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federal register

Tuesday
June 21, 1983

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Farmers Home Administration

Aid to Families with Dependent Children
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Air Pollution Control
Environmental Protection Agency

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

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Presidential Documents

Title 3—

The President

Proclamation 5069 of June 17, 1983

National Scleroderma Week, 1983

By the President of the United States of America

A Proclamation

Scleroderma is a painful and debilitating connective tissue disorder that causes hardening of the skin and can also affect several internal organs of the body. Although it can begin at any age, it usually afflicts people in their productive years. Several thousand middle-aged Americans—women more than men—have scleroderma.

In the more serious systemic form, scleroderma can not only affect the skin, joints, and muscles but also strike the gastrointestinal tract, lungs, heart, or kidneys. The cause and cure of scleroderma remain unknown, and it may be difficult to treat.

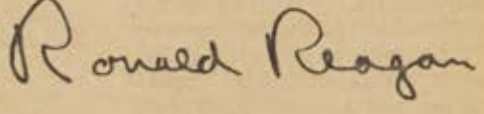
Nevertheless, there is ample reason for hope because the outlook for victims of scleroderma has improved significantly in recent years. Previously, the chances of survival were slim when scleroderma attacked the kidneys. But this is no longer the case. Medical researchers have discovered in the past few years that aggressive treatment with newly-developed anti-hypertensive drugs can lower blood pressure, improve kidney function, and dramatically save lives. In addition, recent research has revealed the importance of abnormalities of fine blood vessels in the development of scleroderma.

Supported by the National Institutes of Health and by private voluntary agencies, researchers throughout the world are focusing their efforts on scleroderma. Improved methods for diagnosis, treatment, and control are being explored.

To increase awareness of scleroderma, recognize progress, and emphasize the need for a continued effort to defeat this disease, the Congress has, by Senate Joint Resolution 75, designated the week of June 12 through June 18, 1983, as National Scleroderma Week, 1983.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of June 12 through June 18, 1983, as National Scleroderma Week, 1983. I urge the people of the United States and educational, philanthropic, biomedical research, and health care organizations to continue their diligent and valuable efforts to discover the cause and cure of scleroderma in order to alleviate the suffering of all persons afflicted by this disorder.

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



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Rules and Regulations

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

Office of the Secretary

7 CFR Part 1

Revision of Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document requires civil penalty hearings held by the U.S. Department of Agriculture under certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to be conducted according to the "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes."

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5533.

SUPPLEMENTARY INFORMATION: Recent legislation (Pub. L. 97–461, effective January 13, 1983), authorizes the Secretary of Agriculture, among other things, to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination in the United States of plant pests, plant diseases, and livestock and poultry diseases. In particular, the following provisions of these Acts were amended to provide that the Secretary of Agriculture may assess civil penalties for certain violations:

Section 7 of the Act of May 29, 1884 (21 U.S.C. 117), commonly known as the Animal Industry Act,

Section 6 of the Act of August 30, 1890 (21 U.S.C. 104),

Section 3 of the Act of February 2, 1903 (21 U.S.C. 122), commonly known as the Cattle Contagious Diseases Act of 1903,

Section 6 of the Act of March 3, 1905 (21 U.S.C. 127),

Section 10 of the Act of August 20, 1912 (7 U.S.C. 163, 164), commonly know as the Plant Quarantine Act,

The Act of January 31, 1942 (7 U.S.C. 149),

Section 6(a) of the Act of July 2, 1962 (21 U.S.C. 134e),

Section 2 of the Act of May 6, 1970 (21 U.S.C. 135a), and

Section 108 of the Federal Plant Pest Act (7 U.S.C. 150gg).

The amendments further provide that the Secretary may issue an order assessing such civil penalties only after notice and opportunity for an agency hearing on the record.

The purpose of this document is to require any hearing to assess a civil penalty for violations of any of the Acts listed above, and regulations issued thereunder, to be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary of Agriculture Under Various Statutes as contained in subpart H, Part 1, Title 7, Code of Federal Regulations.

This rule relates to internal agency management, and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–351, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 1

Administrative practice and procedures.

PART 1—ADMINISTRATIVE REGULATIONS

Accordingly, 7 CFR Part 1 is amended as follows:

1. The authority citation for Subpart H is revised to read as follows:

Authority: 5 U.S.C. 301; secs. 4, 5, 7, 23 Stat. 32, as amended; sec. 6, 26 Stat. 416, as amended; secs. 2, 3, 32 Stat. 792, as amended; sec. 6, 33 Stat. 1265, as amended; 34 Stat. 1260, as amended; secs. 9, 10, 37 Stat. 318, as amended; 37 Stat. 832; sec. 28, 39 Stat. 490; sec. 407, 42 Stat. 169; sec. 10, 42 Stat. 1519; sec. 15, 46 Stat. 537, as amended; sec. 402, 53 Stat. 1285; 56 Stat. 40, as amended; sec. 205(b), 60 Stat. 1090; sec. 108, 71 Stat. 34, as amended; sec. 14, 71 Stat. 447, as amended; sec. 6, 76 Stat. 131, as amended; sec. 11, 76 Stat. 132; sec. 21, 80 Stat. 353; sec. 2, 84 Stat. 202, as amended; sec. 9, 84 Stat. 1406; sec. 14, 84 Stat. 1629; sec. 11, 87 Stat. 897; sec. 310, 90 Stat. 2767; sec. 18, 90 Stat. 2884; sec. 13, 94 Stat. 2233; sec. 7, 95 Stat. 1078; 7 U.S.C. 61, 87e, 149, 150gg, 162, 163, 164, 228, 268, 499o, 1592, 1624(b), 2151, 3812; 15 U.S.C. 1828; 16 U.S.C. 1540(f), 3406; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740, unless otherwise noted.

2. The list of statutes contained in paragraph (a) of section 1.131 is amended by adding the following statutes before "Animal Welfare Act, Section 19 (7 U.S.C. 2149).":

Act of May 29, 1884, commonly known as the Animal Industry Act, Section 7, as amended (21 U.S.C. 117).

Act of August 30, 1890, Section 6, as amended (21 U.S.C. 104).

Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, Section 3, as amended (21 U.S.C. 122).

Act of March 3, 1905, Section 6, as amended (21 U.S.C. 127).

Act of August 20, 1912, commonly known as the Plant Quarantine Act, Section 10, as amended (7 U.S.C. 163, 164).

Act of January 31, 1942, as amended (7 U.S.C. 149).

Act of July 2, 1962, Section 6(a), as amended (21 U.S.C. 134e).

Act of May 6, 1970, Section 2, as amended (21 U.S.C. 135a).

3 The list of statutes contained in paragraph (a) of § 1.131 is further amended by adding "Federal Plant Pest Act, Section 108, as amended (7 U.S.C. 150gg)." immediately after "Federal Meat Inspection Act, Sections 4, 6, 7(e), 8, and 401 (21 U.S.C. 604, 606, 607(e), 608, 671)."

Done at Washington, D.C., this 14th day of June 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-16324 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amendment No. 254]

Food Stamp Program; Standard Utility Allowances

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the interim rule published November 16, 1982 (47 FR 51551), which implemented provisions of the Food Stamp Act Amendments of 1982 regarding the use of standard utility allowances in determining household excess shelter cost deductions. This rule revises the November 16, 1982 interim rule by: (1) Specifying procedures for State agency use of the annualized standard utility allowance; (2) defining cooling costs; (3) providing limitations on switching between the standard utility allowance and actual utility costs for households using the annualized standard utility allowance; and (4) providing for a State agency option of prorating the standard utility allowance or using actual utility costs for households living in the same residence and sharing utility costs.

EFFECTIVE DATE: This rule is effective on July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to William Fisher, Acting Supervisor, Eligibility and Certification Section, Program Design and Rulemaking Branch, Program Planning Development and Support Division, Family Nutrition Program, Food and Nutrition Service, USDA, Alexandria, VA 22302, 703-756-3429.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order No. 12291 and Secretary's Memorandum No. 1512-1. This action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individuals, Federal, State or local governments, or geographical regions. Additionally, this action will not have a significant effect on competition, employment, investment, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this action has been classified "not major."

Regulatory Flexibility Analysis

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The requirements of this rulemaking will reduce the excess shelter deductions of some households, and will increase State administrative flexibility.

Paperwork Reduction Act

This rule does not contain recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

Introduction

On November 16, 1982, the Department published an interim rule at 47 FR 51551 mandating several changes of the then current policy on standard utility allowances. The interim rule was issued to implement changes with respect to the standard utility allowance required by Section 149 of Pub. L. 97-253. The changes included: (1) Optional use of the standard utility allowance by State agencies; (2) use of either a seasonally adjusted or an annualized standard utility allowance; (3) limitation on the use of the standard utility allowance to households which actually incur either heating or cooling costs; and (4) proration of standard allowances among separate households living in the same residence and sharing utility costs.

A total of 33 commenters sent in suggestions and comments in response to the November 16, 1982 rulemaking. There were 19 comment letters from State agencies, six from public interest groups, five from regional offices of the Food and Nutrition Service, one from the Office of Inspector General, USDA, one from a United States Senator and one from the general public.

Limitations on Use of the Standard Utility Allowances

Some commenters misconstrued the rule to mean that the only acceptable standard utility allowance is one which includes a heating and/or cooling component. The rule gave State agencies the option of either a single standard utility allowance which includes heating and/or cooling costs or separate allowances for different utility costs. No change in the rule was necessary.

Several commenters were critical of the requirement that only households which actually incur heating and cooling costs are entitled to use the standard utility allowance. These commenters suggested that conditioning eligibility for the standard utility allowance on household liability for heating or cooling costs would defeat the program simplification function of the standard utility allowance by forcing more households to use actual costs, a much more error-prone procedure. While the Department recognizes these concerns it is clear from the legislation (Pub. L. 97-253) and the legislative history (Senate Report No. 97-504, 97th Congress, 2nd Session, July 26, 1982, page 33a) that Congress intended that only households actually incurring heating and/or cooling expenses receive a standard utility allowance containing components for such expenses. If a State agency elects to implement separate utility standards for various utility expenses, households would only receive a particular standard if they are incurring the related expense.

A number of commenters expressed strong opposition to the requirement that the household be billed monthly for heating and cooling costs as a condition of eligibility for use of the standard utility allowance which contains a heating or cooling component. Some commenters also pointed out that the interim rule required a monthly billing cycle for cooling costs while allowing the household to remain eligible for the standard utility allowance if it is billed less often than monthly during the heating season. A significant number of commenters also expressed the opinion that the monthly billing requirement is inconsistent with the annualized standard utility option. In response to these concerns the Department has revised the interim rule in several respects. The Department recognizes that households which use certain heating fuels such as fuel oil or propane may incur fuel costs on a somewhat irregular basis and has revised the rule to specifically allow such households to continue using the standard utility allowance. The final rule eliminates the condition that the household be billed monthly while retaining the statutory requirement that the household regularly incur heating or cooling costs as a condition of using the standard utility allowance which includes a heating or cooling component.

The final rule allows households which incur either heating or cooling costs to use the annualized standard year round although heating or cooling costs may not be incurred during months between the cooling and heating seasons. Under the final rule, State agencies which elect to seasonally adjust standard utility allowances would be required to ensure that during the heating season only households with heating costs receive a standard utility allowance with a heating component and that during the cooling seasons only households incurring cooling costs receive a standard allowance with a cooling component.

The Department also received comments regarding restrictions on the use of the standard utility allowance by households residing in rental housing. The interim rule permitted only households which are billed separately for utility costs to receive the standard utility allowance, but did not specifically address the issue of tenants who are billed for their utility expenses by their landlords. One commenter suggested that tenants who are billed for utilities by their landlords be permitted to use the standard utility allowance. The final rule will permit such tenants to utilize the standard utility allowance if they are billed regularly for utility costs and if the amount of usage is determined through a metering system or is otherwise verifiable. A statement that utilities are included in the household's rent would not constitute sufficient verification for use of the standard. To qualify for the standard the household's utilities must be billed separately from its rent. In response to other comments, the Department is extending the prohibition on the use of the standard utility allowance, currently applicable to residents of public housing who are also billed only for excess utility costs, to similarly situated residents of private rental housing who are only billed for excess utility costs. The legislative history of Pub. L. 97-253 is also indicative of Congressional intent to extend the statutory restriction on public housing residents to residents of private rental housing who are billed only for excess utility costs. The Senate Budget Committee Report states that "the Secretary would also be able to establish the same limitation for nonpublic housing units where residents are charged only for excess utility costs if such an arrangement exists." (See Senate Report No. 97-504, 97th Congress, 2nd Session, July 26, 1982, page 34.)

Submission of the Standard Utility Allowance to FNS for Approval

Four commenters objected to the requirement that State agencies submit standard utility allowances to FNS for approval. All of these commenters expressed the belief that standard allowances based on valid, approved methodologies should be considered valid and that there is no need to submit such allowances for approval.

One commenter suggested that it would be extremely difficult to evaluate the accuracy of standard utility allowances in view of wide variations in climate and temperature among the states. Other commenters expressed concern that high standard utility allowances in some states might be rejected by FNS even though they accurately represented utility costs. In view of the legislative history on Pub. L. 97-253, the Department is retaining the requirement that State agencies submit standard utility allowances to FNS for approval. In reviewing standard utility allowances FNS will, in accordance with Congressional intent, ensure that the standards are not unacceptably high while not seeking to impose unrealistically low standards on State agencies. (See House Report No. 97-687, 97th Congress, 2nd Session, August 2, 1982, page 46, and Senate Report No. 97-504, 2nd Session, July 26, 1982, page 34.)

Definition of Cooling Expenses

Several commenters noted that the November 16 interim rule did not define the term "cooling costs." Several of these commenters expressed the belief that most food stamp households do not own air conditioners and instead rely on fans for cooling. The Department is limiting the definition of cooling costs to utility costs relating to the operation of room air conditioners and central air conditioning systems. The Department has elected not to include cooling costs relating to the operation of fans since such costs are relatively low and households relying on fans for cooling will not be adversely affected since they will be able to use actual utility costs.

