415) 825–1774. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Cofco Piggyback Service, of Mount Prospect, IL; Streamline Shippers Association, Inc., of Baltimore, MD; United Shippers Association, Inc., of Cicero, IL; and West Coast Shippers Association, Bright Star Christmas Decorations, Ltd., East-West Shippers Association, and American Cardboard Company, all of Philadelphia, PA.

MC 161248, filed October 20, 1982. Applicant: JAMES L. MANNING d.b.a. DIRECT EXPRESS, 1742 Lonna Dr., Roanoke, VA 24019. Representative: James L. Manning (same address as applicant) 703–366–4680. Transporting *pulp, paper and related products,* between Big Island, VA, on the one hand, and, on the other, Philadelphia, PA and points in Adams, Bucks, Delaware and Montgomery Counties, PA, New Castle County, DE and Middlesex County, NJ, under continuing contract(s) with Owens-Illinois, Inc., of Big Island, VA.

MC 162208 (Sub-1), filed October 20, 1982. Applicant: OUTLAW ENTERPRISES, INC., 2537 Rubidoux Blvd., Riverside, CA 92509. Representative: Miles L. Kavaller, 315 South Beverly Dr., Suite 315, Beverly Hills, CA 90212 (213) 277–2323. Transporting *transportation equipment,* between points in AZ, CA, and NV, on the one hand, and, on the other, points in IL, OH, and OR.

MC 163289, filed October 21, 1982. Applicant: RICHLAND ENTERPRISES, INC., Rural Route 4, Auburn, IN 46706. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204 (317) 638–1301. Transporting *malt beverages,* between points in IN, on the one hand, and, on the other, those points in the U.S. in and east of MN, WI, IL, MO, TN and AL.

MC 163348, filed October 13, 1982. Applicant: CLAUDE P. ROBINSON, d.b.a. C.P. ROBINSON TRUCKING and HOT SHOT SERVICE, P.O. Box 1030, Borger, TX 79007. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706, 713–898–8086. Transporting *Mercer commodities,* between points in

Hutchinson, Potter and Randall Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163458 (Sub-1), filed October 11, 1982. Applicant: McCONNELL TRUCKING COMPANY, Maint St., P.O. Box 42, Tioga, PA 16946. Representative: Henry McConnell, R.D. 1, Round Lake Rd., Savona, NY 14879, 607–583–2132.Transporting *malt beverages,* between points in Monroe County, NY and PA, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the eastern boundaries of Itasca and Koochicing Counties, MN, to the international boundary line between the U.S. and Canada.

MC 163559, filed October 20, 1982. Applicant: GRAPHIC ARTS MACHINISTS, INC., 3901 Perry St., Brentwood, MD 20722. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425–13th St. NW., Washington, DC 20004, (202) 347–1857. Transporting (1) *machinery,* (2) *metal products* and (3) *those commodities which because of size or weight require the use of special equipment,* between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 164199, filed October 12, 1982. Applicant: FALCON EXPRESS, INC., 3343 Sweetbriar Place, Bensalem, PA 19020. Representative: Robert R. Harris, 1730 M St., NW., Suite 501, Washington, DC 20036–4579, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MD, MA, NJ, NY, NC, PA, SC, VA, and DC.

MC 164318, filed October 19, 1982. Applicant: FELMAC LEASING, INC., 3 Balch Street, P.O. Box 2423, Pawtucket, RI 02861. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852, (401) 884–0969. Transporting (1) *pulp, paper and related products,* (2) *printed matter,* and (3) *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Holliston Mills, Inc., of Hyannis, MA.

Volume No OP5–239

Decided: October 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 30018 (Sub-2), filed October 14, 1982. Applicant: MARK A. BOZAICH, d.b.a. SACRAMENTO AUTO TRUCK CO., 525 Galveston St., West Sacramento, CA 95691. Representative: Mark A. Bozaich (same address as applicant), (916) 371–4040. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA in and north of Monterey, Fresno, and Mono Counties.

MC 160929, filed October 5, 1982. Applicant: T-N-T SERVICES, INC., P.O. Box 4107, Santa Ana, CA 92702. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203, (303) 839–5856. Transporting *general commodities* (except classess A and B explosives, commodities in bulk, and household goods), between points in CA, TX, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163718, filed October 20, 1982. Applicant: MAY TRANSPORTATION CO., INC., Route 1, Box 84, N. Little Rock, AR 72217. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 26–2900.Transporting *petroleum products,* between points in AR, LA, MO, MS, OK, TN, and TX.

MC 163788, filed October 12, 1982. Applicant: JOHN R. LADD, d.b.a. INDIAN NATION EXPRESS, 2201 Chandler Rd., Muskogee, OK 74401. Representative: Jack R. Anderson, Suite 305, Reunion Centér, 9 East Fourth St., Tulsa, OK 74103, (918) 583–9000. Over regular routes, transporting *metal products,* between Wagoner, OK and Tulsa, OK, (a) from Wagoner over US. Hwy 69 to junction Oklahoma Hwy 51, then over Oklahoma Hwy 51, then over Oklahoma Hwy 51 to junction Muskogee Turnpike, then over the Muskogee Turnpike and the Broken Arrow Expressway to Tulsa, and return over the same route, serving all intermediate points.

MC 164229, filed October 14, 1982. Applicant: JESSE HUGHES, d.b.a. HUGHES TRANSPORTATION, PO. Box 698, Reform, AL 35481. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting (1) *lumber and wood products,* (2) *metal products,* (3) *machinery,* (4) *building materials,* (5) *rubber and plastic products,* (6) *textile mill products,* and (7) *paper and paper products,* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP5–242

Decided: November 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36788 (Sub-3), filed October 1, 1982. Applicant: DILLON'S BUS SERVICE, INC., 8383 Elvaton Rd., Millersville, MD 21108. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers and their baggage* in the same vehicle with passengers, over regular routes, between Annapolis, MD and Washington, DC. From Annapolis, MD over city streets to MD Hwy 450, then west on MD Hwy 450 to its junction with U.S. Hwy 50 and then west on U.S. Hwy 50 Washington, DC, and return over the same route.

MC 48948 (Sub-26), filed October 22, 1982. Applicant: THE HOCKING CARTAGE COMPANY, 28424 Chieftain Dr., Logan, OH 43138. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, 614–889–2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in OH, on the one hand, and, the other, points in the U.S. (except AK and HI).

MC 141889 (Sub-20), filed October 22, 1982. Applicant: DE BOER, INC., Box 145, Blenker, WI 54415. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and west of WI, IL, MO, AR and LA (except AK and HI).

MC 148678 (Sub-6), filed October 21, 1982. Applicant: McGRATH TRUCKING INC., 229 Old Elm Street, Mansfield, MA 02048. Representative: Ronald McGrath, (same address as applicant), (617) 339–2098. Transporting (1) *recreational equipment,* (2) *juvenile furniture* and (3) *toys and games,* between points in the U.S. under contract(s) with Child World Inc., of Avon, MA.

MC 151809 (Sub-3), filed October 22, 1982. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik St., Piermont, NY 10968. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, 212–755–9400. Transporting *such commodities* as are used by or dealt in by manufacturers and distributors of containers, container closures, books, and binders, between points in the U.S. (except AK and HI), under continuing contract(s) with Diamond Glass Company, Inc., of Royersford, PA, Federal Paper Board Co., Inc., of Piermont, NY, Garwood Paper Mill, Division of Millen Industries of Garwood, NJ, The Newark Group and its subsidiaries, Newark Boxboard Co. and Book Covers, Inc., of Newark, NJ.

MC 152329, filed October 22, 1982. Applicant: ROBERT F. WALL, d.b.a. ROBERT F. WALL TRUCKING, 933 Fredensborg Canyon Rd., Solvang, CA 93463. Representative: Robert F Wall

(same address as applicant) 805–688–1248. Transporting *rubber and plastic products*, between points in Harris County, TX and Los Angeles County, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 155759 (Sub-1), filed October 14, 1982. Applicant: BOWSER REGAL, INC., d.b.a. REGAL SERVICES, P.O. Box 509, Northeast, PA 16428. Representative: Richard L. Bowser (same address as applicant) (814) 725–8687. Transporting (1) *machinery*, between points in PA, on the one hand, and, on the other, points in NC, NY, TN, KY, SC, and VA, and (2) *foodstuffs*, between points in PA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, LA, MA, MD, ME, MI, NH, NJ, NC, NY, OH, RI, SC, TN, VT, VA, and WV.

MC 164268, filed October 19, 1982. Applicant: AMERICAN COLORS, INC., 1423 Fifth St., Sandusky, OH 44870. Representative: George M. Kunkle, American Colors, Inc., P.O. Box 1017, Sandusky, OH 44870, (419) 625–2173. Transporting (1) *chemicals, ores, and minerals and related products*, between points in FL, GA, IL, IN, KY, MI, NC, OH, PA, SC, TN, WI, and WV, and (2) *textile mill products* between points in Cleveland and Davidson Counties, NC, on the one hand, and, on the other, points in Elkhart County, IN, and Greene County, OH.

MC 164299, filed October 20, 1982. Applicant: CF ARROWHEAD SERVICES, INC., 175 Linfield Drive, Menlo Park, CA 94025. Representative: T. O. NELSON, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 2416.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30004 Filed 11-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 3 (202) 275–5223.

Volume No. OP3–12

Decided: November 1, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 159044 (Sub-1), filed October 21, 1982. Applicant: MIDLAND EXPRESS, INC., 3930 W. 29th St., Suite 70, Wichita, KS 67217. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 164265, filed October 19, 1982. Applicant: JAMES E. SCHAUSS, d.b.a. J C SCHAUSS TRUCKING, P.O. Box 366, Reedpoint, MT 59069. Representative: James E. Schauss (same address as applicant) (406) 326–4624. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Note.—This decision has been made in accordance with the statutory provisions of the Bus Regulatory Reform Act of 1982 with great weight being given to the mandates set forth in the National Transportation Policy.

For the following, please direct status inquiries to Team 1, 202–275–7992.

Volume No. OP1–190

Decided: October 29, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164270, filed October 19, 1982. Applicant: MULTI-STATES CONSOLIDATORS, INC., P.O. Box M544, Gary, IN 46401. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005 (202)–783–7900. As a *broker* of

general commodities (except household goods), between points in the U.S.

MC 164290, filed October 20, 1982. Applicant: JOHN CARRECIA d.b.a. CHRISTIAN BROKERAGE LTD., P.O. Box 848, Shoreham, NY 11786. Representative: Joseph F. Stern, 17 Bradley Drive, Shoreham, NY 11786 (516)–744–0520. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 164331, filed October 21, 1982. Applicant: FRANK J. KELLY, INC., 99 Sunrise Drive, Bohemia, NY 11716. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164360, filed October 22, 1982. Applicant: MELTON'S TRUCK BROKERAGE, 896 South Cherry Lane, Ft. Worth, TX 76108. Representative: William Sheridan, P.O. Drawer, Irving, TX 75062, (214)–255–6279. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 164370, filed October 25, 1982. Applicant: NORTH BAY CORP., d.b.a. J & M TRANSPORTATION, 3200 West 65 Street, Suite 208, Cleveland, OH 44102. Representative: Frank J. Preziuso (same address as applicant), (216) 631–7850. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30586 Filed 11-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 308]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

October 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

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

Amendments to the restriction removal applications are not allowed.

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

Findings

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

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

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 30383 (Sub-22)X, filed October 12, 1982. Applicant: JOSEPH F. WHELAN CO., INC., 439 West 54th St., New York, NY 10019. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106. Lead and Sub-No. 20F permits: broaden (1) both permits to authorize service "between points in the U.S.," under continuing contract(s) with unnamed (lead) and named shippers (sub 20F); (2) lead permit, to "such commodities as are dealt in by retail food stores and retail drug stores," from soap products, glycerine, oil, cooking fats, soap, soap powder, cleaning and washing compounds, lard substitutes, toilet preparations, advertising matter, and premiums.

MC 117439 (Sub-70)X, filed October 21, 1982. Applicant: M & G FLEET SERVICE, INC., P.O. Box 15901, Baton Rouge, LA 70895. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103. Sub 69 certificate: (1) broaden from (a) cement to "building materials", (b) drilling mud to "mercer commodities," (c) lime to "chemicals and related products," (d) dry corn products and dry blends of corn products to "food and related products," (e) salt and salt products to "non-metallic minerals," (f) fly ash, flue dust and lignite to "coal and coal products," and (g) dry fertilizer, liquid fertilizer and dry urea to "chemicals and related products"; (2) expand to city, county or parishwide authority and remove facilities restrictions: (a) Lake Charles, LA (Calcasieu Parish), (b) Echo, TX (Orange County), (c) Alexandria, LA (Rapides Parish), (d) facilities at Houston, TX (Houston, TX), (e) Houma, LA (Terrebonne Parish), (f) Garden City, Berwick, Lake Charles, and Boeuf, LA (St. Mary, Calcasieu, and Assumption Parishes), (g) National, AR (Hot Springs County), (h) facilities at New Orleans, LA (New Orleans, LA), (i) facilities at Amelia, LA (St. Mary Parish), (j) Avery Island, Jefferson Island, and Weeks Island, and Weeks, LA (Iberia Parish), (k) Mulford, TX (Orange County), (l) facilities at Erwinville and New Roads, LA (West Baton Rouge and Pointe Coupee Parishes), (m) facilities at Luling, LA (St. Charles Parish), (n) Geismar and facilities at Donaldsonville, LA (Ascension Parish); (3) change one-way to radial authority; and (4) remove the following restrictions and exceptions: in bulk, bags, and tank or hopper type vehicles; except commodities in bulk, liquid commodities in bulk, dry lime in bulk and agricultural lime; ex-rail and ex-water restrictions; and restrictions against service to particular commodities moving to or from particular points.

MC 135887 (Sub-3)X, filed October 6, 1982. Applicant: VOYNE E. GLEASON, P.O. Box 1051, Hayden Lake, ID 83835. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Sub-No. 2 permit: broaden to (1) "food and related products," from malt beverages and wines, in containers; and (2) "between points in the U.S.," under continuing contracts with the named shippers.

MC 145728 (Sub-3)X, filed October 19, 1982. Applicant: VISALIA FREIGHT LINES, INC., P.O. Box 3181, Visalia, CA 93277. Representative: Owen B. Katzman, Suite 1111, 1828 L St. N.W., Washington, DC 20036. Sub-No. 2F certificate: broaden (1) to "iron and steel articles," from trailer axles, wheels and parts; (2) to countywide authority: "Riverside, San Bernadino, Los Angeles and Orange Counties, CA" (Chino, CA), and "Yamhill County, OR (McMinnville, OR); and (3) to radial authority from one-way authority.

MC 150549 (Sub-1)X, filed October 5, 1982. Applicant: C.A.N. TRANSPORT, INC., 300 Market St., Oakland, CA 94607. Representative: David J. Marchant, One Maritime Plaza, Suite 300, San Francisco, CA 94111. Lead certificate, remove the restriction limiting transportation of general commodities to marine containers and trailers to authorize transportation of "general commodities (except classes A and B explosives, household goods, and commodities in bulk); and eliminate the ex-water restriction.

MC 152827 (Sub-2)X, filed July 22, 1982. Applicant: YEAGER TRUCKING, INC., 1552 S. Pennsylvania Ave., Morrisville, PA 19067. Representative: Alan Kahn, 1430 Land Title Bldg.,

Philadelphia, PA 19110. Lead certificate: Broaden commodity description from iron and steel articles (except commodities in bulk) to "metal products."

[FR Doc. 82-30599 Filed 11-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP5-241]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 142059 (Sub-187) (Republication), filed April 22, 1982, published in the **Federal Register** issue of June 23, 1982, and republished this issue. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Drive, Channachon, IL 60410. Representative: Jack Riley (same address as applicant), (815) 729-3808. An Order of the Commission, Review Board 2, decided September 14, 1982, and served September 29, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities,* between Blanche and Blue Pond, AL, Bartlett, Cartago, Coso, Inyokern, Little Lake, Lone Pine, Olancha, Pencilwood, and Swanston, CA, Dundee, Lake Hamilton, and Waverly, FL, Chelsea and Meno, GA, Corral and Hill City, ID, Addison, Grand Tower, Mooseheart, and Sand Ridge, IL, LaOtto, IN, Orange City, IA, Viola and Wier, KS, Benton and Hardin, KY, Amesbury and Salisbury, MA, Alden, Bellaire, Bendon, Central Lake, Chief Lake, Ellsworth, Interlochen, Kaleva, Norwalk, and Rapid City, MI, Key West, MN, Fairfax and Tarkio, MO, Huntley and Reagan, NE, Pactolus, Stokes, and Whichard, NC, Dunseith, ND, Ehrhardt and Lodge, SC, and Ralston and Terrell, TN, on the one hand, and, on the other, points in the United States, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to include household goods, commodities in bulk, and service to points in AK and HI. Conditions: I. The certificate to be issued in the proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring five (5) years from the date of issuance. II. Applicant must also certify to the Commission, prior to instituting the operations, that all rail service has actually terminated at the involved points. To accomplish this, applicant will be required to send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

[FR Doc. 82-30598 Filed 11-5-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Volume No. 187, Republication of Grants of Operating Rights Authority Prior to Certification; Correction

[Permanent Authority Volume No. 187]

The following application was published in the **Federal Register** of October 27, 1982, 47 FR 47700. The notice preceding the republication reflected opposing verified statements were due to be filed within 45 days after publication. To the extent the notice applies to the following application it should read, "An original and one copy of opposing verified statements must be filed with the Commission within 30 days after the date of this **Federal Register** Notice.

No. MC-147770 (Sub-5), WEST AMERICAN TRANSPORT, INC., 1260 West North Temple, Salt Lake City, UT 84116.

The rest of the publication remains the same.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30595 Filed 11-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 122)]

Burlington Northern Railroad Company—Abandonment—Between Lewistown and Liverpool, IL; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 8.93 mile rail line between Lewistown, IL (milepost 0.00) and Liverpool, IL (milepost 8.93) in Fulton County, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued, and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information on procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30597 Filed 11-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission

has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specific	Review Board [1]	Decided date
353	Burlington Northern Railroad Co., ICC-BN-C-0159, (Empty shipper owned or leased cars).	3	11-2-82
354	Chicago and North Western Transportation Co., ICC-CNW-C-0357, (Grain or oil seeds).	1	11-2-82
355	Savannah State Docks Railroad Co., ICC-SSDK-C-0001, (Soybean meal and sunflower seeds), Via Port of Savannah, GA.	2	11-2-82
356	Illinois Central Gulf Railroad Co., ICC-ICG-C-0048, (Corn).	3	11-2-82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30603 Filed 11-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278; or Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract no., and specifics	Review board [1]	Decided date
342	Grand Trunk Western Railroad Co., ICC-GTW-C-0016, Supplement 2, (Isobutylenes	2	Nov. 1, 1982.
343	Grand Trunk Western Railroad Co., ICC-GTW-C-0050, (Bulk Portland cement)	3	Do.
344	Southern Pacific Transportation Co., ICC-SP-C-0237, (Particleboard and hardboard)	1	Do.
345	Illinois Central Gulf Railroad Co., ICC-ICG-C-0007, Supplement 7, (Grain), Via the Ports of Mobile, AL, Chicago, IL, Baton Rouge, LA, Destrehan, LA, New Orleans, LA, Remy, LA, Reserve, LA, and Pascagoula, MS.	2	Do.
346	Soo Line Railroad, ICC-SOO-C-0114, (Sunflower seed oil)	3	Do.
347	Norfolk and Western Railway Co., ICC-NW-C-0029, (Wheat flour carloads)	1	Do.
348	Louisville and Nashville Railroad Co., ICC-LN-C-0047, (grain), Via the Port of Evansville, IN.	2	Do.
350	Consolidated Rail Corp., ICC-CR-C-0177, (Caustic soda or chlorine)	2	Do.
351	Southern Railway Co., ICC-SOU-C-0115,	1	Do.
352	Missouri Pacific Railroad Co., ICC-MP-C-0164, (Cleaned rice)	2	Do.

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams and Ewing. Member Carleton not participating. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-30453 Filed 11-8-82; 8:45 am]

BILLING CODE7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Frank T. Riforgiato, M.D.; Revocation of Registration and Denial of Application; Final Order

On April 19, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) directed to Frank T. Riforgiato, M.D, 292 Niagara Street, Buffalo, New York, (Respondent) an Order to Show Cause seeking to revoke DEA Certificate of Registration AR0487303. The statutory predicate under 21 U.S.C. 824(a)(e) was Respondent's conviction in the United States District Court for the Western District of New York of one count of furnishing false and fraudulent material information in a record required to be made and kept under 21 U.S.C. 827(a)(3) and 21 U.S.C. 827(c)(1)(B), in violation of 21 U.S.C. 843 (a)(4)(A), a controlled substance related felony.

Respondent, through counsel, requested a hearing on the issues raised by the Order and the matter was placed on the docket of Administrative Law Judge Francis L. Young. During the pendency of these proceedings Respondent applied for reregistration as a practitioner in Schedules II through V. In lieu of a hearing on the issues raised by the Order, Respondent and DEA entered into an agreement. The Administrative Law Judge approved the agreement and terminated administrative proceedings.

The Acting Administrator has considered the agreement entered into by the parties and pursuant to 21 CFR 1316.67 publishes this final order. The Acting Administrator finds that respondent pled guilty on October 8, 1981, to one count of furnishing false and fraudulent material information in a record required to be made and kept under the Controlled Substances Act in violation of 21 U.S.C. 843(a)(4)(A), a conviction for a controlled substance related felony. The Acting Administrator further finds that the parties and the Buffalo Columbus Hospital, 300 Niagara Street, Buffalo, New York, (hospital) agreed that the hospital will hire Respondent as a consultant and assume responsibility for his handling of controlled substances as a consultant to the hospital. The Acting Administrator further finds that the parties have agreed that Respondent will have no personal authorization to possess, prescribe, dispense, or otherwise handle controlled substances and his only authorization to handle controlled substances is as a consultant to Buffalo Columbus Hospital. The Acting Administrator further finds the DEA will conduct such monitoring as necessary to insure Dr. Riforgiato's compliance with the terms of this agreement, and that any violation of the terms of this agreement by Dr. Riforgiato will result in summary revocation by DEA of his

authorization to use the Certificate of Registration issued to the hospital, and invocation of such other civil, criminal and administrative remedies available to the United States. The Acting Administrator further finds that the parties have stipulated that Respondent will notify DEA immediately of any change of status at Buffalo Columbus Hospital or affiliation with any other hospital.

The Acting Administrator finds that the agreement is an appropriate resolution of the issues raised in the Order to Show Cause and incorporates the agreement into the final disposition of this case. 21 CFR 1301.76(a) provides that a "registrant shall not employ as an agent or an employee who has access to controlled substances any person who has had * * * his registration revoked at any time." The Acting Administrator finds that the employment of Respondent as a consultant to Buffalo Columbus Hospital is in the public interest, and that the public interest will be served if Respondent is permitted to handle controlled substances according to the terms of the agreement. Accordingly, the Acting Administrator waives the prohibition of 21 CFR 1301.76(a) with respect to the employment of Frank T. Riforgiato, M.D. as a consultant to Buffalo Columbus Hospital. See *Anthony Di Flumeri, M.D.*, Docket No. 82-9, 47 FR 30123 (1982); *Joseph Bruce Friedman, M.D.*, Docket No. 81-17, 46 FR 58621 (1981); *David Frank Micci, M.D.*, 45 FR 71448 (1980) and 45 FR 74795 (1980) and *Charles J. Burks, M.D.*, Docket No. 79-4, 44 FR 61466 (1979) where the Administrator has waived application of 21 CFR 1301.76(a) in similar cases. The Acting Administrator further waives as much of 21 CFR 1301.24(c) for Buffalo Columbus Hospital to permit Respondent to use the hospital's DEA Certificate of Registration as a consultant rather than as an intern, resident or foreign-trained physician as contemplated by the regulation.

Pursuant to the authority vested in the Attorney General by Sections 303 and 304 of the Controlled Substances Act, 21 U.S.C. 823 and 824, and redelegated to Administrator of the Drug Enforcement Administration, the Acting Administrator orders that DEA Certificate of Registration AR0487303 issued to Frank T. Riforgiato, M.D. be revoked and an application for registration as practitioner executed March 27, 1982, be denied. The Acting Administrator further orders the waiver of 21 CFR 1301.76(a) for Buffalo Columbus Hospital to hire Respondent as a consultant, and the waiver of as much of 21 CFR 1301.24(c) for Buffalo Columbus Hospital to permit Respondent to use the hospital's DEA Certificate of Registration as a consultant rather that as an intern, resident or foreign-trained physician as comtemplated by the regulation, said denial and revocation and waivers to be effective immediately.

Dated: October 26, 1982.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 82-30154 Filed 11-5-82; 8:45 am]

BILLING CODE 4410-09-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Meeting

DATE: Tuesday, November 23, 1982.

PLACE: Russell Senate Office Building, Room 235, Constitution Avenue and First Street, NE., Washington, D.C. 20510.

TIME: 9:00 a.m.

PURPOSE: The Motor Carrier Act of 1980, Pub. L. 96-296, as amended by the Bus Regulatory Reform Act of 1982, directs the Motor Carrier Ratemaking Study Commission (Study Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and of the need or lack of need for continued antitrust immunity thereof. The Study Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Study Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations.

The purpose of this meeting is to provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

FOR FURTHER INFORMATION, CONTACT: NAME: J. Kent Jarrell, TITLE: General Counsel, PHONE NO.: (202) 724-9600.

Submitted this, the 3rd day of November, 1982.

Larry F. Darby,

Executive Director.

[FR Doc. 82-30614 Filed 11-5-82; 8:45 am]

BILLING CODE 6820-BD-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittees on Reactor Radiological Effects and Site Evaluation; Addition to Agenda

The additional agenda item to be discussed by the ACRS Subcommittees on Reactor Radiological Effects and Site Evaluation on November 12 and 13, 1982 in Room 1046, 1717 H Street, NW, Washington, DC includes the following:

Review of status of De Minimis rulemaking.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, October 25, 1982 (47 FR 47343).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: November 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-30640 Filed 11-5-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Waterford Steam Electric Station Unit No. 3; Meeting Location Change

The ACRS Subcommittee on Waterford Steam Electric Station Unit No. 3 scheduled for November 9, 1982, at ARNAUD'S, 813 Bienville Street, has been relocated to The International Hotel, 300 Canal Street, New Orleans, LA.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Tuesday, October 19, 1982 (47 FR 46604).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to

the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or the Staff Engineer, Mr. Don Bucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: November 1, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–30641 Filed 11–5–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Clinch River Breeder Reactor; Working Group on Structures and Materials; Meeting Date Change

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) Working Group on Structures and Materials scheduled for November 18, 1982 has been changed to December 1, 1982, Room 1046, 1717 H Street, NW., Washington, D.C.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Tuesday, October 26, 1982 (47 FR 47505).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 2, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–30550 Filed 11–5–82; 8:45 am]

BILLING CODE 7590–01–M

Licensing and Regulatory Policy and Procedures for Environmental Protection; Uranium Fuel Cycle Impacts

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement of policy.

Earlier this year a decision of the United States Court of Appeals for the District of Columbia Circuit vacated three Commission rules which govern the treatment of uranium fuel cycle environmental impacts in individual nuclear power reactor licensing proceedings. *Natural Resources Defense Council, et al.* v. *NRC*, No. 74–1586 and consolidated cases (decided April 27, 1982).[1] By its order of September 1, 1982, the D.C. Circuit stayed its mandate pending the filing of application for review of the decision by the Supreme Court. The Solicitor General, on behalf of the Nuclear Regulatory Commission, on September 27, 1982, filed with the Supreme Court a petition for a writ of *certiorari*. Other parties to the case have also filed petitions for Supreme Court review. In this Statement of Policy the Commission provides guidance to the Commission's staff and licensing boards and the interested public regarding ongoing licensing proceedings and the status of licenses already issued, pending final action by the Supreme Court.[2]

1. Background of the Decision in NRDC v. NRC

The rules in question form part of the Commission's procedures for compliance with the National Environmental Policy Act of 1969 (NEPA). 10 CFR Part 51. The Commission has interpreted NEPA as requiring that the environmental impacts of the uranium fuel cycle be considered in environmental impact statements for individual light water nuclear power reactors.[3] The Commission determined some time ago that a generic rule would be the most effective means for considering such impacts in individual reactor licensing proceedings. The most recent version of the Commission's fuel cycle rule, the "Final" fuel cycle rule, was promulgated in 1979. 44 FR 45362 (August 2, 1979). 10 CFR 51.20, 51.23. The rule is frequently referred to as "Table S–3," after the table of impacts which the rule prescribes for use in evaluating the fuel cycle contribution to the environmental costs of licensing an individual nuclear power reactor. In issuing reactor construction permits and operating licenses the Commission has relied on this fuel cycle rule or its predecessors (the "Original" and "Interim" rules) since adoption of the Original rule in 1974. 39 FR 14188 (April 22, 1974).

Litigation involving the fuel cycle rules began with the Original S–3 rule. In a decision issued July 21, 1976 the United States Court of Appeals for the District of Columbia Circuit set aside those portions of the Original rule pertaining to waste management and spent fuel reprocessing, *Natural Resources Defense Council* v. *NRC*, 547 F.2d 633, rev'd *sub nom. Vermont Yankee Nuclear Power Corp.* v. *NRC*, 435 U.S. 519 (1978), but the court stayed its mandate pending review on a petition for *certiorari* to the United States Supreme Court. The Supreme Court reversed the Court of Appeals and remanded for further proceedings. The Court of Appeals consolidated the remanded case with challenges to the Commission's Interim and Final fuel cycle rules and issued a decision on April 27, 1982. *NRDC* v. *NRC*, No. 74–1486 and consolidated cases.

2. The Holding by the Court of Appeals

In the D.C. Circuit's decision in *NRDC* v. *NRC*, Judge Bazelon, speaking for the majority, held the Commission's Original, Interim and Final Table S–3 rules invalid "due to their failure to allow for proper consideration of the uncertainties that underlie the assumption that solidified high-level and transuranic wastes will not affect the environment once they are sealed in a permanent repository." Slip Op. at 69. The court's opinion acknowledged that in promulgating the Final rule the Commission considered and disclosed uncertainties concerning permanent disposal of spent fuel and high-level wates from power reactors. *See* the Commission's notice of final rulemaking, 44 FR 45362 (August 2, 1979). The court did not suggest that the evidentiary record for the Commission's final rulemaking omitted any substantial body of material regarding waste disposal uncertainties which might have been available at the time of the rulemaking. Nevertheless, the court held it to be a violation of NEPA that the rule binds Licensing Boards to evaluate fuel cycle impacts on the basis of waste disposal impacts in Table S–3, which does not explicitly include uncertainties.[4]

[1] On June 30, 1982 the D.C. Circuit denied the Commission's petitions for rehearing and rehearing *en banc*.

[2] The Commission dealt with a previous invalidation of a fuel cycle rule by the D.C. Circuit in 1976 by issuance of a policy statement. *Natural Resources Defense Council* v. *NRC*, 547 F.2d 633, rev'd *sub nom. Vermont Yankee Nuclear Power Corp.* v. *NRC*, 435 U.S. 519 (1978). *See* General Statement of Policy, 41 *Fed. Reg.* 34707 (August 16, 1976), and Supplemental General Statement of Policy, 41 *Fed. Reg.* 49898 (November 11, 1976). For reasons discussed in the text below, the Commission does not believe that the major, though temporary, disruption in licensing announced by the policy statement of August 1976 is a necessary or appropriate response to the D.C. Circuit's latest decision.

[3] In addition to the operation of the nuclear power reactor itself, the uranium fuel cycle includes uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, spent fuel storage and disposal, possible reprocessing of irradiated fuel, transportation of radioactive materials and management of low- and high-level wastes.

[4] Concerning the choice not to include uncertainties explicitly in Table S–3, the Commission stated in promulgating the rule:

In view of the uncertainties noted regarding waste disposal, the question then arises whether these

Although the court concluded that uncertainties could be dealt with generically, rather than on a case-by-case basis, the court held that the Table S–3 rule in question "does not allow the uncertainites concerning permanent storage to play a role in the ultimate licensing decision. That omission, and hence, the Rule, which causes it, constitutes a blatant violation of NEPA." Slip Op. at 46. The dissenting opinion by Judge Wilkey rejected the majority's analysis and would have upheld the Final rule on the grounds that in dealing with uncertainties the Commission had considered the relevant factors and arrived at a reasonable policy judgment.