Switching Between the Standard Utility Allowance and Actual Costs

Under the interim rule households may elect at the time of certification and recertification to use either the standard utility allowance or actual utility costs and may switch between actual costs and the standard at least once during the certification period. Four commenters, all State agencies, objected to these provisions. The commenters suggested that the State agency should have the option of requiring eligible households to use the standard utility allowance. These commenters pointed out that using actual utility costs is more error-prone and increases the State agency's administrative burden. It was also pointed out that in States with an annualized standard a household could increase its benefits by switching between the standard utility allowance and acutal utility costs. The annualized standard, which by definition is an average, would be lower than actual costs during the winter heating season (in a State with high heating costs) and higher than actual costs during the summer. The household could use actual costs during the winter and the annualized standard utility allowance during the summer thereby increasing program costs and defeating the simplification function of the annualized standard. In recognition of the potential for manipulating the standard utility allowance in such a manner the Department is limiting the ability of households in States with an annualized standard from switching between actual costs and the standard utility allowance for a period of twelve months from the time of the household's initial certification and no more frequently than once every twelve months thereafter. Since the opportunity for abuse is less in States with seasonally adjusted standard utility allowances, the Department has elected to allow households in such States to switch at recertification.

Households Sharing a Residence and Utility Costs

Seven comments were received regarding the provision mandating proration of the standard utility allowance among parties sharing a residence and utility costs. Some of the commenters suggested that the term "parties" as use in the proration provision should be more clearly defined since it is not clear whether the term means individuals or households. It was also suggested that the rule should more clearly specify whether the standard utility allowance is to be divided equally among households or prorated according to the amount of utility costs paid by the household. Three commenters suggested that actual utility costs rather than proration of the standard utility allowance should be used for households sharing residence and utility costs. These commenters expressed the concern that proration of the standard utility allowance would be an error-prone procedure. One of the commenters pointed out that households which share a single residence tend to

be transient, a factor which would also increase the likelihood of errors.

In response to these comments and in recognition of the variations which can occur among households sharing a residence, the Department has revised the rule to give State agencies the option of using either actual utility costs or prorating the standard utility allowance in determining the amount of the excess shelter deduction for such households. Each household's percentage share of utility costs may vary from month to month making the proration procedure difficult to use. In such cases the State may wish to use the actual expenses of each household. The State agency may adopt its own methodology for prorating the standard utility allowance for households sharing a residence. Under no circumstances shall the total utility costs used to determine the amount of the deduction exceed the actual utility costs of the residence. The Department has revised the language of the interim rule to comport more closely with the applicable statutory language (Pub. L. 97-253, Section 149(a), 96 Stat. 775-6, September 8, 1982).

Notification

Several commenters suggested that the rule contain procedures for the notification of households whose benefits are being changed due to a change in seasonal utility standards. Since procedures for notifying households of changes are contained elsewhere in the regulations the Department has elected not to mandate specific procedures regarding notification of households affected by seasonal changes in the standard utility allowance in this rule. Under 7 CFR 273.12(e) the State agency may handle seasonal changes in the standard utility allowance as mass changes. The State agency is required to advise the household at the time of initial certification of the date of the adjustment and the amount of variation in the benefit level, if known. State agencies may also time certification periods of affected households to coincide with seasonal changes in the standard utility allowance. If a household's benefits are reduced or terminated because it is no longer eligible to use the standard utility allowance the State agency is required to notify the household through the notification procedures mandated by 7 CFR 273.13(a).

Implementation

The provisions of this rule are to be implemented no later than October 19, 1983. State agencies may phase-in implementation of this rule during the implementation period to coincide with the certification and recertification of participating households. State agencies may also implement this rule as a mass change or to coincide with changes reported by the household.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs/social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant program/social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Part 272 and 7 CFR Part 273 are amended as follows:

PART 272—REQUIREMENTS OF PARTICIPATING STATE AGENCIES

1. In § 272.1, a new paragraph (g)(66) is added.

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(66) State agencies shall implement the provisions of Amendment No. 254 no later than October 19, 1983.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.9, pragraph (d)(6)(i) is revised; paragraphs (d)(6) (ii) through (vi) are redesignated as paragraphs (d)(6) (iii) through (vii), respectively, and a new paragraph (d)(6)(ii) is added; in addition, newly redesignated paragraphs (d)(6) (vi) and (vii) are revised. The revisions additions read as follows:

§ 273.9 Income and deductions.

* * * * *

(d) *Income deductions.* * * *

(6) *Standard utility allowance.* (i) The State agency may elect to offer a standard utility allowance to households for use in calculating shelter costs. The State agency may establish either separate standard utility allowances for individual utility expenses or a single standard utility allowance which includes a heating or cooling component. A cooling cost is a verifiable utility expense relating to the operation of air conditioning systems or room air conditioners. The standard utility allowance which includes a heating or cooling component shall be available only to households which incur heating or cooling costs separately and apart from their rent or mortgage, including residents of rental housing who are billed on a monthly basis by their landlords for actual usage as determined through individual metering. To be qualified, the household must be billed on a regular basis for its heating or cooling costs. A household which incurs cooling or heating fuel costs on an irregular basis but is otherwise eligible to use the standard allowance may continue to use the allowance between billing periods. A household which lives in a public housing unit or other rental housing unit which has central utility meters and charges the household only for excess heating or cooling costs shall not be permitted to use the standard utility allowance which includes a heating or cooling cost component. If a household is not entitled to the standard utility allowance, it may claim the actual utility expenses (for any utility identified in paragraph (d)(5)(iii) of this section) which it does pay separately.

(ii) The State agency may elect to develop either an annualized standard utility allowance or seasonal standard utility allowances. If the state agency elects to use a single annualized standard utility allowance it will not be required to seasonally adjust the budgets of qualified households which incur either heating or cooling costs. If the State agency elects to vary the allowance seasonally it shall ensure that during the heating season the allowance is provided only to households with heating costs, and that during the cooling season the allowance is provided only to households with cooling costs.

* * * * *

(vi) At the time of certification the household shall be advised that it may deduct its actual utility costs rather than the standard allowances (except as provided in paragraph (d)(6)(iii)(c) of this section for a telephone standard) throughout the certification period if the household can verify these costs. The State agency shall also advise the household of its right to switch as provided below. The State agency shall permit households to switch between actual utility costs and the utility standard at the time of recertification except in States in which an annualized standard utility allowance is used. In the latter States the household may not switch between the annualized standard utility allowance and actual costs for a period of twelve months following initial certification and no more frequently than once every twelve months thereafter.

(vii) If the household shares utility expenses with, and lives with, another

individual not participating in the Food Stamp Program, another household participating in the Food Stamp Program, or both, the allowance shall be prorated among the household and the other individual, household, or both, *provided,* that the State agency may, if it is unable to accurately determine the prorata share of utility costs paid by the parties, use the actual utility costs paid by each household. Under no circumstances shall the total amount of utility costs used to determine the amount of the deduction exceed the total amount of actual utility costs for the residence.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps.)

Dated: June 14, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-16516 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-30-M

Farmers Home Administration

7 CFR Part 1900

Farmers Home Administration Appeal Procedure

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends an administrative provision in its appeal regulation. This action is needed to change the authority for certain appeals decisions. The intended effect is to eliminate personnel and Agency management problems.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Bob Stansberry, Assistant Deputy Administrator, Program Operations, FmHA, USDA, 14th Street and Independence Avenue, SW., Room 5310-S, Washington, DC 20250. Telephone (202) 382-1468.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management affecting the internal decisionmaking and signature authority of the Agency. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management and publication for comment is unnecessary.

The FmHA programs and projects which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in Subpart H of Part 1901 of this Chapter.

The Catalog of Federal Domestic Assistance numbers and titles for programs affected by this regulation are:

No. and Program Title

10.404 Emergency Loans.
10.405 Farm Labor Housing Loans and Grants.
10.406 Farm Operating Loans.
10.407 Farm Ownership Loans.
10.408 Grazing Association Loans.
10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans.
10.410 Low to Moderate Income Housing Loans (Rural) Housing Loans—Section 502—(Insured).
10.411 Rural Housing Site Loans (Section 523 and 524 Site Loans).
10.413 Recreation Facility Loans.
10.414 Resource Conservation and Development Loans.
10.415 Rural Rental Housing Loans.
10.416 Soil and Water Loans (SW Loans).
10.417 Very Low-Income Housing Repair Loans and Grants.
10.418 Water and Waste Disposal Systems for Rural Communities.
10.419 Watershed Protection and Flood Prevention Loans.
10.420 Rural Self-Help Housing Technical Assistance (Section 523 Technical Assistance).
10.421 Indian Tribes and Tribal Corporation Loans.
10.422 Business and Industrial Loans.
10.423 Community Facilities Loans.
10.424 Industrial Development Grants.
10.426 Area Development Assistance Planning Grants (Section 111).
10.427 Rural Rental Assistance Payments.
10.428 Economic Emergency Loans.
10.430 Energy Impact Area Development Assistance Program.
10.431 Technical and Supervisory Assistance Grants.
10.432 Biomass Energy and Alcohol Fuels Loans and Guarantees.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-90, an Environmental Impact Statement is not required.

A proposed rule published in the **Federal Register** (46 FR 54949) on November 5, 1981, generated 31 comments which were considered by the Agency when developing its April 1, 1982 (47 FR 13758) Final Rule. However, Agency experience gained in operating under this regulation has uncovered an unexpected administrative problem. Exhibit D of Subpart B of Part 1900, designates the Administrator as the Hearing Officer or the Review Officer for all program appeals which cannot be resolved at the State level. This has created a burden of unacceptable proportions on the Agency Adminstrator. This amendment designates the Deputy Administrator, Program Operations (or his designee), as the Hearing Officer or the Review Officer, as appropriate, in the majority of cases when program decisions in dispute cannot be resolved at the State level.

List of Subjects in 7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

Accordingly, 7 CFR Part 1900, Subpart B, is amended as follows:

PART 1900—GENERAL

1. Section 1900.57 is amended to revise paragraph (i) to read as follows:

§ 1900.57 The hearing.

* * * * *

(i) If the initial decision is upheld or modified but not reversed, the hearing officer will send a copy of the notes and inform the appellant by letter of the decision giving specific reasons, with a copy to the decisionmaking official and any other official servicing the account. The State Director or Acting State Director must sign the letter on County Committee decision reversals, regardless of who conducts the hearing for the State Director. When the hearing officer is the Administrator, Deputy Administrator, Program Operations, or designee, the letter will state "this review concludes the administrative appeal of your case. However, if you feel there are significant errors in the hearing notes, you may notify the Hearing Officer within 15 calendar days of the date of this letter. Upon consideration of your comments on the hearing notes, the Hearing Officer will notify you within 10 calendar days as to whether there will be a change in the decision." When the hearing officer is someone other than the Administrator, Deputy Administrator, Program

Operations, or designee, the letter must contain the following statement:

"If you wish to have the above decision further reviewed, you may appeal in writing to (*review officer/address*) within 30 calendar days of the date of this letter explaining why you believe the decision is incorrect. Your request for review should be submitted through this office. Since this review will be based on the record, including papers filed, FmHA files, notes, or transcripts of the appeal meeting, my decision, applicable statutes and regulations, and any *additional written* information you wish to submit, you should include any additional information you think is important, including any changes you believe should be made on the attached hearing notes."

* * * * *

2. Exhibit D is revised to read as follows:

EXHIBIT D.—HEARING/REVIEW OFFICERS DESIGNATIONS

Decision maker or decision	Hearing officer	Review officer
County Supervisor	District Director or person designated by State Director	State Director or designee (who has not been significantly involved with the case).
County Committee	State Director or designee	Deputy Administrator, Program Operations or designee.
District Director	State Director or designee	Deputy Administrator, Program Operations or disignee.
State Director	Deputy Administrator, Program Operations or designee	(No review.)
Division Director or Assistant Administrator	Deputy Administrator, Program Operations or designee	Do.
Deputy or Associate Administrator	Administrator or designee	Do.
Decision to foreclose chattels	District Director	State Director or designee.
Decision to foreclose real estate:		
For accounts serviced in the county office	District Director from another district or other person not involved in the initial decision designated by State Director.	Deputy Administrator, Program Operations or designee.
For accounts serviced in the district office	Deputy Administrator, Program Operations or designee	(No review.)

Notes.—

1. District Director also means Assistant District Director.
2. County Supervisor also means Assistant County Supervisor with loan approval authority.

3. Designee is the person designated by the Hearing/Review Officer to conduct a hearing or review. The designee signs the decision letter to the appellant without the concurrence of the original Hearing/Review Officer except:

a. For hearings on County Committee decisions. For these hearings the State Director or Acting State Director may designate other persons to act on his or her behalf in conducting the hearing; however, the State Director or Acting State Director must sign the hearing decision letter.

b. When the Hearing/Review Officer, designated by the Deputy Administrator, Program Operations, is not a member of the National Office staff, the complete case file, hearing notes, tapes recordings, and a recommended decision will be sent to the Deputy Administrator, for review and a final decision.

c. When the Hearing/Review Officer is a member of the National Office staff, after the decision is written, but prior to notification of the applicant, in all cases requiring corrective actions or training (e.g., reversals or other problems which may become evident) the Hearing/Review Officer will brief the Deputy Administrator, Program Operations, concerning the decision and will notify the State Director involved that the decision will be reversed or modified, and will advise the State Director of what corrective action will have to be taken.

4. For decision not directly covered above, the Hearing/Review Officer is the person in the next higher level of FmHA authority.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.70)

Dated: June 1, 1983.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 83-16490 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in Geologic Repositories Technical Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing technical criteria for disposal of high-level radioactive wastes (HLW) in geologic repositories, as required by the Nuclear Waste Policy Act of 1982. The criteria address siting, design, and performance of a geologic repository, and the design and performance of the package which contains the waste within the geologic repository. Also included are criteria for monitoring and testing programs, performance confirmation, quality assurance, and personnel training and certification.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia A. Comella, Deputy Director of the Division of Health, Siting and Waste Management, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 427-4616.

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Issuance.

Background

On February 25, 1981, the Nuclear Regulatory Commission published rules

which established procedures for the licensing of geologic disposal, by the U.S. Department of Energy (DOE), of high-level radioactive wastes (HLW). 46 FR 13971. On July 8, 1981, NRC proposed technical criteria which would be used in the evaluation of license applications under those procedural rules (46 FR 35280). NRC received 93 comment letters on these proposed technical criteria, 89 of which were received in time for the Commission to consider in preparing the final technical criteria that are published here. No significant new issues were raised in the four letters received too late for consideration. The principal comments, and the Commission's responses, are reviewed in the discussion below. A more detailed analysis of the comments is contained in a NRC staff report (NUREG–0804) which is being distributed to all commenters on the proposed rule and which may be purchased by other interested parties from the NRC's GPO Sales Program, Washington, D.C. 20555. Upon publication, a copy will be placed in the Public Document Room (PDR), 1717 H Street NW., Washington, D.C. 20555. This staff report includes a technical rationale for the performance objectives in 10 CFR Part 60 as well as the comment analysis. The final rules contain a number of changes, explained in this statement, that reflect concerns addressed in the public comments.