An additional challenge had been raised on the Original and Interim rules that they improperly precluded Licensing Boards from considering health effects that might result from radioactive effluents set out in Table S–3 and also precluded consideration of socioeconomic and possible cumulative impacts of the fuel cycle.[5] No such preclusion appeared explicitly in the rules, and the Commission had maintained before the court that no preclusion had been implicitly intended or ever actually applied. Nevertheless, the majority held that the Original rule and the Interim rule, prior to an amendment in 1978, "effectively eliminated the consideration and disclosure of the health, socioeconomic and cumulative impacts of fuel-cycle activities." Slip Op. at 57. Accordingly, the majority held that the Original and Interim rules, in addition to their failure to provide for proper consideration of uncertainties, also failed to allow for proper consideration of health, socioeconomic and cumulative fuel cycle effects.

On the issue whether the waste management and reprocessing models underlying the entries in Table S-3 would be economically feasible, a majority of the panel (Judge Bazelon and Judge Wilkey) upheld the Commission's finding of feasibility.

3. Effect on the Power Reactor Licensing Program

The D.C. Circuit's decision does not call into question the Commission's awareness of waste disposal uncertainties or the adequacy of the evidence regarding uncertainties in the record on which the Commission relied.[6] The state of the Final rulemaking record does not suggest that supplementary studies of uncertainties are likely to produce evidence that would change licensing decisions. The Commission continues to address the uncertainty over whether and when a permanent repository, or equivalent system of disposal, will be developed. Slip Op. at 45. The Commission has stated that it would not license plants without reasonable confidence that safe waste disposal will be available when needed, and has found that it has such reasonable confidence. 42 FR 34391 (July 5, 1977), *NRDC* v. *NRC*, 581 F.2d 166 (2d Cir. 1978). The Commission is now entering the final stages of the so-called "waste confidence" proceeding, a proceeding designed to reassess whether there is reasonable assurance that safe waste disposal will be available when needed. 44 FR 61372 (1979). The Court of Appeals has made clear that licensing need not be suspended pending the outcome of this reassessment. *See Potomac Alliance* v. *NRC*, —— F.2d —— (D.C. Cir. No. 80–1862, decided July 20, 1982). In view of these considerations and the high cost of delaying the issuance of licenses for qualified facilities, the Commission concludes that power reactor licensing may continue. Should the "waste confidence" proceeding arrive at an outcome inconsistent with this policy judgment, the Commission will immediately inform the Congress and will reassess the positions taken in this policy statement.

Next the question arises what role the fuel cycle rules should play in continued licensing. As the Commission interprets the D.C. Circuit and Supreme Court decisions which bear on enviromental analysis of fuel cycle impacts, the Commission could conduct individual licensing proceedings by addressing fuel cycle impacts on a case-by-case basis without a generic rule. The Commission already deals with the matter partly in this fashion. In application of the Commission's Final rule a number of significant generic fuel cycle issues, including health effects associated with the effluents given in Table S–3, are presently treated on a case-by-case basis, pending further progress toward an expanded generic rule. To move further toward case-by-case litigation would reintroduce the significant burdens the rule was intended to relieve. Use of the S–3 rule has served the important purpose of providing the underlying basis for consideration of fuel cycle impacts, and the Commission believes that an attempt to proceed without the rule would probably prove unworkable. In principle, and quite possibly in practice, contested licensing cases could rapidly evolve into replays of the S–3 rulemaking.[7] The resulting delay and drain on staff resources would be substantial, and would not only delay licensing of qualified facilities, but would also substantially disrupt the Commission's regulatory program, including its program to develop safety standards for high-level waste disposal facilities.

The most straightforward way of proceeding is to continue using the S–3 rule in licensing, pending possible supplementation to be discussed later in this statement, insofar as such use is permissible. The Commission notes that after the *NRDC* v. *NRC* decision of 1976 invalidating the Original S–3 rule, 547 F.2d 633, the court, by staying its mandate, in effect permitted the continuation of licensing pursuant to the rule pending further judicial proceedings provided that future licenses be conditioned on the outcome of those proceedings. *See* Supplemental General

uncertainties can or should be reflected explicitly in the fuel cycle rule. The Commission has concluded that the rule should not be so modified. On the individual reactor licensing level, where the proceedings deal with fuel cycle issues only peripherally, the Commission sees no advantage in having licensing boards repeatedly weigh for themselves the effect of uncertainties on the selection of fuel cycle impacts for use in cost-benefit balancing. This is a generic question properly dealt with in this rulemaking as part of choosing what impact values should go into the fuel cycle rule. The Commission concludes, having noted that uncertainties exist, that for the limited purpose of the fuel cycle rule it is reasonable to base impacts on the assumption which the Commission believes the probabilities favor, *i.e.*, that bedded-salt repository sites can be found which will provide effective isolation of radioactive waste from the biosphere.

44 FR 45369 (footnote omitted).

[5] This challenge was not raised against the Final rule, which specifically requires that environmental impact statements "shall take account of dose commitments and health effects from fuel cycle effluents set forth in Table S–3 and shall in addition take account of economic, socioeconomic, and possible cumulative impacts and such other fuel cycle impacts as may reasonably appear significant." 10 CFR 51.23(c). Since ongoing licensing proceedings depend on the Final rule, this aspect of the court's decision does not bear on the Commission's decision whether to continue licensing.

[6] The Commission thus views the present decision by the D.C. Circuit not as a finding of fault with the evidentiary record on waste management impacts and uncertainities but rather as a rejection of the Commission's policy judgments regarding the weight and effect which those impacts and uncertainties should exert in reactor licensing. By way of contrast, after the D.C. Circuit issued its 1976 decision the Commission suspended licensing pending the outcome of a supplementary environmental survey of waste management and reprocessing impacts to remedy what the Commission perceived as gaps in the record identified by the court. 41 FR 43707, 43708, col. 2.

[7] The same result could follow if the Commission amended the rule to allow Licensing Boards to take evidence on uncertainties in the Table S–3 entries. Such a proceeding could readily lead to complete reexamination of the Table by each board.

Statement of Policy, 41 FR 49898 (November 11, 1976). The D.C. Circuit's current stay of mandate and the filing of petitions for Supreme Court review place the present case in a similar posture. Indeed the NRC advised the D.C. Circuit that it would proceed in reliance on the rule should the court grant its request to stay the mandate. The Commission anticipates that the mandate will not issue until the Supreme Court has either declined review or taken review and addressed the merits of the lower court's decision. Accordingly, the Commission directs its Licensing and Appeal Boards to proceed in continued reliance on the Final S–3 rule until further order from the Commission, provided that any license authorizations or other decisions issued in reliance on the rule are conditioned on the final outcome of the judicial proceedings.

With regard to licensing proceedings now closed in which there was reliance on any of the fuel cycle rules, the Commission has concluded that for the present, at least, show-cause proceedings based on issues raised by the D.C. Circuit's decision should not be initiated. The Court of Appeals specifically noted that it expressed no view as to the validity of licenses already issued pursuant to the rules and that the matter of the validity of each would be addressed in subsequent judicial proceedings. Slip Op. at 69. Several cases which have been held in abeyance pending disposition of the main case challenge the validity of licenses and permits issued for specific facilities.[8] The Commission believes these cases should remain in abeyance, pending final Supreme Court action and has advised the courts of this position. The Commission does not intend to initiate show-cause proceedings *sua sponte* for these or other licenses, pending further direction by the courts. The Commission directs that any petitions for such proceedings filed pursuant to 10 CFR 2.206, insofar as they raise issues associated with validity of the S–3 rules, be held in abeyance pending a further order from the Commission.

[8] The court cited five cases now before the D.C. Circuit in which individual licenses granted under the Original or Interim rules have been challenged on that ground. These include *Lloyd Harbor Study Group, Inc.* v. *NRC*, No. 73–2268; *Aeschliman* v. *NRC*, No. 73–1776; *Saginaw Valley Study Group* v. *NRC*, No. 73–1867; *NRDC* v. *NRC*, No. 74–1385; *Coalition for the Environment* v. *NRC*, No. 77–1905. Also, there is pending in the First Circuit a challenge to a reactor construction permit involving as an issue the validity of the fuel cycle rule. *New England Coalition on Nuclear Pollution* v. *NRC*, No. 76–1525.

4. Supplementation of the Record

As the Commission noted in promulgating the Final rule, events which might lead to major releases from the bedded-salt repository used as the model for the S–3 rule appear remote in probability while any releases which might reasonably be expected eventually to occur appear very small. Accordingly, the Commission found that the staff's assumption that the integrity of the repository would be maintained after sealing was a reasonable description of the performance of a properly selected repository and, when taken together with the staff's highly conservative assumption that all volatile fission products in reactor spent fuel would be released to the atmosphere prior to repository sealing, left Table S–3 overall a conservative description of fuel cycle impacts. *See* 44 FR 45369, col. 2. Considering the rule's limited purpose and taking into account the Commission's "waste confidence" proceeding, the Commission continues to believe that the record of the final S–3 rulemaking contains adequate information on waste disposal uncertainties to support continued use of the fuel cycle rule.

The Commission notes that over the past few years considerable effort has been devoted to the development of the national standards for a repository by the Environmental Protection Agency. These draft standards are essentially complete and should be issued soon as formal proposals. The NRC staff has informed the Commission that the release limits contained in the EPA standards and the studies done in support of the standards may provide additional information on releases associated with waste disposal. The Chairman of the NRC has urged early issuance of these important standards and the supporting documents.

The NRC staff has been directed to examine the EPA standard when published for comment and supporting documentation as it becomes available to determine the degree to which it could be used in Table S–3. This examination will include releases under both normal and abnormal conditions. The NRC staff should be prepared to provide recommendations on possible revisions within 60 days of publication of the EPA standards for comment.

Dated at Washington, D.C. this 29th day of October, 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–30549 Filed 11–5–82; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Reserves and Reliability 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 Reserves and Reliability Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Thursday, November 11, 1982. 10:00 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. 82–30587 Filed 11–5–82; 8:45 am]

BILLING CODE 0000–00–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Leonard Silver Manufacturing Company, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Leonard Silver Manufacturing Company, Inc. an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on August 9, 1982 (47 FR 34476). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC

Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation re the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On August 9, 1982 (47 FR 34476), the PBGC published a notice of the pendency of a request from Leonard Silver Manufacturing Company, Inc. ("Leonard Silver") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA, in connection with the purchase by Leonard Silver of the operating assets of the Coppercraft Guild Division of Dart Industries, Inc. ("Coppercraft"). The sale of assets became effective on July 13, 1981. No comments were received in response to the notice.

Coppercraft contributed to the I.A.M. National Pension Fund Benefit Plan A (the "Fund"). Prior to the sale, Coppercraft's potential withdrawal liability to the Fund had been calculated to be $615,355. The amount of the bond or escrow required under section 4204(a)(1)(B) is $220,527 (the average annual contribution required to be made by Coppercraft for the three plan years preceding the sale).

Leonard Silver is a wholly owned subsidiary of Towle Manufacturing Company ("Towle"). According to its audited statements for the fiscal year ending on December 31, 1980, Towle and its subsidiaries had total net assets of approximately $46 million, and an average net income for fiscal years 1979–1980 of about $6.7 million.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants Leonard Silver's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C., on this 1st day of November, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-30551 Filed 11-5-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Under Review

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of approval rule 204–2 under the ("Advisers Act") of 1940. Rule 204–2 applies to any investment adviser subject to registration under the Advisers Act who makes use of the mails or any means or instrumentality of interstate commerce in connection with his business and requires such investment advisers to keep, maintain and preserve the books and records specified in the rule.

The potential respondents are investment advisers subject to registration under the Investment Advisers Act of 1940.

Submit comments to OMB Desk officer: Robert Veeder, Office of Information and Regulatory Affairs, Room 3225–NEOB, Washington, D.C. 20503.

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 Fifth Street, NW., Washington, D.C. 20549.

Extension
Rule 204–2 (17 CFR 275.204–2).
SEC File No. 270–215.

Dated: October 28, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30590 Filed 11-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12771; 812-5310]

American Southwest Financial Corp. and American Southwest Financial Co.; Filing of Application

October 29, 1982.

In the matter of Amercian Southwest Financial Corporation and American Southwest Financial Co., Inc., Suite 2030, 201 N. Central Avenue, Phoenix, Arizona 85073 (812–5310).

Notice is hereby given that American Southwest Financial Corporation and American Southwest Financial Co., Inc. ("Applicants") filed an application on September 9, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicants are newly-formed Arizona corporations organized by a number of otherwise unrelated concerns. Each Applicant is a limited purpose financing corporation organized and owned by limited purpose financing companies (the "Finance Companies"), each of which was organized and is principally owned or otherwise controlled by a separate concern principally involved in the home building business (the "Builders"). As stated in the application, each Applicant

was incorporated for the limited purpose of facilitating the financing of long-term residential mortgages on single family residences constructed primarily by the Builders and will not engage in any other unrelated business or investment activities.

Applicants contemplate that American Southwest Financial Corporation will issue in series GNMA Collateralized Bonds, each series to be separately secured principally by the pledge by the Finance Companies to the Applicant and by the Applicant to a trustee of collateral consisting primarily of "fully-modified pass-through" mortgage-backed certificates ("GNMA Certificates") (together with the payments thereon), fully guaranteed as to principal and interest by the Government National Mortgage Association ("GNMA") and a supplemental debt service fund established under an indenture. Each GNMA Certificate will evidence an interest in a pool of mortgage loans owned by a Finance Company of single family residences constructed primarily by the Builder affiliated with the Finance Company.

Applicants contemplate that American Southwest Financial Co., Inc., will issue in series Mortgage Backed Bonds, each series to be separately secured principally by the pledge by the Finance Companies to the Applicant and by the Applicant to a trustee of collateral consisting principally of conventional (i.e. not government guaranteed or insured) first mortgage loans (and payments thereon) on single family residences constructed primarily by the Builders and payments due under certain mortgage insurance and hazard insurance policies. The pledged mortgages will be secured by single-family dwelling units.

Applicants state that each series of GNMA Collateralized Bonds or Mortgage Backed Bonds (collectively, the "Bonds") will be issued pursuant to an indenture ("Indenture") between the Applicant and an independent trustee (the "Trustee") and as supplemented by one or more supplemental indentures. Each series of Bonds will be sold to institutional or retail investors through one or more investment banking firms. Applicants represent that certain series of the Bonds will be registered under the Securities Act of 1933 and others will be sold in private placements. Indentures for public offerings will be subject to the provisions of the Trust Indenture Act of 1939.

Applicants indicate that the net proceeds of the sale of each series of Bonds will be loaned by the Applicant to the various Finance Companies. Each Finance Company will use such proceeds to repay indebtedness to lenders or others incurred in connection with the funding or acquisition of mortgage loans owned by such Finance Company on single-family residences constructed primarily by its respective Builder. Such mortgage loans funded or acquired by such Finance Companies will have original maturities (and amortization schedules) of not more than the lesser of 30 years or the term of the Bonds, if shorter than 30 years. The Finance Companies will repay loans made to them by the Applicant by making or causing payments to be made to the Trustee on behalf of the Applicant in such amounts as are necessary to pay the principal of and interest on the Bonds secured by GNMA Certificates or pledged mortgages as the same shall become due. The Finance Companies will assign the collateral securing the Bonds to the Applicant, which will assign its entire right, title and interest in the collateral to the Trustee under the Indenture.

Applicants state that in the case of each series of Bonds, (a) payments of first mortgage loans on single-family residences constructed by the Builders will be the primary source of funds for payments of principal and interest due on the Bonds; (b) the Bonds will be secured by collateral consisting principally of either GNMA Certificates evidencing interests in pools of mortgage loans on single-family residences constructed primarily by the Builders or by first mortgages or deeds of trust on such properties with an aggregate principal amount at least equal to the initial principal amount of the Bonds; (c) the GNMA Certificates or mortgage loans will be pledged in their entirety by the Finance Companies to the the Applicant and by the Applicant to the Trustee; and (d) an independent mortgage company, as servicer, will have the right and obligation to foreclose against the mortgaged properties, liquidate the properties, collect prepayments of principal, and collect any insurance proceeds. Funds so collected will be paid directly to the Trustee pursuant to the Indenture.

Applicants submit that each of the activities they propose to engage in could be conducted directly by each individual Finance Company without the requirement of registration, since each of the Finance Companies is exempt under Section 3(c)(5)(C) of the Act. In this regard, Applicants submit that a number of large home builders have issued mortgage backed bonds through wholly-owned finance companies, and that none of these finance companies has been required to register under the Act, apparently based upon the 3(c)(5)(C) exemption. Applicants assert that there is no public policy reason to require them so to register merely because they are facilitating the financing efforts of a number of smaller builders to achieve economies of size the same as the larger builders achieve. Nevertheless, Applicants note that a question has been raised concerning the possibility that they may be required, by the strict language of the Act, to register as investment companies under the Act.

As here pertinent, Section 3(a)(1) of the Act defines an investment company as "any issuer which * * * is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities." Section 3(a)(3) of the Act defines an investment company as "any issuer which * * * is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) * * * "

While Applicants believe that they do not fall within the definition of an investment company as set forth in the Act, they state that the principal asset of each of them will be evidences of indebtedness of the Finance Companies. Although the Applicants believe that such evidences of indebtedness are not securities within the purview of Section 3 of the Act, and that each Applicant's primary activity will be the facilitating of the sale of single-family residential property through the financing of whole residential mortgages rather than investing, reinvesting, owning, holding or trading in securities, they state that this application has been filed to eliminate any possible ambiguity concerning the applicability of the Act to these Applicants, and to avoid the possibility that the evidences of indebtedness of the Finance Companies might, at a later date, be held to be securities as that term is used in Section 3(a)(3) of the Act.

Applicants also believe that they should be exempt from the Act by virtue of Section 3(c)(5)(C) thereof, which excludes from the definition of an investment company, companies which do not issue redeemable securities, face amount certificates of the installment type or periodic payment plan certificates and which are primarily engaged in the business of "purchasing or otherwise acquiring mortgages and other liens on or interests in real estate."

Applicants assert that they will not issue any of the securities described in Section 3(c)(5)(C), and that they will be engaged in the business of facilitating the financing of mortgage loans. Although Applicants note that they will not acquire legal title to GNMA Certificates or mortgages since they will continue to be owned by the Finance Companies, they will acquire a security interest in the GNMA Certificates or mortgages to secure payment of the loans to the Finance Companies and therefore have direct or indirect liens on and other interests in real estate. Such security interests will be evidenced by irrevocable assignments of said GNMA Certificates or mortgages by the Finance Companies to the Applicants and by the Applicants to the Trustee.

Applicants also state that while it appears from the legislative history of the Act that companies such as the Applicants which are involved in real estate activities should not be viewed as investment companies, they request an order of the Commission to eliminate any doubt as to the inapplicability of the Act. Finally, Applicants submit that they have been formed for the primary purpose of facilitating the financing of mortgages to expand the availability of residential mortgages, a critical national need, and that their proposed business is one method which can contribute to the solution of the need for mortgage funds in the economy.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons securities, or transactions, from any provision 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.

Applicants submit that the relief requested is necessary and appropriate in the public interest because: (1) Applicants should not be deemed to be entities to which the provisions of the Act were intended to be applied (and do not concede herein that they are such entities); (2) Applicants may be unable to proceed with their proposed business if the uncertainties concerning the applicability of the Act are not removed; and (3) Applicant's proposed business is intended to serve a recognized and critical public need. Applicants assert that the relief requested would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The securities proposed to be issued to finance this growth of mortgage funding will either be issued pursuant to the registration provisions of the Securities Act of 1933 or will be sold in exempt transactions. Thereafter, investors will be protected both by the terms of the Indenture providing for a Trustee qualified to protect investors' interests, and by combinations of real estate, GNMA Certificates (with appropriate protection provided by GNMA and the United States Government) and cash or cash equivalent deposits. Applicants further submit that Congress has clearly expressed a policy to exclude from the effects of the Act entities which are participating in the funding of, and whose securities are secured by, residential mortgages.

Notice is further given that any interested person may, not later than November 22, 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 reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served pesonally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter ordered 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. 82–30593 Filed 11–5–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–4304]

Commercial Metals Co.; Application To Withdraw from Listing and Registration

October 29, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Commercial Metals Company ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on July 26, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before November 22, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–30591 Filed 11–5–82; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1-3247]

Triton Energy Corp.; Application To Withdraw From Listing and Registration

October 29, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Triton Energy Corporation ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on September 3, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company wishes to broaden its base of international shareholders and in this regard believes that the Company's opportunity to do so will be enhanced by the listing of its common stock on the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before November 22, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30592 Filed 11-5-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19191; SR-NSCC-82-13]

National Securities Clearing Corp.; Order Approving Proposed Rule Change

October 29, 1982.

National Securities Clearing Corporation ("NSCC"), on July 2, 1982, submitted proposed rule change, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that establishes under NSCC Rules 2 and 15 standards and procedures for bank membership in NSCC, as well as standards to monitor those participants' financial and operational capabilities. More specifically, the proposed standards would impose on bank participants (i) minimum capital and other financial requirements; and (ii) monthly, quarterly and annual reporting requirements relating to adverse financial or operational developments. In addition, the proposed rule change sets forth NSCC's guidelines for determining when bank participants may be placed on closer than normal surveillance.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of the Commission Release (Securities Exchange Act Release No. 18921, July 26, 1982) and by publication in the **Federal Register** (47 FR 33351, August 2, 1982). No letters of comment were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-30594 Filed 11-5-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-5318]

New England MESBIC, Inc.; Notice of Issuance of License To Operate as a Small Business Investment Company

On October 19, 1981, a notice was published in the **Federal Register** (46 FR 51356) stating that New England MESBIC, Inc. 167 Oak Street, Westwood, Massachusetts 02090 had filed an Application with the Small business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on November 3, 1981, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-5318 on October 26, 1982, to New England MESBIC, Inc., pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-30632 filed 11-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0438]

New Publication Fund, Inc.; Notice of Issuance of License To Operate as a Small Business Investment Company

On April 12, 1982, a notice was published in the **Federal Register** (47 FR 15678) stating that New Publication Fund, Inc., 325 East 75th Street, New York, New York 10021 had filed an Application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on April 27, 1982, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02-0438 on October 26, 1982, to New Publication Fund, Inc., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 3, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-30631 Filed 11-5-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 832]

International Regime for Antarctic Mineral Resources; Proposed Negotiation

AGENCY: State Department.

ACTION: Notice of Record of Decision regarding the Department's action on the proposed negotiation of an international regime for Antarctic mineral resources. The environmental consequences of the proposed negotiation and the reasonable alternatives to a regime for this purpose were evaluated in a Final Environmental Impact Statement (FEIS), which was prepared pursuant to Executive Order 12114 "Environmental Effects Abroad of Major Federal Actions", Sections 2-3(a) and 2-4(a)(i). The FEIS was filed with EPA on July 21, 1982. This Record of Decision is being issued pursuant to Regulations of the Council on Environmental Quality (Section 1505.2 of 1978) and Implementing Regulations of the Department of State (22 CFR Part 161.9(h)).

Decision

The Department of State has decided to carry out negotiations with the other Consultative Parties of the Antarctic Treaty with the object of establishing an international regime which would have as its purpose determination of the acceptability of mineral resource activities in Antarctica and the management of any such activities determined to be acceptable.

Basis for Decision

The Antarctic Treaty, which was originally signed by 12 countries and came into force in 1961, sets aside Antarctica and waters south of 60° latitude for peaceful purposes—most notably the pursuit of scientific inquiry—and, among other things, prohibits nuclear explosions and the disposal of nuclear wastes. The Antarctic Treaty, together with its consultative meetings, and resulting recommendations, has developed into an unusually successful system of international cooperation. The Treaty, however, does not address the issues relating to possible mineral resource activities in Antarctica.

In recognition of growing international interest in the potential of Antarctic resources the Antarctic Treaty Consultative Parties have taken the initiative to negotiate a management regime for Antarctic Marine Living Resources. The resulting Convention on the Conservation of Antarctic Marine Living Resources entered into force in April, 1982. A similar initiative has emerged with regard to Antarctic mineral resources. Specifically, the 1981 meeting of the Antarctic Treaty Consultative Parties committed the participants to specific discussions to develop an international regime covering possible exploration for and development of mineral resources in Antarctica.

Since such activities could result in significant harm to the environment, an Environmental Impact Statement (EIS) was prepared to determine whether and with what goals the Government of the United States would participate in negotiations on a regime for Antarctic mineral resources. The alternatives were:

1. No action;
2. Negotiation of coordinated national activities to deal with Antarctic minerals;
3. Negotiation of a regime covering exploration activities only;
4. Negotiation of a regime with the presumption that activities are permitted;
5. Negotiation of a regime allowing only activities which would be judged acceptable;
6. Negotiation of a regime coupled with a temporary moratorium on mineral activities; and
7. Negotiation of a permanent moratorium of mineral resource activities in the Antarctic.

In theory, the last of these alternatives (alternative 7) would involve the minimum adverse environmental impact since—if the ban were effective—there would be no mineral resource activities. The difficulty with that alternative is that such a moratorium, even if negotiable, would probably be unstable over time. In the absence of realistic information regarding mineral resource potential, pressures for exploration and possible development could become overwhelming, with a consequent breakdown of such a moratorium. In this eventuality, no structure would exist for control of mineral resource-related activities. Also, this alternative rests partly on the assumption that final decisions on Antarctic mineral resources can or should be made at this time, an assumption for which there is little justification. In addition, the alternative does not accord with US interest in possible participation in mineral resource activities, should such activities be determined acceptable.

The alternative adopted (alternative 6) provides the best approach to US goals in Antarctica, including long-term protection for the Antarctic environment. Proposed activities would have to meet environmental standards before they could be undertaken. There would also be standards relating to the sufficiency of information for making necessary decisions, thereby creating incentives for research to fill data gaps. Site-specific considerations would be evaluated as well as the aggregate impacts of mineral resource activities. This alternative would also protect the full range of United States interests, including nondiscriminatory access for the United States nationals and firms to engage in any permitted mineral resource activities. It would offer a stable international basis for necessary economic, as well as environmental, decisions.

All of the other alternatives have major drawbacks from either an environmental standpoint or in terms of other national policy interests, as brought out in the FEIS.

It is important to note Recommendation XI-1 of the Antarctic Treaty Consultative Parties, which concerns the development of a regime for mineral resources. Environmental protection is a key element of the Recommendation. Paragraph 5 states that "The regime should be based on the following principles * * * (c) protection of the unique Antarctic environment and of its dependent ecosystems should be a basic consideration * * *." And paragraph 7 (I) states:

7. The regime should *inter alia*:

I. Include means for:

a. assessing the possible impact of mineral resource activities on the Antarctic environment in order to provide for informed decisionmaking;

b. determining whether mineral resource activities will be acceptable;

c. governing the ecological, technological, political, legal and economic aspects of these activities in cases where they would be determined acceptable, including:

The establishment, as an important part of the regime, or rules relating to the protection of the Antarctic environment; and

The requirement that mineral resource activities undertaken pursuant to the regime be undertaken in compliance with such rules.

Although the Recommendation has not received formal approval from all the Consultative Parties, such approval

is expected. In the interim, all the Consultative Parties have agreed to conduct negotiations on the basis of the Recommendation.

The United States position in the negotiation will be consistent with the Recommendation. The United States delegation will seek as one of its principal goals elaboration of a regime incorporating provisions to avoid or minimize by all practicable means harmful environmental impacts. At this stage it is impossible to predict the form that monitoring and enforcement of environmental protection provisions of the regime will take, but most probably they will be an integral part of the operating terms and conditions. A cornerstone in the concept of the regime is to allow minerals exploration and exploitation in Antarctica only if these activities are deemed to be environmentally acceptable upon the basis of adequate scientific information. Such information would have to be developed first before a decision to go ahead with minerals activities was made. This approach is judged to be the most viable one to protect the environment within the context of the Antarctic Treaty System.

FOR FURTHER INFORMATION CONTACT: Irene E. Friedrichs, OES/ENH, Room 7820, Department of State, Washington, D.C. 20520, (202) 632-2311.

Dated: October 18, 1982.

Mary Rose Hughes,

Deputy Assistant Secretary for Environment, Health and Natural Resources.

[FR Doc. 82-30633 Filed 11-5-82; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

System Design Analysis; Advisory Circular

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Issuance of Advisory Circular 25.1309-1, System Design Analysis

SUMMARY: This advisory circular provides guidance material for acceptable means, but not the only means, of demonstrating compliance with the requirements of Part 25 of the Federal Aviation Regulations which includes probabilistic terms, as introduced by Amendment 25-23, for airplane equipment, systems, and installations.

DATE: The Advisory circular was issued by the Part 25 Transport Airplane Certification Directorate in Seattle, Washington, on September 7, 1982.

HOW TO OBTAIN COPIES: A copy of the advisory circular may be obtained by writing to the U.S. Department of Transportation, Publications Section, M-443.1, Washington, D.C. 20590.

Issued in Seattle, Washington on October 22, 1982.

D. L. Riggin,

Manager, Regulations and Policy Office, ANM-110, Northwest Mountain Region.

[FR Doc. 82-30446 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) notice is hereby given of a meeting of Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on December 6-8, 1982 in RTCA Conference Room, Suite 500, 1425 K Street NW., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fourteenth Meeting Held on June 21-23, 1982; (3) Consideration of Comments Received on Proposed Final Draft of Committee Report on Minimum Operational Performance Standards for Emergency Locator Transmitters; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 1, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-30447 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Study Group on Airborne Thunderstorm Detection Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Study Group on Airborne Thunderstorm Detection Equipment to be held on December 2-3, 1982 in RTCA Conference Room, Suite 500, 1425 K Street NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review of the Study Group's Terms of Reference; (3) Technical Briefings; (4) Review of Working Papers; (5) Establish Work Program and Assign Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, NW., Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on November 1, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-30448 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP82-10; Notice 2]

Modular Ambulance Corp.; Action on Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants in part and denies in part the petition by Modular Ambulance Corp. of Grand Prairie, Texas, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for two apparent noncompliances with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the petition was that the noncompliances were inconsequential as they relate to motor vehicle safety.

Notice of receipt of the petition was published on May 6, 1982 (47 FR 19611) and an opportunity afforded for comment.

Standard No. 108 distinguishes between vehicles whose overall width is less than 80 inches, and those of 80 inches or more overall width. The latter are required to be equipped with clearance lamps, to indicate the overall width, and with identification lamps, a cluster of three lamps generally located at or near the top, to identify that the

vehicle is a wide vehicle. Table II of Standard No. 108 establishes location requirements for lighting equipment. Clearance lamps are to be mounted "to indicate the overall width of the vehicle * * * as near the top as practicable." Identification lamps are to be mounted "as close as practicable to the top of the vehicle * * * with lamp centers spaced not less than 6 inches or more than 12 inches apart."

Modular produced 60 Type I ambulances between September 1980 and March 1982 in which the front clearance and identification lamps were not located as close as practicable to the top of the vehicle; they were mounted on the truck cab roof rather than the top of the ambulance module behind the cab.

Furthermore, the identification lamp cluster on the near had its lamp centers spaced at 5¾ inches, slightly under the minimum of 6 inches established by Table II.

Modular argued that the noncompliances were inconsequential "because they do not represent a safety hazard to the vehicle occupants, or to traffic * * *" As a practical matter, it would cost $21,000 to repair all vehicles, two-thirds of which are "over 1,500 miles from our plant location."

Two comments were received on the petition. Truck Safety Equipment Institute recommended granting it because of the type and use of the vehicle concerned, although expressing support for high-mounted lamps which it believes "allows for better and faster judgment on the part of the approaching vehicle operator". Dominion Auto Assessories, Ltd. of Toronto, Canada, asked NHTSA to grant the petition with respect to the improper spacing between the rear identification lamps. However, it recommended denying the remaining portion of the petition and require front clearance and front identification lamps to be mounted at the height called for by the standard. Because an ambulance is an emergency vehicle operating at high speed, "it is imperative that drivers of opposing vehicles see the ambulance as far away as possible so they can take evasive and 'out-of-the-way' actions". In its view, the mislocation represented a safety hazard.

The National Highway Traffic Safety Administration concurs with the opinion of the commenters that the quarter-inch difference in spacing of the rear identification lamps is too minimal to have a consequential relationship to safety. During its review of the materials submitted, NHTSA discovered a further noncompliance with the front identification lamps. Standard No. 108 requires them to be located so that the lamp centers are not more than 12 inches apart but the Modular spacing was 12¼ inches. But NHTSA has determined that this noncompliance also is inconsequential in nature. Accordingly, petitioner has met its burden of persuasion that the quarter-inch error in spacing of its identification lamps is inconsequential as it relates to motor vehicle safety and its petition is granted.

However, the agency has also concluded that Modular should provide clearance lamps at the corners of the ambulance box. As mislocated, they are approximately 23 inches below and 17 inches inboard of the top front corner of the ambulance body. The agency concurs with the comments of Dominion Auto Accessories but it also believes that the corners should be identified as well when the vehicles are operating at night in nonemergency use. However, because of the limited number of vehiches involved, NHTSA does not believe that safety requires the front identification lamp cluster to be remounted as well. Petitioner need not remove the existing clearance lamps if it wishes but under this decision must provide lighting at the upper corners. Accordingly, petitioner has met its burdern of persuasion that mislocation of the identification lamps is inconsequential as it relates to motor vehicle safety and its petition is granted. But it has not met such burden with respect to the clearance lamp location and its petition is derlied.

The engineer and attorney principally responsible for this notice are Jere Medlin and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 2, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-30613 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Privacy Act of 1974; System of Records

The Department of Transportation herewith publishes one notice of a new system of records.

DOT/DG-501 reported as deleted on page 59740 of FR Vol. 46, No. 234, dated December 7, 1981, is hereby reinstated exactly as it appears on page 59747 of the same issue.

Any person or agency may submit written comments on the proposals to the Privacy Act Officer (M-30), Room 7109, U.S. Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590. Comments must be received by November 30, 1982, to be considered.

If no comments are received, the proposed new systems will become effective on December 5, 1982. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C., on October 29, 1982.

Karen S. Lee,

Acting Assistant Secretary for Administration.

DOT/OST 063

SYSTEM NAME:

Civil Rights Case Tracking System.

SYSTEM LOCATION:

Office of Civil Rights, U.S. Department of Transportation, Room 9201, 400 7th Street, S.W., Washington, D.C. 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records in this system will be maintained on individuals who have submitted complaints of alleged civil rights violations to the Department of Transportation or any of the Administrations within the Department of Transportation, including:

The Office of the Secretary of Transportation
The U.S. Coast Guard
The Federal Aviation Administration
The National Highway Traffic Safety Administration
The Federal Highway Administration
The Federal Railroad Administration
The Urban Mass Transportation Administration
The St. Lawrence Seaway Development Corporation
The U.S. Maritime Administration
The Research and Special Programs Administration

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in the system will be categorized by source of complaint (internal or external to the Department of Transportation) and by basis of complaint (race, sex, age, etc.).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records will be accessed for the purpose of producing reports and statistical profiles showing the progress of investigations and the status of complaints. The use of reports generated from these records will be within the Department of Transportation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in machine readable form on disk. All stored disks will be kept in the Office of Civil Rights and will be secured at all times. Computer access to the records will be controlled by means of identification numbers and passwords known only to the users and systems manager. Only employees of the Office of Civil Rights and the Transportation Computer Center will have access to the records.

RETRIEVABILITY:

Records can be retrieved individually in order to examine the status and progress of the investigation pertaining to the complaint.

SAFEGUARDS:

Access to and use of these records are limited to agency personnel whose offical duties require such access, and to officially recognized labor unions with respect to employees within the units that they represent. Safeguards include locked buildings, guard service and locked file cabinets. Statistical information from these records may be made available to other agencies or to the interested public without the person to whom the record pertains being identified.

RETENTION AND DISPOSAL:

Records will be purged from the electronic storage system at periodic intervals and transferred to printed documents for storage and eventual retention in the archives.

SYSTEM MANAGER(S) AND ADDRESS:

The official in the Department of Transportation responsible for the system of records is the Director of Civil Rights, Department of Transportation, Room 10215, 400 7th Street, S.W., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

An individual who wishes to be notified if the system of records contains a record pertaining to him may apply in writing to the System Manager.

RECORD ACCESS PROCEDURES:

An individual who wishes to review the contents of a record pertaining to him may apply in writing to the Systems Manager.

CONTESTING RECORD PROCEDURES:

Contact or write the System Manager. Reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

The sources used for records in this system are the complainant, witnesses of alleged violations of civil rights statutes and regulations, written documents pertinent to such investigations, and other records maintained by the Department of Transportation.

[FR Doc. 82-30433 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Hazardous Materials; Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes December 8, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8933-N	Ford Aerospace and Communications Corp., Newport Beach, CA.	49 CFR 173.206	To authorize shipment of sodium metal as part of a sodium-sulfur battery installed in an electric vehicle (mode 1).
8934-N	Korean Air Lines, Inc., Los Angeles, CA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.302, Part 107, Appendix B.	To authorize carriage of various Class A, B and C explosives (military ammunition) not permitted for air shipment or in quantities greater than those prescribed for air shipment (mode 4).
8935-N	Quaker State Oil Refining Corp., Bradford, PA	49 CFR 173.119, 178.342	To authorize shipment of crude oil, classed as a flammable liquid in non-DOT cargo tanks complying with DOT Specification MC-307 except for circumferential reinforcement (mode 1).
8936-N	Great Lakes Chemical Corp., West Lafayette, IN.	49 CFR 173.357(b)(2)	To authorize shipment of a poison B mixture containing 57% chloropicrin in DOT Specification 5B drums not over 33 gallon capacity (modes 1, 2, 3).
8937-N	Amax Specialty Metals Corp., Salt Lake City, UT.	49 CFR 173.178	To authorize shipment of magnesium granules, coated, classed as flammable solid, contained in collapsible polypropylene disposable bulk bags, of approximately 2,000 pound capacity (modes 1, 2).
8938-N	Cryogenic Services Inc., Savage, MN	49 CFR 173.304(a)	To manufacture, mark and sell DOT Specification 4L cylinders for shipment of carbon dioxide liquefied or nitrous oxide classed as nonflammable gases (modes 1, 2, 3, 4).
8940-N	Arapahoe Chemicals, Inc., Boulder, CO	49 CFR 173.230	To authorize shipment of sodium, metal dispersion in organic solvent, flammable solid, contained in DOT Specification 5, 5C, 6B or 6C drums, overpacked in DOT specification 55 gallon 17H drums (mode 1).
8941-N	Day & Zimmerman, Inc., Philadelphia, PA	49 CFR 172.101, 173.65, 175.30	To authorize a one-time shipment of a high explosive, Class A, contained in 35 non-DOT specification fiberboard drums net weight not over 133 pounds each (mode 4).
8942-N	Poly Processing Co., Inc., Monroe, LA	49 CFR 173.266, Part 173	To manufacture, mark and sell non-DOT specification 300 gallon cross-linked polyethylene tanks enclosed in a steel overpack, for shipment of hydrogen peroxide, classed as an oxidizer and corrosive materials authorized in DOT Specification 34 containers and DOT Specification 57 portable tanks.
8943-N	BASF Wyandotte Corp., Parsippany, NJ	49 CFR 173.154	To ship a polyol filter cake wetted with water, described as a flammable solid, n.o.s., in bulk in a metal cargo carrying body (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereo
8944-N	Union Carbide Corp., Danbury, CT	49 CFR 173.302, 173.34, Part 197 Appendix	To authorize DOT Specification 3AAX and 3T cylinders to be periodically retested by acoustic emission equipment instead of hydrostatic retest and to allow a reduced test pressure, latitude in external inspection, and determination of wall stress, etc., commensurate with the retest technique (modes 1, 2).

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on October 29, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-30371 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These appliciations have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes 15 days after date of publication in the **Federal Register.**

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
2787-X	Raytheon Co., Andover, MA	2787
3330-X	Teledyne Wah Chang Albany Corp., Albany, OR.	3330
3330-X	General Electric Co., Schenectady, NY.	3330
4575-X	Racon Inc., Wichita, KS	4575
4575-X	Union Carbide Corp., Danbury, CT	4575
4588-X	U.S. Department of Energy, Washington, D.C.	4588
4698-X	American Bosch Diesel Products, Springfield, MA.	4698
5557-X	U.S. Department of Energy, Washington, D.C.	5557
6243-X	Liquid Carbonic Corp., Chicago, IL [1]	6243
6752-X	Pennwalt Corp., Philadelphia, PA [2]	6752
6802-X	Welders Gas & Supply, Sioux Falls, SD.	6802
6802-X	Harvey Co., Greensburg, PA	6802
6971-X	PolyScience Corp., Niles, IL	7971
7013-X	Airsco Welding Products, Murray Hill, NJ.	7013
7096-X	Fike Metal Products Corp., Blue Springs, MO.	7096
7247-X	U.S. Department of Defense, Washington, D.C.	7247
7259-X	Stauffer Chemical Co., Westport, CT	7259
7259-X	Occidental Chemical Corp., Niagara Falls, NY.	7259
7259-X	IKC Corp., Philadelphia, PA	7259
7259-X	Exxon Chemical Americas, Houston, TX.	7259
7259-X	Monsanto Co., St. Louis, MO	7259
7694-X	Borg Warner Corp., Van Nuys, CA	7694
7808-X	Whitmire Research Laborstories, Inc., St. Louis, MO.	7808
7823-X	Air Products & Chemicals, Inc., Allentown, PA.	7823
7840-X	Douglas Aircraft Co., Long Beach, CA.	7840
7846-X	Union Carbide Corp., Danbury, CT	7846
7857-X	Makhteshim Darom, Beer Sheva, Israel.	7857
7873-X	Bromine Compounds, Ltd., Beer Sheva, Israel.	7873
8023-X	Acurex Corp., Mountain View, CA	8023
8050-X	XMAS Corp., Tulsa, OK	8050
8055-X	Hammond Lead Products, Inc., Hammond, IN.	8055
8080-X	Allied Corp., Morristown, NJ	8080
8116-X	Shell Oil Co., Houston, TX	8116
8116-X	U.S. Department of Defense, Washington, D.C.	8116
8119-X	BJ-Hughes, Inc., Long Beach, CA TN.	8120
8120-X	Starflight Inc., Smyrna, TN	8120
8125-X	Compagnie des Containers Reservoirs, Paris, France.	8125
8127-X	Hercules, Inc., Wilmington, DE	8127
8141-X	GTE Products Corp., Waltham, MA	8141
8144-X	Atlas Powder Co., Dallas, TX [3]	8144
8390-X	Ashland Oil, Inc., Columnbus, OH [4]	8390
8414-X	SLEMI, Paris, France	8414
8480-X	The Gillette Co., Boston, MA	8480
8488-X	Born Free Plastics, Gardena, CA	8488
8506-X	Dow Chemical Co., Midland, MI	8506
8509-X	Dow Chemical Co., Midland, MI	8509
8522-X	Preferred Plastics, Inc., Sterling, VA	8522
8528-X	Beech Aircraft Corp., Boulder, CO	8528
8690-X	Air Products and Chemicals, Inc., Allentown, PA.	8690
8741-X	Alpha Aviation, Inc., Dallas, TX [5]	8741
8795-X	The Marison Co., South Elgin, IL [6]	8795
8890-X	Sunbelt Airlines, Camden, AR [7]	8890
8925-X	Military Sealift Command, Washington, D.C.	8925

[1] To allow an increased filling density for liquid carbon monoxide in tank motor vehicles.

[2] To authorize DOT Specification 3AAX and 3T cylinders containing difluoroethlene manifolded in an ISO frame as an additional container configuration.

[3] To increase quantity limit for DOT Specification 2U inside containers, from 6 quarts to 5 gallons, for shipment of spirits of nitroglycerin (nitroglycerin-propylene glycol mix).

[4] To modify exemption to authorize 6 x 6.5 or 4 x 6.5 pint DOT Specification 2E bottles containing sulfuric acid overpacked in DOT Specification 12A fiberboard boxes.

[5] To amend exemption to include various Class B, and C explosives.

[6] To amend exemption to allow qualification tests for new design cylinders or significant design changes.

[7] To modify exemption to authorize transport to various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed.

Application No.	Applicant	Parties to exemption
5767-P	E. F. Houghton & Co., Valley Forge, PA. [1]	5767
7060-P	Coast Air Freight Inc., Long Beach, CA.	7060
7835-P	Scott Environmental Technology, Inc., Plumsteadville, PA.	7835
8129-P	Ecoflo, Inc., Bladensburg, MD	8129
8129-P	Rollins Environmental Services (LA), Inc., Baton Rouge, LA.	8129
8129-P	FMC Corp., Princeton, NJ	8129
8390-P	Van Waters & Rogers, San Jose, CA	8390
8441-P	EG&G Environmental Equipment Div., Sea-Link System, Herndon, VA.	8441
8480-P	Braun A.G., Kronberg, West Germany.	8480
8509-P	Mobay Chemical Corp., Pittsburgh, PA.	8509
8526-P	3M, St. Paul, MN	8526

Application No.	Applicant	Parties to exemption
8618-P	Northern Air Cargo, Inc., Anchorage, AK.	8618
8627-P	Nalco Chemical Co., Oak Brook, IL	8627
8655-P	International Silver Co., Meriden, CT	8655
8732-P	American Emulsions Co., Inc., Dalton, GA.	8732
8854-P	Compagnie des Containers Reservoirs, Neuilly-Sur-Seine, France.	8854
8878-P	Amalgamet Canada—Division of Premetalco Inc., Toronto, Ontario, Canada.	8878

[1]Request party status and to authorize an additional corrosive liquid, n.o.s.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 29, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-30372 Filed 11-8-82; 8:45 am]

BILLING CODE 4910-60-M

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on December 7-8, 1982, at 9 a.m. in Room 3442, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of the following proposed standards and amendments to safety standards:

1. Line marking at navigable waterways.
2. Temperature limits on cold expanded steel pipe.
3. Qualification of metallic components.
4. Repair and removal of weld defects.

The Committee will also discuss the following regulatory projects:

1. Isolated corrosion pitting.
2. Records for hydrostatic testing, operation, and maintenance.
3. Nondestructive testing of girth welds.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: November 3, 1982.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-30615 Filed 11-5-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 9]

Federated Mutual Insurance Company; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Federated Mutual Insurance Company, Owatonna, Minnesota, under Sections 9304 to 9308 of Title 31 of the United States Code (formerly 6 U.S.C., Section 6-13), to qualify as an acceptable surety on federal bonds is hereby terminated, effective today.

The company was last listed as an acceptible surety on federal bonds at 47 FR 28875, July 1, 1982.

With respect to any bonds currently in force with Federated Mutual Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC. 20226, Telephone (202) 634-5752.

Dated: October 27, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-30569 Filed 11-5-82; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Individual Retirement Arrangement Information; Proposed Form 5498; Request for Comments

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of proposed new Form 5498, Individual Retirement Arrangement Information, and request for comments.

SUMMARY: The Internal Revenue Service is proposing for public comment a new form for making reports concerning individual retirement arrangements (IRAs), simplified employee pensions (SEPs), and deductible employee contributions (DECs). The Service, after considering all comments and suggestions, will adopt one of the proposed forms for 1983, with any appropriate changes resulting from the comments. When reporting requirements are finalized, the applicable regulations will be revised accordingly.

DATE: Written comments and suggestions should be mailed or delivered by December 8, 1982.

ADDRESS: Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, N.W., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Nolan, Internal Revenue Service, Constitution Avenue, N.W., Washington, DC 20224, telephone (202) 566-3601 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: Currently, only distributions from these plans are required to be reported to both the Service and to recipients. Periodic distributions are reported on Form W-2P, Statement for Recipients of Periodic Annuities, Pensions, Retired Pay, or IRA Payments; and total distributions are reported on Form 1099R, Statement for Recipients of Total Distributions from Profit Sharing, Retirement Plans, and Individual Retirement Arrangements. Plan administrators, trustees, etc. are required to furnish information concerning contributions only to the participants in the plan. This information is not currently required to be furnished to the Service.

Two versions of the proposed Form 5498 are included in this notice. When submitting comments, please include your preference for one or the other version.

Version A would be used to report to plan participants information concerning only contributions to IRAs,

SEPs, and employer plans that allow DECs. The plan administrator, trustee, etc. would not file a copy with the Service; however, participants would be required to attach a copy of Form 5498 to their income tax return to verify the deduction for the contribution. Forms 1099R and W–2P would continue to be used to report distributions.

Version B would be used to report to the Service and plan participants information concerning both contributions to and distributions from IRAs, SEPs, and employer plans that allow DECs. Income tax withheld on distributions would also be reported. The Service is considering making Copy A (For Internal Revenue Service) optional in cases where there are no entries in boxes 4 through 8. Participants would be required to attach a copy of Form 5498 to their income tax returns to verify contributions, distributions, and income tax withheld. Forms 1099R and W–2P would no longer be used to report distributions from IRAs, SEPs, or employer plans that allow DECs.

With either version, plan administrators, trustees, etc., would be required to issue Form 5498 by January 31 of the year following the year during which the contribution (or distribution if Version B is used) was made. If contributions that apply to the preceding year are made after December 31, an additional Form 5498 would be required to be issued at the time of, or immediately after, the contribution is made. In order to limit the amount of participant's financial information disclosed to the Service on the new form, it is expected that more restrictive substitute forms procedures will be implemented upon adoption of either version.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Nelson A. Brooke,

Chairman, Tax Forms Coordinating Committee.

BILLING CODE 4830–01–M

Version A

Page 1 of Form 5498 (3-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

For Official Use Only

1983

Type or print Trustee's or Insurance Company's name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy A

For Plan Administrator

51 ☐

Participant's social security number	1 IRA contributions (a) Regular	1 IRA contributions (b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC's)

Type or print PARTICIPANT'S name, address, and ZIP code below (Name must aline with arrow.)

Name ▶

4 Amount of contributions used to pay for life insurance

For Paperwork Reduction Act Notice and instructions on completing this from, see back of this copy.

Form **5498** 363–289–1 Department of the Treasury—Internal Revenue Service

Version A

Page 2 of Form 5498 (3-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

General Instructions

(Section references are to the Internal Revenue Code unless otherwise specified.)

Paperwork Reduction Act Notice.—We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Purpose of Form.—Use Form 5498 to report all contributions to an IRA, SEP, or deductible employee contributions (DEC) to the participant. The form is not required to be filed with IRS but the participant must attach a copy of the form to his or her Federal income tax return. That copy will be used to verify the deduction taken for contributions to plans shown.

Who Must Use Form 5498.—Any plan administrator of one of the three types of plans shown on the form, who receives a contribution to one of those plans, must fill out Form 5498 and give two copies of it to the participant by January 31st of each year. If no contributions have been received, Form 5498 is not required.

Contributions After December 31st.—When a contribution is received after December 31st, 1983 and before the participant files his or her Federal income tax return and he or she designates that contribution as applicable to the year ending December 31st, 1983, Form 5498 should be given upon receipt of the contribution to enable the participant to attach it to the tax return. If the participant made other contributions, he or she may receive more than one Form 5498.

Specific Instructions.—Report in:

Box 1(a).—all regular contributions to an IRA. This includes individual retirement accounts or annuities.

Box 1(b).—any IRA contribution which is being rolled over from another plan.

Box 2.—all contributions to a simplified employee pension (SEP).

Box 3.—all deductible employee contributions to an employer's plan. See the instructions for deductible employee contributions (DEC's) following Box 4 instructions.

Box 4.—any amount included in boxes 1, 2, or 3, which was used to pay for life insurance. If an endowment contract has been purchased, the amount of the premium must be reported here. See table in Rev. Rul. 55–747, 1955–2 C.B. 228.

Deductible Employee Contributions (DEC's).—These are voluntary contributions by an employee to qualified plans, SEP's, or plans funded with annuity contracts (See section 403 (b)), and government plans (whether or not qualified). They are deductible only if:

a. the plan provides for voluntary employee contributions,
b. the employee does not designate the contributions as other than deductible, and
c. the employer agrees to treat the contributions as deductible.

Mandatory contribution plans are not deductible. See Notice 82–13, IRB 82–19, page 16 for more information.

Payroll Deductions.—When an employee designates a contribution as applicable to the prior year, and notifies the plan administrator of such designation, Form 5498 should be made out for the appropriate amount so designated even though the contributions were received in a stated amount through payroll deductions.

363–289–1

Version A

Page 3 of Form 5498 (Page 4 is blank) (3-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

1983

Type or print Trustee's or Insurance Company's name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy B
File with recipient's FEDERAL tax return

Participant's social security number	1 IRA contributions (a) Regular	1 IRA contributions (b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC's)

Type or print PARTICIPANT'S name, address, and ZIP code below

4 Amount of contributions used to pay for life insurance	

Form **5498** 363–289–1 Department of the Treasury—Internal Revenue Service

Version A

Page 5 of Form 5498 (3-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

1983

Type or print Trustee's or Insurance Company's name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy C
For Recipient's Records

Participant's social security number	1 IRA contributions (a) Regular	1 IRA contributions (b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC's)

Type or print PARTICIPANT'S name, address, and ZIP code below

4 Amount of contributions used to pay for life insurance	

For instructions see back of this form.

Form **5498** 363–289–1 Department of the Treasury—Internal Revenue Service

Version A

Page 6 of Form 5498 (3-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

Instructions to Participant

The amount shown on Form 5498 is the amount that has been received by your plan administrator during 1983, or in 1984 and designated by you as applicable to 1983.

You should receive two copies of Form 5498 for all contributions made to your plan (or plans) prior to filing your Federal income tax return. You should attach Copy B, of each Form 5498 you receive, to your tax return along with your copies of Form W–2, Wage and Tax Statement. This will enable IRS to verify the deduction you take, and should eliminate the need to contact you for that verification.

If you make contributions after December 31st, 1983, and you want them to be considered as part of your 1983 contributions, be sure to tell the person receiving the contributions that they are to be designated as received in 1983. You should then be given two copies of Form 5498 showing 1983 contributions (even though they were made in 1984 prior to filing your income tax return.) If you have made other contributions you may receive more than one Form 5498. Any amount deducted and not shown on a Copy B that is attached to your tax return may be disallowed as a deduction.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1982—O-363-289 363–289–1

Version B

Page 1 of Form 5498 (Page 2 is blank) (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

For Official Use Only

1983

Type or print Trustee's or Insurance Company's name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy A For Internal Revenue Service Center

51 ☐

Participant's social security number	1 IRA contributions (a) Regular	(b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC)
4 Category of distribution	5 IRA distributions	6 SEP distributions	7 DEC distributions	8 Federal income tax withheld

Name ►

9 Amount of contributions used to pay for life insurance

Type or print PARTICIPANT'S name, address, and ZIP code above.

For Paperwork Reduction Act Notice and instructions on completing this form, see back of Copy D.

Form **5498** 363-289-1 Department of the Treasury—Internal Revenue Service

Version B

Page 3 of Form 5498 (Page 4 is blank) (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

1983

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy B To be filed with Participant's FEDERAL tax return

Participant's social security number	1 IRA contributions (a) Regular	(b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC)
4 Category of distribution	5 IRA distributions	6 SEP distributions	7 DEC distributions	8 Federal income tax withheld

9 Amount of contributions used to pay for life insurance

Type or print PARTICIPANT'S name, address, and ZIP code above.

This information is being furnished to the Internal Revenue Service.

Form **5498** 363-289-1 Department of the Treasury—Internal Revenue Service

Version B

Page 5 of Form 5498 (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

1983

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy C
For Participant's Records

Participant's social security number	1 IRA contributions (a) Regular	1 IRA contributions (b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC)

4 Category of distribution	5 IRA distributions	6 SEP distributions	7 DEC distributions	8 Federal income tax withheld

9 Amount of contributions used to pay for life insurance

Type or print PARTICIPANT'S name, address, and ZIP code above.

For instructions see back of Copy C

Form **5498** 363-289-1 Department of the Treasury—Internal Revenue Service

Version B

Page 6 of Form 5498 (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

Instructions to Participant

The amounts shown on Form 5498 represent contributions received by, or distributions made by, the administrator of your individual retirement arrangement, during 1983, or in 1984 for contributions designated by you as applicable to 1983 contributions.

You should receive two copies of Form 5498 for all contributions made to your plan (or plans) prior to filing your Federal income tax return. You should attach Copy B, of each Form 5493 you receive, to your tax return along with your copies of Form W-2, Wage and Tax Statement. This will enable IRS to verify the deduction you take, and should eliminate the need to contact you for that verification.

If you make contributions after December 31st, 1983, and you want them to be considered as part of your 1983 contributions, be sure to tell the person receiving the contributions that they are to be designated as received in 1983. You should then be given two copies of Form 5493 showing 1983 contributions (even though they were made in 1984 prior to filing your income tax return.) If you have made other contributions you may receive more than one Form 5498. Any amount deducted and not shown on a Copy B that is attached to your tax return may be disallowed as a deduction.

The code number shown in Box 4 identifies the type of distribution that has been made to you. These numbers are:

1—Premature Distribution (other than codes 2, 3, 4, or 5); 2—Rollover; 3—Disability; 4—Death; 5—Prohibited Transaction; 6—Other; 7—Normal Distributions; 8—Excess contributions refunded plus earnings on such excess contributions; 9—Transfers to an IRA for a spouse due to a divorce.

Amounts shown in Boxes 5, 6, or 7 are amounts you received as distributions. These amounts may be includible in income depending on the type of distribution. See **Publication 590** Tax Information Individual Retirement Arrangements for more information.

The amount shown in Box 8 is the amount, if any, of Federal income tax withheld from your distribution.

363-289-1

Version B

Page 7 of Form 5498 (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

OMB No.

1983

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Individual Retirement Arrangement Information

Copy D
For Plan Administrator

Participant's social security number	1 IRA contributions (a) Regular	1 IRA contributions (b) Rollover	2 SEP contributions	3 Deductible employee contributions (DEC)

4 Category of distribution	5 IRA distributions	6 SEP distributions	7 DEC distributions	8 Federal income tax withheld

9 Amount of contributions used to pay for life insurance

Type or print PARTICIPANT'S name, address, and ZIP code above.

For instructions see back of Copy C and D.

Form **5498** 363-289-1 Department of the Treasury—Internal Revenue Service

Version B

Page 8 of Form 5498 (4-Part)

The type and rule above prints on all proofs including departmental reproduction proofs. Must be removed before printing forms.

General Instructions

Paperwork Reduction Act Notice.—We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Purpose of Form.—Use Form 5498 to report all contributions to and distributions from an IRA, SEP, or deductible employee contributions (DEC). Give the participant copies B and C of the form so he or she can attach a copy to their Federal income tax return. It will be used to verify the deduction taken.

Who Must File.—Any plan administrator of one of the three types of plans shown on the form, who receives a contribution or makes a distribution from one of those plans, must file Form 5498 with the Internal Revenue Service.

Where and When to File.—File Form 5498 with the Service Center for your area by February 28th of the year following the year of the contributions or distribution. Give copies B and C to the participant by January 31st of that year.

Contributions After December 31st.—When a contribution is received after December 31st, 1983 and before the participant files his or her Federal income tax return and he or she designates that contribution as applicable to the year ending December 31st, 1983, file Copy A, of forms showing contributions after 12/31/83, sixty days after the last date allowed for these contributions. Form 5498 should be given upon receipt of the contribution to enable the participant to attach it to the tax return. If the participant made other contributions, he may receive more than one Form 5498.

Specific Instructions.—Report in:

Box 1(a).—All regular contributions to an IRA. This includes individual retirement accounts or annuities.

Box 1(b).—Any IRA contribution which is being rolled over from another plan.

Box 2.—All contributions to a simplified employee pension (SEP).

Box 3.—All deductible employee contributions to an employer's plan. See the instructions following Box 9 instructions.

Box 4.—The code number that identifies the type of distribution you made. The numbers are as follows:

1—Premature Distribution (other than codes 2, 3, 4, or 5); 2—Rollover; 3—Disability; 4—Death; 5—Prohibited Transaction; 6—Other; 7—Normal Distributions; 8—Excess contributions refunded plus earnings on such excess contributions; 9—Transfers to an IRA for a spouse due to divorce.

Boxes 5, 6, and 7.—The amount of any distributions from one of these retirement arrangements. Be sure you have identified it with a Code number in Box 4.

Box 8.—The amount of Federal income tax withheld from any distributions (if applicable).

Box 9.—Any amount included in boxes 1, 2, or 3, which was used to pay for life insurance. If an endowment contract has been purchased, the amount of the premium must be reported here. See table in Rev. Rul. 55-747, 1955-2 C.B. 228.

Deductible employee contributions (DEC).—These are voluntary contributions by an employee to qualified plans, SEP's, or plans funded with annuity contracts (See section 403(b)), and government plans (whether or not qualified). They are deductible only if:

a. the plan provides for voluntary employee contributions,

b. the employee does not designate the contributions as other than deductible, and

c. the employer agrees to treat the contributions as deductible.

Mandatory contribution plans are not deductible. See Notice 82-13, IRB 82-19, page 16 for more information.

Payroll Deductions.—When an employee designates a contribution as applicable to the prior year, and notifies the plan administrator of such designation, Form 5498 should be made out for the appropriate amount so designated even though the contributions were received in a stated amount through payroll deductions.

[FR Doc. 82-30616 Filed 11-5-82; 8:45 am]
BILLING CODE 4830-01-C

☆ U.S. GOVERNMENT PRINTING OFFICE : 1982—O-363-289

Sunshine Act Meetings

Federal Register
Vol. 47, No. 216
Monday, November 8, 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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, November 10, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:
Compliance Status Report:

The staff will brief the Commission on the status of compliance activities.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301-492-6800.

For an recorded message concerning latest agenda information call 301-492-5707.

[S-1614-82 Filed 11-4-82; 4:06 pm]

BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, November 9, 1982, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, DC. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1 Ratification of Notation Vote/s.

2. Report on Commission Operations (optional).

3. Freedom of Information Act Request No. 82-8-FOIA-34-CL, concerning a request for a closed ADEA file.

4. Freedom of Information Act Request No. 82-9-FOIA-68-ME, concerning a request for deliberative documents in a closed age discrimination case file.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat at (202) 634-6748.

This Notice Issued November 2, 1982.

[S-1613-82 Filed 11-4-82; 4:04 pm]

BILLING CODE 6750-06

3

FEDERAL ENERGY REGULATORY COMMISSION

November 3, 1982.

TIME AND DATE: 10 a.m., November 10, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—759th Meeting November 10, 1982, Regular meeting (10 a.m.)