The licensing procedures referenced above provide for DOE to submit site characterization reports to NRC prior to characterizing sites that may be suitable for disposal of HLW. NRC would analyze these reports, taking into account public comments, and would make appropriate comments to DOE.

The licensing process will begin with the submission of a license application with respect to a site that has been characterized. Following a hearing, DOE may be issued a construction authorization. Prior to emplacement of HLW, DOE would be required to obtain a license from NRC; an opportunity for hearing is provided prior to issuance of such a license. Permanent closure of the geologic repository and termination of the license would also require licensing action for which there would be opportunity for hearing.

The purpose of the technical criteria is to define more clearly the bases upon which licensing determinations will be made and to provide guidance to DOE and information for the public with respect to the Commission's policies in this regard. The criteria also indicate the approach the Commission is taking with respect to implementation of an Environmental Protection Agency (EPA) standard, particularly with respect to the classification of processes and events as "anticipated" or "unanticipated" and the definition of the "accessible environment" from which radionuclides must be isolated.[1]

The Commission anticipates that licensing decisions will be complicated by the uncertainties that are associated with predicting the behavior of a geologic repository over the thousands of years during which HLW may present hazards to public health and safety. It has chosen to address this difficulty by requiring that a DOE proposal be based upon a multiple barrier approach. An engineered barrier system is required to compensate for uncertainies in predicting the performance of the geologic setting, especially during the period of high radioactivity. Similarly, because the performance of the engineered barrier system is also subject to considerable uncertainty, the geologic setting must be able to contribute significantly to isolation.

The multibarrier approach is implemented in these rules by a number of performance objectives and by more detailed siting and design criteria.[2] In addition to the objective of assuring that licensed facilities will adequately isolate HLW over the long term, these provisions also address considerations related to health and safety during the operational period to permanent closure of the geologic repository.

In this statement of considerations the Commission will first discuss six issues on which it had specifically requested public comment. It will then review other principal changes to the rule which have been adopted in the light of comments received. The discussion will then take up suggestions of a policy nature which the Commission has declined to adopt. Finally, a section-by-section analysis reviews all changes made other than those of a strictly editorial nature. As appropriate, reference is made to relevant provisions of the Nuclear Waste Policy Act of 1982, Pub. L. 97–425, approved January 7, 1983, and to the Environmental Protection Agency's proposed Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level, and Transuranic Radioactive Wastes, 47 FR 58195, December 29, 1982. The Commission regards the publication of these rules as constituting full compliance with Section 121(b)(1)(A) of the Nuclear Waste Policy Act, which requires promulgation of the Commission's technical criteria for geologic repositories not later than January 1, 1984.[3] The Commission will review these criteria after EPA's environmental standards are published in final form and will initiate subsequent rulemaking actions, as necessary, to take any such standards into account. The Commission further intends additional rulemaking to deal with any changes in licensing procedures that may be necessary in light of the Nuclear Waste Policy Act.

Issues Raised by the Commission

As noted above, the Commission specifically requested public comment on six issues, each of which will be reviewed here before turning to other considerations. These issues dealt with: (1) A single overall performance standard vs. minimum performance

[1] Reorganization Plan No. 3 of 1970 (35 FR 15623, October 6, 1970) authorizes EPA to establish generally applicable environmental standards for radioactivity. EPA's recently proposed standard would allow higher levels of radioactivity for "unanticipated processes and events" than would be permitted if "anticipated processes and events" were to occur. The proposed standard also relates these levels to places within the "accessible environment." The Commission has assumed that these concepts will be reflected in final standards that may be established by EPA.

[2] Under the Nuclear Waste Policy Act of 1982, the Commission's technical criteria "shall provide for the use of a system of multiple barriers in the design of the repository . . . as the Commission deems appropriate." Section 121(b)(1)(B). The criteria set forth in this rule represent the criteria which, for purposes of this provision, the Commission deems appropriate.

[3] The technical criteria are explicitly stated to be applicable to construction authorization, § 60.101(b), and to the issuance of licenses to receive and possess high-level radioactive waste at geologic repositories, § 60.101(a). An application to authorize premanent closure requires a license amendment, § 60.51(a); the relevant technical requirements and criteria are set out in the rules here being adopted, inasmuch as the Commission is to be "guided by the considerations that govern the issuance of the initial license, to the extent applicable," § 60.45(b). The Commission interprets the statutory provision pertaining to applications for "decommissioning" to refer to the procedure described in § 60.52, pertaining to termination of a license; such an application would also require a license amendment, and the Commission here, too, would be guided by the present rules to the extent applicable, together with the additional criteria already set out at § 60.52(c). Thus, at every stage of the licensing process, the central inquiry will be the adequacy of DOE's plans and activities as they relate to the isolation of wastes (as well as to safety during operations); and for each decision point we have provided, as is appropriate, for an evaluation that takes into account both the performance objectives and the more detailed criteria that the Commission here adopts. (If Section 212(b)(1)(A) applies to the decommission of surface facilities, the required criteria have been included in § 60.132(a). That paragraph provides that surface facilities must be designed to facilitate decontamination or dismantling to the same extent as would be required, under other NRC regulations, for equivalent activities. This topic may be treated again, in greater detail, in connection with the development of rules that would be generally applicable to decontamination and dismantlement of facilities at which activities subject to Commission regulatory authority are carried out.)

standards for each of the major elements of the geologic repository; (2) the need for, and appropriate duration of, a waste retrievability period; (3) the level of detail to be used in the criteria, particularly with respect to design and construction requirements; (4) the desirability of population-related siting criteria; (5) the application of an ALARA (as low as reasonably achievable) principle to the performance requirements dealing with containment and control of releases; and (6) alternative approaches on dealing with possibilities of human intrusion into the geologic repository.

Single vs. Multiple Performance Standards

The Commission identified two potentially viable approaches to assuring achievement of the desired isolation goal of controlling releases so as to assure that radioactivity in the general environment is kept to sufficiently low levels. The Commission suggested that a course that would be "reasonable and practical" would be to adopt a "defense-in-depth" approach that would prescribe minimum performance standards for each of the major elements of the geologic repository, in addition to prescribing the EPA standard as a single overall performance standard. However, as an alternative, the Commission invited comment on an approach that would specify the EPA standard as the sole measure of isolation performance.

There was general acceptance of the Commission's multiple barrier approach, with its identification of two major engineered barriers (waste packages and underground facility), in addition to the natural barrier provided by the geologic setting.

While the usefulness of multiple barriers was recognized, the establishment of fixed numerical values for performance was extensively criticized. The criticism took two forms. First, numerous commenters argued that until such times as an EPA standard is established, no logical connection can be demonstrated between the performance of the particular barriers and the overall system performance objective. The values specified by NRC, it was argued, had not been shown to be either necessary or sufficient to meet any particular standard. The second criticism was that the performance appropriate to a particular barrier is greatly dependent upon design features and site characteristics and that values such as those proposed by the Commission could unduly restrict the applicant's flexibility—possibly imposing great additional expense without compensating protection of public health and safety.

The Commission recognizes the force of both these arguments. Nevertheless, if the Commission were simply to adopt the EPA standard as the sole measure of performance, it would have failed to convey in any meaningful way the degree of confidence which it expects must be achieved in order for it to be able to make the required licensing decisions. More should be done. To that end, the Commission considers it appropriate to include reasonable generic requirements that, if satisfied, will ordinarily contribute to meeting the standards even though modifications may need to be made for some designs and locations.

The Commission's response, therefore, has been to apply, for illustrative purposes, an assumed EPA standard and to examine the values for particular barriers that would assist in arriving at the conclusion that the EPA standard has been satisfied. For this purpose, a draft EPA standard which was referred to in some of the comments has been used. A copy of this draft standard has been placed in the PDR and will be contained in NUREG–0804. Following publication of EPA's proposed standard in the **Federal Register**, on December 29, 1982, a supplemental evaluation was made to take into account certain departures from EPA's earlier draft. In this way, the Commission has been able to demonstrate the logical connection which it makes between the overall system performance objective for anticipated processes and events, as set out in EPA's proposed standard, and the performance of specific barriers. One of the considerations that affects its judgment in this regard is the need to take proper account of uncertainties in the performance of any of the barriers. As one commenter noted, "To provide a safety factor to compensate for this uncertainty, a multi-barrier system has many advantages. Since the Commission cannot answer the global problem and predict every possible combination of circumstances that might cause releases of waste, multiple, independent mechanisms of slowing or limiting the discharge of radioactive materials to the environment are desirable." There is nothing inconsistent between the multiple barrier, defense-in-depth approach and a unitary EPA standard; on the contrary, in view of the many possible circumstances that must be taken into account, the Commission firmly believes that the performance of the engineered and natural barriers must each make a definite contribution in order for the Commission to be able to conclude that the EPA standard will be met. The Commission's task is not only a mathematical one of modeling a system and fitting values for particular barriers into the model in order to arrive at a "bottom line" of overall system performance. The Commission is also concerned that its final judgments be made with a high degree of confidence. Where it is practical to do so, the Commission can and will expect barrier performance to be enhanced so as to provide greater confidence in its licensing judgments. Accordingly, a variance between actual and assumed EPA standards will not necessarily require a change of corresponding magnitude in the individual barrier performance requirements.

While use of an assumed EPA standard provides a basis for specifying anticipated performance requirements for individual barriers, it does not deal with the concern about undue restriction upon the applicant's flexibility. The Commission's response to this has not been to abandon the values altogether, but rather to allow them to be modified as the particular case warrants. Thus, to take one example, the Commission continues to be concerned that thermal disturbances of the area near the emplaced waste add significantly to the uncertainties in the calculation of the transport of radionuclides through the geologic environment. The proposed rule addressed this problem by providing that all radionuclides should be contained within the waste packages for a period of 1,000 years. The Commission continues to consider it important to limit the source term by specifying a containment period (as well as a release rate). But the uncertainties associated with the thermal pulse will be affected by a number of factors, such as the age and nature of the waste and the design of the underground facility. For some repositories, a period substantially shorter than 1,000 years may be sufficient to allow for some of the principal sources of uncertainty to be eliminated from the evaluation of repository performance. For cases analyzed by the Commission on the basis of specified assumptions, a range of 300 years to 1,000 years would be appropriate. (These values appear in § 60.113(a)(ii)(A)). Yet even a shorter designed containment period might be specified, pursuant to § 60.113(b), in the light of conditions that are materially different from those that had been assumed. For example, if the wastes had been processed to remove the principal heat-generating radionuclides (cesium–137 and strontium–90), the 300-years provisions would not be controlling.

Similarly, the Commission may approve or specify a radionuclide release rate or a pre-waste-emplacement groundwater travel time that differs from the normal values, provided that the EPA standard, as it relates to anticipated processes and events, is satisfied. Appropriate values will be determined in the course of the licensing process, in a manner sensitive to the particular case, using the principals set out in the performance objectives, without having to have recourse to the exemption provisions of the regulations.

The numerical criteria for the individual barriers included in the rule are appropriate, insofar as anticipated processes and events are concerned, in assisting the Commission to determine with reasonable assurance that the proposed EPA standard has been satisfied. It should be noted, however, that in order to meet the EPA standard as it applies to unanticipated processes and events, higher levels of individual barrier performance may be required. DOE would need to provide in its design for such performance as may be necessary to meet the EPA standard with respect to such unanticipated processes and events even though in all other respects the values specified by § 60.113(a) and § 60.113(b) would be sufficient.

Retrievability

The purpose of this requirement was to implement in a practical manner the licensing procedures which provided for temporal separation of the emplacement decision from the permanent closure decision. Since the period of emplacement would be lengthy and since the knowledge of expected repository performance could be substantially increased through a carefully planned program of testing, the Commission wished to base its decision to permanently close on such information. The only way it could envision this was to insist that ability to retrieve—retrievability—be incorporated into the design of the geologic repository.

The proposed rule would have requiried in effect that the repository design be such as to permit retrieval of waste packages for a period of up to 110 years (30 years for emplacement, 50 years to confirm performance, 30 years to retrieve). The Commission solicited comment, noting that it would not want to approve construction of a design that would unnecessarily foreclose options for future decisionmakers, but that it was concerned that retrievability requirements not unnecessarily complicate or dominate repository design.

While the benefits of retaining the option of retrieval were recognized, the length of the proposed requirement, in the opinion of several commenters, was excessive. In their view, the Commission had given inadequate consideration to the additional costs of design, construction, and operations implied in the original proposal; however, no new cost or design information was presented by the commenters.

The Commission adheres to its original position that retrievability is an important design consideration. However, in response to the concerns expressed, the Commission has decided to rephase the requirement in functional terms. The final rule thus specifies that the design shall keep open the option of waste retrieval throughout the period during which the wastes are being emplaced and, thereafter, until the completion of a performance confirmation program and Commission review of the information obtained from such a program. By that time, significant uncertainties will have been resolved, thereby providing greater assurance that the performance objective will be met. In particular, the performance confirmation program can provide indications whether engineered barriers are performing as predicted and whether the geologic and hydrologic response to excavation and waste emplacement is consistent with the models and tests used in the Commission's earlier evaluations. While the commission has provisionally specified that the design should allow retrieval to be undertaken at any time within 50 years after commencement of emplacement operations, this feature is explicitly subject to modification in the light of the planned emplacement schedule and confirmation program for the particular geologic repository.