CAP-1. Project No. 6246-002, Mr. Lester Kelley, et al.
CAP-2. Project No. 6267-001, Mr. Lester Kelley, et al.
CAP-3. Project No. 6148-000, Western Hydroelectric, Inc.
CAP-4. Project No. 5998-000, City of Emporia, Virginia
CAP-5. Project No. 6206-002, Mr. Lester Kelley, et al.
CAP-6. Project No. 6435-000, Joseph B. Nelson
CAP-7. Project No. 6433-000, Warren B. Nelson
CAP-8. Project No. 6037-000, French Paper Co.
CAP-9. Project No. 6412-000, Lyonsdale Hydroelectric Co.
CAP-10. Project No. 5571-001, Cataldo Hydro Power Associates
CAP-11. Project No. 6272-000, Lawrence J. McMurtrey; Project No. 6448-000, Western Hydro Electric, Inc.
CAP-12. Project No. 6437-000, Western Hydro Electric, Inc.
CAP-13. Project No. 6175-002, Mr. Lester Kelley, et al.
CAP-14. Project No. 6434-000, Mr. Joseph B. Nelson
CAP-15. Project No. 4006-001, City of Ogdensburg
CAP-16. Project Nos. 2149-007, 008 and 009, Public Utility District No. 1 of Douglas County
CAP-17. Project No. 2840-004, South Columbia Basin Irrigation District, East Columbia Irrigation District and Quincy-Columbia Basin Irrigation District
CAP-18. Project No. 3551-001, Continental Hydro Corp. and the Shoshone and Arapahoe Tribes; Project No. 4533-000, City of Gillette, Wyoming; Project No. 3636-000, Gregory Wilcox; Project No. 3954-000, Energenics; Project No. 4694-000, Midvale Irrigation District; Project No. 4695-000, Midvale Irrigation District
CAP-19. Project No. 5867-001, Long Lake Energy Corp.
CAP-20. Docket No. E-6454-006, City of Centralia
CAP-21. Project No. 4705-002, John J. Hockberger
CAP-22. Project No. 3407-003, Cook Electric Co.; Project No. 4488-000, Big Wood Canal Co. and American Falls Reservoir District No. 2
CAP-23. Project No. 289-003, Louisville Gas & Electric Co.
CAP-24. Project No. 176-011, Escondido Mutual Water Co.
CAP-25. Project No. 2769-000, Pennsylvania Electric Co. and Allegheny Electric Cooperative, Inc.
CAP-26. Project No. 2709-006, Monongahela Power Co., The Potomac Edison Co. and West Penn Power Co.
CAP-27. Project No. 3747-002, Borough of Central City, Pennsylvania
CAP-28. Project No. 4309-002, Tuolumne Regional Water District

CAP–29. Project Nos. 943–012, 013 and 014, Public Utility District No. 1 of Chelan County, Washington
CAP–30. Project No. 3858–000, Idaho Renewable Resources, Inc., City of Ashton, Idaho; Project No. 4168–000, Energenics; Project No. 4803–002, American Falls Reservoir District No. 2 Big Wood Canal Co.
CAP–31. Project No. 3151–000, Chain Dam Hydroelectric Corp., Chain Dam Hydroelectric Associates and Palmer Township, Pennsylvania; Project No. 3547–000, Commonwealth of Pennsylvania, Department of Environmental Resources and City of Easton, Pennsylvania
CAP–32. Project No. 3925–000, JBC Hydro Tennessee, Ltd.; Project Nos. 4443–000, 4443–001 and 4443–002, Daniel E. Burgner; Project Nos. 5474–000 and 5474–001, Southeastern Hydro–Power, Inc.
CAP–33. Project No. 6372–000, American Hydro Power Co.
CAP–34. Project No. 4262–000, Consolidated Hydroelectric, Inc.; Project No. 4840–001, Modesto Irrigation District
CAP–35. Project Nos. 2849–001, and 3295–000, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District
CAP–36. Project Nos. 2958–001, and 2958–002, Madera Irrigation District
CAP–37. Project No. 5906–001, North Canal Waterworks
CAP–38. Project No. 4885–002, South Fork Resources, Inc.
CAP–39. Project Nos. 2930–001, and 002, Idaho Power Co.
CAP–40. Project No. 2879–002, Green Montain Power Corp.
CAP–41. Project No. 4634–000, The City of Billings, Montana; Project No. 4816–000, Montana Department of Natural Resources and Conservation
CAP–42. Project No. 4635–000, City of Billings, Montana; Project No. 4657–001, Montana Department of Natural Resources and Conservation; Project No. 4657–002, Montana Department of Natural Resources and Conservation; Project No. 5564–000, Bitterroot Conservation district
CAP–43. Project No. 3365–000, Continental Hydro Corp.; Project No. 3579–000, Town of Converse, Indiana; Project No. 4197–000, Indiana Municipal Power Agency
CAP–44. Project No. 4575–000, Crown Zellerbach Corp.; Project No. 5202–000, Public Utility District No. 1 of Jefferson County, Washington; Project No. 5459–002, City of Port Townsend
CAP–45. Project No. 2280, Pennsylvania Electric Co. and The Cleveland Electric Illuminating Co.
CAP–46. Project No. 5574–000, Energenics Systems, Inc.; Project No. 5894–000, Town of Granby, Colorado; Project Nos. 5970–000 and 5970–001, Northern Colorado Water Conservancy District
CAP–47. Project No. 5860–000, West Slope Power Co.
CAP–48. Project No. 2375–001, International Paper Co.
CAP–49. Project No. 6156–001, Milton and Morris Zack
CAP–50. Project No. 3738–000, Mitchell Energy Co., Inc.; Project No. 3813–000, Energenics Systems, Inc.; Project No. 4145–000, The city of Valentine, Nebraska; Project No. 4225–000, Ainsworth Irrigation District
CAP–51. Project Nos. 3865–000, 001 and 002, Guadalupe-Blanco River Authority; Project No. 4921–000, Perdernales Electric Cooperative, Inc.
CAP–52. Project No. 3634–000, Gregory Wilcox; Project No. 3898–000, Mitchell Energy Co., Inc.; Project No. 3915–000, Hydroelectric Constructors, Inc.; Project No. 4137–000, Enagenics; Project No. 4388–000, Vidler Tunnel Water Co.; Project No. 4676–000, The City of Gunnison, Colorado
CAP–53. Project No. 5534–000, Messrs. Owen, Castagna and Bean; Project No. 5629–000, Modesto Irrigation District; Project No. 5756–000, Resource Investments; Project No. 5863–000, West Slope Power Co.
CAP–54. Project No. 3186, City of Ukiah, California; Project No. 3351, Sonoma County Water Agency
CAP–55. Project Nos. 4189–001, 4190–000, 4326–000, 4329–000, 4343–000, 4366–000, 4417–000 and 4419–001, Consolidated Hydroelectric, Inc.; Project Nos. 4830–000, 4833–000, 4927–000, 4957–000, 4970–000, 4973–000, 4992–001 and 4993–000, City of Rohnert Park, California; Project Nos. 4873–000, 4953–001, 5009–002, 5013–002, 5224–000, 5240–000, 5252–000 and 5254–000, Modesto Irrigation District; Project Nos. 5232–000 and 5374–000, Tehama County Flood Control and Water Conservation District
CAP–56. Project No. 67–000, Southern California Edison Co.; Project No. 2904–000, The Cities of Anaheim and Riverside, California
CAP–57. Southern Pacific Land Co.
CAP–58. Project Nos. 4437–000 and 001, Glacier Energy Co.; Project No. 5332, City of Seattle, City Light Department
CAP–59. Project No. 5838–000, Pickett Hydro Associates; Project No. 6517–000, Blackstone, Virginia
CAP–60. Project No. 2763–000, City of Golden, Colorado and Vidler Tunnel Water Co.; Project No. 2773–000, Oak Creek Power Co.; Project Nos. 2779–000 and 001, Colorado River Water Conservation District and Municipal Subdivision of the Northern Colorado Water Conservancy District
CAP–61. Project No. 3118–000, Franklin Falls Hydro Electric Corp.; Project No. 3170–000, Public Service Co. of New Hampshire
CAP–62. Project No. 5126–000, Mega Hydro Inc.
CAP–63. Omitted
CAP–64. Project No. 2835–000, New York State Electric & Gas Corp.
CAP–65. Project No. 4632–000, Clifton Power Corp.
CAP–66. Project No. 2100–019, State of California Department of Water Resources
CAP–67. Project No. 2244–003, Washington Public Power Supply System
CAP–68. Project No. 1984–005, Wisconsin River Power Co.
CAP–69. Omitted.
CAP–70. Docket No. ER82–793–000, Florida Power & Light Co.
CAP–71. Docket No. ER82–803–000, New York State Electric & Gas Corp.
CAP–72. Docket Nos. ER82–799–000 and EL82–6–000, Niagara Mohawk Power Corp.
CAP–73. Docket No. ER82–673–001 and 002, Kentucky Utilities Co.
CAP–74. Docket No. ER80–214–002, Pacific Gas & Electric Co.
CAP–75. Docket Nos. ER77–578–002 and ER80–259–000, Kansas Gas & Electric Co.
CAP–76. Docket Nos. ER76–532–002 and 003, Pacific Gas & Electric Co.
CAP–77. Docket Nos. ER79–105–004, 005 and 006, Southern California Edison Co.
CAP–78. Omitted.
CAP–79. Docket No. E–8851–002, Alabama Power Corp.
CAP–80. Docket Nos. ER76–828–002, 003, 004 and 005, Nantahala Power & Light Co.; Docket Nos. EL78–18–002, 003, 004 and 005, Town of Highlands, North Carolina, et al. v. Nantahala Power & Light Co.
CAP–81. Docket No. ER82–375–002, Gulf States Utilities Co.
CAP–82. Docket No. EL82–20–000, The Town of Highlands, North Carolina, Haywood Electric Membership Corp., and North Carolina Electric Membership Corp. v. Nantahala Power & Light Co.
CAP–83. Docket No. ER82–271–000, Pacific Gas & Electric Co.
CAP–84. Docket No. ER82–669–000, Westchester Resco Co.
CAP–85. Docket No. ER81–504–001, Delmarva Power & Light Co.
CAP–86. Docket Nos. ER82–456–000 and 002, The Cincinnati Gas & Electric Co.
CAP–87. Omitted.
CAP–88. Docket No. ER82–347–000, Wisconsin Electric Power Co.
CAP–89. Docket No. ER80–592, et al., Allegheny Power System, et al.; Docket Nos. ER81–66–000, ER81–225–000, ER81–136–000, ER81–292–000, Louisville Gas & Electric Co.
CAP–90. Docket No. ER82–23–000, West Texas Utilities Co.
CAP–91. Docket No. EL81–11–000, Kansas City Power & Light Co.
CAP–92. Docket Nos. ER78–507 and EL81–15–000, Public Service Co. of Colorado
CAP–93. Omitted.
CAP–94. Project No. 3417, Southeastern Renewable Resources, Inc. and the Town of Grafton, West Virginia; Project No. 3476, Noah Corp.; Project No. 4067, City of Bedford, et al.; Project No. 4239, City of Philippi, West Virginia; Project No. 4255, Taylor County Commission and the Town of Flemington, West Virginia
CAP–95. Project No. 6301–000, Woods Creek, Inc./ Murray-Pacific Corp., a Joint Venture
CAP–96. Docket No. QF82–208–001, American Lignite Products Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. RM83–4–000, Discontinuance of FERC Form No. 5: Electric Utility Co. Monthly Statement
CAM–2. Docket No. RM83–5–000, Revision of FERC Form No. 121: Application for determination of the maximum lawful price under the Natural Gas Policy Act of 1978 (Sections 102, 103, 107 and 108)
CAM–3. Docket No. RM79–76–050 (New Mexico—5), high-cost gas produced from tight formations

CAM–4. Docket No. RM79–76–114 (Texas—23), high-cost gas produced from tight formations
CAM–5. Docket No. RM79–76–126 (Colorado—27), high-cost gas produced from tight formations
CAM–6. Docket No. RM79–76–133 (Colorado—29), high-cost gas produced from tight formations
CAM–7. Docket No. RM79–76–128 (Colorado—1 amendment), high-cost gas produced from tight formations
CAM–8. Docket No. GP82–27–001, Amoco Production Co.
CAM–9. Docket No. GP81–47–000, State of Texas, Section 108 NGPA determinations, Mobil Producing Texas & N.M., Inc., J. W. Lutz "C" No. 1 Well, JD. No. 80–27143; No. 4 Well, JD. No. 80–27144 and State of New Mexico, Section 108 NGPA determination, Mobil Producing Texas & N.M., Inc., Bridges State 90 Well, JD No. 79–07660
CAM–10. Docket No. GP80–12–001, Ashland Exploration, Inc.
CAM–11. Docket No. GP81–50–000, Oklahoma Corp. Commission, Section 108 NGPA determination, Gulf Oil Corp., Roetker No. 1 Well, JD81–01664
CAM–12. Docket No. GP82–39–000, Phillips Petroleum Co., NGPA Section 108 Well Category Determinations
CAM–13. Docket No. GP82–40–000, Phillips Petroleum Co., NGPA Section 108 Well Category Determinations
CAM–14. Docket No. GP82–3–000, Ohio Department of Natural Resources, Section 107 NGPA determination, Cyclops Corporation "Clinton," Sandstone Davis #1 Well, FERC No. JD81–36332
CAM–15. Docket No. RA81–61–000, Beacon Oil Co.
CAM–16. Docket No. RO82–69–000, Gary Pfister's Mobil Service; Docket No. RO82–70–000, Pete Aljian Chevron, and Docket No. RO82–71–000 (not consolidated), Shaw and 99 Chevron
CAM–17. Docket No. RA80–64, Valero Energy Corp.

Consent Gas Agenda

CAG–1. (a) Docket Nos. RP77–98–006 and RP78–78–009, Natural Gas Pipeline Co. of America; (b) Docket No. RP78–62–000 (reserved issues), Panhandle Eastern Pipe Line Co.
CAG–2. Docket No. TA82–2–33–000, El Paso Natural Gas Co.
CAG–3. Docket Nos. RP81–85–001 and CP74–138–002, Trunkline LNG Co.
CAG–4. Docket No. TA82–2–15–000, Mid Louisiana Gas Co.
CAG–5. Docket No. TA83–1–37–000, Northwest Pipe Line Corp.
CAG–6. Docket No. TA82–2–11–003 (PGA82–2a), United Gas Pipeline Co.
CAG–7. Docket No. TA82–1–60–000 (PGA82–1), Locust Ridge Gas Co.
CAG–8. Docket No. TA82–2–33–012, El Paso Natural Gas Co.
CAG–9. Docket No. RP75–114–004, et al., East Tennessee Natural Gas Co.
CAG–10. Docket Nos. TA82–2–11–000, 001 and 002, United Gas Pipe Line Co.; Docket No. RP82–57–000, United Gas Pipe Line Co.
CAG–11. Docket Nos. RP82–124–001 and RP81–53–001, East Tennessee Natural Gas Co.
CAG–12. Docket No. RP82–74–001, Texas Gas Transmission Corp.
CAG–13. Docket No. RP82–35–000, National Fuel & Gas Distribution Corp.
CAG–14. Docket No. RP82–117–001, Midwestern Gas Transmission Co.
CAG–15. Docket Nos. RP82–125–001 and RP81–121–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–16. Docket Nos. TA82–2–17–000 (PGA82–2) (IPR82–2) and (DCA82–2), Texas Eastern Transmission Corp.
CAG–17. Docket No. RP82–13–000, National Fuel Gas Supply Corp.
CAG–18. Docket No. RP81–109–000, Texas Eastern Transmission Corp.
CAG–19. Docket No. TA82–1–22–001 (PGA82–1, IPR82–1 and RD&D82–1), Consolidated Gas Supply Corp.
CAG–20. Docket No. RP82–51–000, Mid Louisiana Gas Co.
CAG–21. Docket No. TA82–2–6–002, Sea Robin Pipeline Co.
CAG–22. Docket No. TA82–2–46–001 (PGA82–2) (IPR82–2), Kentucky West Virginia Gas Co.
CAG–23. Docket No. RP82–87–000, National Fuel Gas Supply Corp.
CAG–24. Docket Nos. RP82–123–000 and RP82–95–000, Western Transmission Corp.
CAG–25. Docket No. TA82–2–5–002, Midwestern Gas Transmission Co.
CAG–26. Docket No. TA82–2–42–000 (PGA82–2 and IPR82–2), Transwestern Pipeline Co.
CAG–27. Docket No. TA81–1–21–001 (PGA81–1, IPR81–1, LFUT81–1, TT81–1 and AP81–1), Columbia Gas Transmission Corp.
CAG–28. Docket No. TA83–1–7–000 (PGA83–1, IPR83–1 and DCA83–1), Southern Natural Gas Co.
CAG–29. Docket No. RP82–116–001, Southern Natural Gas Co.
CAG–30. Docket No. TA83–1–46–000 (PGA83–1, IPR83–1), Kentucky West Virginia Gas Co.
CAG–31. Docket No. TA82–2–30–000 and TA82–2–30–001 (PGA82–2, IPR82–2 and AP82–2), Trunkline Gas Co.
CAG–32. Docket No. TA82–2–21–000 (PGA82–2, IPR82–2 and AP82–2), Columbia Gas Transmission Corp.
CAG–33. Docket No. TA82–2–18–000 (PGA82–2, IPR82–2, AP82–2 and TT82–2), Texas Gas Transmission Corp.
CAG–34. Docket No. TA82–2–28–000, Panhandle Eastern Pipe Line Co.
CAG–35. Docket No. TA82–2–33–001 (PGA82–2, IPR82–2, AP82–2, TT82–2) and TA83–1–33–001, El Paso Natural Gas Co.
CAG–36. Docket No. TA83–1–48–000 (PGA83–1), Michigan Wisconsin Pipeline Co.
CAG–37. Omitted
CAG–38. Docket No. TA83–1–43–000 (PGA83–1), Cities Service Gas Co.
CAG–39. Docket No. TA82–2–22–000 (PGA82–2, IPR82–2 and RD&D82–2), Consolidated Gas Supply Corp.
CAG–40. Docket No. RP81–103–000, State of Michigan and Michigan Public Service Commission v. Trunkline Gas Co.; Docket No. RP82–131–000, Southwest Gas Corp.
CAG–41. Docket No. RP82–56–000, Northwest Pipeline Corp.
CAG–42. Docket No. TA83–1–34–000 (PGA83–1 and IPR83–1), Florida Gas Transmission Co.
CAG–43. Docket No. RP83–6–000, El Paso Natural Gas Co.
CAG–44. Docket No. RP82–58–000, Panhandle Eastern Pipe Line Co.; Docket No. RP82–105–000, Central Illinois Light Co. v. Panhandle Eastern Pipe Line Co.
CAG–45. Docket No. RP82–128–000, Texas Eastern Transmission Corp.; Docket No. RP82–129–000, Transwestern Pipeline Co.
CAG–46. Docket No. RP81–96–000, Tennessee Natural Gas Lines, Inc.
CAG–47. Docket No. RP81–80–000, Consolidated Gas Supply Corp.
CAG–48. Docket No. RP81–69–004, South Georgia Natural Gas Co.
CAG–49. Docket Nos. RP80–55–003, RP80–118–004, RP81–73–002 and RP82–32–002, Sea Robin Pipeline Co.
CAG–50. Docket No. RP81–47–003, Northwest Pipeline Corp.
CAG–51. Docket No. IS80–9, et al., Mid-America Pipeline Co.
CAG–52. Docket No. IS80–15, et al., Buckeye Pipe Line Co.
CAG–53. Docket Nos. ST82–356–000 and ST82–357–000, Delhi Gas Pipeline Corp.
CAG–54. Docket No. ST82–352–000, J–W Gathering Co.
CAG–55. Omitted
CAG–56. Docket No. ST82–340–000, Consumers Power Co.
CAG–57. Docket Nos. ST80–298–000 and ST82–287–000, Mississippi Fuel Co.
CAG–58. Omitted
CAG–59. Docket No. CI82–385–001, Sohio Petroluem Co.; Docket No. CI82–339–001, Kerr-McGee Corp.; Docket No. CI82–342–001, Getty Oil Co.; Docket No. CI82–350–001, Cities Service Co.; Docket No. CI75–19–001, Texas Eastern Exploration Co.; Docket No. CI82–11–002, Conoco, Inc. Co.; Docket No. CI82–365–001, Koch Industries, Inc.; Docket No. CI82–366–001, Mobil Producing Texas & New Mexico Inc.; Docket No. CI82–367–001, CNG Producing Co.; Docket No. CI82–355–001, Union Oil Co. of California; Docket No. CI78–1074–002, Mobil Oil Exploration & Producing Southeast Inc.; Docket No. CI72–393–002, Exxon Corp.; Docket No. CI64–668–003, Union Oil Co. of California, et al.; Docket No. CI82–348–001, ELF Aquitaine, Inc.; Docket No. CI64–668–004, Union Oil Co. of California; Docket No. CI72–393–001, Exxon Corp.
CAG–60. Docket Nos. CI73–293–001 and CI79–653–001, Beclo Petroleum Corp.
CAG–61. Docket No. CI77–635–002, Gulf Oil Corp.
CAG–62. FERC Gas Rate Schedule No. 38, Cabot Petroleum Corp.
CAG–63. FERC Gas Rate Schedule No. 107, Gulf Oil Corp.
CAG–64. FERC Gas Rate Schedule No. 6, MCOR Oil & Gas Corp.
CAG–65. FERC Gas Rate Schedule Nos. 285, et al., Arco Oil & Gas Co., et al.
CAG–66. FERC Gas Rate Schedule No. 38 and Docket No. RI76–143–000, Cabot Petroleum Corp.
CAG–67. Docket No. CP74–94–006 and 007, United Gas Pipe Line Co. complainant, v. Billy J. McCombs and R. James Stillings, respondents

CAG–68. Docket No. CP79–473–002, Alabama-Tennessee Natural Gas Co.
CAG–69. Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Co.; Docket No. CP78–123–000, et al., Northwest Alaskan Pipeline Co.
CAG–70. Docket No. CP82–141–001, Trunkline Gas Co.; Docket No. CP82–236–000, Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.
CAG–71. Docket No. CP82–347–001 and 002, Michigan Wisconsin Pipe Line Co. and Trunkline Gas Co.
CAG–72. Docket Nos. CP82–290–001 and 002, Panhandle Eastern Pipe Line Co.
CAG–73. Docket Nos. CP82–255–001 and 002, Transcontinental Gas Pipe Line Corp.
CAG–74. Docket No. CP81–40–002, Michigan Wisconsin Pipe Line Co.
CAG–75. Docket No. CP73–185–000, New England LNG Co., Inc., Docket No. CP74–54–000, Lowell Gas Co.
CAG–76. Docket No. CP82–138–000, et al., East Tennessee Natural Gas Co., et al.
CAG–77. Docket No. G–104–000, El Paso Natural Gas Co.
CAG–78. Docket No. RP80–58–000, the State of Oklahoma and the Corporation Commission of the State of Oklahoma
CAG–79. Docket No. CP78–128–000, Inter-City Minnesota Pipelines Ltd., Inc.
CAG–80. Docket No. CP82–296–000, Northern Border Pipeline Co.
CAG–81. Docket No. CP81–389–000, Sugar Bowl Gas Corp.
CAG–82. Docket Nos. TC82–36–000 and 001, The Inland Gas Co., Inc.
CAG–83. Docket No. CP82–405–000, Montana-Dakota Utilities Co.; Docket No. CP82–449–000, Colorado Interstate Gas Co.
CAG–84. Docket No. CP82–15–001, El Paso Natural Gas Co.
CAG–85. Docket No. CP82–460–000, Mountain Fuel Supply Co.; Docket No. CP82–483–000, Colorado Interstate Gas Co.
CAG–86. Docket No. CP82–511–000, Kansas-Nebraska Natural Gas Co.
CAG–87. Omitted
CAG–88. Omitted
CAG–89. Docket No. CP82–65–000, Panhandle Eastern Pipe Line Co.
CAG–90. Docket No. CP81–531–000, Mountain Fuel Supply Co.; Docket No. CP82–3–000, Colorado Interstate Gas Co.
CAG–91. Docket No. G–10699–000, Panhandle Eastern Pipe Line Co.
CAG–92. Docket No. CP82–214–000, Western Gas Interstate Co.
CAG–93. Docket No. CP82–464–000, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–94. Docket No. CP82–384–000, Granite State Gas Transmission, Inc.; Docket No. CP82–358–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–95. Docket No. CP82–37–000, Galaxy Energies, Inc.
CAG–96. Docket No. CP81–377–002, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–97. Docket No. CP82–461–000, Columbia Gas Transmission Corp.
CAG–98. Docket No. CP81–323–000, International Paper Co.
CAG–99. Docket No. CP81–472–000, Colorado Interstate Gas Co.; Docket No. CP81–447–000, MIGC, Inc.
CAG–100. Docket Nos. CP81–522–000, and 002, Northern States Power Co. (Minnesota)
CAG–101. Docket No. CP80–22–000, Northern Natural Gas Co., Division of Internorth, Inc.; Docket No. CP78–124–007, Northern Border Pipeline Co.

I. Licensed Project Matters

P–1. Project No. 2890–001, Kings River Conservation District
P–2. Project No. 4881–000, Arthur L. Bloom and Ada County, Idaho; Project No. 3598–000, Cook Electric Co.
P–3. Project No. 2750, Town of Springfield, Vermont
P–4. Omitted
P–5. Project No. 3283–000, Gas and Electric Department of the City of Holyoke, Massachusetts

II. Electric Rate Matters

ER–1. Docket Nos. ER77–277–002 and EL82–24–000 (Phase II), Pennsylvania Power Co.
ER–2. Docket Nos. ER77–175–000 and ER78–19–000 (Phase II), et al., Florida Power & Light Co.
ER–3. Docket No. ER81–736–000, Central Illinois Public Service Co.
ER–4. Docket No. ER82–414–000, Ohio Edison Co.
ER–5. Docket No. ER82–576–000, Energy Conversions of America, Inc.
ER–6. Omitted.
ER–7. Docket No. EL80–25–001, Commonwealth Edison Co.
ER–8. Docket No. ID–1998–000, Alfred W. Eames, Jr.
ER–9. Docket No. ID–1956–001, William T. Coleman, Jr.
ER–10. Docket No. ID–1969–001, Keith R. Potter.
ER–11. Docket No. ID–1997–000, Frederick W. Mielke, Jr.
ER–12. Docket No. ER82–774–000, Tapoco, Inc.; Docket No. ER82–829–000, Nantahala Power & Light Co.

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket No. RM83–2–000, fees applicable to natural gas pipeline rate matters
M–4. Docket No. RM83–3–000, reduction filing requirements for well category applications under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978
M–5. Docket No. GP80–44–001, National Fuel Gas Supply Corp.; Docket No. GP81–15–000, Glenbrook Oil & Gas, Inc.
M–6. Docket No. GP82–2–000, Goldking Production Co.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket Nos. RP79–8–001 and RP80–8–001, Kansas-Nebraska Natural Gas Co., Inc.

II. Producer Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Docket Nos. CP81–107–000 and CP81–108–000, Boundary Gas, Inc.; Docket Nos. CP81–296–000, CP81–298–000, CP82–470–000,Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CP–2. Docket No. CP82–462–000, Florida Gas Transmission Co.
CP–3. Docket Nos. CP80–274–000, CP80–275–000, CP76–397–000, CP80–144–005, CP82–153–000 and CP82–153–001, Mountain Fuel Supply Co.; Docket No. CP80–274–001, Mountain Fuel Resources, Inc.; Docket Nos. CP80–275–002 and CI82–216–000, Wexpro Co.; Docket Nos. CI80–233–000 and 002, Celsius Energy Co.
CP–4. Docket No. CP80–520–004, Natural Gas Pipe Line Co. of America
CP–5. Docket No. TC82–43–000, Kansas-Nebraska Natural Gas Co., Inc.

Kenneth F. Plumb,

Secretary.

[S–1610–82 Filed 11–4–82; 3:21 p.m.]

BILLING CODE 6717–01–M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 49787, Tuesday, November 2, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, November 4, 1982:

Reports to the Board; Market Value Accounting; and Public Dissemination of Financial Statements

[No. 76, November 4, 1982]

[S–1604–82 Filed 11–4–82; 9:55 am]

BILLING CODE 6720–01–M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 49787, Tuesday, November 2, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled, Thursday, November 4, 1982:

Accounting for Gains Disposition of Loans Acquired Through Mergers Accounted for Under Purchase Accounting

[No. 77, November 4, 1982]

[S–1606–82 Filed 11–4–82; 11:02 am]

BILLING CODE 6720–01–M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 3 p.m., November 3, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: 1. Petition of Delta Steamship Lines for Relief Under Section 19 of the Merchant Marine Act, 1920.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1615–82 Filed 11–4–82; 4:14 pm]

BILLING CODE 6730–01–M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 49139, Friday, October 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 10:30 a.m., Wednesday, November 3, 1982, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed revisions to the Federal Reserve Bank employee salary structure adjustment policies. (This item was originally announced for a meeting on Monday, October 25, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 3, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1603–82 Filed 11–4–82; 9:26 am]

BILLING CODE 6210–01–M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10:00 a.m., Friday, November 12, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: November 4, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1611–82 Filed 11–4–82; 3:27 pm]

BILLING CODE 6210–01–M

9

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to **Federal Register** on November 3, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, November 10, 1982.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed revisions to certain reports to collect information on new ceiling-free money market accounts (FR 2900, FR 2042, FR 2573, and FR 2071).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: November 4, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1612–82 Filed 11–4–82; 3:35 pm]

BILLING CODE 6210–01–M

10

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–48

TIME AND DATE: 2:30 p.m., Wednesday, November 17, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Certain jogging apparatus (Docket No. 887).
5. Investigation 701–TA–195 (Preliminary) (Stainless Steel Sheet and Strip from the United Kingdom)—briefing and vote.
6. Investigation 701–TA–196 (Preliminary) (Stainless Steel Plate from the United Kingdom)—briefing and vote.
7. Investigation 701–TA–197 (Preliminary) (Softwood Lumber from Canada)—briefing and vote.
8. Investigation 701–TA–198 (Preliminary) (Softwood Shakes and Shingles from Canada)—briefing and vote.
9. Investigation 701–TA–199 (Preliminary) (Softwood Fence from Canada)—briefing and vote.
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1605–82 Filed 11–4–82; 10:17 am]

BILLING CODE 7020–02–M

11

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 10 a.m., Thursday, November 18, 1982.

PLACE: Bellevue Stratford Hotel, Ball Room, Broad Street at Walnut, Philadelphia, Pa.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.

2. Amendments to NCUA's Lending Regulations to Implement the Provisions of the Garn-St Germain Depository Institutions Act of 1982 (includes amendments to implement title V, due-on-sale regulations, and NCUA's study of its regulations governing alternative mortgage transactions by Federal credit unions).

3. Technical Amendment to Part 708 to clarify the provisions of authority of the NCUA Board to approve emergency mergers pursuant to the Garn-St Germain Depository Institutions Act of 1982.

4. Final Amendments to conform Part 747 with the Garn-St Germain Depository Institutions Act of 1982, amendments regarding civil money penalties and authority of NCUA Board to remove management officials for violations of the Depository Institution Management Interlocks Act.

5. Standard Bylaw Amendments to implement the new provisions to the Federal Credit Union Act as amended by the Garn-St Germain Depository Institutions Act of 1982.

6. Plan of approach to conduct the Study of Directors' Compensation as required by the Garn-St Germain Depository Institutions Act of 1982.

7. Plan of approach to conduct the NCUA Insurance Study required by the Garn-St Germain Depository Institutions Act of 1982.

8. Interpretive Ruling and Policy Statement: Designation of state agencies as appropriate parties to conduct inspections of Federal credit union records to determine compliance with state unclaimed property laws.

9. Proposed operating fee scale of assessment for calendar year 1983.

10. Report on Credit Union Expansion '84 Program.

* * * * *

TIME AND DATE: 5 p.m., Wednesday, November 17, 1982.

PLACE: Bellevue Stratford Hotel, Gold Room, Broad Street at Walnut, Philadelphia, Pa.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Adjudication. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (10).

3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board; telephone (202) 357–1100.

[S–1609–82 Filed 11–4–82; 3:00 pm]

BILLING CODE 7535-01-M

12

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 8, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C. and Harrisburg, Pennsylvania Area.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Monday, November 8,* H Street, NW.:

10:00 a.m.:
Briefing by Regulatory Reform Task Force—Administrative Proposals (Public Meeting) (as announced)
2:00 p.m.:
Discussion of Office of Investigations Policy and Procedures (Continued) (Closed—Exemption 2) (Replaces Briefing on Hydrogen Control Program)

Tuesday, November 9, Harrisburg, Pennsylvania Area:

2:00 p.m.:
Oral Presentations on TMI–1 Restart (Public Meeting) (Note time change) William Penn Museum
7:30 p.m.:
Public Meeting on TMI–1 Restart (Public Meeting) (as announced) Central Dauphin High School

Wednesday, November 10, H Street, NW.:

1:00 p.m.:
Comments from Parties on Phase II Reverification Program for Diablo Canyon (Public Meeting) (Note time change)
3:00 p.m.:
Options Regarding High Level Waste Rule—Technical Criteria (Part 60) (Public Meeting) (as announced)

Friday, November 12, H Street, NW.:

9:30 a.m.:
Discussion/Possible Vote on Full Power Operating License for Susquehanna (Public Meeting) (as announced)
11:00 a.m.:
Affirmation/Discussion and Vote (Public Meeting) (items revised)
a. Petition of Sunflower Coalition
b. Offshore Power Systems
c. San Onofre Board Certification
2:00 p.m.:
Briefing on Sandia Consequences Study (Public Meeting) (additional item)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: November 4, 1982.

Walter Magee,

Office of the Secretary.

[S–1608–82 Filed 11–4–82; 3:00 pm]

BILLING CODE 7590-01-M

13

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (TO BE PUBLISHED).

STATUS: Closed/open meetings.

PLACE: Rooms 6059 and C130, 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, November 1, 1982.

CHANGES IN THE MEETING: Additional items/deletion. The following additional items will be considered at a closed meeting scheduled for Wednesday, November 3, 1982, at 10:00 a.m.:

Litigation matter.
Institution of injunctive actions.

The following items will not be considered at an open meeting scheduled for Thursday, November 4, 1982, at 10:00 a.m.:

1. Consideration of whether to issue an order authorizing the Louisiana Power & Light Company, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company under the Pubic Utility Holding Company Act of 1935 to acquire the municipal electric system of the City of Monroe, Louisiana. For further information, please contact Mary Ann Oliver at (202) 272–7647.

2. Consideration of whether to adopt final rules which would amend Article 6 of Regulation S–X relative to financial statements filed by registered investment companies. The amendments to Article 6 being considered are intended to (1) eliminate rules which are duplicative of generally accepted accounting principles, (2) effect changes which recognize current industry practices, and (3) integrate and simplify the rules to improve financial reporting. The Commission will also consider whether to adopt similar amendments to financial statement requirements for employee stock purchase, savings and similar plans. For further information, please contact Clarence M. Staubs at (202) 272–2130.

Commissioners Evans, Thomas, Longstreth and Treadway determined by vote that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2014.

November 3, 1982.

[S–1607–82 Filed 11–4–82; 11:32 am]

BILLING CODE 8010-01-M

federal register

Monday
November 8, 1982

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources—Graphic Arts Industry: Publication Rotogravure Printing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2070-6]

Standards of Performance for New Stationary Sources—Graphic Arts Industry: Publication Rotogravure Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for publication rotogravure printing presses were proposed in the **Federal Register** on October 28, 1980 (45 FR 71538). This action promulgates a standard of performance to limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed publication rotogravure printing presses. Reference Method 24A is included with this promulgation. The standard implements Section 111 of the Clean Air Act and is based on the Administrator's determination that the graphic arts industry causes or contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of the standard is to require all new, modified, and reconstructed publication rotogravure printing presses to control VOC emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: November 8, 1982.

The incorporation by reference of the ASTM Standard listed in the regulations is approved by the Director of the Federal Register as of November 8, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this new source performance standard is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 370(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standard may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Publication Rotogravure Printing—Background Information for Promulgated Standards" (EPA-450/3-80-031b). The BID contains (1) a summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the regulation since proposal. The final Environmental Impact Statement, which summarizes the impacts of the standards, is included in "Publication Rotogravure Printing—Background Information for Proposed Standards" (EPA-450/3-80-031a). The environmental impacts have not changed since proposal.

Docket. A docket, number A-79-50, containing information considered by EPA in development of the promulgated standard, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Section Chief, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5578.

SUPPLEMENTARY INFORMATION:

OMB Control number: 2000-0462.

The Standard

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standard applies to publication rotogravure production presses for which construction, reconstruction, or modification commenced after October 28, 1980. Definition of the terms "modification" and "reconstruction" are included in 40 CFR 60.14 and 60.15. Proof presses are not affected by the standard. Proof presses are used only to check the quality of the image formation of newly etched or engraved printing cylinders and do not print saleable items.

VOC emissions from publication rotogravure presses are limited to 16 percent of the total mass of VOC solvent and water used at the press.

Compliance with the emission limit must be demonstrated during a long-term performance test. The performance averaging period of each test is 30 consecutive calendar days instead of an average of three runs as prescribed under 40 CFR 60.8. Actual press emissions and the average control system performance are determined by a solvent mass balance. The total mass of recovered solvent is compared to the total mass of the solvent and water used at the press. If only solvent-borne are used, performance may be determined by a temperature/density-corrected solvent volume balance, at the option of the owner or operator. VOC content data for solvent-borne inks and related coatings are obtained from the ink manufacturer or determined by analysis with Reference Method 24A. VOC and water content data for waterborne inks and related coatings are obtained from the ink manufacturer. EPA is not promulgating a test method for analysis of waterborne printing inks. The calculated emission percentage can be reported as rounded-off to the nearest whole number.

The regulation includes compliance provisions based on the use of solvent-borne ink systems with a solvent vapor capture system and a fixed-bed carbon adsorption/solvent recovery system for VOC emission control. Provisions for compliance using waterborne inks have been included in expectation of future development of this low VOC emitting printing technique. Emission control equipment is not expected to be used with waterborne ink systems. When affected facilities are installed in plants with existing facilities, the owner or operator is allowed to choose among several compliance options for conducting performance tests.

After completion of the performance test, the owner or operator is required to monitor for proper operation and maintenance. The performance averaging period for monitoring is either a calendar month or a 4 consecutive week period, at the option of the owner or operator. Records of the amount of solvent and water used, solvent recovered, and the estimated emission percentage for each performance averaging period must be maintained for 2 years. No periodic reporting of the monthly monitoring results is required.

The emission limit can also be met through the use of other control techniques. Fluidized-bed carbon adsorption/solvent recovery systems

might be applied, but this method has not been successfully demonstrated in this industry. Regenerative cryogenic condensation/solvent recovery systems are becoming feasible on a commercial scale, but have not been tried in this industry. Solvent destruction (i.e., oxidation) control systems are used on other similar services, but are not desirable or necessary in this industry since the solvents used can be recovered in suitable enough condition to permit direct recycle to the presses. Specific procedures for determination of compliance with solvent destruction are not being promulgated since this control technique is not expected to be used on any new, modified, or reconstructed press.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of the standard are expressed as incremental differences relative to a baseline level. A 75 percent overall VOC reduction efficiency, or 25 percent emission level, was chosen as the baseline for the impact analyses. This baseline level corresponds to the recommendation in EPA's control techniques guideline (CTG) document, "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography" (EPA-450/2-78-033 [CTG]). The states are expected to use this document in developing their revised State Implementation Plans (SIP) for new and existing publication rotogravure printing facilities. If no NSPS were promulgated, new and existing facilities would be controlled to this baseline level by virtue of SIPs. The impact analyses compared impacts of new facilities under SIP control (i.e., in the absence of a NSPS) with impacts under the promulgated standard level of control. These impact analyses are based on the use of fixed-bed carbon adsorption/solvent recovery systems for control of VOC emissions from both existing and affected facilities. All existing facilities installed before October 1980 are assumed to be controlled at the 75 percent baseline level.

The projected impacts are calculated based on the expectation that 15 percent (85 percent overall control) of the total VOC solvent used at affected facilities will be emitted. Emissions are expected to increase to the 16 percent level (84 percent overall control) during only 1 or 2 months per year.

Compared to the baseline control level, the standard will further reduce VOC air pollutant emissions from typical affected facilities by 13 percent. The standard will reduce the industrywide VOC emissions by about 7,900 megagrams per year in the year 1985, the fifth year after the applicable date of the standard. This represents about five percent more reduction of industrywide emissions than with control at the baseline level. This projection is based on the expectation of 7 percent annual real growth rate in this industry.

Potential water pollution from a facility controlled under the standards is 13 percent greater than that from one controlled at the baseline level. Projected nationwide discharges for 1985 will increase by about 32 million liters above that for control at the baseline level. In the year 1985, dissolved organic solvents in the nationwide effluent will potentially amount to about 6 megagrams per year more than for control at the baseline level. This represents about a five percent incremental increase. Some treatment of this wastewater is necessary. One very effective demonstrated treatment method involves on-site hot air-stripping. The stripped solvent vapors are directed back to the carbon adsorber system for recovery. The resultant solvent-free water (less than 5 ppm) can be directly recycled for process use within the plant. This technique is effective because the solvents used exhibit very low miscibility with water. This inexpensive solvent removal system was included in cost analyses of the model plant carbon adsorption control systems. Two other treatment options are discharge to a conventional biological waste treatment system (e.g., activated sludge, trickle filter) and liquid-phase carbon adsorption. Air-stripping, biological treatment and liquid-phase carbon adsorption could successfully treat all wastewater generated from vapor-phase carbon adsorption control systems.

Implementation of the standard will increase the generation of solid waste because of the installation of additional recovery equipment. Spent carbon and carbon fines will increase as will the waste filters used to clean the solvent laden air upstream of the carbon bed. By 1985, however, the maximum amount of additional waste carbon generated because of the standard would be only about 85 Mg. Disposing of this small incremental amount of solid waste will pose no significant problem. The carbon may be sent back to the manufacturer for regeneration, or it could be incinerated, supplying an excellent source of fuel energy. Landfilling is also an appropriate method of disposal. Even if all of it were disposed of in landfills, it would amount to less than 2 tons per state during the entire 5-year period, truly an insignificant amount. Similarly, the incremental quantity of waste filters would also be very small.

The only significant source of noise is from the large SLA fans. However, these are normally installed in an enclosed housing, and should not affect the surrounding environment.

In the Administrator's opinion, the standard's environmental impacts as just described are reasonable.

The standard requires a direct energy consumption increase for the industry; however, the impact of solvent recovery control systems will decrease the nationwide demand for crude oil for solvent production. The direct energy consumption by a facility controlled under the standard is about 18 percent higher than if controlled at the baseline level. The direct annual energy consumption for a typical four-press plant will be increased by about the equivalent of 2,200 barrels of fuel oil. The industry's total direct energy consumption for the year 1985 will be about 40,200 barrels of fuel oil above that required for baseline control. This represents an energy consumption increase of about 9 percent more than with control of affected facilities at the baseline level.

The solvent recovery impact of the standard results in net national energy savings when the fuel energy value of the recovered solvent is considered. In the year 1985, industry's direct energy consumption will be favorably offset by a nationwide decrease in energy demand equivalent to about 21,800 barrels of fuel oil from that required for baseline control. The Administrator believes that the direct energy impact on the industry is reasonable, particularly in view of the net national energy savings that would result from decreased solvent demand.

The standard will increase industry's required capital investment by about two percent more than for control at the baseline level. The capital investment for a typical four-press plant will increase by about $650,000. Industry's cumulative five-year capital investments, through the year 1985, will increase by about $17 million. However, this incremental capital requirement is not large enough to reduce capital availability and, therefore, will not restrict industry growth.

Control system operating costs will increase under the standard; however, the high cost value of recovered solvent will enable solvent recovery systems to provide a net profit (negative annualized

costs) and positive return on investments. Control of a typical plant at baseline level would provide about $345,000 annualized net profit and 17 percent annual return on controls investment (ROI) because of the recovered solvent credit. Control at the standard level will decrease the annualized savings to about $271,000 and controls ROI to about ten percent annually. Thus, the standard will impose an incremental annual operating cost of about $74,000. In the year 1985, industry's incremental total annualized control costs with solvent recovery credit will be about $2.5 million. Despite these added costs, this industry's average pre-tax profit margin of eight percent at the baseline control level should not decrease below 7.8 percent under the standard. This very small profitability impact will not cause any significant price increases for publication gravure products. The Administrator, therefore, believes that the economic impacts of the standard are reasonable.

The environmental, energy and economic impacts are discussed in greater detail in "Publication Rotogravure Printing—Background Information for Proposed Standards" (EPA–450/3–80–031a). These impacts have not changed since proposal.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

Public Participation

Prior to proposal of this standard, interested parties were advised by public notice in the **Federal Register** (44 FR 65670, November 14, 1979) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the regulation recommended for proposal. This meeting was held on December 13, 1979. The meeting was open to the public and each attendant was given an opportunity to comment on the standard recommended for proposal. The standard was proposed and published in the **Federal Register** on October 28, 1980 (45 FR 71538). The preamble to the proposed standard discussed the availability of the BID, "Publication Rotogravure Printing—Background Information for Proposed Standards" (EPA–450/3–80–031a), which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standard, a public hearing was held on November 25, 1980, at Research Triangle Park, North Carolina. The hearing was open to the public and each person was given an opportunity to comment on the proposed standard. The public comment period was from October 28, 1980 to January 5, 1981.

Seven comment letters were received and one interested party testified at the public hearing concerning issues relative to the proposed standard of performance for publication rotogravure printing. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standard.

Significant Comments and Changes to the Proposed Standard

The proposed regulation was extensively revised for promulgation. The format of the standard and compliance provisions were changed from a volume to a mass basis. Continual monthly performance tests and all periodic reporting requirements were deleted. Recordkeeping requirements were reduced. Also, options for ink and solvent monitoring procedures were added. The title for the proposed reference test method was changed from 29 to 24A.

Comments on the proposed standard were received from industry, one Federal agency, one State air pollution control agency, and one trade association. No comments were received from environmental groups. A detailed discussion of these comments and responses can be found in the BID for the promulgated standard, which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID, serves as the basis for the revisions made to the regulation between proposal and promulgation. This preamble contains summaries of the Agenc;y's responses to the major comments. More detailed discussion of the Agency's responses to these and to other comments is contained in the BID. The comments have been divided into the following areas: General, Emission Control Technology, Modification and Reconstruction, Economic Impact, Emission Monitoring, Test Methods, and Recordkeeping and Reporting.

General

Two commenters felt that the definition of VOC was not clear and asked if EPA had planned to publish a method of determining if an organic compound participated in atmospheric photochemical reactions. The definition of VOC, to which this comment referred, was promulgated at 45 FR 85415 on December 24, 1980 as part of another regulation after this regulation was proposed. The 40 CFR 60.2 was amended in July 1981 to include this definition. A method of determining photochemical reactivity is not part of the definition of VOC. However, EPA does determine photochemical reactivity of organic compounds and lists in the **Federal Register** those considered to be of negligible reactivity. EPA's latest policy, as of this date, was published on July 22, 1980 (45 FR 48941).

Emission Control Technology

One commenter referrred to an industry study reported in a trade newsletter. The study was conducted on paperboard rotogravure presses and the report implied the solvent vapor capture efficiency may not be as high as contemplated by EPA, especially for retrofitted presses. EPA noted, however, that the report of the study cited by the commenter acknowledged that the test methods used were not accurate. Paperboard presses are not subject to this standard, but the press and capture system are similar to publication rotogravure presses. During the development of this standard, EPA used accurate and rigorous test procedures in determining capture efficiency. Furthermore, EPA finds no reason, and the commenter did not identify any reason, for a retrofitted press to have a lower capture efficiency than a new press since both capture systems could consist of similarly designed add-on devices having the same capture efficiencies. No commenter offered specific process reasons that would

render control technology infeasible or exorbitantly costly. No changes were made in the standard as a result of this comment.

Modification and Reconstruction

During the development of this standard, prior to proposal, the information EPA obtained from the industry led to the conclusion that existing facilities would not likely become affected facilities under the provisions for modification and reconstruction (40 CFR 60.14 and 60.15). Rapidly improving press operation technology would make new printing presses and associated equipment significantly more desirable to maintain or improve a printer's competitive position.

EPA was subsequently told in a meeting requested by industry (docket number A–79–50/77/8–IV–E–19) that reconstruction and modification may occur due to the present high cost of capital. One commenter further stated that neither modified nor reconstructed presses should be subject to emission limits as stringent as totally new facilities.

EPA requested more information in order to assess the possibility that the standard may not be reasonable for modified or reconstructed facilities. Specifically, EPA attempted to conduct cost and economic analyses on expansion of existing carbon adsorption controls for retrofit model plant cases. Discussions with a carbon adsorber manfacturer and a trade association representative indicated that capital costs for a control system on a retrofitted facility are generally higher than for the same size new facility. This information does not suggest, however, that these costs would be unreasonable. No one could provide specific cost factors for retrofitted installations because the costs would be dependent upon site-specific situations. EPA must conclude that the effect of the standard on modified and reconstructed facilities is not significantly different from new facilities and that possible impacts would be reasonable. Since the provisions of 40 CFR 60.15 provide for case-by-case determinations of technical and economic feasibility, reconstructed sources are precluded from unreasonable impact. In the case of a modification, without any specific examples of circumstances under which unreasonable impact would result from compliance with the standard, EPA finds no basis at this time for establishing a separate standard or an exemption.

Economic Impact

One commenter noted that proper handling and disposal of spent carbon from the adsorber might increase the economic impact of the standard especially if spent carbon was considered a hazardous waste under the Resource Conservation and Recovery Act. In response to this comment, EPA pointed out that in the analysis of carbon adsorption systems undertaken by EPA prior to the development of the standard, it was assumed that facilities would use the existing, routine option of returning the waste carbon to the activated carbon supplier who would be equipped to handle the waste in an acceptable way. The economic impact analysis is correct as computed and no changes were made in the regulation as a result of this comment.

Emission Monitoring

Several commenters stated that the specific requirements for ink and solvent press flow meters, meter recalibrations, associated temperature monitoring, and waterborne ink systems made the regulation too detailed, complex, and inflexible. The Agency has made five major changes that simplify and add flexibility to the final regulation. First, the final regulation allows several options for measuring the amount of ink and solvent used at the press. Second, facilities are not subject to continual monthly performance tests. Third, in addition to the compliance options included in the proposed standards, the final regulation permits the owner or operator to show compliance on a plantwide basis, involving existing as well as affected facilities. Fourth, the monthly and all periodic reporting requirements have been deleted. Finally, the waterborne ink compliance provisions have been revised and combined with those for solvent-borne ink systems.

The specific requirements for individual press flow meters were deleted. As suggested by the commenters, alternatives to press flow meters as measuring devices have been provided. Ink, solvent, and water used at affected facilities may be measured by any accurate method the owner or operator chooses to use. Alternative measurement techniques include storage tank weighings or level measurements, delivery tank truck loading and unloading meters, tank truck weighings, and ink supplier shipment records.

Continual monthly performance test requirements were deleted. Compliance with the standard must be demonstrated during an initial performance test and additional performance tests as requested by the Administrator. Performance is measured over a 30 consecutive calendar day period for each test. The regulation allows several compliance options for conducting the tests. If affected facilities are controlled by solvent recovery systems separate from existing facilities, but are installed to routinely share the same ink and solvent/handling system with existing facilities, then the ink, solvent, and water measurement procedures used during the tests must include a temporary method of accounting for segregated usage by that one affected facility or group of affected facilities. An overall emission percentage for the combined facilities as well as for only the affected facilities must be determined during the test period to provide a point of comparison for monthly records of performance. In this case, monthly emission percentages for the combined facilities can be compared to the overall average for the existing and affected facilities' performance determined during the performance test.

If affected and existing facilities are controlled by the same solvent recovery system, the owner or operator can choose between two optional test procedures to show compliance of the affected facilities. The first test option requires a separate 30-day emission test on the existing facilities. Then a 30-day performance test is conducted on the combined existing and affected facilities to determine the affected facilities' emission percentage. Like the previous case, the ink, solvent, and water measurement procedures used during the performance test must include a temporary method of accounting for segregated usage by the tested facilities. The second test option is to show compliance of the combined affected and existing facilities. No separate emission tests for existing facilities are required for this option. Also, no temporary segregated liquid measurement procedures are required for this second option.

In response to the commenters' request for alternative compliance provisions, the Agency has added a final plantwide test option. This option allows the owner or operator to demonstrate compliance by showing that the total VOC discharged from all affected and existing facilities in the plant is equal to or less than 16 percent of the toal mass of VOC solvent and water used at those facilities during the performance test. This option gives industry the flexibility requested in the comments by removing the requirement that the owner or operator measure raw ink usage at each affected facility. No

separate emission tests on existing facilities and no temporary segregated liquid measurement procedures for affected facilities are required for tests under this option.

Because this last option permits a showing of plantwide compliance, an owner or operator choosing this option would be required to show that the average control among all plant facilities—affected and existing—is equal to or better than the NSPS level of control. In the Agency's judgment, under the circumstances presented here this assures that the affected facilities within the plants will achieve the degree of control reflecting application of the best demonstrated system of continuous emission reduction. As a result, the plantwide compliance option will provide rotogravure plant owners the benefit of measurement flexibility without any resulting loss in emission reduction.

For all performance tests, the final regulation requires at least weekly accounting of liquid usages and recovered solvent. Temperature monitoring was also reduced from daily to at least weekly for performance tests. This is a reduction from the daily meter and temperature readings required by the proposed regulation. However, if press flow meters are not used, records for each liquid material shipment may require more frequent accounting. In cases where ink, solvent, and water usages are measured by volume, liquid densities are required to convert to a mass basis material balance. Since density of a liquid varies with temperature, it is necessary to monitor the temperature while the quantity of liquid used or recovered is measured. For the solvents used in this industry, the potential density error in determination of compliance could be 2 to 3.5 percent or more, depending on ambient weather and equipment operating conditions.

An option was added to the final regulation to allow owners or operators using only solvent-borne inks to choose to show compliance by a temperature/density-corrected solvent volume balance instead of converting to a mass balance. This option may be desirable where all ink and solvents used are measured by volume. In the unique case where all solvent used and recovered are measured at the same temperature, the direct volume calculated emission percentage would be identical to a mass balance.

After performance tests are completed, only monthly monitoring for proper operation and maintenance of the control system is required. Monthly totals of solvent and water usage and recovered solvent are used to document emission percentages of affected facilities that have liquid monitoring systems segregated from existing facilities. However, temperature measurements are not required for monthly monitoring. The liquid densities determined in the latest performance test are assumed to remain constant and are used in the emission percentage estimates. For affected facilities which share the same ink and solvent storage/handling system with existing facilities, segregated liquid accounting procedures for affected facilities are not required for monthly monitoring. Monthly emission percentages for the combined facilities can be documented and compared to the overall average for the existing and affected facilities' emission percentage determined during the latest performance test.

The monthly monitoring requirement is a major change from the proposed regulation requirement of continual monthly performance tests. The Administrator feels that the burden of continual performance tests is unnecessary. This industry's economic incentive to recover solvent and the possibility that the Administrator could impose a performance test are sufficient to ensure that this industry will operate the best demonstrated control system effectively.

The fourth major change, deletion of monthly reporting requirements is discussed below in the Reporting and Recordkeeping Section.

The final major change responded to comments on emission monitoring with waterborne ink systems. Commenters noted that the waterborne ink compliance provisions were too restrictive because addition of VOC at the press was prohibited and because the VOC-to-solids ratio basis would severely restrict the allowable VOC content of inks with a low solids content.

It was not EPA's intent to restrict the use of waterborne inks. As a result of these comments, the proposed standard was revised to allow the addition of VOC at the press. The waterborne ink standard was changed from a volume to a VOC weight percentage basis. The promulgated standard requires that the VOC weight content be no more than 16 percent of the total volatile portion of mixed waterborne inks, as applied. Use of this approach requires measurement of water and VOC added at the press.

Another commenter pointed out that the proposed standards did not address the approach of using a combination of waterborne and solvent-borne inks on different printing units of the same press. This comment stressed that dryer exhausts from waterborne units should be vented to the atmosphere instead of to the carbon adsorption system. If not, water vapor would affect the carbon's activity and the water miscible organics would be lost through the recovery decanter anyway.

The final standard includes compliance provisions that allow the combined use of low VOC waterborne and solvent-borne inks. The provisions also allow use of higher VOC waterborne inks, provided that the capture and control of solvent-borne VOC would be correspondingly increased to comply with the 16 percent emission limit for the entire press. EPA agrees that dryer exhaust and fugitive emissions from waterborne units should not be vented through carbon adsorbers and may be vented to the atmosphere provided the entire press complies with the 16 percent emission limit.

Test Methods

One commenter urged EPA to give printers the option of determining solvent-borne ink VOC content by using alternative analytical methods. Methods such as gas chromatography (GC) and mass spectrometry (MS) were suggested.

The regulation was not changed as this comment requested. At the present time, EPA has no reference method or specific procedures for GC or MS total VOC content analysis of solvent-borne printing inks. The regulation specifies Reference Method 24A (title number changed from proposed Reference Method 29) as the only acceptable analytical method. It is less expensive and less complicated than GC or MS, and it is more reliable for determination of total VOC content. However, the General Provisions for Standards of Performance for New Stationary Sources (40 CFR 60.8(b)) allow owners or operators of affected facilities to petition the Administrator for permission to use an alternative procedure for determining VOC content.

Recordkeeping and Reporting

The major comment on recordkeeping was that the requirements for daily temperature monitoring, daily meter readings, and monthly solvent base temperature calculations were excessive and unnecessary. As discussed above, the requirement for monthly compliance tests was deleted. The proposed recordkeeping requirements of ink and solvent usage and temperature monitoring have been reduced from daily to at least weekly during a performance test. All requirements for temperature monitoring during the months following the performance test

were deleted. In addition, only monthly records of the amount of solvent and water used, solvent recovered, and the estimated emission percentage are required. The calculation of solvent base temperature was deleted because it is not necessary when the emission limit standard changed from a volume to a mass basis. The required records will enable the company to be aware of the quality of the operation of the control system and allow enforcement personnel to check for proper operation and maintenance.

The major comment on reporting stated that the time limit of 10 days for submitting non-compliance reports was too short. Monthly non-compliance reports and all periodic reporting requirements have been deleted from the regulation. There are only two types of reports required: notifications as facilities become subject to the standard and a report of performance test results.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. On judicial review, the record will consist of all materials in the docket (including the statement of basis and purpose of the proposed and promulgated standards), except for certain intra-agency review materials [Section 307(d)(7)(A)].

Miscellaneous

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic enonomy and a healthful environment.

The effective date of this regulation is November 8, 1982. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal; in this case October 28, 1980.

As prescribed by Section 111, the promulgation of this standard was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this promulgated standard was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to insure that cost was carefully considered in determining BDT. The economic impact assessment is included in the background information document for the proposed standards.

The Paperwork Reduction Act of 1980 (PL # 96–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before certain information requests can be made of the public. The reporting/recordkeeping requirements associated with this standard have been approved by OMB, and have been assigned OMB control number 2000–0462.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. In the fifth year after the standards would go into effect, the industry-wide incremental annualized control costs with solvent recovery credit will be about $2.5 million. This is much less than the $100 million established as the first criterion for a major regulation in the Order. No measureable price increase for gravure products would occur as a result of this standard. Of course, this would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standard's effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket referenced in the address section of this preamble.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Incorporation by reference, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: October 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. A new Subpart QQ is added as follows:

Subpart QQ—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing

Sec.

60.430 Applicability and designation of affected facility.
60.431 Definitions and notations.
60.432 Standard for volatile organic compounds.
60.433 Performance test and compliance provisions.
60.434 Monitoring of operations and recordkeeping.
60.435 Test methods and procedures.

Authority: Sec. 111 and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7411, 7601 (a)), and additional authority as noted below.

Subpart QQ—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing

§ 60.430 Applicability and designation of affected facility.

(a) Except as provided in paragraph (b) of this section, the affected facility to which the provisions of this subpart apply is each publication rotogravure printing press.

(b) The provisions of this subpart do not apply to proof presses.

(c) Any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after October 28, 1980 is subject to the requirements of this subpart.

§ 60.431 Definitions and notations.

(a) All terms used in this subpart that are not defined below have the meaning given to them in the Act and in Subpart A of this part.

"Automatic temperature compensator" means a device that continuously senses the temperature of fluid flowing through a metering device and automatically adjusts the registration of the measured volume to the corrected equivalent volume at a base temperature.

"Base temperature" means an arbitrary reference temperature for determining liquid densities or adjusting the measured volume of a liquid quantity.

"Density" means the mass of a unit volume of liquid, expressed as grams per cubic centimeter, kilograms per liter, or pounds per gallon, at a specified temperature.

"Gravure cylinder" means a printing cylinder with an intaglio image consisting of minute cells or indentations specially engraved or etched into the cylinder's surface to hold ink when continuously revolved through a fountain of ink.

"Performance averaging period" means 30 calendar days, one calendar month, or four consecutive weeks as specified in sections of this subpart.

"Proof press" means any device used only to check the quality of the image formation of newly engraved or etched gravure cylinders and prints only non-saleable items.

"Publication rotogravure printing press" means any number of rotogravure printing units capable of printing simultaneously on the same continuous web or substrate and includes any associated device for continuously cutting and folding the printed web, where the following saleable paper products are printed:

- Catalogues, including mail order and premium,
- Direct mail advertisements, including circulars, letters, pamphlets, cards, and printed envelopes,
- Display advertisements, including general posters, outdoor advertisements, car cards, window posters; counter and floor displays; point-of-purchase, and other printed display material,
- Magazines,
- Miscellaneous advertisements, including brochures, pamphlets, catalogue sheets, circular folders, announcements, package inserts, book jackets, market circulars, magazine inserts, and shopping news,
- Newspapers, magazine and comic supplements for newspapers, and preprinted newspaper inserts, including hi-fi and spectacolor rolls and sections,
- Periodicals, and
- Telephone and other directories, including business reference services.

"Raw ink" means all purchased ink.

"Related coatings" means all non-ink purchased liquids and liquid-solid mixtures containing VOC solvent, usually referred to as extenders or varnishes, that are used at publication rotogravure printing presses.

"Rotogravure printing unit" means any device designed to print one color ink on one side of a continuous web or substrate using a gravure cylinder.

"Solvent-borne ink systems" means ink and related coating mixtures whose volatile portion consists essentially of VOC solvent with not more than five weight percent water, as applied to the gravure cylinder.

"Solvent recovery system" means an air pollution control system by which VOC solvent vapors in air or other gases are captured and directed through a condenser(s) or a vessel(s) containing beds of activated carbon or other adsorbents. For the condensation method, the solvent is recovered directly from the condenser. For the adsorption method, the vapors are adsorbed, then desorbed by steam or other media, and finally condensed and recovered.

"VOC" means volatile organic compound.

"VOC solvent" means an organic liquid or liquid mixture consisting of VOC components.

"Waterborne ink systems" means ink and related coating mixtures whose volatile portion consists of a mixture of VOC solvent and more than five weight percent water, as applied to the gravure cylinder.

(b) Symbols used in this subpart are defined as follows:

D_B = the density at the base temperature of VOC solvent used or recovered during one performance averaging period.

D_{ci} = the density of each color of raw ink and each related coating (i) used at the subject facility (or facilities), at the coating temperature when the volume of coating used is measured.

D_{di} = the density of each VOC solvent (i) added to the ink for dilution at the subject facility (or facilities), at the solvent temperature when the volume of solvent used is measured.

D_{si} = the density of each VOC solvent (i) used as a cleaning agent at the subject facility (or facilities), at the solvent temperature when the volume of cleaning solvent used is measured.

D_{hi} = the density of each quantity of water (i) added at the subject facility (or facilities) for dilution of waterborne ink systems at the water temperature when the volume of dilution water used is measured.

D_{mi} = the density of each quantity of VOC solvent and miscellaneous solvent-borne waste inks and waste VOC solvents (i) recovered from the subject facility (or facilities), at the solvent temperature when the volume of solvent recovered is measured.

D_{oi} = the density of the VOC solvent contained in each raw ink and related coating (i) used at the subject facility (or facilities), at the coating temperature when the volume of coating used is measured.

D_{wi} = the density of the water contained in each waterborne raw ink and related coating (i) used at the subject facility (or facilities), at the coating temperature when the volume of coating used is measured.

L_{ci} = the measured liquid volume of each color of raw ink and each related coating (i) used at the facility of a corresponding VOC content, V_{oi} or W_{oi}, with a VOC density, D_{oi}, and a coating density, D_{ci}.

L_{di} = the measured liquid volume of each VOC solvent (i) with corresponding density, D_{di}, added to dilute the ink used at

M_{ci} = the mass, determined by direct weighing, of each color of raw ink and each related coating (i) used at the subject facility (or facilities).

M_d = the mass, determined by direct weighing, of VOC solvent added to dilute the ink used at the subject facility (or facilities) during one performance averaging period.

M_s = the mass, determined by direct weighing, of VOC solvent used as a cleaning agent at the subject facility (or facilities) during one performance averaging period.

M_h = the mass, determined by direct weighing, of water added for dilution with waterborne ink systems used at the subject facility (or facilities) during one performance averaging period.