Some commenters suggested that the technical criteria specify the conditions that would require retrieval operations to be initiated. Such provisions would not belong in Subpart E, which is concerned with siting and design. Nor are they needed elsewhere. In the Commission's view, it is clear that retrieval could be required at any time after emplacement and prior to permanent closure if the Commission no longer had reasonable assurance that the overall system performance objective would be met. This situation could exist for a variety of reasons and the Commission believes that it should retain the flexibility to take into account all relevant factors and that it would be imprudent to limit the Commission's discretion by specifying in advance the particular circumstances that would make it necessary to retrieve wastes. It should be noted that DOE may elect to maintain a retrievability capability for a longer period that the Commission has specified, so as to facilitate recovery of the economically valuable contents of the emplaced materials (especially spent fuel). So long as the other provisions of the rule are satisfied this would not be prohibited. This consideration, however, plays no role in the Commission's requirement pertaining to retrievability. The Commission's purpose is to protect public health and safety in the event the site or design proves unsuitable. The provision is not intended to facilitate recovery for resource value.[4]

The Commission has also included a specific provision clarifying its prior intention that the retrievability design features do not preclude decisions allowing earlier backfilling or permanent closure. A related clarifying change has been the incorporation of a definition of "retrieval." This definition indicates that the requirement of retrievability does not imply ready or easy access to emplaced wastes at all times prior to permanent closure. Rather, the Commission recognizes that any actual retrieval operation would be an unusual event and may be an involved and expensive operation. The idea is that it should not be made impossible or impractical to retrieve the wastes if such retrieval turns out to be necessary to protect the public health and safety. DOE may elect to backfill parts of the repository with the intent that the wastes emplaced there will never again be disturbed; this is acceptable so long as the waste retrieval option is preserved.

The Commission has thus retained the essential elements of the retrievability design feature, but has provided greater flexibility in its application. The

[4] Under the Nuclear Waste Policy Act of 1982, the Commission's technical criteria "shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel in the repository as the Commission deems appropriate." Section 121(b)(1)(B). The criteria set forth in this rule represent the criteria which, for purposes of this provision, the Commission deems appropriate.

Section 122 of the Nuclear Waste Policy Act provides that, at the same time a repository is designed, DOE shall specify an appropriate period during which spent fuel could be retrieved for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting recovery of the economically valuable components of such spent fuel. The period of retrievability is subject to approval or disapproval by the Commission as part of the construction authorization process. Insofar as health and safety considerations are concerned, the Commission intends to grant such approval so long as its technical criteria are satisfied, and the Commission further intends to modify the licensing procedures to so specify.

Commission recognizes that retrievability implies additional costs—more, perhaps, for some media and designs than for others—yet it believes this is an acceptable and necessary price to pay if it enables the Commission to determine with reasonable assurance, prior to an irrevocable act of closure, that the EPA standard will be satisfied.

Level of Detail

The proposed rule contained general and detailed prescriptive requirements, derived from Commission experience and practice in licensing other facilities, with respect to the design and construction of a geologic repository. The Commission noted, however, that it was continuing to examine other possibilities for promulgating the more detailed of these requirements and it invited comments on the topic.

The public response included arguments addressed both to the level of detail generally and to specific criteria which were deemed to be unduly restrictive.

The Commission has concluded that there is merit in describing, in functional terms, the principal features which should be incorporated into geologic repository design—such as protection against dynamic effects of equipment failure, protection against fire and explosions, emergency capability, etc. Certain of these proposed criteria, however, such as those dealing with subsurface ventilation and shaft and borehole seals, were excessively detailed and, in some cases, inappropriate. At this stage of development, the Commission believes it should place emphasis upon the objectives that must be met and not become unduly concerned about the particular techniques that may be used in doing so. The changes that have been made are addressed in some detail in the section-by-section analysis of the rule.

Population-Related Siting Criteria

The proposed rule did not include any siting requirements which dealt directly with population density or proximity of population centers to a geologic repository operations area. The Commission indicated its belief that a more realistic approach, given the long period of time involved, would be to address the issue indirectly through consideration of resources in the geologic setting.

The numerous comments submitted in response to the Commission's specific question on this issue fell generally into two categories—those that endorsed the proposed approach and those that argued that population factors were important. The latter group addressed not only the geologic repository's long-term isolation capability, but also the relevance of population considerations in connection with the period when wastes are being received and emplaced.

The Commission is persuaded that population factors may need to be considered in connection with the period when wastes are being received and emplaced through evaluation of the adequacy of DOE's emergency plans. That section of the safety analysis report dealing with emergency planning (see § 60.21(c)(9)) will be reviewed on a case-by-case basis in the licensing process according to criteria that will be set forth in the future in Subpart I. (It should also be noted that under Section 112(a) of the Nuclear Waste Policy Act of 1982, DOE is required to develop guidelines that, among other things, will specify population factors that will disqualify a site from development as a repository. Issuance of those guidelines is subject to the concurrence of the Commission. The Commission has made no determination whether such guidelines, when issued, should in some manner be reflected in either the technical criteria or licensing procedures portions of 10 CFR Part 60).

Population distribution over the long term is immaterial if the geologic repository operates as anticipated. Demographic factors could nevertheless be of concern to the extent that they could increase the probability or the consequences of releases associated with unanticipated processes or events. As to probability, it is difficult to relate the likelihood of releases to population factors; it is the view of the Commission that it is more realistic, as originally stated, to reduce the probability by avoiding sites with significant resource potential and by using records and monuments to caution future generations. Consequences of unanticipated releases would be greater if they occur in densely populated areas. Nevertheless, it is the view of the Commission that it make little sense to attempt to limit such consequences by means of a population-related siting criterion, since long-range demographic forecasts are so inherently speculative and unreliable; instead, the Commission is taking the approach that releases that result from the occurrence of unanticipated processes and events must be evaluated and must satisfy the EPA standard.

While the Commission considers, based on the above, that the rule should not now contain explicit requirements, particularly numerical limits, on population density or distance from population centers, it notes that considerations related to future human activities, particularly uses of groundwater, are an important source of uncertainty in assessing future performance of a geologic repository. The Commission would consider it a favorable condition if these sources of uncertainty, which would be affected by a large nearby population, were not present at a particular site. Therefore, the Commission has included in the final rule, as a favorable condition, a low population density within the geologic setting and a controlled area that is remote from population centers.

The Commission anticipates that the selection of a densely populated area would be unlikely even in the absence of express constraints in NRC regulations. For one thing, such a site would be disqualified under the guidelines to be developed under the Nuclear Waste Policy Act. Additionally, DOE will need to acquire interests in land within the controlled area and may have to have additional powers beyond the boundaries of the controlled area. These requirements may be difficult to satisfy unless a remote location is selected for the geologic repository.

ALARA

The notice of proposed rulemaking requested comment on "whether an ALARA (as low as reasonably achievable) principle should be applied to the preformance requirements dealing with containment and control of releases." Some commenters believed that ALARA should be applied to all licensed activities, and that no exception should be made for geologic repositories. Other commenters argued against incorporating ALARA, since the allowable releases under the EPA standard would already be so low as to eliminate any significant risk to public health and safety.

Based in part upon the standard recently proposed by EPA, the Commission considers it reasonable to anticipate that the permissible amounts of radioactivity in the general environment will be established at a very low level. In fact, the statement of considerations accompanying EPA's proposed rule explains that EPA has chosen to propose disposal standards that limit the risks to future generations to a level no greater than the risks which those generations would be exposed to from equivalent amounts of unmined uranium ore and thus, any risks to future generations from disposal of high-level wastes would be no greater than, and probably much less than, risks which those generations would face if the

wastes had not been created in the first place. Efforts to reduce releases further would have little, if any, demonstrable value commensurate with their costs.

The EPA limits require the performance of geologic repositories to be effective over a long period of time. There will always be substantial uncertainties in predicting the long-term performance of geologic repositories. The Commission will insist upon the adoption of a variety of design features, tests, or other measures in order to be able to conclude with confidence that the EPA standard is met. The result may be the same as if the Commission were to impose similar requirements in the name of keeping releases as low as reasonably achievable. Given the substantial uncertainties involved with predicting long-term performance, the already low EPA limits and the already stringent geologic performance requirements, it is doubtful that the ALARA concept could be applied in a meaningful way.

When the Commission finds that certain measures are needed to improve confidence in dealing with uncertainties, it is making a substantial safety judgment. The same kinds of balancing that are undertaken in ALARA determinations may be appropriate. That is, if confidence in the performance of the geologic repository is sensitive to a particular source of uncertainty, it will be in order for the Commission to take into account both the significance of the factor involved and the costs of reducing or eliminating it.

In short, the Commission has conclued that the long-term performance requirements should not explicitly be tied to an ALARA principle, and the rule remains as it was when proposed. The Commission believes the concerns of the commenters in support of the ALARA approach will be largely accommodated in connection with its treatment of uncertainties in the course of the licensing process.

EPA's proposed rule (Part 191) indicates that appropriate measures must be taken, in light of the uncertainties involved in predicting repository performance, to assure that the "containment requirements" will be met. One of the measures identified by EPA would be the selection and design of disposal systems to keep releases to the accessible environment as small as reasonably achievable, taking into account technical, social, and economic considerations. The Commission is recommending to EPA that the assurance requirements, including the ALARA provision, be omitted from the final rule. The Commission emphasizes that its rules accommodate the underlying concerns of EPA, as articulated in its statement of considerations, that measures must be taken to assure confidence that the numerical release limits will be met.

Human Intrusion

The Commission observed, in the preamble of the proposed rule, that everything that is reasonable should be done to discourage people from intruding into the geologic repository. Those measures which its believed to be reasonable included directing site selection toward sites having little resource value and marking and documentation of the site. Beyond that, the Commission felt there would be no value in speculating on the "virtual infinity of human intrusion scenarios and whether they will or will not result in violation of the EPA standard." The Commission explained that inadvertent intrusion was highly improbable, at least for the first several hundred years during which time the wastes are most hazardous; and even if it should occur, it is logical to assume that the intruding society would have capability to assess the situation and mitigate consequences. The Commission recognized that deliberate intrusion to recover the resource potential of the wastes could result in elevated releases of radioactivity, but concluded that the acceptability of such releases was properly left to those making the decision to undertake resource recovery operations. It noted that comment on its proposal and alternative approaches would be welcome.

Commenters generally accepted the approach outlined. A number of commenters did emphasize the importance of intrusion scenarios as having the potential to lead to releases of radionuclides to the environment, but they suggested no alternative means for dealing with the prospect. One commenter correctly calls attention to the possibility of a third category of intrusion—that which is "intentional yet indifferent"—which was not covered in the earlier discussion of "inadvertent" or "deliberate" intrusion. This behavior presupposes knowlege (albeit imperfect) of the existence and nature of the geologic repository and a level of technology that could be applied to remedial action as well as to the intrusion itself, yet makes no judgment as to whether a societal decision has been made concerning the intrusion. The Commission has addressed this and other concerns in the revised language that is being adopted, as explained below.

Although the discussion accompanying the proposed rule indicated that intrusion scenarios need not be considered, the rule itself was not explicit on this point. The Commission considers it necessary to clarify its position and, in doing so, allows for examination of intrusion under appropriate bounding conditions. After careful consideration of the public comments received on questions relating to human intrusion, the Commission is of the view that while the passive control measures it is requiring will reduce significantly the likelihood of inadvertent intrusion into a geologic repository, occasional penetration of the geologic repository over the period of isolation cannot be ruled out, and some provision should be made in the final rule for consideration of intrusion should these measures fail. Its objective is to provide a means for evaluating events that are reasonably of concern, while at the same time excluding speculative scenarios that are inherently implausible. The Commission will not require this generation to design for fanciful events which the Commission has an abiding conviction will never occur; on the contrary, it will grant a license if it is satisfied that the risk to the health and safety of future generations is not unreasonable.

The rule now incorporates a definition of "unanticipated processes and events" which are reviewable in a licensing proceeding; such processes and events expressly include intrusion scenarios that have a sufficiently high likelihood and potentially adverse consequence to exceed the threshold for review. The scenarios must be "sufficiently credible to warrant consideration." The Commission is requiring that certain assumptions be made in assessing this likelihood. First, the monuments required by the rule are assumed to be sufficiently permanent to serve their intended purpose. The Commission takes this position because of its confidence that monuments can be built to survive. While it assumes that the monuments will last, it does not automatically assume that their significance will continue to be understood. Second, the Commission requires an assumption that the value to future generations of potential resources can be assessed adequately at this time. Consistent with its previously stated views, it thinks that the selection of a site with no foreseeably valuable resources could so reduce the likelihood of intrusion as to reduce, or eliminate, any further need for it to be considered. Third, the Commission requires the assumption that some functioning institutions—though not necessarily those undertaking the intrusion—

understand the nature of radioactivity and appreciate its hazards. The extent of intergenerational transfer of knowledge is, of course, debatable; it is conservative, in the light of human history to date, to predict this minimal level of information and to take it into account in assessing the likelihood that intrusion will occur. Fourth, the Commission provides that relevant records are preserved, and remain accessible, for several hundred years after permanent closure. While perhaps this period could not be justified on the basis of historic precedents alone, the Commission considers the required deposit in land records and archives, together with current data handling technology, to provide a sufficient basis for assuming that information about the geologic repository will continue to be available for several hundred years.

The definition of "unanticipated processes and events" also implicitly bounds the consequences of intrusion scenarios. This is accomplished not only by the assumption of continued understanding of radioactivity and survival of records, but also by the further assumptions that if there are institutions that can cause intrusion at depth in the first place, there will also be institutions able to assess the risk and take remedial action. It need not be assumed that today's technology would be used—merely that a level of social organization and technological competence equivalent to that applied in initiating the processes or events concerned would be available to deal with the situation.

It was suggested that another way to reduce the likelihood of human intrusion would be to adopt additional design criteria for the waste form or waste package. These would prohibit, or at least discourage, the emplacement of materials which themselves might attract recovery operations—for example, operations to recover the residual energy resource value in spent fuel or scarce and expensive materials in the waste package. But, under the definition of "unanticipated processes and events" in the final rule, intrusion for such proposes would have to be reviewed in the licensing process if the particular circumstances are sufficiently credible to warrant consideration. This imposes a reasonable constraint. The Commission believes that any further limitation would unduly interfere with the flexibility of DOE as a designer and could, in the case of spent fuel disposal, conflict with other national objectives.

In summary, the Commission has retained the principle that highly speculative intrusion scenarios should not be allowed to become the driving force in license reviews, but has introduced some flexibility to permit consideration of intrusion on a case-by-case basis where circumstances warrant.

Other Principal Changes in the Final Rule Anticipated/Unanticipated Processes and Events

The proposed rule defined anticipated processes and events as "those natural processes and events that are reasonably likely to occur during the period the intended performance objective must be achieved and from which the design bases for the engineered system are derived" At the same time, the Commission was requiring that the facility be designed so as to assure that long-term releases conform to standards established by EPA. The statement of considerations pointed out that if the process or event is unlikely, the overall system must still limit the release consistent with the EPA standard as applied to such events. This created a contradition because on the one hand it was stated that the design bases should be derived from anticipated processes and events while, on the other hand, the design was to meet an EPA standard as applied to what was unanticipated.