M_m = the mass, determined by direct weighing, of VOC solvent and miscellaneous solvent-borne waste inks and waste VOC solvents recovered from the subject facility (or facilities) during one performance averaging period.

M_o = the total mass of VOC solvent contained in the raw inks and related coatings used

at the subject facility (or facilities) during one performance averaging period.

M_r = the total mass of VOC solvent recovered from the subject facility (or facilities) during one performance averaging period.

M_t = the total mass of VOC solvent used at the subject facility (or facilities) during one performance averaging period.

M_v = the total mass of water used with waterborne ink systems at the subject facility (or facilities) during one performance averaging period.

M_w = the total mass of water contained in the waterborne raw inks and related coatings used at the subject facility (or facilities) during one performance averaging period.

P = the average VOC emission percentage for the subject facility (or facilities) for one performance averaging period.

V_{oi} = the liquid VOC content, expressed as a volume fraction of VOC volume per total volume of coating, of each color of raw ink and related coating (i) used at the subject facility (or facilities).

V_{wi} = the water content, expressed as a volume fraction of water volume per total volume of coating, of each color of waterborne raw ink and related coating (i) used at the subject facility (or facilities).

W_{oi} = the VOC content, expressed as a weight fraction of mass of VOC per total mass of coating, of each color of raw ink and related coating (i) used at the subject facility (or facilities).

W_{wi} = the water content, expressed as a weight fraction of mass of water per total mass of coating, of each color of waterborne raw ink and related coating (i) used at the subject facility (or facilities).

(c) The following subscripts are used in this subpart with the above symbols to denote the applicable facility:

a = affected facility.

b = both affected and existing facilities controlled in common by the same air pollution control equipment.

e = existing facility.

f = all affected and existing facilities located within the same plant boundary.

§ 60.432 Standard for volatile organic compounds.

During the period of the performance test required to be conducted by § 60.8 and after the date required for completion of the test, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility VOC equal to more than 16 percent of the total mass of VOC solvent and water used at that facility during any one performance averaging period. The water used includes only that water contained in the waterborne raw inks and related coatings and the water added for dilution with waterborne ink systems.

§ 60.433 Performance test and compliance provisions.

(a) The owner or operator of any affected facility (or facilities) shall conduct performance tests in accordance with § 60.8, under the following conditions:

(1) The performance averaging period for each test is 30 consecutive calendar days and not an average of three separate runs as prescribed under § 60.8(f).

(2) Except as provided under paragraphs (f) and (g) of this section, it affected facilities routinely share the same raw ink storage/handling system with existing facilities, then temporary measurement procedures for segregating the raw inks, related coatings, VOC solvent, and water used at the affected facilities must be employed during the test. For this case, an overall emission percentage for the combined facilities as well as for only the affected facilities must be calculated during the test.

(3) For the purpose of measuring bulk storage tank quantities of each color of raw ink and each related coating used, the owner or operator of any affected facility shall install, calibrate, maintain, and continuously operate during the test one or more—

(i) Non-resettable totalizer metering device(s) for indicating the cumulative liquid volumes used at each affected facility; or

(ii) Segregated storage tanks for each affected facility to allow determination of the liquid quantities used by measuring devices other than the press meters required under item (i) of this article; or

(iii) Storage tanks to serve more than one facility with the liquid quantities used determined by measuring devices other than press meters, if facilities are combined as decribed under paragraph (d), (f), or (g) of this section.

(4) The owner or operator may choose to install an automatic temperature compensator with any liquid metering device used to measure the raw inks, related coatings, water, or VOC solvent used, or VOC solvent recovered.

(5) Records of the measured amounts used at the affected facility and the liquid temperature at which the amounts were measured are maintained for each shipment of all purchased material or on at least a weekly basis for—

(i) The raw inks and related coatings used;

(ii) The VOC and water content of each raw ink and related coating used as determined according to § 60.435.

(iii) The VOC solvent and water added to the inks used;

(iv) The VOC solvent used as a cleaning agent; and

(v) The VOC solvent recovered.

(6) The density variations with temperature of the raw inks, related coatings, VOC solvents used, and VOC solvent recovered are determined by the methods stipulated in § 60.435(d).

(7) The calculated emission percentage may be reported as rounded-off to the nearest whole number.

(8) Printing press startups and shutdowns are not included in the exemption provisions under § 60.8(c). Frequent periods of press startups and shutdowns are normal operations and constitute representative conditions for the purpose of a performance test.

(b) If an affected facility uses waterborne ink systems or a combination of waterborne and solvent-borne ink systems with a solvent recovery system, compliance is determined by the following procedures, except as provided in paragraphs (d), (e), (f), and (g) of this section:

(1) The mass of VOC in the solvent-borne and waterborne raw inks and related coatings used is determined by the following equation:

$$(M_o)_a = \sum_{i=1}^{k} (M_{ci})_a (W_{oi})_a + \sum_{i=1}^{m} (L_{ci})_a (D_{ci})_a (W_{oi})_a + \sum_{i=1}^{n} (L_{ci})_a (V_{oi})_a (D_{oi})_a$$

where:

k is the total number of raw inks and related coatings measured as used in direct mass quantities with different amounts of VOC content.

m is the total number of raw inks and related coatings measured as used by volume with different amounts of VOC content or different densities.

n is the total number of raw inks and related coatings measured as used by volume with different amounts of VOC content or different VOC solvent densities.

(2) The total mass of VOC used is determined by the following equation:

$$(M_t)_a = (M_o)_a + \sum_{i=1}^{m} (L_{di})_a (D_{di})_a + (M_d)_a + \sum_{i=1}^{n} (L_{gi})_a (D_{gi})_a + (M_g)_a$$

Where "m" and "n" are the respective total numbers of VOC dilution and cleaning solvents measured as used by volume with different densities.

(3) The mass of water in the waterborne raw inks and related coatings used is determined by the following equation:

$$(M_w)_a = \sum_{i=1}^{k} (M_{ci})_a (W_{wi})_a + \sum_{i=1}^{m} (L_{ci})_a (D_{ci})_a (W_{wi})_a + \sum_{i=1}^{n} (L_{ci})_a (V_{wi})_a (D_{wi})_a$$

k is the total number of raw inks and related coatings measured as used in direct mass quantities with different amounts of water content.

m is the total number of raw inks and related coatings measured as used by volume with different amounts of water content or different densities.

n is the total number of raw inks and related coatings measured as used by volume with different amounts of water content or different water densities.

(4) The total mass of water used is determined by the following equation:

$$(M_v)_a = (M_w)_a + (M_h)_a + \sum_{i=1}^{m} (L_{hi})_a (D_{hi})_a$$

where "m" is the total number of water dilution additions measured as used by volume with different densities.

(5) The total mass of VOC solvent recovered is determined by the following equation:

$$(M_r)_a = (M_m)_a + \sum_{i=1}^{k} (L_{mi})_a (D_{mi})_a$$

where "k" if the total number of VOC solvents, miscellaneous solvent-borne waste inks, and waste VOC solvents measured as recovered by volume with different densities.

(6) The average VOC emission percentage for the affected facility is determined by the following equation:

$$P_a = \left[\frac{(M_t)_a - (M_r)_a}{(M_t)_a + (M_v)_a}\right] \times 100$$

(c) If an affected facility controlled by a solvent recovery system uses only solvent-borne ink systems, the owner or operator may choose to determine compliance on a direct mass or a density-corrected liquid volume basis. Except as provided in paragraphs (d), (e), (f), and (g) of this section, compliance is determined as follows:

(1) On a direct mass basis, compliance is determined according to paragraph (b) of this section, except that the water term, M_v, does not apply.

(2) On a density-corrected liquid volume basis, compliance is determined by the following procedures:

(i) A base temperature corresponding to that for the largest individual amount of VOC solvent used or recovered from the affected facility, or other reference temperature, is chosen by the owner or operator.

(ii) The corrected liquid volume of VOC in the raw inks and related coatings used is determined by the following equation:

$$(L_o)_a = \sum_{i=1}^{k} \frac{(M_{ci})_a (W_{oi})_a}{D_B} + \sum_{i=1}^{m} \frac{(L_{ci})_a (D_{ci})_a (W_{oi})_a}{D_B} + \sum_{i=1}^{n} \frac{(L_{ci})_a (V_{oi})_a (D_{oi})_a}{D_B}$$

where,

k is the total number of raw inks and related coatings measured as used in direct mass quantities with different amounts of VOC content.

m is the total number of raw inks and related coatings measured as used by volume with different amounts of VOC content or different densities.

n is the total number of raw inks and related coatings measured as used by volume with different amounts of VOC content or different VOC solvent densities.

(iii) The total corrected liquid volume of VOC used is determined by the following equation:

$$(L_t)_a = (L_o)_a + \sum_{i=1}^{m} \frac{(L_{di})_a (D_{di})_a}{D_B} + \frac{(M_d)_a}{D_B} + \sum_{i=1}^{n} \frac{(L_{gi})_a (D_{gi})_a}{D_B} + \frac{(M_g)_a}{D_B}$$

where "m" and "n" are the respective total numbers of VOC dilution and cleaning solvents measured as used by volume with different densities.

(iv) The total corrected liquid volume of VOC solvent recovered is determined by the following equation:

$$(L_r)_a = \frac{(M_m)_a}{D_B} + \sum_{i=1}^{k} \frac{(L_{mi})_a (D_{mi})_a}{D_B}$$

where "k" is the total number of VOC solvents, miscellaneous solvent-borne waste inks, and waste VOC solvents measured as recovered by volume with different densities.

(v) The average VOC emission percentage for the affected facility is determined by the following equation:

$$P_a = \left[\frac{(L_t)_a - (L_r)_a}{(L_t)_a}\right] \times 100$$

(d) If two or more affected facilities are controlled by the same solvent recovery system, compliance is determined by the procedures specified in paragraph (b) or (c) of this section, whichever applies, except that $(L_t)_a$ and $(L_r)_a$, $(M_t)_a$, $(M_r)_a$, and $(M_v)_a$, are the collective amounts of VOC solvent and water corresponding to all the affected facilities controlled by that solvent recovery system. The average VOC emission percentage for each of the affected facilities controlled by that same solvent recovery system is assumed to be equal.

(e) Except as provided under paragraph (f) of this section, if an existing facility (or facilities) and an affected facility (or facilities) are controlled in common by the same solvent recovery system, the owner or operator shall determine compliance by conducting a separate emission test on the existing facility (or facilities) and then conducting a performance test on the combined facilities as follows:

(1) Before the initial startup of the affected facility (or facilities) and at any other time as requested by the Administrator, the owner or operator shall conduct emission test(s) on the existing facility (or facilities) controlled by the subject solvent recovery system. The solvent recovery system must handle VOC emissions from only the

subject existing facility (or facilities), not from affected facilities, during the emission test.

(2) During the emission test, the affected facilities are subject to the standard stated in § 60.432.

(3) The emission test is conducted over a 30 consecutive calendar day averaging period according to the conditions stipulated in § 60.433(a)(1) through (a)(5), except that the conditions pertain to only existing facilities instead of affected facilities.

(4) The owner or operator of the existing facility (or facilities) shall provide the Administrator at least 30 days prior notice of the emission test to afford the Administrator the opportunity to have an observer present.

(5) The emission percentage for the existing facility (or facilities) during the emission test is determined by one of the following procedures:

(i) If the existing facility (or facilities) uses a combination of waterborne and solvent-borne ink systems, the average VOC emission percentage must be determined on a direct mass basis according to paragraph (b) or (d) of this section, whichever applies, with the following equation:

$$P_e = \left[\frac{(M_t)_e - (M_r)_e}{(M_t)_e + (M_v)_e}\right] \times 100$$

where the water and VOC solvent amounts pertain to only existing facilities.

(ii) If the existing facility (or facilities) uses only solvent-borne ink systems, the owner or operator may choose to determine the emission percentage either on a direct mass basis or a density-corrected liquid volume basis according to paragraph (c) or (d) of this section, whichever applies. On a direct mass basis, the average VOC emission percentage is determined by the equation presented in article (i) of this paragraph. On a density-corrected liquid volume basis, the average VOC emission percentage is determined by the following equation:

$$P_e = \left[\frac{(L_t)_e - (L_r)_e}{(L_t)_e}\right] \times 100$$

where the VOC solvent amounts pertain to only existing facilities..

(6) The owner or operator of the existing facility (or facilities) shall furnish the Administrator a written report of the results of the emission test.

(7) After completion of the separate emission test on the existing facility (or facilities), the owner or operator shall conduct performance test(s) on the combined facilities with the solvent recovery system handling VOC emissions from both the existing and affected facilities.

(8) During performance test(s), the emission percentage for the existing facility (or facilities), P_e, is assumed to be equal to that determined in the latest emission test. The administrator may request additional emission tests if any physical or operational changes occur to any of the subject existing facilities.

(9) The emission percentage for the affected facility (or facilities) during performance test(s) with both existing and affected facilities connected to the solvent recovery system is determined by one of the following procedures:

(i) If any of the combined facilities uses both waterborne and solvent-borne ink systems, the average VOC emission percentage must be determined on a direct mass basis according to paragraph (b) or (d) of this section, whichever applies, with the following equation:

$$P_a = \left\{\frac{(M_t)_b - (M_r)_b - \left(\frac{P_e}{100}\right)[(M_t)_e + (M_v)_e]}{(M_t)_a + (M_v)_a}\right\} \times 100$$

where $(M_t)_b$ and $(M_r)_b$ are the collective VOC solvent amounts pertaining to all the combined facilities.

(ii) If all of the combined facilities use only solvent-borne ink systems, the owner or operator may choose to determine performance of the affected facility (or facilities) either on a direct mass basis or a density-corrected liquid volume basis according to paragraph (c) or (d) of this section, whichever applies. On a direct mass basis, the average VOC emission percentage is determined by the equation presented in article (i) of this paragraph. On a density-corrected liquid volume basis, the average VOC emission percentage is determined by the following equation:

$$P_a = \left[\frac{(L_t)_b - (L_r)_b - (L_t)_e\left(\frac{P_e}{100}\right)}{(L_t)_a}\right] \times 100$$

where $(L_t)_b$ and $(L_r)_b$ are the collective VOC solvent amounts pertaining to all the combined facilities.

(f) The owner or operator may choose to show compliance of the combined performance of existing and affected facilities controlled in common by the same solvent recovery system. A separate emission test for existing facilities is not required for this option. The combined performance is determined by one of the following procedures:

(1) If any of the combined facilities uses both waterborne and solvent-borne ink systems, the combined average VOC emission percentage must be determined on a direct mass basis according to paragraph (b) or (d) of this section, whichever applies, with the following equation:

$$P_b = \left[\frac{(M_t)_b - (M_r)_b}{(M_t)_b + (M_v)_b}\right] \times 100$$

(2) If all of the combined facilities use only solvent-borne ink systems, the owner or operator may choose to determine performance either on a direct mass basis or a density-corrected liquid volume basis according to paragraph (c) or (d) of this section, whichever applies. On a direct mass basis, the average VOC emission percentage is determined by the equation presented in article (i) of this paragraph. On a density-corrected liquid volume basis, the average VOC emission percentage is determined by the following equation:

$$P_b = \left[\frac{(L_t)_b - (L_r)_b}{L_t)_b}\right] \times 100$$

(g) If all existing and affected facilities located within the same plant boundary use waterborne ink systems or solvent-borne ink systems with solvent recovery systems, the owner or operator may choose to show compliance on a plantwide basis for all the existing and affected facilities together. No separate emission tests on existing facilities and no temporary segregated liquid measurement procedures for affected facilities are required for this option. The plantwide performance is determined by one of the following procedures:

(1) If any of the facilities use waterborne ink systems, the total plant average VOC emission percentage must be determined on a direct mass basis according to paragraph (b) of this section with the following equation:

$$P_f = \left[\frac{(M_t)_f - (M_r)_a - (M_r)_e - (M_r)_b}{(M_t)_f + (M_v)_f}\right] \times 100$$

Where $(M_t)_f$ and $(M_v)_f$ are the collective VOC solvent and water amounts used at all the subject plant facilities during the performance test.

(2) If all of the plant facilities use only solvent-borne ink systems, the owner or operator may choose to determine performance either on a direct mass basis or a density-corrected liquid volume basis according to paragraph (c) of this section. On a direct mass basis, the total plant average VOC emission percentage is determined by the equation presented in article (i) of this paragraph. On a density-corrected liquid volume basis, the total plant average VOC emission percentage is determined by the following equation:

$$P_f = \left[\frac{(L_t)_f - (L_r)_a - (L_r)_e - (L_r)_b}{(L_t)_f}\right] \times 100$$

Where $(L_t)_f$ is the collective VOC solvent amount used at all the subject plant facilities during the performance test.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.434 Monitoring of operations and recordkeeping.

(a) After completion of the performance test required under § 60.8, the owner or operator of any affected facility using waterborne ink systems or solvent-borne ink systems with solvent recovery systems shall record the amount of solvent and water used, solvent recovered, and estimated emission percentage for each performance averaging period and shall maintain these records for 2 years. The emission percentage is estimated as follows:

(1) The performance averaging period for monitoring of proper operation and maintenance is a calendar month or 4 consecutive weeks, at the option of the owner or operator.

(2) If affected facilities share the same raw ink storage/handling system with existing facilities, solvent and water used, solvent recovered, and emission percentages for the combined facilities may be documented. Separate emission percentages for only the affected facilities are not required in this case. The combined emission percentage is compared to the overall average for the existing and affected facilities' emission percentage determined during the most recent performance test.

(3) Except as provided in article (4) of this paragraph, temperatures and liquid densities determined during the most recent performance test are used to calculate corrected volumes and mass quantities.

(4) The owner or operator may choose to measure temperatures for determination of actual liquid densities during each performance averaging period. A different base temperature may be used for each performance averaging period if desired by the owner or operator.

(5) The emission percentage is calculated according to the procedures under § 60.433(b) through (g), whichever applies, or by a comparable calculation which compares the total solvent recovered to the total solvent used at the affected facility.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.435 Test methods and procedures.

(a) The owner or operator of any affected facility using solvent-borne ink systems shall determine the VOC content of the raw inks and related coatings used at the affected facility by—

(1) Analysis using Reference Method 24A of routine weekly samples of raw ink and related coatings in each respective storage tank; or

(2) Analysis using Reference Method 24A of samples of each shipment of all purchased raw inks and related coatings; or

(3) Determination of the VOC content from the formulation data supplied by the ink manufacturer with each shipment of raw inks and related coatings used.

(b) The owner or operator of any affected facility using solvent-borne ink systems shall use the results of verification analyses by Reference Method 24A to determine compliance when discrepancies with ink manufacturers' formulation data occur.

(c) The owner or operator of any affected facility using waterborne ink systems shall determine the VOC and water content of raw inks and related coatings used at the affected facility by—

(1) Determination of the VOC and water content from the formulation data supplied by the ink manufacturer with each shipment of purchased raw inks and related coatings used; or

(2) Analysis of samples of each shipment of purchased raw inks and related coatings using a test method approved by the Administrator in accordance with § 60.8(b).

(d) The owner or operator of any affected facility shall determine the density of raw inks, related coatings, and VOC solvents by—

(1) Making a total of three determinations for each liquid sample at specified temperatures using the procedure outlined in ASTM D 1475–60 (Reapproved 1980), which is incorporated by reference. It is available from the American Society of Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. It is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. This incorporation by reference was approved by the Director of the Federal Register on November 8, 1982. This material is incorporated as it exists on the date of approval and a notice of any change in these materials will be published in the **Federal Register.** The temperature and density is recorded as the arithmetic average of the three determinations; or

(2) Using literature values, at specified temperatures, acceptable to the Administrator.

(e) If compliance is determined according to § 60.433(e), (f), or (g), the existing as well as affected facilities are subject to the requirements of paragraphs (a) through (d) of this section.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

2. Method 24A is added to Appendix A as follows:

Appendix A—Reference Methods

* * * * *

Method 24A—Determination of Volatile Matter Content and Density of Printing Inks and Related Coatings

1. *Applicability and Principle.*

1.1 Applicability. This method applies to the determination of the volatile organic compound (VOC) content and density of solvent-borne (solvent reducible) printing inks or related coatings.

1.2 Principle. Separate procedures are used to determine the VOC weight fraction and density of the coating and the density of the solvent in the coating. The VOC weight fraction is determined by measuring the weight loss of a known sample quantity which has been heated for a specified length of time at a specified temperature. The density of both the coating and solvent are measured by a standard procedure. From this information, the VOC volume fraction is calculated.

2. *Procedure.*

2.1 Weight Fraction VOC.

2.1.1 Apparatus.

2.1.1.1 Weighing Dishes. Aluminum foil, 58 mm in diameter by 18 mm high, with a flat bottom. There must be at least three weighing dishes per sample.

2.1.1.2 Disposable syringe, 5 ml.

2.1.1.3 Analytical Balance. To measure to within 0.1 mg.

2.1.1.4 Oven. Vacuum oven capable of maintaining a temperature of 120±2°C and an absolute pressure of 510 ±51 mm Hg for 4 hours. Alternatively, a forced draft oven capable of maintaining a temperature of 120 ±2°C for 24 hours.

2.1.1.5 Analysis. Shake or mix the sample thoroughly to assure that all the solids are completely suspended. Label and weigh to the nearest 0.1 mg a weighing dish and record this weight (M_{x1}).

Using a 5-ml syringe without a needle remove a sample of the coating. Weigh the syringe and sample to the nearest 0.1 mg and record this weight (M_{cY1}). Transfer 1 to 3 g of the sample to the tared weighing dish. Reweigh the syringe and sample to the nearest 0.1 mg and record this weight (M_{cY2}). Heat the weighing dish and sample in a vacuum oven at an absolute pressure of 510 ±51 mm Hg and a temperature of 120 ±2°C for 4 hours. Alternatively, heat the weighing dish and sample in a forced draft oven at a temperature of 120 ±2°C for 24 hours. After the weighing dish has cooled, reweigh it to the nearest 0.1 mg and record the weight (M_{x2}). Repeat this procedure for a total of three determinations for each sample.

2.2 Coating Density. Determine the density of the ink or related coating according to the procedure outlined in ASTM D 1475–60 (Reapproved 1980), which is incorporated by reference. It is available from the American Society of Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. It is also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. This incorporation by reference was approved by the Director of the Federal Register on November 8, 1982. This material is incorporated as it exists on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

2.3 Solvent Density. Determine the density of the solvent according to the procedure outlined in ASTM D 1475–60 (reapproved 1980). Make a total of three determinations for each coating. Report the density D_o as the arithmetic average of the three determinations.

3. *Calculations.*

3.1 Weight Fraction VOC. Calculate the weight fraction volatile organic content W_o using the following equation:

$$W_o = \frac{M_{x1} + M_{cY1} - M_{cY2} - M_{x2}}{M_{cY1} - M_{cY2}}$$

Report the weight fraction VOC W_o as the arithmetic average of the three determinations.

3.2 Volume Fraction VOC. Calculate the volume fraction volatile organic content V_o using the following equation:

$$V_o + \frac{\overline{W}_o \overline{D}_c}{\overline{D}_o}$$

4. *Bibliography.*

4.1 Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products. ASTM Designation D 1475–60 (Reapproved 1980).

4.2 Teleconversation. Wright, Chuck, Inmont Corporation with Reich, R. A., Radian Corporation. September 25, 1979. Gravure Ink Analysis.

4.3 Teleconversation. Oppenheimer, Robert, Gravure Research Institute with Burt, Rick, Radian Corporation, November 5, 1979. Gravure Ink Analysis.

[FR Doc. 82-30410 Filed 11-5-82; 8:45 am]

BILLING CODE 6560-50-M

federal register

Monday
November 8, 1982

Part III

Legal Services Corporation

Proposed Implementation of Limitations on Uses of Funds

LEGAL SERVICES CORPORATION

45 CFR Parts 1606, 1607, 1612, 1617, and 1625

Proposed Implementation of Limitations on Uses of Funds

AGENCY: Legal Services Corporation.

ACTION: Proposed rules.

SUMMARY: The Continuing Resolution which appropriated funds for the Legal Services Corporation (the "Corporation") for the 1983 fiscal year imposed a number of limitations and restrictions on the use of Corporation funds. Certain of these limitations and restrictions will necessitate changes in current Corporation regulations. The Corporation staff prepared proposed regulations revising four current sections of the Corporation's regulations, Parts 1606, 1607, 1612 and 1617, and adding a new Part 1625 ("staff proposals") pursuant to instructions from the Chairman of the Operations and Regulations Committee. Two members of the Corporation's Board of Directors prepared alternatives to three of the staff proposals, Parts 1606, 1617 and 1625 ("Harvey/Olson proposals"). At its October 29–30, 1982, meeting, the Corporation's Board approved the publication in the **Federal Register** of both the staff proposals and the Harvey/Olson proposals.

Both of the proposed revisions of Part 1606 would delete references to denials of refunding which would be covered by the procedures described in either version of the new Part 1625. The staff proposal would also make some additional changes that are consistent with the continuing resolution. The proposed revisions of Part 1607 would implement changes in the requirements for recipients' governing board structure mandated by the continuing resolution. The proposed revisions of Part 1612 would implement the restrictions on administrative and legislative representation required by the continuing resolution. Both of the Proposed alternative revisions of Part 1617 would establish the policies governing class action suits by legal services programs against Federal, state or local governments required by the continuing resolution.

DATES: Comments must be submitted on or before December 8, 1982.

ADDRESS: Comments may be mailed to: Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, N.W., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Mary Wieseman, (202) 272–4010.

SUPPLEMENTARY INFORMATION—PART 1606: Under the continuing resolution providing funds for the Corporation during the 1983 fiscal year there are several changes in the hearing rights that recipients of Corporation funds are entitled to before funding may be terminated or an application for refunding denied. There is no longer a right to an independent hearing examiner in either proceeding and the level of interim funding that the Corporation must provide pending a final determination granting or denying a refunding application has been changed. The hearing rights in a denial of refunding are substantially circumscribed. Both the staff and the Harvey/Olson proposals basically leave intact the hearing rights for terminations, but remove from the current Part 1606 all references to "denials of refunding" which would, instead, be governed by the procedures described in either of the proposed versions of Part 1625. In addition, the staff proposal would revise the definition of "presiding officer" to make it consistent with the definition contained in the Corporation staff proposal for Part 1625, and would change the obligation for the providing interim funding pending the completion of the termination procedures to make it consistent with the language of the continuing resolution. For the most part, the remaining revisions consist of technical changes, e.g., renumbering of sections. For those sections where the staff proposal and the Harvey/Olson proposal differ, the staff proposal is designated as Alternative A and the Harvey/Olson proposal is designated as Alternative B.

List of Subjects in 45 CFR Part 1606

Legal services.

For the reasons set out above, 45 CFR Part 1606 is proposed to be amended as follows:

PART 1606—[AMENDED]

1. Part 1606—"Procedures Governing Termination of Financial Assistance and Denial of Refunding" is renamed "Procedures Governing Termination of Financial Assistance."

2. The authority citation for Part 1606 is revised to read as follows:

Authority: Sec. 1006(b)(1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1008(e), 1011 (42 U.S.C. Sections 2996e(b)(1) and (3), 2996f(a)(1), 2996f(a)(3), 2996f(a)(9), 2996f(d), 2996g(e), 2996j), Sec. 122, Pub. L. 97–276, 96 Stat. 1186.

§ 1606.1 [Amended]

3. **(Alternative A).**

Section 1606.1 is amended by removing the word "full" and the commas enclosing it, and by removing the phrase "or refunding denied."

(Alternative B).

Section 1606.1 is amended by removing the phrase "or refunding denied."

§ 1606.2 [Amended]

4. Section 1606.2 is amended by removing § 1606.2(b) and redesignating §§ 1606.2(c) and 1606.2(d) as §§ 1606.2(b) and 1606.2(c).

5. **(Alternative A).**

Newly redesignated § 1606.2(c) is revised to read as follows:

* * * * *

(c) "Presiding Officer" means an impartial person appointed by the President to recommend a decision that a grant or contract should be continued or terminated, who is familiar with legal services and supportive of the purposes of the Act, who is fair and impartial, who has not participated in the matter at issue, and who has no supervisory responsibility for the Corporation employee who made the initial determination.

(Alternative B).

Newly redesignated § 1606.2(c) is further amended by removing the phrase ", or that refunding should be granted or denied."

§ 1606.3 [Removed]

§§ 1606.4–1606.20 [Redesignated as §§ 1606.3–1606.19]

6. Section 1606.3 is removed in its entirety and §§ 1606.4 through 1606.20 are redesignated §§ 1606.3 through 1606.19.

7. The references to the following Sections are redesignated as indicated wherever they appear in Part 1606.

Old section	New section
1606.5	1606.4
1606.5(b)	1606.4(b)
1606.6	1606.5
1606.7	1606.6
1606.8(a)	1606.7(a)
1606.9	1606.8
1606.9(c)	1606.8(c)
1606.10	1606.9
1606.13(b)	1606.12(b)
1606.15	1606.14
1606.18	1606.17
1606.19	1606.18

8. Newly redesignated § 1606.3 is revised to read as follows:

§ 1606.3 Grounds for termination.

A grant or contract may be terminated when:

(a) Termination is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class or a funding policy, standard, or criterion approved by the Board, except that termination shall not be based on a Corporation rule, regulation, guideline, or instruction that was not in effect when the current grant was made or when the current contract was entered into; or

(B) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation. In the absence of unusual circumstances, a grant or contract shall not be terminated for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action; or

(c) There has been substantial failure by a recipient to use its resources to provide economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation or guideline issued by the Corporation. In the absence of unusual circumstances, a grant or contract shall not be terminated for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action.

§ 1606.4 [Amended]

9. Newly redesignated § 1606.4(a) is amended by removing the phrase "or that refunding should be denied."

§ 1606.7 [Amended]

10. **(Alternative A).**

Newly designated § 1606.7(a) is revised to read as follows:

(a) The presiding officer shall be appointed by the President and shall be a person who is impartial and who is familar with legal services and supportive of the purposes of the Act.

* * * * *

(Alternative B).

No change except for redesignation of section.

§ 1606.9 [Amended]

11. **(Alternative A).**

Newly redesignated § 1606.9(b) is amended by removing the words "full and" from the first sentence.

(Alternative B).

No change except for redesignation of section.

§ 1606.10 [Amended]

12. Newly redesignated § 1606.10(a) is amended by removing the words "or denial of refunding."

13. Newly redesignated § 1606.10(b) is amended by removing the words "or denying refunding."

§ 1606.12 [Amended]

14. Newly redesignated § 1606.12(a)(1) is amended by removing the words "or granting refunding."

15. Newly redesignated § 1606.12(a)(2) is amended by removing the words "or denying refunding."

§ 1606.16 [Amended]

16. Newly redesignated § 1606.16 is amended by removing the words "or refunding is granted."

§ 1606.17 [Amended]

17. **(Alternative A).**

Newly redesignated § 1606.17 is revised to read as follows:

§ 1606.17 Interim funding.

(a) Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to continuation of its grant or contract.

(b) Pending a final determination under this part, or until the end of the recipient's current grant or contract term, whichever comes first, the Corporation shall continue to provide the recipient with funding necessary to maintain its current level of legal assistance activities under the act.

(c) If a final determination is not issued prior to the end of the recipient's current grant or contract term, the Corporation shall provide the recipient with interim funding sufficient to allow for the continuation of representation of clients on whose behalf litigation, negotiation or other forms of representation have been initiated, for the period after the end of the recipient's current grant or contract term, pending such final determination.

(Alternative B.)

Newly redesignated § 1606.17 is amended by removing the phrase "or to refunding" in the first sentence.

§ 1606.18 [Amended]

18. Newly redesignated § 1606.18 is amended by removing the phrase "or to deny refunding."

SUPPLEMENTARY INFORMATION—PART 1607:

No funds made available under Pub. L. 97-276 shall be used in making grants or entering into contracts for legal assistance unless the Corporation ensures that any recipient organized primarily for the purpose of providing legal services to eligible clients is governed by a board of directors or other governing body, the majority of whose membership is comprised of attorneys appointed by the governing bodies of State, county or municipal bar associations which represent a majority of attorneys practicing in the recipient's service area. Congress recognized that in many cases there will not be a single local bar association which represents a majority of attorneys in the recipient's service area. In light of this, a combination of bar associations, including the state bar association, may collectively appoint the attorney members of the governing body. These amendments to Part 1607 implement this statutory requirement.

The legislative history recognizes the practical difficulties involved in immediate compliance with this provision. The Senate Report states that recipients "shall expeditiously submit a plan to the Corporation which outlines its proposed efforts to comply with this provision. Submission of the compliance plan should be viewed as a good faith effort by the grantee to comply; failure to submit a plan should not." Section 1607.7 sets forth the requirements regarding such compliance plans. This approach should help to avoid disruption of programs' operation by allowing recipients to develop a plan for restructuring their governing bodies in order to provide for an orderly transition.

This new provision regarding appointment of the majority of members to recipient governing bodies will not affect the appointment of clients or nonlawyers to these boards, nor should it affect the selection of remaining 9% of the board members required to be attorneys. The Amendment provides for selection of the remaining 9% of attorney members and does not change the current regulation with respect to the selection of nonattorney members of recipient governing bodies.

List of Subjects in 45 CFR Part 1607

Legal services.

It is proposed to amend 45 CFR Part 1607 as follows:

PART 1607—[AMENDED]

1. The authority citation for Part 1607 is revised to read as follows:

Authority: Sec. 1007(c) U.S.C. 2996f(c); Pub. L. 97-276; 96 Stat. 1186.

2. Section 1607.2 is revised to read as follows:

§ 1607.2 Definitions

(a) "Eligible client," as used in this part means a person eligible to receive

legal assistance under the Act, without regard to whether the person is receiving assistance at the time of selection for membership on a governing body.

(b) "Governing body" refers to the board of directors or other governing board of recipient receiving funds under Section 1006(a)(1)(A) of the Act.

(c) "Board member" refers to a member of a recipient's governing body.

3. Section 1607.3 (c) and (g) are revised to read as follows:

§ 1607.3 Composition.

* * * * *

(c) Appointment of the attorney members of the governing body shall be conducted so that a majority of the governing body are appointed by the governing bodies of State, county or municipal bar associations, the membership of which represents a majority of attorneys practicing law in the localities in which the recipient is to provide legal assistance. Appointments shall be made so as to insure that the attorney board members include women and minorities and reasonably reflect the population of the areas served. Appointments may be made either by the bar association which represents a majority of attorneys in the recipient's service area or by the bar associations which collectively represent a majority of the attorneys practicing law in the recipient's service area. Any additional attorney members of the board may be appointed by or selected from other bar associations or legal organizations with an interest in the delivery of legal services to the poor.

* * * * *

(g) The nonattorney board membership shall not be dominated by persons serving as the representatives of a single association group or organization.

* * * * *

4. Section 1607.7 is revised to read as follows:

§ 1607.7 Compliance

(a) A recipient whose current governing body does not satisfy the requirements of this part shall submit a plan for achieving compliance to the relevant Regional Office By March 1, 1983. The plan shall include:

(1) The current composition of the recipient's governing body, and the date upon which the composition was achieved;

(2) The date upon which the terms of each current member of the recipient's governing body will expire;

(3) The recipient's plan for complying with the requirements of § 1607.3 and timetables for implementation. This plan shall:

(i) Identify the bar associations in the localities in which the recipient provides legal services identifying the individual bar association or combinations of bar associations to which a majority of practicing attorneys belong;

(ii) Detail the method of selecting attorney members to provide for representation on the recipient's governing body in accordance with this regulation and

(iii) Insure that the attorney board members include women and minorities and reasonably reflect the population of the areas served.

(b) Compliance with § 1607.3 shall occur no later than June 15, 1982.

(c) The President may, upon application, extend the time in which a recipient must comply with the requirements of § 1607.3(c). The application must state the reasons why complying by June 15, 1982 would be unduly burdensome or impossible to achieve for the recipients.

(d) An application for an extension of time under paragraph (c) of this section must be received by the Corporation no later than 30 days after the effective date of the regulation. An extension may be granted for no more than three months, and no more than two extensions may be granted to any recipient. In no event may the time for compliance be extended beyond January 15, 1983.

SUPPLEMENTARY INFORMATION—PART 1612:

Background

The proposed amendments to § 1612.4 are intended to clarify the scope of permissible recipient activities concerning legislative and administrative representation. Thus, the proposed amendments include changes in the language of the regulation to more closely conform it to the language of the Legal Services Corporation Act and provisions which implement Legal Services Corporation's appropriations prohibiting grassroots lobbying activities. These riders are the Moorehead Amendment, which has been a rider on each Corporation appropriation from FY 1979 through FY 1982, and Section 607(a) of the Treasury, Postal Service, and General Government Appropriations Act which contains provisions substantially identical to the Moorehead Amendment, and by its terms, applies to all federal appropriations. The proposed amendments also provide for additional recipient documentation and reporting retirements, including a provision application to recipient publications which address legislative measures, which are intended to improve the Corporation's ability, from a management perspective, to insure that Corporation funds are not used for purposes prohibited by the Legal Services Corporation Act or other applicable law.

Finally, the proposed amendments impose additional restrictions on legislative and administrative activities made applicable to the Corporation's FY 1983 appropriation by Section 122 of Pub. L. 97-276. Public Law 97-276, a joint continuing resolution appropriating FY 1983 funds for the Legal Services Corporation, incorporates the provisions of Section 5 of H.R. 3480 as passed by the House of Representatives on June 18, 1981. The Corporation proposes to implement these provisions of Pub. L. 97-276 through the proposed new paragraph (f) of § 1612.4. In doing so, the Corporation recognizes that, under Section 102 of Pub. L. 97-276, Section 122 of Pub. L. 97-276, expires on December 17, 1983. The Corporation anticipates that it may be necessary to issue additional or amended instructions or regulations on legislative and administrative representation when Congress enacts either a succeeding continuing resolution, an FY 1983 appropriation for the Corporation, or enacts new authorization legislation for the Corporation.

The Corporation considers all provisions of amended § 1612.4 which are consistent with the additional restrictions mandated by Pub. L. 97-276, namely, § 1612.4(b)(5), § 1612.4(c), § 1612.4(e), and § 1612.4(h)(1), (2), (3), and (5), to be also applicable to funds made available under Pub. L. 97-276. Similarly, since the restrictions on legislative activity contained in Pub. L. 97-276 preclude grass roots lobbying activities, the provisions of proposed new paragraph (d) are also applicable to funds made available pursuant to Pub. L. 97-276.

Section-by-Section Summary

Section 1612.4(a)—The additional language added by the proposed amendment tracks the language of Section 1007(a)(5) of the Legal Services Corporation Act.

Section 1612.4(a)(1)—The proposed amendment adds languagae intended to specify the kind of activities that may be undertaken in response to a request.

Section 1612.4(a)(2)—The additional language added by the proposed amendment tracks the language of Section 1007(a)(5)(A) of the Legal Services Corporation Act.

Section 1612.4(a)(3)—The proposed amendment is intended to make explicit in the regulation the statement now contained in the comment to the regulation that legislative activity on measures directly affecting the recipient refers to appropriations or other measures directed to the Corporation or a recipient and not to poor people's issues generally.

Section 1612.4(b)—The proposed amendment strikes the reference to "appropriate" documentation contained in the existing regulation and adds provisions which specify the kinds of documentation required to establish that recipient legislative and administrative activities fall within the activities permitted under the regulations. The proposed amendment requires that recipient must obtain the necessary documentation prior to undertaking any legislative or administrative advocacy. This provision is now contained only in the comment to the existing regulation. The proposed regulation also would require recipients to submit monthly activity reports describing their legislative and administrative advocacy activities.

Section 1612.4(c)—The proposed amendment would require that recipients provide the Corporation with a copy of the board of directors resolution, required under the existing regulation, which authorizes the establishment of a full time legislative office, along with an annual budget for the office which includes personnel costs.

Section 1612.4(d)—The proposed amendment adds a new paragraph (d) to the existing regulation. Existing paragraph (d) is redesignated paragraph (g).

Proposed paragraph (d) essentially incorporates the provisions of Moorhead Amendment and Section 607(a) of the Treasury, Postal Service, and General Government Approriations Act prohibiting the use of Corporation funds for publicity or propaganda purposes designed to support or defeat proposed or pending legislation. "Publicity or propaganda" is defined in the proposed amendment in a manner intended to put recipients on notice that the Corporation will look to the content of a communication in its totality and not simply for an explicit statement urging persons to contact their legislators to determine whether or not a particular communication is proscribed.

Section 1612.4(e)—The proposed amendment adds a new paragraph (e) which establishes a Corporation policy for recipient publications which contain references to proposed or pending legislation. The proposed regulation makes the provisions of the Moorhead Amendment applicable to such publications, and establishes a system of review or publications to insure accountability for violations of the regulations. Neither the Moorhead Amendment nor any other provision of law applicable to the Corporation bans purely informational and educational discussions of legislative issues. The Corporation believes that the approach to a publication policy contained in the proposed regulation represents a reasonable balance between clients' legitimate interest in obtaining information about proposed or pending legislation and the Corporation's obligation to insure that Corporation funds are not expended contrary to applicable restrictions. The proposed regulation would retain the substance of existing § 1612.4(b)(2), which permits informing a client about a new of proposed statute, executive order, or administrative regulation. The proposed regulation would insure compliance and promote accountability by requiring that the recipient executive director, or his or her designee, review all publications for compliance with the regulations prior to dissemination, and further require recipient to provide the Corporation with a copy of each publication for review within 30 days, Further, the proposed regulation would limit the use of Corporation funds to newsletters or other publications disseminated to recipients, recipient staff, board members, private attorneys representing eligible clients, eligible clients, and the Corporation. Production and dissemination of publications dealing with legislative issues intended for the general public would have to be financed from non-Corporation funding sources, such as subscription income.

Section 1612.4(f)—The proposed amendment adds a new paragraph (f) incorporating the restrictions on recipient legislative and administrative activities imposed by Section 122 of PL 97–276 which appropriates FY 1983 funds to the Corporation. The proposed regulation tracks the language of Section 5 of H.R. 3480 as enacted by the House of Representatives on June 18, 1981.

Section 1612.4(g) The proposed regulation provides for documentation of recipient activities permitted under § 1612.4(f). Thus, proposed § 1612.4(g)(2) requires the recipient's executive director, or his or her designee, to authorize any communications to elected officials made at the request of the official. This is consistent with the legislative history of H.R. 3480 which indicates that the statutory requirement that a request be made through "official channels" was intended to impose some recipient management control on communications made in response to requests from elected officials. Further, consistent with the legislative history of H.R. 3480, the proposed regulation would authorize a recipient to respond to an official request from an elected official on any authorization, appropriation, or oversight measure concerning a substantive issue in which the recipient was involved on which the recipient or an employee of the recipient has expertise.

List of Subjects in 45 CFR Part 1612

Civil disorder, Legal services, Lobbying.

45 CFR Part 1612 is proposed to be amended as follows:

PART 1612—[AMENDED]

1. The authority citation for Part 1612 is revised to read as follows:

Authority: Secs. 1006(b)(5), 1007(a)(5), 1011, 1008(e), Pub. L. 93–355, 88 Stat. 378 (42 U.S.C. 2996e(b)(5), 2996f(a)(5), 2996j, 2996g(e), Pub. L. 95–431, 92 Stat 1021, Pub. L. 96–68, 93 Stat 416, Pub L. 96–536, 94 Stat 3166, Pub. L. 97–161, 96 Stat 22, Pub. L. 97–276, 96 Stat 1186.

2. Section 1612.4 is revised as follows:

§ 1612.4 Legislative and administrative representation.

(a) No funds made available to a recipient by the Corporation shall be used, at any time, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body or State proposals by initiative petition, except that:

(1) An employee may engage in such activities in response to a request from a governmental agency or a legislative body, committee, or member made to the employee or to a recipient to testify, draft or review measures or to make representations to such agency, body, committee or member; or,

(2) An employee may engage in such activities on behalf of an eligible client of a recipient, if such activities are necessary to the provision of legal advice and representation to a client who may be affected by a particular legislative or administrative measure but no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible; or,

(3) An employee may engage in such activities if a governmental agency, legislative body, committee, or member

thereof is considering a measure directly affecting the activities under the Act of the recipient or the Corporation. This exception extends only to appropriations or other measures directed to the Corporation, or the recipient or its employees.

(b) Recipients shall adopt procedures and forms to document that the legislative and administrative activities in which they engage fall within the activities permitted in § 1612.4(a). Such documentation shall include:

(1) With respect to activities permitted under § 1612.4(a)(1), a written request signed by an official of the governmental agency or a member of the legislative body or committee making the request which states the type of representation or assistance requested and identifies the executive or administrative order or regulation, or legislation, to be addressed;

(2) With respect to activities permitted under § 1612.4(a)(2), a retainer agreement, signed by the client or clients represented, or by an official of the client group in the case of a group client, which agreement shall specify the legislative or administrative measure on which representation is sought, the type of representation sought, (appearance at a hearing, legislative drafting, etc.), and which shall include a statement of the client's direct interest in the particular legislative or administrative measure to be addressed;

(3) With respect to activities permitted under § 1612.4(a)(3), a written statement signed by the recipient's executive director authorizing the initiation of such activities.

(4) Recipients shall obtain the documentation required by this section prior to undertaking any of the activities permitted by § 1612.4(a).

(5) Recipients shall submit monthly reports, in a form prescribed by the Corporation, describing their legislative and administrative advocacy activities conducted pursuant to these regulations.

(c) Recipients may not establish full time legislative offices unless the decision to establish such an office is formally made by the Board of Directors of the recipient consistent with the provisions of Section 1620, provided that the legislative activities of these offices are solely activities permitted under § 1612.4(a). Recipents shall provide the Corporation with a copy of the board resolution formally approving the establishment of a full time legislative office together with an annual budget for such office which describes, in a form prescribed by the Corporation, the annual costs of the office, including personnel costs.

(d) Notwithstanding the provisions of § 1612.4(a), recipients shall not use funds made available by the Corporation for publicity or propaganda purposes designed to support or defeat proposed legislation or legislation pending before Congress or any state legislature. For purposes of this regulation, "publicity or propaganda" means any oral communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion, or, when taken as a whole, an indirect suggestion to the public at large or to selected individuals to contact elected representatives in support of or in opposition to pending or proposed legislation.

(e) No funds made available to a recipient by the Corporation shall be used to support the preparation, production, and dissemination of any article, newsletter, or other publication or written matter for general distribution which contains any reference to proposed or pending legislation unless:

(1) The publication does not contain any publicity or propaganda prohibited by § 1612.4(d); and

(2) The recipient has adopted a policy requiring the recipient's executive director, or his or her designee, to review each publication produced by the recipient prior to its dissemination for conformity to these regulations; and

(3) The recipient provides a copy of any such material produced by the recipient to the Corporation within 30 days after publication; and

(4) Such funds are used only for costs incident to the preparation, production, and dissemination of such publications to recipients, recipient staff and board members, private attorneys representing eligible clients, eligible clients, and the Corporation, as opposed to the public at large.

(f) Notwithstanding the provisions of § 1612.4(a), no funds made available to a recipient by the Corporation under the authority of Pub. L. 97-276 shall be used, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, or to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, inititative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the formal request of such officials through proper official channels, pertaining to the authorization or appropriations of funds or oversight measures directly affecting the operation of the program involved.

(g) Recipients shall adopt procedures and forms to document that the legislative and administrative activities in which they engage fall within the activities permitted under § 1612.4(f). Such documentation shall include:

(1) With respect to activities on behalf of eligible clients, a retainer agreement, signed by the client or clients represented, or by an official of the client group in the case of a group client, which agreement shall specify the administrative measure on which representation is sought, the type of representation sought, (appearance at a hearing, etc.) and which shall include a statement of the client's direct interest in the particular administrative measure to be addressed;

(2) With respect to activities in response to a request from a Federal, State, or local elected official, a written request signed by the official making the request which states the type of communication requested (testimony, legal analysis, legislative drafting, etc.) and identifies the legislative measure to be addressed. Such documentation shall also include the signature of the recipient's executive director (or his or her designee) authorizing the communications requested.

(h) Nothing in this section is intended to prohibit an employee from

(1) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies; or

(2) Informing a client about a new or proposed statute, executive order, or administrative regulation consistent with the requirements of § 1612.4(e); or

(3) Advising a client with respect to the client's own communications to elected officials concerning proposed or pending legislation; or

(4) Making direct contact with elected officials concerning proposed or pending legislation as long as such activities are authorized by § 1612.4(a); or

(5) Communicating with the Corporation for any purpose.

SUPPLEMENTARY INFORMATION—PART 1617

Alternative A (Staff Proposal); Background

Under the continuing resolution, Pub. L. 92–276, Corporation funds may not be used to bring a class action suit against the federal government or any state or local government unless the action is brought in accordance with policies or regulations adopted by the Board of Directors of the Corporation. This provision is derived from the Senate version of the continuing resolution (S. Rep. No. 97–581, 97th Cong., 2nd Sess.) which was adopted by the Conference Committee. The House version, which was rejected in Committee, would have banned class action suits against governmental bodies entirely. Therefore, consistent with the legislative history, the proposed regulation would permit class actions against the federal government and state or local governments, but only under the conditions provided for in the regulations. Similarly, the proposed regulations follow the legislative history of the continuing resolution which indicates that the Corporation's regulations on class action against governmental entities should guard against the misuse of such actions while permitting their use in appropriate cases with the objective of enhancing the "efficient and productive use" of Corporation funds. (S. Rep. No. 97–581, 97th Cong., 2nd Sess., p. 11).

Discussion

The proposed regulation imposes restrictions on class actions against the federal government and state or local governments in addition to those contained in existing Part 1617 of the regulations. The existing regulations were promulgated pursuant to Section 1006(d)(5) of the Legal Services Corporation Act which requires the governing body of a recipient to establish policies for class action suits. The continuing resolution, however, requires the Corporation to directly regulate class action suits against governmental bodies through the issuance of policies or regulations (S. Rep. No. 97–581, 97th Cong., 2nd Sess., p. 10). Therefore, the proposed regulations mandate the criteria which the recipient must apply in determining whether a class action may be brought against a governmental entity as opposed to merely requiring recipient governing boards to adopt policies to implement the provisions of the continuing resolution. In addition, reporting requirements are imposed to improve the Corporation's oversight of recipient activities in this area. This approach avoids Corporation review of class action litigation on a case-by-case basis which is precluded both by the Legal Services Corporation Act and relevant American Bar Association Ethics Opinions. See Sections 1006(a)(3); 1007(a)(1); ABA Committee on Ethics and Professional Responsibility, Formal Opinion 334.

The proposed regulation requires recipients to attempt to resolve matters in dispute with governmental entities prior to bringing a class action, except in circumstances which require immediate action to protect the client's interests. Recipients would also be required to document their efforts to resolve the matter without resort to filing a class action.

The proposed regulation provides that class relief must be sought for the primary purpose of benefiting eligible clients. This provision recognizes that some members of a class ultimately certified by a court could be persons who are not eligible for legal assistance when the case is brought or who become ineligible during the pendency of the suit. This would not preclude maintaining a class action, as long as the primary purpose of the suit is to benefit eligible clients. The suit could not be maintained if the purpose is to benefit a broader group than eligible clients.

List of Subjects in 45 CFR Part 1617

Legal services.

It is proposed to amend 45 CFR Part 1617 as follows:

PART 1617—[AMENDED]

1. The authority citation for Part 1617 is revised to read as follows:

Authority: Sections 1008(b)(5), 1007(a)(5), 1011, 1008(e), Pub. L. 93–355, 88 Stat 378 (42 U.S.C. 2996e(b)(5)), 2996f(a)(5), 2996j, 2996g(e), Pub. L. 97–276, 96 Stat 1186.

2. Part 1617 is amended by adding a new § 1617.5 to read as follows:

§ 1617.5 Class actions against the federal government or state or local governments.

(a) No funds made available to a recipient by the Corporation pursuant to PL 97–276 shall be used to bring a class action suit against the federal government or any state of local government unless:

(1) All the requirements of §§ 1617.3 and 1617.4 are met;

(2) The recipient executive director has determined that the proposed class action is the most effective and efficient means of resolving the legal problems common to a number of similar situated eligible clients. In making such a determination, the director shall take into account:

(i) The likelihood of and potential cost to the recipient of litigating multiple claims on behalf of eligible clients on the issue involved as opposed to the cost of maintaining a class action;

(ii) The likelihood that potential class members can obtain representation from other sources;

(iii) The likelihood that the class will certified.

(3) Class relief is sought for the primary benefit of individuals who are eligible for legal assistance;

(4) Prior to filing such an action, the recipient executive director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that reasonable efforts to resolve without litigation the adverse effects of the policy or practice have not been successful, except that nothing in this paragraph shall preclude immediately filing a class action suit where the circumstances of the case, as determined by the recipient executive director, require immediate action to protect the interests of a client.

(b) With respect to class actions authorized under this section, recipients shall maintain the following records:

(1) A written statement signed by the recipient executive director authorizing the maintenance of the suit as a class action which contains documentation that the executive director has considered all of the factors required by § 1617.5(a) and a specific statement of the efforts undertaken to resolve the matter without litigation required by § 1617.5(a)(4). Such statement shall be available for inspection by the Corporation.

(2) Quarterly reports, prepared in a form prescribed by the Corporation, listing the class action suits brought under § 1617.5.

Alternative B (Harvey-Olson Proposal)

The Continuing Resolution of 1983 contains a directive to the Board of Directors, which requires that this Board regulate class action suits against governmental bodies, through the issuance of policies or regulations.

The language on this is as follows:

Finally, the Committee amendment provides that no funds appropriated under this joint resolution may be used to bring a class action against the Federal Government or any State or local government unless such action is brought in accordance with policies or regulations adopted by the Board of the

Corporation. Currently, local agency boards can authorize class action suits; this amendment will require that the Board of Directors of the Corporation itself regulate class action suits against other governmental bodies, through issuance of policies or regulations. This prohibition assures that recipients must conform to Corporation regulations in bringing class actions against the Government with these Federal funds. The Committee believes this will guard against the misuse of such actions while permitting their use in appropriate cases and thereby enhance the efficient and productive use of these funds.

Two members of the Corporation's Board of Directors believe that the staff's proposed amendment to Part 1617 (alternative A) is not responsive to the Congressional mandate and would not bring the Board into compliance with either (a) and the clear intention of the Congress to effect a major change and (b) the language of the statute and its interpretive committee comment. They, therefore, proposed this alternative amendment.

This amendment is intended to insure that class actions against governmental entities do not divert funds from governmental programs, result in increased taxation or benefit a group of persons smaller than the entire eligible client population of the jurisdiction. For example, if two (2) million persons are eligible clients who are found within the taxing authority which raises funds which are being administered by the individual with whom the executive director consults, and if the court judgment in the proposed class action might result in the allocation of public funds for the construction of a penal institution which might benefit 100 eligible clients, assuming of course that the action can be brought when other criteria have been met, then the class action cannot be commenced because it might result in the allocation of public funds away from the larger class of eligible clients, and the expenditure of those funds on the smaller group of eligible clients.

It is proposed to amend 45 CFR Part 1617 as follows:

PART 1617—[AMENDED]

1. The authority citation for part 1617 is revised to read as follows:

Authority: Sections 1006(d)(5), 1007(a)(1), 1007(a)(3), 1008(e); 42 U.S.C. 2996e(d)(5), 2996f(a)(1), 2996f(a)(3), 2996g(e); Pub. L. 97-276; 96 Stat. 118.

2. Part 1617 is amended by revising § 1617.4 to read as follows:

§ 1617.4 Standards for approval.

The governing body of a recipient shall adopt policies to guide the director of the recipient in determining whether to approve class action litigation. The policies adopted:

(a) Shall assure that no funds made available to a recipient by the Corporation shall be used to bring a class action suit against the federal government, or any state or local government, or governmental-type organization such as but not limited to a school system, or a Department of Prisons or Mental Health, or county trustees or similar persons who are charged with maintaining county jails, unless:

(1) Class relief is sought exclusively for the benefit of individuals who are eligible for legal assistance and their consent to file the class action has been obtained in advance of suit;

(2) Prior to filing such an action, the recipient executive director has determined that the governmental entity is not likely to change the policy or practice in question, and that the policy or practice will continue to adversely affect eligible clients when the class action is concluded as it affects them when the action is commenced, that the recipient has given notice of its intention to seek class relief and that reasonable efforts to resolve without litigation the adverse effects of the policy or practice have not been successful;

(3) Prior to filing such an action, the recipient's executive director has determined, after consultation with the appropriate governmental officer or person, that the court judgment in the class action will not result in the expenditure of funds received by a public tax authority, which funds; (i) are taken from or diverted from another governmental program; or (ii) are raised by an increase in public taxation; or (iii) are raised by the sale of public securities of any kind which are supported by an increase in public indebtedness which is to be paid by public taxation;

(4) Prior to filing such an action, the recipient's executive director has determined, after consultation with the appropriate person who is charged with the administration of money produced by public taxation, that the court judgment in the class action will not result in the expenditure of public funds on a group of eligible clients which is smaller than the group of all eligible clients which is found within the jurisdication of the taxing authority which has raised the public funds being administered.

(b) With respect to class actions authorized under this section, recipients shall maintain the following records:

(1) A written statement signed by the recipient executive director authorizing the maintenance of the suit as a class action which contains documentation that the executive director has considered all of the factors required by § 1617.4(a)(3) and (4), and a specific statement of the efforts undertaken to resolve the matter without litigation required by § 1617.4(a)(2). Such statement shall be available for inspection by the Corporation in the Office of the Inspector General.

(2) Quarterly reports, prepared in a form prescribed by the Corporation, listing the class action suits brought under § 1617.4.

SUPPLEMENTARY INFORMATION—PART 1625

Background

Under the continuing resolution the Corporation is required to provide procedures for denials of refunding that comport with the language of the Conference Report that states:

> The conferees are agreed that none of the funds available under this joint resolution for the Legal Services Corporation shall be available for a full adversarial hearing in advance of the denial of any application for refunding. The conferees are also agreed that prior to the denial of any application for refunding, the Corporation shall insure that, the applicant has been given reasonable notice and an opportunity for a timely and fair hearing pursuant to regulations promulgated by the Corporation.

At its October 29–30, 1982, meeting the Corporation's Board of Directors authorized the publication of two alternative proposed regulations setting out procedures for denials of refunding. The first of these proposals (Part 1625—Alternative A) was written by the Corporation staff; the second (Part 1625—Alternative B) was written by Board Chairman William F. Harvey and Board member William J. Olson.

Discussion—Alternative A (Staff Proposal)

The purpose of Alternative A of Part 1625 is to provide for a timely, impartial, flexible and fair process for reaching a final determination on refunding while avoiding unnecessary and precipitous disruption in the delivery of legal assistance, Part 1625. As a general framework, the proposed regulation provides for a review of a written record and a summary hearing for all recipients preliminarily denied refunding unless the presiding officer "finds that there are complex issues or material facts in dispute . . . which cannot be adequately resolved by review of the written record," § 1625.9(c). Only if such a finding is made will there be an evidentiary hearing, and such a hearing is likely to be substantially more

abbreviated than the hearing now provided by Part 1606 (45 CFR Part 1606).

At the outset, § 1625.2(a) contains a revised definition of denial of refunding that increases from $20,000 to $40,000 the threshold amount by which the Corporation may reduce the annualized level of a grant or contract before it is considered a denial of refunding. This increase is simply a recognition of the fact that, even with the 1981 funding cut suffered by Corporation recipients, funding levels for legal services programs have increased substantially since 1976 when Part 1606 was adopted and that the $20,000 level unnecessarily inhibits Board flexibility.

In addition, the definition has been expanded to be consistent with the spirit of the continuing resolution's provision on minimum access. Thus, it provides that any reduction in a recipient's annualized funding level which reduces that level to below the current minimum access level (approximately $6.20 per poor person for 1982 grants) must be considered a denial of refunding subject to the hearing provisions of Part 1625.

The definition of the presiding officer has been revised to reflect the removal of the requirement for an independent hearing officer. In addition, the sections of Part 1606 specifically dealing with challenges to the qualifications of the presiding officer have been left out of Part 1625.

The grounds for denial of refunding remain basically the same as those under Part 1606. Section 1625.3(a) provides the Corporation and the Board with great flexibility in designing rules, regulations, guidelines, instructions, funding policies, standards and criteria that can be used to justify denials of refunding. The only significant change in the grounds is the statement that, with some qualifications, the validity of these Corporation actions are not subject to review in proceedings under Part 1265 unless there are questions of whether any such action was taken in accordance with appropriate procedural safeguards (e.g. notice and comment periods), whether it is appropriately applied to a particular recipient or whether it was adopted in violation of the Act or regulations, thus ensuring that Corporation action is legal and not arbitrary. Sections 1625.3(b) and (c) which state the grounds for denial of refunding "for cause" are identical to the parallel sections of Part 1606.

Sections 1625.4 and 1625.5 retain the provisions for a preliminary determination and an informal conference now contained in Part 1606. The minor changes are intended to make these provisions consistent with the remaining provisions of Part 1625.

Consistent with the notion that most final determinations in denial cases will be made primarily on review of a written record supplemented by a summary hearing, §§ 1625.7 and 1625.8 are intended to provide simple and orderly procedures to guide the preparation of a complete written record, while guarding against repetitious, unnecessarily voluminous or irrelevant materials.

Section 1625.9 describes the circumstances under which either summary or evidentiary hearings are to be held. In most instances, it is anticipated that hearings will be summary in nature.

Section 1625.10 describes the procedures to be followed in a summary hearing. Such a hearing permits the parties to make oral presentations based primarily on materials already in the written record and limits post-hearing submissions to those the presiding officer determines would be helpful to resolve the case.

Section 1625.11 describes the procedures to be followed in an evidentiary hearing. The presiding officer is empowered to informally attempt in advance to limit the scope of the evidentiary hearing as much as possible to the materials already in the written record and to permit additional materials to be added only in unusual circumstances. The presiding officer also may request that written testimony be submitted in advance so that the oral hearing is limited to cross-examination of witnesses. Unlike the hearings under Part 1606, these procedures do not provide specifically for participation by non-parties. In general, the procedures under § 1625.11 are intended to be as flexible and informal as appropriate under the circumstances.

Under § 1625.12, the burden of proving factual and other issues is on the recipient, not on the Corporation as under Part 1606.

With the exception of technical revisions to conform with the changes in numbering, §§ 1625.13 and 1625.14 dealing with the presiding officer's recommended decision and issuance of a final decision by the Corporation's President are identical to the parallel provisions of current Part 1606.

Sections 1625.16 (Right to Counsel), 1625.17 (Reimbursement), 1625.19 (Termination Funding), and 1625.20 (Notice) are basically identical to the parallel provisions of current Part 1606.

Section 1625.18 dealing with interim funding revises the current § 1606.8 to make it clear that should the proceedings under this part extend beyond the end of the recipient's current grant or contract term, the Corporation's obligation to continue funding pending a final determination is only at that level of funding "sufficient to allow for the representation of clients on whose behalf litigation, negotiation or other forms of representation have been initiated" as provided in the continuing resolution. However, the Corporation may provide funding at a higher level, and is obligated to continue funding at the recipient's current grant or contract level until the end of the current grant term.

Discussion—Alternative B (Harvey/Olson Proposal

The purpose of Alternative B of Part 1625 is to increase the ability of the Corporation to use its resources effectively to promote the objectives of the Legal Services Corporation Act by providing recipients with reasonable notice of any proposed application for refunding and opportunity for a timely, expeditious and fair informal hearing prior to the cessation or substantial reduction of financial assistance § 1625.1.

Under § 1625.2(a)(2), the definition of denial of refunding is changed to include a provision that would permit reprogramming of carryover funds. Thus if a recipient received $100,000 funding and obligated only $80,000 in one year and then received $75,000 plus a reprogramming of the $20,000 carryover funds, its funding level would be $95,000 and the reduction in funding only 5%, not requiring a hearing. In addition, it is the level of support per time period, not the total amount that is protected. Hence if a recipient had received $100,000 for one year and then received $48,000 for six months, there would be no denial of refunding, although there might be at the end of six months unless another grant was made. However, if such a recipient received only $35,000 for six months, a denial of refunding would have occurred and a hearing would be required.