The Commission has resolved this conflict by eliminating the reference to design bases from the definition of "anticipated processes and events." It has also included a definition of "unanticipated processes and events." In the final rule, numerical performance objectives are established for particular barriers, assuming "anticipated processes and events." Such numerical criteria are not established for "unanticipated processes and events." Rather, additional requirements may be found to be necessary to satisfy the overall system performance objective as it relates to unanticipated processes and events.

It should be noted that the distinction between anticipated and unanticipated processes and events relates solely to natural processes and events affecting the geologic setting. The Commission intends that a judgment whether a natural process or event is anticipated or unanticipated be based upon a careful review of the geologic record. Such processes or events would not be anticipated unless they were reasonably likely, assuming that processes operating in the geologic setting during the Quaternary Period were to continue to operate but with the perturbations caused by the presence of emplaced waste superimposed thereon. Unanticipated processes and events would include those that are judged not to be reasonably likely to occur during the period the intended performance objective must be achieved, but which nevertheless are sufficiently credible to warrant consideration. These include processes and events which are not evidenced during the Quaternary period or which, though evidenced during the Quaternary, are not likely to occur during the relevant time frame. Identification of anticipated and unanticipated processes and events for a particular site will require considerable judgment and will not be amenable to accurate quantification, by statistical analysis, of their probability of occurrence.[5]

Because the design basis for the engineered barrier system will be derived from the identification of anticipated and unanticipated processes and events, such identification will have a pervasive effect on the basic structure of the licensing proceedings. The Commission therefore contemplates directing that rulings made in the course of construction authorization hearings on the scope of anticipated and unanticipated processes and events be separately identified by the presiding officers and certified to the Commission for interlocutory review, pursuant to 10 CFR 2.718(i).

The license review will thus need to include a determination whether the proposed activities will meet the EPA standard as applied to anticipated processes and events and as applied to such unanticipated processes and events, if any, as have been found to warrant consideration. Each determination will be made in the light of assessments which will involve interpretation of the geologic record and consideration of credible humaninduced events as bounded by the assumptions set forth above. Worst-case scenarios would be analyzed to the extent they may be encompassed by the definition of unanticipated processes and events. Complex quantitative models will need to be employed, and a wide range of factors considered in arriving at a determination of whether there is reasonable assurance, making allowance for the time period and

[5] The Commission views the proposed EPA standard as being directed to the evaluation of releases arising out of the categories that we have defined as "anticipated processes and events" and "unanticipated processes and events." As EPA itself recognizes, there can only be estimates rather then rigorous demonstrations of probabilities of occurrence. The Commission's translation of the EPA language into qualitative terms provides a clearer basis for judging, under the Atomic Energy Act, whether there is unreasonable risk to the health and safety of the public.

hazards involved, that the EPA standard will be met. There are two principal elements that will go into the Commission's application of this "reasonable assurance" concept. First, the performance assessment which has been performed must indicate that the likelihood of exceeding the EPA standard is low. Second, the Commission must be satisfied that the performance assessment is sufficiently conservative, and its limitations are sufficiently well understood, that the actual performance of the geologic repository will be within predicted limits.

Transuranic Waste (TRU)

The proposed rule included a definition of transuranic waste and performance objectives that would apply to the disposal of TRU in a licensed geologic repository. This was widely misconstrued as a requirement that radioactive material conforming to the definition must be disposed of in this manner. This was not the intention, nor in fact did the rule so specify. Rather, the Commission was merely indicating what performance objectives would apply *if* TRU were disposed of in a licensed geologic repository. Some commenters also took exception to the definition of TRU in the rule.

Whether or not a geologic repository is subject to licensing depends upon the applicability of Sections 202(3) and 202(4) of the Energy Reorganization Act of 1974. (See definition of "HLW facility.") If a facility is licensed, then the Commission must consider the radiological hazards associated with whatever wastes may be emplaced. The Commission attempted, in the proposed rule, to address the requirements for one such kind of waste—TRU. But the Commission was too restrictive, in that its definition of TRU was too limited for present purposes and in that wastes other than HLW and TRU were not covered at all. For the time being, the Commission has concluded that the matter is best handled by eliminating all references to TRU. The remaining performance objectives provide adequate guidance to deal with TRU-related issues that may arise.

The Commission has also reviewed the waste package requirements, which as originally written would have applied to all emplaced radioactive waste. It is appropriate to include such requirements for HLW, which must necessarily be disposed of in a licensed facility. Since the Commission does not know what other radioactive wastes, if any, will also be emplaced, and what their chemical, radiological, thermal, and other characteristics may be, it has decided to leave pertinent waste package requirements to be determined on a case-by-case basis as the need arises.

Siting Criteria

Although provisions relating to site characteristics have been revised, the Commission has retained the same two basic concepts. First, a site should exhibit an appropriate combination of favorable conditions, so as to encourage the selection of a site that is among the best that reasonably can be found. By referring to a "combination" of conditions, it implies that the analysis must reflect the interactive nature of geologic systems. Second, any potentially adverse conditions should be assessed in order to assure that they will not compromise the ability of the geologic repository to meet the performance objectives. It is important to recognize that a site is not disqualified as a result of the absence of a favorable condition or the presence of a potentially adverse condition. The Commission emphasizes this point here because several commenters who characterized the siting criteria as unduly restrictive failed to appreciate that the presence of potentially adverse conditions would not exclude a site from further consideration while others mistakenly assumed that favorable conditions were requirements.

The changes do not reflect any departure from the Commission's original philosophy, but they are designed to express its purpose more clearly. Thus, its interest in specifying that the geologic setting shall have exhibited "stability" since the start of the Quarternary Period was to assure only that the processes be such as to enable the recent history to be interpreted and to permit near-term geologic changes to be projected over the relevant time period with relatively high confidence. This concept is best applied by identifying, as potentially adverse conditions, those factors which stand in the way of such interpretation and projection; this is the approach the Commission has chosen to follow.

One revision is the elimination of the classification of potentially adverse conditions into one set pertaining to the "geologic setting" (corresponding to "site" in the final rule) and one set pertaining to the "disturbed zone." The Commission has determined that by defining these conditions as potentially adverse only when they occur in the site or disturbed zone, respectively, some significant factors bearing upon waste isolation may not be assessed. The Commission has changed the siting criteria, therefore, so that the presence of any of the enumerated conditions is to be regarded as potentially adverse if it applies to the controlled area and, in addition, such a condition outside the controlled area is to be regarded as potentially adverse if it may affect isolation within the controlled area.

Another change, discussed under *Single vs. Multiple Performance Standards*, may have the effect of increasing the importance of the geological conditions. Under the final rule, the performance objectives for the engineered barrier system (§ 60.113(a)(1)) may be adjusted, on a case-by-case basis, if the overall system performance objective, as it relates to anticipated processes and events, is satisfied. This feature of the final rule may provide the designer additional incentive to select the site so as to maximize its isolation capabilities.

The Commission's review of the siting criteria, as modified, has led it to conclude that the isolation capabilities of the geologic repository will be given the emphasis that they merit. This review has included a consideration of suggestions that the rule require that the slate of sites be among the best that can be found on the basis of geological factors alone and that the geologic characteristics of the site provide the highest reasonably available degree of the site's isolation capabilities. These topics are discussed below, under the heading *Geologic Conditions.*

A detailed review of the siting criteria is contained in the Section-by-Section Analysis.*

Containment

Several commenters took exception to the performance objective calling for a design of the waste packages to "contain all radionuclides" for a specified period after permanent closure. The objections were: first, that 100% performance cannot be expected in view of the very large number of containers that may be emplaced; second, that 100% performance cannot be justified as being needed in order to meet any likely EPA standard; and, third, that the adequacy of design to contain "all" radionuclides for long

* Under Section 112(a) of the Nuclear Waste Policy Act of 1982, DOE is required to develop guidelines for the recommendation of sites for repositories. Among other things, such guidelines are to "specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media." Issuance of these guidelines is subject to the concurrence of the Commission. The Commission has made no determination whether such guidelines, when issued, should in some manner be reflected in either the technical criteria or licensing procedures portions of 10 CFR Part 60.

periods of time is not demonstrable. The commenters failed, in part, to recognize that under the specified standard of proof (see *Reasonable Assurance*, below), the applicant would not be forced to carry an impossible burden. Nevertheless, since the Commission does not expect proof that literally all radionuclides will be contained, the performance objective now requires design so that containment of HLW within the high-level waste packages will be "substantially complete" for the specified period.

Terminology

Several commenters criticized, as vague or confusing, the terms used by the Commission to describe the various geographical locations that are addressed by the rule. There are many such locations—and there must be—because the Commission must deal with different concerns during site characterization, during operations, and after permanent closure. The Commission has nevertheless attempted to clarify the terms. In addition to the significant changes reviewed here, see also the discussion in the Section-by-Section Analysis.

Accessible Environment/Controlled Area. The isolation capability of a geologic repository is evaluated at a boundary which the Commission has referred to as the "accessible environment." Under the proposed rule, this was defined as "portions of the environment directly in contact with or readily available for use by human beings." Several commenters criticized this definition as being excessively vague; further, the definition failed to assure that the isolation capability of the rock surrounding the underground facility would be given appropriate weight in licensing reviews.

The Commission agrees with the criticism and has revised the definition in several respects—most importantly by excluding from the accessible environment that portion of the lithosphere that is inside what the Commission is calling, in the final rule, a "controlled area." This is an area marked with monuments designed to caution future generations against subsurface penetrations. The size and shape of the controlled area will depend upon the characteristics of the particular geologic repository, but it must be small enough to justify confidence that the monuments will effectively discourage subsurface disturbances. The Commission has therefore limited the size of the controlled area so that it extends no more than 10 kilometers from the emplaced waste. The term "accessible environment" also appears in the proposed EPA standard. The Commission has used the EPA language as a starting point—for example, in specifying the surface locations that are part of the accessible environment. But there is an important difference between the two definitions, in that EPA includes in the accessible environment only those parts of the lithosphere that are more than 10 kilometers from the emplaced waste, whereas NRC may include parts of the lithosphere that are less than 10 kilometers from the emplaced waste, depending on the extent of the "controlled area" for a geologic repository. In other words, the accessible environment may be larger under 10 CFR Part 60 than might be the case under the proposed EPA Standard. The two definitions are nevertheless consistent in the sense that if the isolation requirements are satisfied at the boundary of the accessible environment specified by 10 CFR Part 60, they will necessarily be satisfied at the boundary defined by EPA as well.

Both technical and legal considerations have influenced the Commission's decision not to adopt an unqualified 10-kilometer standard. The technical consideration is that uncertainties about activities that may be undertaken in the area outside the controlled area are so great that the Commission would not be warranted in giving credit to the isolation capability of the undisturbed lithosphere there. The legal consideration is that the standards established by EPA are to apply outside the boundaries of locations controlled by NRC licensees, and in the context of 10 CFR Part 60 this refers most appropriately to the "controlled area" as defined by the regulation. The Commission believes that the final rule is fully responsive to the concerns of the commenters while conforming as well to the policies underlying EPA's proposed standard.

Geologic Setting. The proposed rule limited this term to systems that provide isolation of the waste. This is too restrictive a definition to cover the wider region of interest which the Commission seeks to encompass by "geologic setting." The definition has accordingly been extended to include the geologic, hydrologic, and geochemical systems of the region in which a geologic repository operations area is or may be located.

Site. "Site" had been defined in the proposed rule as being equivalent to "geologic setting." This was appropriate where geologic setting referred to an area having isolation capability. In the final rule, isolation is to be provided within a controlled area rather than within the geologic setting and accordingly "site" now refers to the location of this controlled area.

Decommissioning. As used in the proposed technical criteria, the term "decommissioning" was intended to apply to that stage at which the underground facility was closed and shafts and boreholes were sealed. It was these activities that were addressed in § 60.51, "License amendment to decommission." This intention is better expressed by employing the term "permanent closure." Several commenters on the proposed rule expressed the opinion that including the requirement for dismantlement of all surface facilities in the definition of the term "decommissioning" may be unnecessary and overly restrictive. Upon consideration of these comments the Commission believes that where there is a need to refer to decontamination or dismantlement of surface facilities, this can readily be done without referring to "decommissioning."

Accordingly, references to "decommissioning" with one exception (see § 60.132(e)), have been deleted from the rule, and the language now refers to "permanent closure" or to "decontamination or dismantlement of surface facilities," as appropriate.

Important to Safety. In response to public comments on Part 60, the NRC has adopted a numerical criterion for determining which structures, systems and components are important to safety. Structures, systems, and components are important to safety if, in the event they fail to perform their intended function, an accident could result which causes a dose commitment greater than 0.5 rem to the whole body or any organ of an individual in an unrestricted area.[7] The value of 0.5 rem is equal to the annual dose to the whole body of an individual in an unrestricted area that would be permitted under 10 CFR Part 20 for normal operations, the same as permitted for normal operations of certain other activities licensed by NCR. Such systems, structures, and components would be subject to additional design requirements and to a quality assurance program to ensure that they performed their intended functions. The choice of 0.5 rem in this instance should not be construed as implying that it would be appropriate if applied to any other types of activities subject to regulation by the Commission.

[7] 10 CFR Part 50, Appendix A, uses the term "important to safety" in a different context for nuclear power plants. The 10 CFR Part 60 definition does not supersede the 10 CFR Part 50 definition in nuclear power application.

(The permissible annual dose in unrestricted areas—now 0.5 rem–is currently under review. The Commission contemplates that if this dose limit were to be revised, a corresponding change would be considered here.)

In the final rule, the term "important to safety" applies solely to the functioning of structures, systems, and components during the period of operations prior to repository closure. The proposed rule had also applied this term to structures, systems, and components which must function in a particular way in order to meet the long-term isolation objective after repository closure. In the final rule, this latter group, which is intended to meet the design criteria that address long-term performance, is characterized as "important to waste isolation." Quality assurance requirements apply to structures, systems, and components equally whether they be "important to safety" or "important to waste isolation."

Discussion of Other Comments

These issues raised by commenters merit discussion here even though they have resulted in no change to the rule.

Comparative Safety Analyses

Several commenters took exception to the proposed requirement that the safety analysis report include a comparative evaluation of alternatives to the major design features that are important to radionuclide containment and isolation, [now termed "important to waste isolation"], on the ground that a safety analysis should be directed at the specific design being proposed. As a general principle, the commenters are correct. In the context of licensing activities at a geologic repository operations area, however, the Commission thinks it is well within its discretion to seek the requested information. If the Commission finds, on the basis of its review, that the adoption of some alternative design feature would significantly increase its confidence that the performance objectives would be satisfied, and that the costs of such an approach are commensurate with the benefits, it should not hesitate to insist that the alternative be so adopted. This is consistent with the views expressed above in the discussion of the ALARA principle and, also, with the provisions of the revised performance objectives which contemplate that the performance objectives for particular barriers are subject to modification, on a case-by-case basis, as needed to satisfy applicable EPA standards.

Unsaturated Zone

The Commission had explained that the proposed criteria were developed for disposal in saturated media, and that additional or alternative criteria might need to be developed for regulating disposal in the unsaturated zone. Accordingly, the performance objective for the engineered barrier system (proposed § 60.111(b)(2)(i)) was written so as to require the assumption of full or partial saturation of the underground facility and the favorable and potentially adverse conditions concerned only siting in the saturated zone.

This approach was criticized on the basis that disposal in the unsaturated zone was a viable alternative, and that since the criteria were generally applicable without regard to the possibility of saturations, their scope and applicability should not be unduly restricted. The Commission has reviewed the criteria in the light of the comments and finds this criticism to be well-founded. Although the criteria as written are generally appropriate to disposal in both the saturated zone and the unsaturated zone, some distinctions do need to be made. Rather than promulgating the criteria which will apply to the unsaturated zone at this time, the Commission will shortly issue such criteria in proposed form so as to afford a further opportunity for public comment. However, those criteria that are uniquely applicable to the saturated zone are so indicated.

Geologic Conditions

One commenter recommended that the rule should require that the slate of sites characterized by DOE be among the best that can reasonably be found on the basis of geological factors alone. The Commission did indicate, when it adopted licensing procedures, that the site characterization requirements will assure that DOE's preferred site will be chosen from a slate of sites that are among the best that reasonably could be found. The standard proposed by the commenter is quite different. The Commission intended that DOE should be able to take into account a variety of non-geological considerations in its screening process. It could properly exclude such locations as: (1) Areas, such as national parks and wilderness, devoted to other paramount uses, (2) locations which would be subject to unusually severe environmental and socioeconomic impacts, and (3) locations where necessary surface, mineral, and water rights may be obtainable only at great expense and with severe dislocating effects on residents. The Commission considers the rule, as written, properly conveys its meaning on this score.

The same commenter urged it to require a demonstration that the geologic characteristics of the chosen site proved the highest reasonably achievable degree of enhancement of the waste isolation capabilities of the geologic repository. Again, the Commission declines to accept the suggestion. In the first place, it anticipates that DOE would on its own initiative strive to maximize isolation capabilities in order to demonstrate more conclusively the facility's compliance with the performance objectives and other technical criteria. Beyond this, however, the Commission believes the proposal could have undesirable and unintended consequences. Maximizing isolation capabilities could dictate development at one particular location instead of at another a few miles away; this could result in the same kind of adverse environmental or other effects as were described above. Furthermore, adherence to the proposed standard could unduly interfere with, or increase the cost of, achievement of other goals, such as maintenance of retrievability, providing for worker safety, etc.

There were other related comments which argue that the Commission's approach places too great an emphasis on engineered barriers and provides insufficient incentive to select a site with optimal geologic and hydrologic characteristics. The Commission considers both engineered and natural barriers to be important, and it has structured the technical criteria in a manner that demands not only the use of advanced engineering methods, but also selection of a site with a excellent isolation capabilities. As explained in the discussion of *Reasonable Assurance*, below, uncertainies in the models used in the analysis of repository performance must be considered in the Commission's deliberations on the issuance of a construction authorization or license. Selection of a site with favorable geologic conditions will greatly enhance the Commission's ability to make the prescribed findings. Moreover, since the final rule provides flexibility for the Commission to approve or specify performance objectives for the engineered barriers on a case-by-case basis, the applicant is afforded still a further incentive to pick a site in which the host rock has favorable geochemical characteristics or in which other particular sources of uncertainty about hydrogeologic conditions are

substantially reduced. But in any event, the Commission anticipates that a high standard of engineering will be necessary—not only to compensate for geologic uncertainties at even the best reasonably available sites, but perhaps also to mitigate the consequences of unanticipated processes and events (including potential intrusion) during the years when fission product inventories remain high.

Although the Commission agrees with the underlying appraisal of the commenters that the isolation capabilities of the site play a key role in assuring that the performance objectives will be met, it finds no reason to change the rule's approach.

Reasonable Assurance

The proposed rule stated that with respect to the long-term objectives and criteria under consideration, "what is required is reasonable assurance, making allowance for the time period and hazards involved, that the outcome will be in conformance with those objectives and criteria." A number of commenters took exception to this formulation on the ground that it provides inadequate guidance as to the required level of proof. Others were concerned that "reasonable assurance" was too weak a test and that the Commission should not license DOE activities without a "high degree of confidence" that releases would be very small. Some commenters suggested that a statistical definition of acceptability should be employed. For the reasons set forth below, the Commission has not modified the language.

In the Commission's view, the "reasonable assurance" standard neither implies a lack of conservatism nor creates a standard which is impossible to meet. On the contrary, it parallels language which the Commission has applied in other contexts, such as the licensing of nuclear reactors, for many years. See 10 CFR 50.35(a) and 50.40(a). The reasonable assurance standard is derived from the finding the Commission is required to make under the Atomic Energy Act that the licensed activity provide "adequate protection" to the health and safety of the public; the standard has been approved by the Supreme Court. *Power Reactor Development Co.* v. *Electrical Union*, 367 U.S. 396, 407 (1961). This standard, in addition to being commonly used and accepted in the Commission's licensing activities, allows the flexibility necessary for the Commission to make judgmental distinctions with respect to quantitative data which may have large uncertainties (in the mathematical sense) associated with it.

The Commission has not modified the language, but has explained elsewhere (see *Anticipated/Unanticipated Processes and Events*, above) how the concept will be applied. The Commission expects that the information considered in a licensing proceeding will include probability distribution function for the consequences from anticipated and unanticipated processes and events. Even if the calculated probability of meeting the Commission's standards is very high that would not be sufficient for the Commission to have "reasonable assurance"; the Commission would still have to assess uncertainties associated with the models and data that had been considered. This involves qualitative as well as quantitative assessments. The Commission would not issue a license unless it were to conclude, after such assessments, that there is reasonable assurance that the outcome will in fact conform to the relevant standards and criteria.

It is important to keep in mind this distinction between, first, a standard of performance and, second, the quality of the evidence that is available to support a finding that the standard of performance has been met. In principle, there is no reason why the first of these—the performance standard—cannot be expressed in quantitative terms. The rule does this in several places—notably, in including as performance objectives a designed containment period, a radionuclide release rate, and a pre-waste-emplacement groundwater travel time. Similarly, EPA's standard will establish limits on concentrations or quantities of radioactive material in the general environment.

Expressing a requisite level of confidence in quantitative terms is far more problematical. To be sure, measurement uncertainties are amenable to statistical analyses. Even though there may be practical limitations on the accuracy and precision of measurements of relevant properties, it is possible to make some quantitative statement as to how well these values are known. The licensing decisions which the Commission will be called upon to make involve additional uncertainties—those pertaining to the correctness of the models being used to describe the physical systems—which are not quantifiable by statistical methods. Conclusions as to the performance of the geologic repository and particular barriers over long periods of time must largely be based upon inference; there will be no opportunity to carry out test programs that simulate the full range of relevant conditions over the periods for which waste isolation must be maintained.

The validity of the necessary inferences cannot be reduced, by statistical methods, to quantitative expressions of the level of confidence in predictions of long-term repository performance. Similarly, the Commission will not be able to rigorously determine the probability of occurrence of an outcome that fails to satisfy the performance standards. It must use some other language, such as "reasonable assurance," to characterize the required confidence that the performance objectives will be met. In practice, this means that modeling uncertainties will be reduced by projecting behavior from well understood but simpler systems which conservatively approximate the systems in question. Available data must be evaluated in the light of accepted physical principles; but, having done so, the Commission must make a judgment whether it has reasonable assurance that the actual performance will conform to the standards the Commission has specified in this rule.

It should also be borne in mind that the fact-finding process is an administrative task for which the terminology of law, not science, is appropriate. The degree of certainty implied by statistical definition has never characterized the administrative process. It is particularly inappropriate where evidence is "difficult to come by, uncertain or conflicting because it is on the frontiers of scientific knowledge." *Ethyl Corp.* v. *EPA*, 541 F.2d 1, 28 (D.C. Cir. 1976).

Population vs. Individual Dose

Some commenters noted that the performance objectives are derived from an assumed EPA standard that is based upon consideration of doses to populations as a whole rather than to the maximally exposed individual. Several other analyses of repository design have examined prospective requirements in terms of keeping individual doses below specified values, and as a consequence have led to different conclusions. The differences represent a source of potential uncertainty regarding the overall goal for safety performance. However, the resolution of this question is a matter within the province of EPA. The Commission has assumed that the EPA approach will be based upon population dose, since that is the direction reflected in its working documents and its

recently proposed standard. The Commission's rule, especially as modified to allow performance objectives for particular barriers to be adapted in the light of the EPA standard, can be applied whether the overall safety goal is expressed in terms of total releases to the environment or in terms of maximum dose to an individual or maximum concentration at any place or time.

If EPA were to establish a standard based upon individual doses, the Commission would review the provisions dealing with the content of the license application (§ 60.21) so as to develop requirements for any additional analyses that might be needed to evaluate site-specific pathways for released radionuclides to reach humans.

Long-Term Post-Closure Monitoring

Several of the commenters suggested that the performance confirmation program be required to be continued for as long as one thousand years after permanent closure of the underground facility. The Commission considers such measures unnecessary and unlikely to provide useful information on the performance of a geologic repository. The multiple barrier approach the Commission has adopted will result in containment of substantially all of the radioactive materials within the waste packages for centuries after permanent closure, the feasibility of obtaining reliable data on subsurface conditions over a period of centuries is questionable, and the practicality of taking remedial action after sealing of the shafts is doubtful. Moreover, the emplacement of remote subsurface monitoring instruments and the provision of data transmission capabilities, could provide additional pathways for release that would make it more difficult to achieve isolation. Rather, the Commission has adopted an approach where the retrievability option is maintained until a performance confirmation program can be completed that will allow the Commission to decide, with reasonable assurance, that permanent closure of the facility, with no further active human intervention with the emplaced wastes, will not cause an unreasonable risk to public health and safety. See also, *Retrievability*, above.

Section-by-Section Analysis

The final rule included numerous changes that reflect the considerations discussed above. Other changes, not involving significant policy issues, have also been incorporated in the final rule. The following section-by-section analysis identifies the changes from the proposed rule and includes an appropriate explanation for the revisions not previously discussed. Principal references are to the text of the final rule. Where the counterpart provision of the proposed (or procedural) rule appeared in a different place, that citation is given in brackets.

Section 60.2 Definitions.

"Accessible environment." See *Accessible Environment/Controlled Area*, above.

"Anticipated processes and events." See *Anticipated/Unanticipated Processes and Events*, above.

"Candidate area." This term is unchanged, but will be considered again in connection with the Commission's review of the licensing procedures in the light of the Nuclear Waste Policy Act.

"Controlled area." New. See *Accessible Environment/Controlled Area*, above.

"Decommissioning." Deleted. See *Decommissioning*, above.

"Disposal." The undefined term "biosphere" has been changed to "accessible environment." As used in these rules, "isolation" refers specifically to radioactive materials entering the accessible environment. The definition here is related to the concept of isolation rather than to the concept of emplacement, as in Section 2(9) of the Nuclear Waste Policy Act; the Commission believes that in each instance the term is defined in a manner appropriate to its context, and that the differences in the definitions will not result in confusion or conflict.

"Disturbed zone." The term "disturbed zone" has been modified to relate changes in the physical or chemical properties of the controlled area to the performance of the geologic repository.

"Engineered barrier system." This term refers to the system for which containment and release rate requirements are specified. It does not include the shafts and boreholes, and their seals. The proposed rule referred instead to "engineered systems," a term that was misleading because it could be understood to include shaft and borehole seals. However, the Commission recognizes that as used in the Nuclear Waste Policy Act of 1982, the related term "engineered barriers" might be construed to include shaft and borehole seals. The NRC will review whether the definition requires change in light of the Nuclear Waste Policy Act. Preliminary review does not indicate a need for change in this definition.

"Far field." The term "far field" has been deleted from the rule. Therefore, the definition is no longer necessary.

"Floodplain." Deleted. This definition was taken from Executive Order 11988, which relates to environmental consequences of occupancy and modification of floodplains. Those effects need to be considered as part of the Commission's environmental review, but they do not implicate the radiological concerns that are addressed in Part 60. The term "floodplain" still appears in § 60.122(c)(1). However, rather than establishing any particular frequency as the means for defining its extent, the Commission will allow the factors specified in § 60.122(a)(3) to be used in assessing the significance of flooding, whenever it may occur.

"Geologic repository." Clarifying change, to bring the terminology into line with common usage. The new definition includes only that portion of the geologic setting that provides isolation—not the entire geologic setting. The term, as defined, is considered to be synonymous with "repository" as defined at Section 2(18) of the Nuclear Waste Policy Act. (The added clause "or may be used for" conforms to the statutory definition as well as the definition in existing Part 60).

"Geologic setting." See *Terminology*, above. The phrase "spatially distributed" was superfluous and has been deleted.

"High-level radioactive waste." The Nuclear Waste Policy Act distinguishes between "high-level radioactive waste" and "spent nuclear fuel." These technical criteria are applicable equally to both categories. Accordingly, no change in the definition of high-level radioactive waste is required at this time.

"Important to safety." See *"Important to Safety,"* above.

"Medium" or "geologic medium." Deleted. For the sake of clarity, the term "medium" is now replaced by "geologic medium" throughout the rule. Since the term "geologic medium" should be sufficiently clear to the professional community, it no longer appears necessary to define it.

"Overpack." This term has been deleted. Because the overpack could be a component of the waste package, it was included in the definition of the term "waste package." However, this term is not used in the final rule.