Also, Part 1625 eliminates the section of Part 1606 that provides for a hearing when a special condition is imposed on a recipient without the required reduction in funding; also note that in § 1625.2(a)(2) a reduction of over $20,000 which is not 10% is no longer a denial of refunding.

The proposed § 1625.3 (Grounds for Denials of Refunding) deletes the requirement for prior notice and the opportunity to correct either specific violations or general ineffectiveness. In addition, it provides that an alternative ground for denial of refunding is that the

President of the Corporation or the Board of Directors has found that another organization, whether a recipient or not, could better serve eligible clients in the recipient's service area.

The proposed version of Part 1625 contains no informal conference prior to the initiation of proceedings and provides for an informal hearing in all instances.

Under § 1625.10 the burden of going forward with the evidence remains with the Corporation, but the burden of proof is shifted to the recipient. However, the Corporation must show a reasonable basis for concluding that another recipient can better serve eligible clients.

List of Subjects in 45 CFR Part 1625

Administrative practice and procedure, Legal services.

Accordingly, 45 CFR Part 1625 (Alternatives A and B) is proposed to be added as follows:

Alternative A (Staff Proposal)

PART 1625—PROCEDURES GOVERNING DENIAL OF REFUNDING

Sec.

1625.1 Purpose.
1625.2 Definitions.
1625.3 Grounds for denial of refunding.
1624.4 Preliminary determination.
1625.5 Informal conference.
1625.6 Initiation of proceedings.
1625.7 Preparation of written hearing materials.
1625.8 Development of the record by the presiding officer.
1625.9 Nature of hearing.
1625.10 Summary hearing.
1625.11 Evidentiary hearing.
1625.12 Burden of proof.
1625.13 Recommended decision.
1625.14 Final decision.
1625.15 Time extension and waiver.
1625.16 Right to counsel.
1625.17 Reimbursement.
1625.18 Interim funding.
1625.19 Termination funding.
1625.20 Notice.

Authority: Sec. 1006(b)(1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1008(e), 1011 (42 U.S.C. Sections 2996e(b) (1) and (3), 2996f(a)(1), 2996f(a)(3), 2996f(a)(9), 2996f(d), 2996g(e), 2996j, Pub. L. 97-276, 96 Stat. 1188.

§ 1625.1 Purpose.

This part is intended to provide a fair, impartial, timely and flexible process for reaching a final determination when there is reason to believe that refunding of a grant or contract should be denied. At the same time, this part seeks to avoid unnecessary and precipitous disruption in the delivery of legal assistance to eligible clients.

§ 1625.2 Definitions.

(a) "Denial of refunding" means a decision that, after expiration of its current grant or contract, a recipient:

(1) Will not be provided with financial assistance; or

(2) Will have its annual level of financial support reduced to an extent that is not required either by a change of law or by a reduction in the Corporation's appropriation that is apportioned among all recipients of the class in proportion to their current level of funding, and is either more than 10 percent or more than $40,000 below the recipient's annual level of financial assistance under its current grant or contract; provided, however, that any such reduction in a recipient's annual level of financial support which reduces that level below the minimum access level for the term of the new grant shall be considered a denial of refunding; or

(3) Will be provided with financial assistance subject to a new condition or restriction that is not generally applicable to all recipients of the same class, and that would significantly reduce the ability of a recipient to maintain the quality and quantity of its current legal assistance to eligible clients.

(b) "Director of a recipient" means the person who has overall day-to-day responsibility for management of operations by the recipient.

(c) "Presiding Officer" means a person appointed by the President to recommend a decision that refunding should be granted or denied, who is familiar with legal services and supportive of the purposes of the Act, who is fair and impartial, who has not participated in the matter at issue, and who has no supervisory responsibility for the Corporation employee who made the initial determination.

§ 1625.3 Grounds for denial of refunding.

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board, the validity of which shall not be subject to review in these proceedings except to the extent that they are challenged as violating the Act or other substantive legislation affecting the Corporation or its regulations, or as having been adopted in violation of the Corporation's rule-making procedures; or

(b) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation. In the absence of unusual circumstances, refunding shall not be denied for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action; or

(c) There has been substantial failure by a recipient to use its resources to provide economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation or guideline issued by the Corporation. in the absence of unusual circumstances, refunding shall not be denied for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action.

§ 1625.4 Preliminary determination.

(a) When there is reason to believe that rufunding should be denied, the Corporation shall serve a written preliminary determination upon the recipient, which shall state the grounds for the proposed action, and shall identify, with reasonable specificity, any facts or documents relied upon as justification for that action.

(b) The preliminary determination shall advise the recipient that it may, within 10 days of receipt of the preliminary determination, make written request for a review of the preliminary determination in accordance with the procedures under this part.

(c) The preliminary determination shall also advise the recipient of its right to receive interim, and to request termination, funding, under §§ 1625.18 and 1625.19 of this part.

(d) If the recipient advises the Corporation that it will not request review, or if it fails to request review within the time prescribed in § 1625.4(b) or § 1625.5, the preliminary determination shall become final.

§ 1625.5 Informal conference.

(a) On timely request for review by the recipient under § 1625.4(b), the Corporation employee who made the preliminary determination shall promptly conduct an informal conference with the recipient at a time and place designated by the employee. Such conference should, if possible, be held within 7 working days of the request. The parties thereto shall exchange views, seek to narrow the issues, and explore the possibilities of settlement or compromise. At the conclusion of the conference, which may be adjourned for deliberation or consultation, the Corporation employee

shall, in writing, modify, withdraw, or affirm the preliminary determination.

(b) The recipient may, within 5 working days after the conclusion of the informal conference, make written request for a hearing in accordance with §§ 1625.7 through 1625.13 of this part. This request must include a brief statement of why the recipient believes the preliminary determination is wrong and why refunding should be approved.

§ 1625.6 Initiation of proceedings.

Within 7 days after receipt of a request for continued review made under § 1625.5(b), the Corporation will send the recipient an acknowledgment, enclose a copy of these procedures, advise the recipient of the name of the presiding officer appointed by the President and of the next steps in the review process.

§ 1625.7 Preparation of written hearing materials.

(a) Within 15 days after making the written request for a hearing under § 1625.5, the recipient shall submit the following to the Corporation (and to the presiding officer if not an employee of the Corporation):

(1) A written statement of the recipient's argument concerning why the Corporation's preliminary determination is wrong and why refunding should be approved ("recipient's brief");

(2) A written request for an evidentiary hearing under § 1625.11 of this Part, if desired, and a written statement of why such a hearing is necessary and appropriate to permit adequate review of the written record.

(3) Copies of all documents that the recipient believes are important to the Corporation's decision on the issues in the case.

(b) Within 10 days after receiving the recipient's submission under paragraph (a) of this section, the Corporation shall submit the following to the recipient (and to the presiding officer if not an employee of the Corporation):

(1) A written statement responding to the recipient's brief ("Corporation's brief");

(2) A written statement either requesting an evidentiary hearing, acceding to or opposing such a request by the recipient if one was made under paragraph (a)(2) of this section. If the Corporation opposes such a request, it shall state in writing why it considers such a hearing unnecessary and inappropriate. If the Corporation requests such a hearing in the absence of a request by the recipient, the Corporation shall state in writing why it considers such a hearing necessary and appropriate.

(3) Any additional documents, not submitted previously by the recipient, supporting the Corporation's position.

(c) Within 7 days after receiving the Corporation's submission under paragraph (b) of this section, the recipient may submit a short reply, including a statement that it accedes to or opposes any Corporation request for an evidentiary hearing. The recipient should avoid repeating arguments already made.

(d) Whenever possible, the Corporation and the recipient should try to develop the record jointly, agree to preparation of documents by one of them, agree to facts to eliminate the need for some documents, or agree that one party will submit documents identified by the other. Where submission of all relevant documents would lead to a voluminous record, the presiding officer will consult with the parties about how to reduce the size of the record.

§ 1625.8 Development of the record by the presiding officer.

The presiding officer may request additional documents or information; request briefing on issues in the case; hold preliminary conferences (generally by telephone) to establish schedules and refine issues; and take such other steps as he or she determines appropriate to develop a prompt, sound recommendation.

§ 1625.9 Nature of Hearing.

A hearing under this part may be either a summary hearing under § 1612.10 or an evidentiary hearing under § 1625.11, depending on the following circumstances:

(a) If neither party requests an evidentiary hearing, the hearing will be a summary hearing.

(b) If either party requests an evidentiary hearing and the other party accedes to that request, the hearing will be an evidentiary hearing.

(c) If one party requests an evidentiary hearing and the other party opposes that request, the presiding officer will preliminarily review the written record and grant or deny the request within 5 days of receipt of the final submission under § 1625.7. If the presiding officer finds that there are complex issues or material facts in dispute, the resolution of which would be significantly aided by such an evidentiary hearing and which cannot be adequately resolved by review of the written record, the presiding officer shall grant the request for an evidentiary hearing. Otherwise, such request shall be denied.

(d) If at the conclusion of a summary hearing the presiding officer finds that there are outstanding issues of material fact that require an evidentiary hearing he or she may order that an evidentiary hearing be held.

§ 1625.10 Summary Hearing.

(a) The purposes of the summary hearing are to give the parties an opportunity to make oral presentations to the presiding officer and to give the presiding officer the opportunity to clarify issues and question both parties about matters which the presiding officer may not yet fully understand from the record.

(b) Unless the parties and the presiding officer otherwise agree, the following procedures for a summary hearing apply:

(1) The hearing will be held within 15 days of a determination under § 1625.9(a) or (c).

(2) The hearing generally will be held in Washington, D.C. In exceptional circumstances, the presiding officer may hold the hearing at a Corporation Regional Office or other place convenient to the recipient.

(3) The hearing will be recorded at Corporation expense. The Corporation will send one copy of the transcript to the recipient as soon as it is received by the presiding officer (and forwarded to the Corporation if the presiding officer is not a Corporation employee).

(4) Only in exceptional circumstances will documents be received at a summary hearing. Inquiry will focus on material already in the record. If a party finds that further documents should be in the record for the summary hearing, the party should supplement the record, submitting copies of the documents to the Corporation (and the presiding officer if not a Corporation employee) not less than 5 days prior to the summary hearing.

(5) Each party's representative may make an oral presentation. The presiding officer will allow reply comments, and may allow short closing statements. On request, the presiding officer may allow the Corporation and the recipient to question each other.

(6) There will be no post-hearing submissions, unless the presiding officer determines they would be helpful to resolve the case. The presiding officer may require or allow the parties to submit proposed findings and conclusions.

§ 1625.11 Evidentiary hearing.

(a) Evidentiary hearings generally will be held within 20 days of a

determination under § 1625.9 (b), (c) or (d).

(b) The presiding officer may hold a prehearing conference to consider any of the following: the possibility of settlement; simplifying and clarifying issues; stipulations and admissions; limitations on evidence and witnesses that will be presented at the hearing; scheduling the hearing; and any other matter that may aid in resolving the issues. The presiding officer, after consulting with the parties, may reduce the results of the conference to writing in a document which will be made part of the record, or may transcribe the proceedings and make the transcript part of the record.

(c) Evidentiary hearings generally are held at a place convenient to the recipient and the community it serves. A hearing affecting more than one community shall be held in a single centrally located place unless the presiding officer determines that additional hearing places are required.

(d) *Conduct of the evidentiary hearing.* (1) The presiding officer will conduct the evidentiary hearing in a manner that is as flexible as reasonably possible, keeping in mind the need to establish an orderly record. The presiding officer generally will admit evidence unless it is determined to be clearly irrelevant, immaterial or unduly repetitions, so the parties should avoid frequent objections to questions and documents. Both sides may make opening and closing statements, may present witnesses as agreed upon in the prehearing conference, and may cross-examine witnesses. Since the parties have ample opportunity to develop a complete record prior to the evidentiary hearing, a party may introduce an exhibit at such a hearing only after explaining to the satisfaction of the presiding officer why the exhibit was not submitted earlier (for example, because the information was not available).

(2) The presiding officer may request the parties to submit written statements of witnesses prior to the evidentiary hearing so that such hearing will primarily be concerned with cross-examination and rebuttal.

(3) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in a Federal court, or of any other matter whose existence, anthenticity, or accuracy is not open to serious question.

(4) The hearing will be recorded at Corporation expense. The Corporation will send one copy of the transcript to the recipient as soon as it is received by the presiding officer (and forwarded to the Corporation if the presiding officer is not a Corporation employee).

(e) At the discretion of the presiding officer, the parties may be required or allowed to submit post-hearing briefs or proposed findings and conclusions (the parties will be informed at the hearing). A party should note any major prejudicial transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within a time limit set by the presiding officer).

(f) The transcript and any post-hearing briefs or letters will become part of the record.

§ 1625.12 Burden of proof.

The recipient shall have the obligation of proving, by a preponderance of the evidence contained in the record that any disputed fact relied upon by the Corporation as justification for denial of refunding was incorrect; with respect to all other issues, the recipient shall have the obligation to establish that the Corporation lacked a substantial basis for denying refunding.

§ 1625.13 Recommended decision.

(a) As soon as practicable after the record is completed and normally within 10 days after the conclusion of the summary or evidentiary hearing, the presiding officer shall issue a written recommended decision:

(1) Granting refunding subject to any modification or condition that may be deemed necessary and appropriate on the basis of information adduced from the record; or

(2) Denying refunding.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state reasons for the recommended decision. Findings of fact shall be based solely on evidence adduced from the record or on matters of which official notice was taken.

§ 1625.14 Final decision.

(a) If neither the Corporation nor the recipient requests review by the President, a recommended decision shall become final 10 days after receipt by the recipient.

(b) The recipient or the Corporation may seek review by the President of a recommended decision. A request shall be made in writing within 5 days after receipt by the party of the recommended decision, and shall state in detail the reasons for seeking review.

(c) As soon as practicable after receipt of a request for review of a recommended decision, and normally within 10 days, the President shall adopt, modify, or reverse the recommended decision, or direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1625.13(b).

(d) A decision by the President shall become final upon receipt by the recipient.

§ 1625.15 Time extension and waiver.

(a) Any period of time provided in these rules may, upon good cause shown and determined, be extended:

(1) By the person making the preliminary determination, prior to the time the presiding officer is designated;

(2) By the presiding officer, prior to the issuance of a recommended decision; or

(3) By the President at any time.

(b) Requests for extensions of time shall be considered in light of the overall objective that the recommended decision under § 1625.13 shall be issued within 90 days of the request for a hearing under § 1625.5(b).

(c) Any other provision of these rules may be waived or modified:

(1) By the presiding officer with the assent of the recipient and of counsel for the Corporation; or

(2) By the President upon good cause shown and determined.

§ 1625.16 Right to counsel.

At a hearing under § 1625.10 or § 1625.11, the Corporation and the recipient each shall be entitled to be represented by counsel, or by another person. The person designated to represent a party may be an employee, or may be outside counsel retained for the purpose. Unless prior written approval is received from the Corporation, the fee paid to outside counsel shall not exceed the hourly equivalent of the rate of level V of the executive schedule specified in Section 5316 of Title 5, United States Code.

§ 1625.17 Reimbursement.

If refunding is granted after a final determination has been issued under § 1625.14, a recipient shall receive reimbursement by the Corporation, to the extent it has prevailed, for reasonable and actual expenses that were required in connection with proceedings under this part.

§ 1625.18 Interim funding.

(a) Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding of its grant or contract.

(b) If a final determination is not issued prior to the end of the recipient's current grant or contract term, the Corporation shall provide the recipient

with interim funding sufficient to allow for the representation of clients on whose behalf litigation, negotiation or other forms of representation have been initiated, for the period after the end of the recipient's current grant or contract term, pending receipt of such final determination.

§ 1625.19 Termination funding.

After a final determination to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibility to its present clients.

§ 1625.20 Notice.

A notice required to be sent to a recipient under this part shall be sent to the director of the recipient, and may be sent to the chairperson of its governing body.

Alternative B (Harvey/Olson Proposal)

PART 1625—DENIAL OF APPLICATION FOR REFUNDING

Sec.

1625.1 Purpose.
1625.2 Definitions.
1625.3 Grounds for denial of refunding.
1625.4 Preliminary determination.
1625.5 Initiation of proceedings.
1625.6 Presiding officer.
1625.7 Pre-hearing conference.
1625.8 Pre-hearing requirements.
1625.9 Conduct of the informal hearing.
1625.10 Burden of proof.
1625.11 Post-hearing arguments.
1625.12 Recommended decision.
1625.13 Final decision.
1625.14 Extension of time and waiver.
1625.15 Right to counsel.
1625.16 Reimbursement.
1625.17 Interim funding.
1625.18 Termination funding.
1625.19 Notice.

Authority: Sec. 1006(b)(1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1008(e), 1011 (42 U.S.C. 2996e(b)(1) and (3), 2996f(a)(1), 2996f(a)(3), 2996f(a)(g), 2996f(d), 2996g(e), 2996j, Pub. L. 97-276, 96 Stat. 1188.

§ 1625.1 Purpose.

This part seeks to increase the ability of the Corportion to use its resources effectively to promote the objectives of the Act by providing recipients with reasonable notice of any proposed application for refunding and opportunity for a timely, expeditious and fair informal hearing prior to the cessation or substantial reduction of financial assistance.

§ 1625.2 Definitions.

(a) "Denial of refunding" means a decision that after the expiration of a grant or contract a recipient:

(1) Will not be provided financial assistance; or

(2) Will have its annualized level of financial support reduced to an extent that is not required by a change of law or a reduction in the Corporation's appropriation apportioned among all recipients of the same class and that is more than 10 percent below the recipient's annualized level of financial assistance under its current grant or contract. Carryover funds reprogrammed from a recipient's previous funding period(s) shall be included in a recipient's current level of funding.

(c) "Director of a recipient" means the person who has overall day to day responsibility for management of operations by the recipient.

(d) "Presiding officer" means the person appointed by the President to recommend a decision that a grant or contract should be refunded or not refunded.

§ 1625.3 Grounds for denial of refunding.

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board; or

(b) The recipient has not complied with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; or

(c) The recipient has not used its resources to provide economical and effective legal assistance of high quality as measured by generally accepted professional standards, or the provisions of the act, or a rule, or regulation or guideline issued by the Corporation.

(d) The President of the Corportion or the Board of Directors finds that another organization, whether a recipient or not, could better serve eligible clients in the recipient's service area.

§ 1625.4 Preliminary determination.

(a) When, based on one or more of the reasons set forth in § 1625.3, a tentative decision not to refund a recipient has been reached, the Corporation shall serve a written preliminary determination upon the recipient. It shall state the bases for denial of refunding, and may identify with reasonable specificity any fact or documents relied upon which supports the denial of refunding.

(b) The preliminary determination shall advise the recipient that it may make a written request for an informal hearing within 10 days after it receives the preliminary determination.

(c) The preliminary determination shall also advise the recipient of its right to receive interim funding and to request termination funding under §§ 1625.17 and 1625.18.

(d) If the recipient advises the Corporation it will not seek review, or if it fails to request review within the time prescribed in § 1625.4(b), the preliminary determination shall become final.

§ 1625.5 Initiation of proceedings.

Within 10 days after receipt of a request for an informal hearing the Corporation shall notify the recipient of:

(a) The name of the presiding officer and of the attorney representing the Corporation; and

(b) The date, time and place of the hearing.

§ 1625.6 Presiding officer.

(a) The presiding officer shall be appointed by the President. The presiding officer shall be a person who is independent and has had no previous participation in the issues between the Corporation and the recipient. Furthermore, this person shall not have been involved with any other dealings between the Corporation and the recipient in the previous year.

(b) Within 5 days of receipt of notice of the name of the presiding officer, the recipient may file a written notice that it objects to the presiding officer on the basis that this person does not fit the criteria of § 1625.6(a) or as made statements or taken actions indicating personal bias against the recipient.

(c) Within 10 days thereafter, the President shall consider the recipient's objection(s) with any supporting documentation and (1) retain the presiding officer; or (2) replace the presiding officer; and (3) shall promptly notify the recipient of the President's decision.

(d) No objection to the appointment of a presiding officer may be made unless presented in the manner specified in this section.

§ 1625.7 Pre-hearing conference.

(a) In particularly complex cases, a pre-hearing conference may be desirable. The convening of such a conference shall be at the discretion of the presiding officer, except that a pre-

hearing conference shall be convened at the request of both parties.

(b) Matters to be discussed at the pre-hearing conference may include:

(1) The possibility of a settlement;

(2) Proposals to define and narrow the issues;

(3) Proposed stipulations of fact;

(4) Other matters concerning the conduct of the hearing.

§ 1625.8 Pre-hearng requirements.

(a) With or without a pre-hearing conference, the presiding officer may establish specific procedures, consistent with this part for conduct of the informal hearing. The presiding officer may request or permit written submission of arguments and supporting material prior to the hearing.

(b) The presiding officer may, at any time prior to the completion of the hearing, require either party, upon sufficient notice, to produce a relevant document in its possession; the presiding officer may require either party to produce a person in its employ to testify at the hearing.

§ 1625.9 Conduct of the informal hearing.

(a) The hearing shall be scheduled to commence at the earliest appropriate date no less than 20 days after the date of the ntoice to the recipient required under § 1625.5.

(b) The hearing shall be scheduled at a place convenient to the parties. When accessible to the recipient, the Corporation Headquarters or the nearest Corporation Regional Office may be used as the hearing site. The presiding officer may for good cause shown change the hearing site upon request of the recipient filed not more than 10 days after the date of the notice required under § 1625.5.

(c) The presiding officer shall preside over the hearing, avoid delay, maintain order, conduct a fair hearing, and insure that an adequate record of the facts and issues is made.

(d) The hearing shall be open to the public, unless, in the interests of justice or maintaining order, the presiding officer shall determine otherwise.

(e) The presiding officer may, upon request, allow any interested party or individual to intervene in the hearing, if, in the judgment of the presiding officer, such participation will materially assist in proper determination of the issues.

(1) A person or organization wishing to intervene in a hearing shall request permission from the presiding officer, stating the reason for the request, and the nature of the evidence or argument to be offered; and shall notify the Corporation and the recipient of its request.

(2) The presiding office shall notify the Corporation, the recipient, and the person or organization requesting intervention whether the request has been granted.

(3) The presiding officer will allow only written presentation by intervenors, except when, in his or her judgment their verbal participation is desirable. The presiding officer may impose other limitations on the scope or form of intervention.

(f) The Corporation and the recipient each may present its case by written or oral documentary evidence, conduct examination and cross-examination of witnesses, examine any document submitted by another party, and submit rebuttal evidence.

(g) If a party fails, with good cause, to produce a person or document required under § 1625.8(b), the presiding officer may make a finding adverse to the party, or any lesser determination may be made.

(h) Technical rules of evidence shall not apply. The presiding officer shall make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(i) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(j) A stenographic or electronic sound record, or a summary of the hearing shall be made in a manner determined by the presiding officer, and a copy shall be made available to a party upon payment of its cost.

§ 1625.10 Burden of proof.

At an informal hearing under § 1625.9:

(a) The Corporation shall present its evidence showing the grounds for the denial of refunding under § 1625.3, and

(b) Thereafter, on all issues, the recipient shall have the obligation and burden of establishing by a preponderance of the evidence a basis for continuation of funding; except that

(c) The President or the Board of Directors must show a reasonable basis for concluding that another recipient can better serve eligible clients.

§ 1625.11 Post-hearing arguments.

In particularly complex cases, at the discretion of the presiding officer, the parties may submit to the presiding officer, with service on all other parties, proposed findings of fact and conclusion of law. Such arguments shall be submitted within 10 days of the conclusion of the hearing.

§ 1625.12 Recommended decision.

(a) As soon as practicable after the hearing, and normally within 15 days after its conclusion, the presiding officer shall issue a written recommended decision.

(b) The decision shall:

(1) Deny refunding; or

(2) Grant refunding; or grant refunding subject to modification or conditions which appear necessary on the basis of information disclosed at the hearing; or

(3) Recommend another recipient to serve eligible clients.

(c) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the decision. Findings of fact shall be based solely on the evidence adduced at the hearing or on matters of which official notice was taken.

§ 1625.13 Final decision.

(a) If neither the Corporation nor the recipient requests review by the President, a recommended decision shall become final 10 days after receipt by a recipient.

(b) The recipient or the Corporation may seek review by the President of a recommended decision. A request shall be made in writing within 10 days after receipt by the party of the recommended decision, and shall state in detail the reasons for seeking review.

(c) As soon as practicable after receipt of a request for review of a recommended decision, and within 30 days, the President shall adopt, modify, or reverse the recommended decision, or direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1625.12(c).

(d) A decision by the President shall become final upon receipt by a recipient.

§ 1625.14 Extension of time and waiver.

(a) Any period of time provided in these rules may, upon good cause shown and determined, be extended:

(1) By the presiding officer, prior to the issuance of a recommended decision; or

(2) By the President at any time.

(b) Requests for extension of time shall be considered in light of the overall objective that the procedures prescribed by this part ordinarily shall be concluded within 60 days of the preliminary determination.

(c) As to any recipient, any provision of these rules may be waived or modified:

(1) By the presiding officer with the assent of the recipient, and of counsel for the Corporation after consultation with the President; or

(2) By the President upon good cause shown and determined.

§ 1625.15 Right to counsel.

At a hearing under § 1625.9, the Corporation and the recipient each shall be entitled to be represented by counsel, or by another person. The attorney designated may be an employee, or may be outside counsel retained for the purpose. Unless prior written approval is received from the Corporation, the fee paid to outside counsel shall not exceed the hourly equivalent of the rate of level V of the executive schedule specified in section 5316 of title 5, United States Code.

§ 1625.16 Reimbursement.

If refunding is granted after a preliminary determination has been issued under § 1625.4, a recipient shall receive reimbursement by the Corporation, to the extent it has prevailed, for reasonable and actual expenses that were required in connection with proceedings under this part.

§ 1625.17 Interim funding.

Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding. Pending a final determination under this part, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities under the Act.

§ 1625.18 Termination funding.

After a final determination to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibility to its present clients.

§ 1625.19 Notice.

A notice required to be sent to a recipient under this part shall go to the director of the recipient, and may be sent to the chairperson of its governing body.

Mary F. Wieseman,

Acting General Counsel.

[FR Doc. 82-30686 Filed 11-5-82; 8:45 am]

BILLING CODE 6820-35-M

federal register

Monday
November 8, 1982

Part IV

Department of Transportation

Federal Aviation Administration

Special Federal Aviation Regulation No. 44-5; Air Traffic Control System; Interim Operations Plan

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; SFAR No. 44-5; Notice No. 82-14]

Special Federal Aviation Regulation No. 44-5, Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the number of slots which carriers would be eligible to select during the first slot selection sequence during the slot allocation process. This is responsive to a number of carriers that have suggested that the slot process does not reflect differences between carriers operating hundreds of operations at dozens of airports as opposed to those that only operate a few operations at a few airports.

The notice also proposes to establish a provision which would penalize those carriers which select a number of slots but never operate them. This provision is proposed in order to maximize the number of slots actually utilized by the carriers and thus is in the public interest.

EFFECTIVE DATE: Comments must be received on or before December 6, 1982.

ADDRESSES: Send comments on the rule proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 22050, 800 Independence Avenue, SW., Washington, D.C. 20591

or deliver them to:

800 Independence Avenue, SW., Room 915G, 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:

Edward P. Faberman, Deputy Chief Counsel, 202-426-3775

or

Thomas P. Messier, Deputy Director, Office of Aviation Policy and Plans, 202-426-0583

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

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

On August 8, 1982, the FAA issued SFAR 44-5 (47 FR 35156; August 12, 1982) which established procedures to be used in the allocation of additional air traffic system capacity as it becomes available. The amendment established a slot selection system which allows carriers to choose slots they desire from those available during a slot selection session.

SFAR 44-5 provides for a national selection process which allows carriers to select slots at any controlled airport or center. The number of slot selections which a carrier is entitled to during the first sequence is as follows:

Number of controlled airports at which carrier operates (minimum of 2 slots) as of Aug. 1, 1982	Number of slots carrier may select during first sequence
0-5	2
6-21	4

After the first sequence (round), all carriers are limited to two selections each time their turn comes up in the selection process. The SFAR provides for these additional slot selections based upon the number of controlled airports at which an air carrier operates in recognition of differences between air carrier operations. If each carrier had the same number of selections in each round, a carrier with a few operations per day at a few airports would be placed on an equal footing with carriers operating hundreds of operations at dozens of airports.

A number of commenters have suggested that the two or four slot entitlement does not fully recognize the operational differences between larger and smaller carriers. They do not believe that the two additional slots in the first round for carriers operating at six or more controlled airports is equitable. Numerous alternatives have been presented as alternatives to the 2/4 slot rule. In recognition of these comments, the FAA proposes to modify this requirement as follows:

Number of controlled airports at which carrier operates (minimum of 2 slots) as of Aug. 1, 1982	Number of slots carrier may select
0-5	2
6-14	4
15-21	6

This would continue to apply only during the first slot selection sequence. Comments are invited on alternative methods of slot selection.

A large number of slots have been taken during the past several months by carriers which have never utilized those slots. This has resulted in unused capacity which in turn means that the public has been denied full use of the air traffic system. Although agency officials have repeatedly asked carriers not to select slots which are likely not to be utilized, slots throughout the day at controlled and non-controlled airports continue to be unutilized. Therefore, the agency is proposing a requirement which would result in a carrier losing its initial two selections in the next slot selection session if the carrier fails to utilize two or more slots allocated for the current schedule period.

This means that if a carrier obtains six slots for the January-February

schedule period and only uses four of those slots in that period, it will be penalized for the following schedule period by losing the first two of its slot selections. A carrier which selects slots and finds that it cannot utilize those slots, is obligated to return the slots to the FAA. If the carrier does so prior to the start of the next slot selection session, the carrier will not be penalized.

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

The Proposed Amendment

PART 91—[AMENDED]

Accordingly, it is proposed to amend Chapter I of Title 14 of the Code of Federal Regulations as follows:

Special Federal Aviation Regulation 44–5

1. By removing the chart in paragraph 2(e) of the Appendix and substituting the following in lieu thereof:

Air carriers operating two or more slots on August 1, 1982 at each of 0–5 controlled airports.	2 slots.
Air carriers operating two or more slots on August 1, 1982 at each of 6–14 controlled airports.	4 slots.
Air carriers operating two or more slots on August 1, 1982 at each of 15–21 controlled airports.	6 slots.
Air carriers defined as new entrants.	4 slots.

2. By adding as a subparagraph at the end of paragraph 2(e) the following:

* * * * *

If a carrier does not operate two or more of the slots it has been allocated, in a particular slot selection session, the carrier will lose its first two opportunities for slot selection in the next slot selection session.

(Secs. 307(a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1348(a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c)).)

Note.—The FAA has determined that this proposal, if adopted, would not affect the number of carriers obtaining slots or the number of slots available. There are no apparent direct or indirect (non-industry) costs assiciated with the amendment. Therefore, the preparation of a regulatory evaluation is unnecessary.

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 rule will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this 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 November 4, 1982.

Donald R. Segner,

Associate Administrator for Policy and International Aviation.

[FR Doc. 82-30800 Filed 11-5-82; 9:43 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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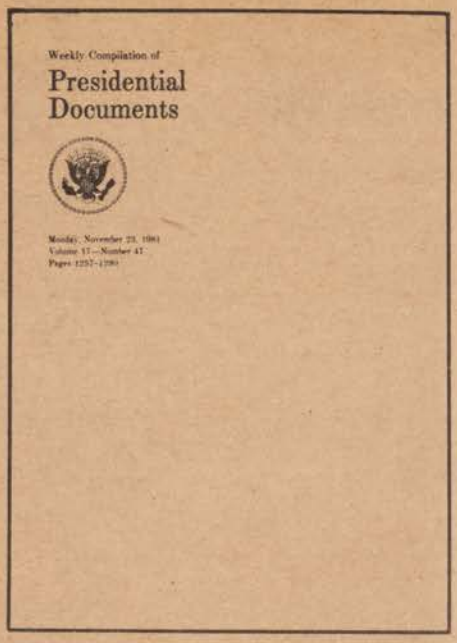
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