"Performance confirmation." The final rule's performance objective with respect to retrievability of the waste refers to the completion of a performance confirmation program and Commission review of the information obtained from such a program. The addition of this definition is intended to

clarify the intended purpose of the performance confirmation program.

"Permanent closure." New. See *Decommissioning*, above.

"Restricted Area." New. See *Important to Safety*, above.

"Retrieval." New. See *Retrievability*, above.

"Saturated zone." New. Since the performance objectives in the final rule specifically refer to disposal in the saturated zone, a definition derived from Water Supply Paper 1988 (U.S.G.S., 1972) has been included.

"Site." See *Terminology*, above.

"Stability." Deleted. See *Siting Criteria*, above. Also, *Section by Section Analysis*, § 60.113, below.

"Subsurface facility." Deleted. Both "subsurface facility" and "underground facility" were defined in the proposed rule. The use of the two closely similar terms resulted in some confusion. "Subsurface facility" has been deleted and replaced (see definition of "Permanent closure") by explicit reference to shafts and boreholes, as well as the underground facility, where appropriate.

"Transuranic wastes." Deleted. See *Transuranic Waste*, above.

"Unanticipated processes and events." New. See *Human Intrusion*, above.

"Waste form." Clarifying change to bring terminology into line with comon usage.

"Waste package." Revised. Commenters questioned the clarity of this proposed definition and one commenter suggested an alternative definition. One commenter misinterpreted the proposed definition to require that the outermost component of the waste package be an airtight, watertight sealed container. The revised definition no longer uses the terms "discrete backfill" or "overpack," which were ambiguous. To the extent that absorbent materials or packing are placed around a container to protect it from corrosion by groundwater, or to retard the transport of radioactive material to the host rock, these materials would be considered part of the waste package. However, while the final rule no longer imposes a requirement for an airtight, watertight, sealed container as part of the waste package, the Commission believes it likely that DOE will incorporate such a component into the design of the waste package in order to meet the performance objectives for the engineered barrier system for the period following permanent closure. The related terms "disposal package" and "package," as defined at Section 2(10) of the Nuclear Waste Policy Act, include unspecified overpacks; for purposes of the Commission's rules, and specifically in connection with the performance objective set out at § 60.113(a)(1)(ii)(A), a more precise definition is needed. The differences in the definitions will not, in the judgment of the Commission, result in confusion or conflict.

"Water table." New. Required because the term appears in the definition of "saturated zone." The definition is derived from Water Supply Paper 1988 (U.S.G.S., 1972).

Section 60.10 Site characterization.

One amendment clarifies the point that investigations shall be conducted in such a manner as to limit adverse effects; the original language could have been construed to mean that the purpose of the investigations was to limit such effects. The provision calling, as a minimum, for the selection of borehole locations to limit subsurface penetrations was said to be confusing; the revision, which expresses the Commission's intention more clearly, includes a phrase that emphasizes that the number of penetrations must be adequate to obtain needed site characterization data. References to the "repository" have been replaced by terms that are more appropriate in their context.

Section 60.11 Site characterization report.

The ambiguous term "repository" has been replaced by defined terms ("geologic repository operations area" and "geologic repository") as appropriate in the context (in § 60.11(a)(6)(ii)).

Section 60.21 Content of application.

Section 60.21(c)(1)

Proposed § 60.21(c)(1) called for information regarding subsurface conditions "in the vicinity of the proposed underground facility." This has been clarified to refer to the controlled area and to other areas to the extent that subsurface conditions there may affect isolation within the controlled area.

Section 60.21(c)(1)(i)

The requirement for analysis of potential pathways has been extended to include "potentially permeable features" whether or not they are, as stated in the proposed rule, "permeable anomalies." Whether the feature is actually permeable or anomalous is not the point; what matters is the potential permeability.

The adjective "bulk," as applied to geomechanical, hydrogeologic, and geochemical properties, has been deleted as ambiguous and confusing.

Section 60.21(c)(1)(ii)(A)

Clarifying change to include analysis of climatology as well as meteorology.

Section 60.21(c)(1)(ii)(B) [§ 60.123(b)]

This paragraph concerns analyses of the favorable and potentially adverse conditions listed in § 60.122. The addition of language pertaining to the depth and breadth of investigations assures that the information needed to analyze these conditions will be available for NRC review. This is a modification of proposed § 60.123(b) for conduct of such investigations. The modification ties the extent of investigations to effects of potentially adverse conditions on waste isolation within the controlled area, rather than to specified distances, as originally proposed.

Section 60.21(c)(1)(ii)(C)

References to "expected" performance and releases have been deleted from § 60.21(c)(1)(ii)(C) because, as revised, the evaluation must also take into account the assumed occurrence of unanticipated processes and events. Since the performance objectives provide for consideration of unanticipated processes and events, relevant information must be included in the safety analysis report. The evaluation is limited to periods after permanent closure, as the option to retrieve the wastes is available earlier.

Section 60.21(c)(1)(ii)(D) [§ 60.21(c)(3)(iii)]

This paragraph reflects text that formerly was in § 60.21(c)(3). The latter paragraph relates to structures, systems, and components "important to safety." The term "important to safety," as used in the final rule, pertains to the period of operations. Because the requirement for evaluating the effectiveness of the barriers was directed to questions regarding containment and isolation, it was relocated so as to place it in the proper context.

Section 60.21(c)(1)(ii)(E) [§ 60.21(c)(1)(ii)(D)]

This paragraph, as proposed, was duplicative insofar as it related to performance of the geologic repository after permanent closure. It has therefore been revised so as to pertain solely to identification of structures, systems, and components important to safety. [As in § 60.21(c)(1)(ii)(C) reference to "expected" has been deleted as confusing.]

Section 60.21(c)(1)(ii)(F) [§ 60.21(c)(1)(ii)(E)]

This paragraph has been revised to require that analyses and models used to predict future conditions and changes in the geologic setting be "supported by" rather than "confirmed by" an appropriate combination of methods such as enumerated in the rule. Such support concerns not only the reliability of the codes themselves, but also the representativeness of the models with respect to the physical conditions of the site. The Commission recognizes that confirmation, in the strict sense, is not achievable. The term "field verified laboratory tests" has been clarified to read "laboratory tests which are representative of field conditions."

Section 60.21(c)(4)

Section 60.21(c)(4) has been amended to reflect the limitation on the scope of "important to safety." The footnote reference to 10 CFR Part 50 has been deleted because of the cross-reference contained in Subpart G.

Section 60.21(c)(8)

Section 60.21(c)(8) required a description of controls to restrict access. After permanent closure, monuments will be an important control. The paragraph has been amended to require that a conceptual design of such monuments be provided.

Section 60.21(c)(9) and § 60.21(c)(11)

Conforming changes required by elimination of the term "decommissioning."

Section 60.21(c)(13)

The changes in this paragraph reflect the revised definitions of "geologic setting," "site," "geologic repository," and "disturbed zone." No substantive change is intended.

Section 60.21(c)(14)

Conforming change reflecting limitation of "important to safety" to concerns related to the period of operations.

Section 60.21(c)(15)(i)

Editorial change limiting information on DOE organizational structure to that which pertains to construction and operation of the geologic repository operations area.

Section 60.21(c)(15)(ii)

Removed. This provision was redundant with § 60.21(c)4. (Subsequent paragraphs have been renumbered.)

Section 60.21(c)(15)(vi).

Conforming change required by elimination of the term "decommissioning."

Section 60.21(c)(15)(vii) [§ 60.21(c)(15)(viii)].

Conforming change reflecting limitation of "important to safety" to concerns related to the period of operations.

Section 60.22 Filing and distribution of application.

Section 60.22(a) has been revised to conform to § 60.3(a). In both places, the rule now refers to receipt and possession of source, special nuclear, and byproduct material "at a geologic repository operations area."

The reference in § 60.22(d) to "geologic repository" has also been changed to "geologic repository operations area", as the latter term is a more precise designation of the HLW facility that is the subject of the proposed licensing action.

Section 60.31 Construction authorization.

The overall safety finding is related to the "geologic repository operations area" because that term refers to the HLW facility subject to NRC licensing authority. [This is also the reason for the change in § 60.31(a)(1)(ii).] In order to assure that the relevant features of the controlled area are considered in arriving at this finding, § 60.31(a)(2) now specifically refers to consideration of the "geologic repository." Because siting and design criteria are supplemental to performance objectives in Subpart E, § 60.31(a)(2) has been amended to provide for evaluation of the geologic repository's compliance with the performance objectives as well. The reference to Subpart F has been deleted; that subpart, which pertains to DOE's performance confirmation program, is now referenced in § 60.74

Section 60.32 Conditions of construction authorization.

The change of "site data" to "data about the site," in § 60.32(b), is a clarifying editorial amendment.

In § 60.32(c), "repository" has been replaced by the defined term "geologic repository." The restrictions that may be imposed under this paragraph can include measures to prevent adverse effects on the geologic setting as well as measures related to the design and construction of the geologic repository operation area.

Section 60.43 License specifications.

Section 60.43(b)(3) has been clarified by substituting "host rock" for the ambiguous and undefined term "storage medium" that previously appeared.

Section 60.43(b)(5) has been amended to require that license conditions include items in the category of controls related to the controlled area rather than the geologic repository operations area. This is a conforming change, which is made possible by the new definition of "controlled area" as an area which may extend beyond the boundaries of the geologic repository operation area. However, since additional controls may be needed outside of the controlled area (see § 60.121), the provision is not limited to the controlled area alone. Under 10 CFR Part 20 and this part, the licensee will have to establish restricted areas for purposes of assuring radiological protection during the period of operations, but this will not necessarily require the incorporation of specific conditions in the license. (See 10 CFR 50.36, a corresponding provision in the Commission's facility licensing regulations.)

Section 60.46 Particular activities requiring license amendment.

Section 60.46(a)(3) has been amended for the reasons stated in the discussion of § 60.43(b)(5), to refer to the controlled area. This requirement would continue to be applicable even after permanent closure unless and until the license is terminated pursuant to § 60.52.

Section 60.46(a)(6). See *Decommissioning*, above.

A conforming change has been made to § 60.46(a), "Particular activities requiring license amendment," which adds a new paragraph (a)(7) to make clear that any activity involving an unreviewed safety question requires a license amendment. In its proposed form § 60.46(a) could have been read to require a license amendment only for the six specific activities listed. While the enumerated activities are quite broad and may well include any change involving an unreviewed safety question, the conforming language is intended to make this point explicit. It is of course clear that an amendment would also be necessary to accomplish a change in the license conditions incorporated in the license. (The revision in no way affects the authority of DOE, under § 60.44(a)(1), without prior Commission approval, to make changes, tests, or experiments that involve neither a change in the license conditions incorporated in the license nor an unreviewed safety question.)

Section 60.51 License amendment for permanent closure.

Conforming changes have been made to refer to "permanent closure" instead of "decommissioning." See *Decommissioning*, above.

The area required to be identified is now stated to be the "controlled area" because that encompasses the region in which waste isolation is required.

The significance of preserving information is discussed in the section on *Human Intrusion*, above. To assure complete recording of the location of the geologic repository, the Commission has now provided for information to be placed in land record systems as well as archives; this better reflects its original intention. It also includes a reference to State government agencies in order to further assure comprehensiveness. It is not the Commission's intention to require that any new systems or archives be created, but only that those that are available and appropriate should be employed. A further modification expresses the intention that information concerning the detailed location of the underground facility and boreholes and shafts, as well as the boundaries of the controlled area, must be recorded.

In § 60.51(a)(4), the undefined phrase "emplacement media" has been changed to "host rock."

Section 60.52 Termination of license.

Conforming changes. See *Decommissioning*, above.

Subpart D—Records, Tests, and Inspections.

There are two substantive changes in Subpart D. First, the specification of required construction records has been determined to be more appropriately included here rather than in the design criteria in Subpart E. Editorial changes, including renumbering of sections, have been made to accomplish this. Second, the final rule now requires not only that the geologic repository operations area be designed so as to permit implementation of a performance confirmation program but, as the Commission had originally intended, that such a performance confirmation program should actually be required to be carried out.

Section 60.71 General recordkeeping and reporting requirement.

Paragraphs (a) and (b) have been retained. Paragraph (c) is moved to § 60.73. The caption has been changed because records and reports are now treated in §§ 60.71–60.73, rather than § 60.71 alone.

Section 60.72 Construction records [§ 60.134(c)].

Transferred from Subpart E. Survey records are to cover "underground facility excavations, shafts, and boreholes" rather than "underground excavations and shafts." This makes the inclusion of borehole records explicit. A clarifying amendment was made to indicate that the records must include a description of materials encountered rather than the materials themselves.

Section 60.73 Reports of deficiencies [§ 60.71(c)].

Renumbered. The change of "site characteristics" to "characteristics of the site" is editorial.

Section 60.74 Tests. [§ 60.72].

A new paragraph (§ 60.74(b)) of a clarifying nature has been added which requires tests carried out under this section to include a performance confirmation program carried out in accordance with Subpart F of this part. The proposed rule inadvertently did not require such a program, merely a description of one.

Section 60.75 Inspections. [§ 60.73]

References to "site" have been changed to "geologic repository operations area" or "location" where appropriate. See *Terminology*.

Subpart E—Technical Criteria

Section 60.101 Purpose and nature of findings.

A change has been made to § 60.101(a)(2) with respect to evaluations of performance of the engineered barrier systems and geologic media. The point that is being made is that the further into the future one must project, the greater the uncertainties will be. The Commission did not mean to suggest that the specific period of a thousand years is especially significant; the more general "many hundreds of years" specified in the final rule better expresses the Commission's intent.

A sentence has been added to § 60.101(a)(2) that emphasizes that demonstration of compliance with long-term performance objectives and criteria will involve the use of data from accelerated tests and suitably supported predictive models.

A reference to "repository" in § 60.101(b) has been changed to "geologic repository operations area" to conform with a parallel change in § 60.31.

Section 60.102 Concepts.

An introductory paragraph has been added to explain the purpose of this section and to indicate that it is subordinate to the definitions contained in § 60.2

See *Transuranic Waste (TRU)*, above, with respect to the deletion of the reference to TRU.

The section on *Terminology*, above, explains changes affecting the terms "accessible environment," "controlled area," "geologic setting," and "site." These changes are reflected in amended § 60.102(c). The reference to the host rock was deleted so as to avoid any implication that other characteristics of the geologic setting might not, where appropriate, also receive "particular attention."

See *Decommissioning*, above, for an explanation of the change in the discussion of "permanent closure." Because activities unrelated to waste isolation may continue at the geologic repository operations area after permanent closure, the last sentence of § 60.102(d) has been deleted.

The treatment of containment and isolation has been consolidated in light of changes made in the performance objectives. The reference to assessment of uncertainties instead of prediction of consequences takes into account the need to compensate for a broader range of factors, such as identification of the events which are to be considered in the license review. See *Reasonable Assurance* and *Anticipated/Unanticipated Processes and Events*, above. A second reason for the change stems from a commenter's criticism of the statement that consequences of events are "especially difficult to predict rigorously" early during the life of a repository; on the contrary, he suggested, consequences would be more difficult to predict over longer periods of time. The matter need not be resolved in those terms. The point the Commission was trying to make is that containment measures are appropriate to compensate for the uncertainties involved in assessing radionuclide transport in the presence of high radiation and thermal levels.

The respective contributions of the engineered barrier system and the geologic setting to the achievement of isolation are highlighted in a new sentence. Other changes are made to conform with revised definitions. See analysis of § 60.2.

Performance Objectives

Section 60.111 Performance of the geologic repository operations area through permanent closure. [§ 60.111(a)].

The provisions of § 60.111(a) dealing with radioation protection and releases

of radioctive material for the period through permanent closure of the underground facility are unchanged in substance from the proposed rule. The paragraph has been renumbered and some editorial changes have been made.

The provisions of § 60.111(b) dealing with retrievability of waste have been modified to link the period of retrievability more closely to the performance confirmation program and to allow the Commission to modify the retrievability period on a case-by-case basis based on the waste emplacement schedule and the planned performance confirmation program. The final rule also specifies that the period of retrievability begin at the initiation of waste emplacement rather than after waste emplacement is complete. Finally, the final rule explicitly states that backfilling of portions of the underground facility is not precluded, provided the retrievability option is maintained, and that the Commission may decide to allow permanent closure of the underground facility prior to the end of the designed retrievability period. While these provisions were discussed in the supporting information, they were not explicitly stated in the proposed rule. Also see *Retrievability*, above.

Section 60.112 Overall system performance objective for the geologic repository after permanent closure. [§ 60.111(b)(1)].

The term "subsurface facility" has been deleted, as explained in the analysis of § 60.2, and conforming changes have been made.

There is no conceptual difference between the proposed rule's reference to releases *from the geologic repository* and the final rule's reference to releases *to the accessible environment*. The Commission prefers the latter formulation because it more closely conforms to the standard-setting authority of EPA. The proposed rule's definition of "accessible environment" was too general to allow such an approach. Under the final rule, however, the subsurface portions of the accessible environment and the geologic repository are contiguous. See *Terminology*, above.

See also the discussion, above, relating to *Anticipated/Unanticipated Processes and Events*.

Several commenters recommended that it would be preferable to leave the rule in proposed form until the EPA standard had been published, at which time NRC could adapt its regulations to the standards that EPA actually promulgates. The Commission would, of course, prefer to have final EPA rules available; and, if they were, it could build EPA's provisions, where appropriate, into Part 60. In the absence of the final EPA standard, however, the Commission deems it important to provide not only to DOE but also to other interested persons, including governmental institutions, firm guidance with respect to the Commission's regulatory approach. As discussed under *Single vs. Multiple Performance Standards*, above, the technical criteria provide some flexibility to take into account a range of standards that might be adopted by EPA. Should such standards, when adopted, depart from those that the Commission has assumed for purposes of analysis, the Commission would consider whether further rulemaking on its part would be desirable. The procedure that is being followed conforms to that prescribed by Section 121(b) of the Nuclear Waste Policy Act. See also the discussion regarding *Population vs. Individual Dose*.

Section 60.113 Performance of particular barriers after permanent closure. [§ 60.111(b)(2)–(3); § 60.112].

The performance objectives for particular barriers have been modified for reasons discussed at length above.

The analysis of *Single vs. Multiple Performance Standards* explains the basis for retaining numerical values, while allowing them to be modified as the particular case warrants. The factors alluded to there as among those that might be taken into account are set out in § 60.113(b). § 60.113(c) reflects the observation there that considerations related to unanticipated processes and events could form the basis for additional performance requirements for individual barriers.

For the reasons presented under the heading *ALARA*, above, the Commission has elected not to apply an ALARA principle to the performance requirements in this section.

The reasons for elimination of requirements referring specifically to TRU are described in the section on *Transuranic Waste*, above. It should be noted, however, that the release requirements in § 60.113 apply to all radionuclides, including those that may be contained in any TRU that may be disposed of at a geologic repository operations area.

The proposed rule required an assumption that groundwater saturate the facility and that the performance of the waste packages be evaluated on this basis. This approach was proposed because mechanisms exist for groundwater transport to the underground facility, in salt formations as well as hard rock. It may not always be necessary or technically reasonable to assume the specified saturation conditions, provided that appropriate evaluations are made in the context of a particular application; the final rule therefore calls for the partial and complete filling with groundwater of available void spaces in the underground facility to be considered and analysed among the anticipated processes and events in designing the engineered barrier system. This provision would not appear to be needed for disposal in the unsaturated zone, even though there may be water transport from the underground facility, primarily because the design can, in principle, provide for adequate drainage. (Criteria applicable to disposal in the unsaturated zone will be the subject of additional rulemaking.) Other changes in the provision are of a clarifying or editorial nature.

Editorial changes have been made to avoid repetitious language in the performance objectives relating to the engineered barrier system's containment and controlled-release capabilities.

The proposed requirement with respect to containment would have specified that the HLW waste packages contain all radionuclides for at least the first 1,000 years after permanent closure. In response to comments relating to the demonstrability of a design to contain "all" radionuclides for an extended period, the Commission has modified the requirement so that the design must provide "substantially complete" containment. The reason for relying on containment as one means for assuring achievement of the overall system performance objective is that many sources of uncertainty are particularly significant during the period when radiation and thermal conditions in the underground facility are dominated by fission product decay. This period will depend, to some extent, on the characteristics of the particular facility. The Commission has therefore allowed the containment period to be fixed, where appropriate, at a shorter period. See, also, the discussion of *Single vs. Multiple Performance Standards*.

The incorporation of a general standard for release of radionuclides from the engineered barrier system ("a gradual process which results in small fractional releases to the geologic setting over long times") places the specific criteria into context, thereby emphasizing the policy objective underlying these criteria. Moreover, it indicates the close relationship between the provisions dealing with containment and limited release. These are coupled parameters that should not be varied independently, but rather should be

viewed as a system to control the release to the geologic setting. Again, see *Single vs. Multiple Performance Standards.*

The fractional release rate has been modified slightly to eliminate an ambiguity identified by one commenter. The new language makes it clear that "one part in 100,000 per year" refers to the activity at 1,000 years following permanent closure. This is a substitute for 1 part in 100,000 of the maximum inventory of the particular radionuclide at any time after 1,000 years after permanent closure. The underlying concern in the proposed rule was that the amounts of certain radionuclides, such as Ra–226 and other actinide daughters, increased with time, and that it was necessary to consider the maximum inventory of these nuclides in assessing repository performance. The analyses performed in the rationale document indicate that these nuclides are not important with respect to meeting the EPA standard as presently formulated. Accordingly, the Commission has chosen the less complicated formulation that appears in the final rule. It should be noted that the release rate refers to activity at 1,000 years after closure, even though a different containment period may be approved or specified by the Commission; the rate may also be modified, however, under the provisions of the final rule. DOE, in its comments on the proposed rule, suggested that the fractional release rate requirement should not apply to nuclides that constituted less then 0.1% of the inventory remaining at 1,000 years. This recommendation has not been adopted since it could lead to excessive releases. Table 5 of the rationale document in NUREG–0804 shows that the inventory of radioactive material in a repository containing 100,000 metric tons of spent fuel is 1.7×10^8 curies after 1,000 years. The DOE suggestion would eliminate nuclides whose inventories were less than 170,000 curies from consideration of their release rate from the engineered barrier system, whereas the NRC provisions of § 60.113(a)(1)(ii)(B) would eliminate nuclides whose release rates were less than 1.7 curies/yr from further consideration. While the Commission has not adopted the recommended change it notes that, under the provisions of the final rule, DOE could recommend an alternative release rate for nuclides in the light of the standard adopted by EPA or the geochemical characteristics of the host rock, surrounding strata, and groundwater. In particular, the characteristics of the host rock immediately adjacent to the underground facility may be well understood because of the excavation activities and, where appropriate, such characteristics could be taken into account in specifying the nuclide release rate.

The previously proposed performance objective for the geologic setting [§ 60.111(b)(3)] has been deleted. The new definition of "anticipated processes and events" includes the assumption that processes operating in the Quaternary Period continue to operate but with perturbations caused by the presence of emplaced radioactive waste superimposed thereon. The remainder of the proposed paragraph merely restates part of the overall system performance objective with respect to performance of the geologic setting and would be redundant.

The references to "stability" in the geologic setting since the start of the Quaternary Period have been deleted. What the Commission had intended was that the structural, tectonic, hydrogeologic, geochemical, and geomorphic processes be such as to enable the recent history to be interpreted and to permit near-term geologic changes to be projected with relatively high confidence. The selection of the term "stability" to convey this meaning was unfortunate. Commenters correctly pointed out that a geologic setting can only be said to exhibit stability in a relative sense. As they noted, the proposed rule gave no guidance as to the degree of required stability and, accordingly, the provision would introduce ambiguity with respect to one of the major elements of the geologic repository. The factors the Commission had identified are all important, but the appropriate way to consider them is to assess them in the context of favorable and unfavorable conditions and to evaluate the extent to which the geologic repository's achievement of the overall system performance objective might be affected. If the relevant processes are not well understood, one or more of the potentially adverse conditions will be exhibited and such an evaluation will be required.

The pre-waste-emplacement groundwater travel time provision is subject to adjustment on a case-by-case basis. See *Single vs. Multiple Performance Standards.* A clarifying amendment relates the travel time provision, as previously only implied, to the "fastest path of likely radionuclide travel from the disturbed zone to the accessible environment." Relating this provision to the "disturbed zone" instead of the "far field" involves no substantive change. As stated in the analysis of § 60.2, the term "far field" has been deleted from the rule.

Some commenters suggested that the groundwater travel time be expressed in terms of post-emplacement as well as pre-emplacement conditions. This assumes that post-emplacement changes would be significant. By definition, however, the portion of the geologic setting significantly affected by waste emplacement constitutes the "disturbed zone." The groundwater travel time provision applies to transport from the disturbed zone to the accessible environment. This parameter is not dependent upon the effects of waste emplacement.

One commenter characterized the travel time performance objective as "invalid" without a clear definition of "accessible environment." The Commission agrees that the proposed rule was subject to a number of interpretations. However, the modified definition provides a means for delineating the limits of the accessible environment so as to take proper account of site-specific conditions. Under this revised definition, a subsurface area extending no more than 10 kilometers from the underground facility may be used to isolate the waste from the accessible environment. This, in effect, places an upper limit on the rate of groundwater travel to the accessible environment. Refer to the discussion of "accessible environment" and "controlled area" under *Terminology*, above.

Land Ownership and Control

Section 60.121 Requirements for ownership and control of interests in land.

The proposed rule set out ownership and control requirements for the "geologic repository operations area." The text, however, related these requirements to the achievement of isolation. To express this concept properly, the Commission has made the requirements in §60.121(a) applicable not only to the geologic repository operations area, but to the controlled area as well. Section 60.121(b), which deals with isolation and not with the period of operations, is amended so as to refer to the controlled area. (The reference here to the "geologic repository" instead of "site or engineered system" is not substantive; it reflects the revised definitions identified in the analysis of § 60.2.) A conforming change has also been made to the caption of the section.

In response to a commenter's suggestion, the acquisition of appropriate water rights is now explicitly required. This will not necessitate any separate action on the part of DOE if it appears that such needed water rights have been obtained, by implication, as a result of reservation or acquisition of lands. See *U.S.* v. *New Mexico*, 438 U.S. 696 (1978), *Cappaert* v. *U.S.*, 426 U.S. 128 (1976). The "purpose of the geologic repository operations area" is intended to be construed broadly to include the isolation of radioactive wastes after permanent closure as well as any water rights needed during the period of operations.

The Commission declines an invitation to define a specific area that must be acquired to assure public health and safety prior to permanent closure. The size of this area will depend upon the particular activities to be carried out by DOE. There must be an "unrestricted area" to which releases of radioactive materials will be maintained within the limits specified in 10 CFR Part 20, § 60.111(a). The establishment of this unrestricted area must also take accidents into consideration, since structures, systems, and components "important to safety," as defined in § 60.2, must be designed so as to limit radiation doses under accident conditions to 0.5 rem at the boundary of the unrestricted area.

Siting Criteria

Section 60.122 Siting criteria. [§ 60.122–60.124].

The following detailed comments supplement the discussion under the caption *"Siting Criteria"* in the main text, above.

Section 60.122(a) consolidates the introductory paragraphs of proposed §§ 60.122 and 60.123, together with proposed § 60.124. This change is designed to provide a clearer statement of the relationship between the favorable and potentially adverse conditions. The revised language makes it clear that all such conditions relate to isolation of the waste after permanent closure.

Proposed § 60.124 had specified ways to demonstrate that potentially adverse conditions would not "impair significantly" the isolation ability of the geologic repository. This has been modified so as to refer instead to "compromise" of such site suitability. This change is made to eliminate any question regarding the difference between the two terms. No such difference was intended. Both terms relate to conditions which would potentially preclude the Commission from finding that the geologic repository would achieve the performance objectives.

The rule now provides for evaluating the effect of the potentially adverse conditions on the "site" rather than the "geologic setting" or "disturbed zone." See *Siting Criteria*, above.

In the provision which states that potentially adverse conditions may be compensated by the presence of favorable conditions, the Commission has specified the standard for measuring the adequacy of such compensation—namely, achievement of the performance objectives relating to isolation of waste.

Section 60.122(b)(1) [§ 60.122(a)–(e)].

Proposed paragraphs 60.122 (a), (c), (d), and (e) have been consolidated for editorial reasons. Even if some of the cited processes might have an adverse effect on the geologic repository's ability to isolate the waste, the Commission intends that the other processes may nevertheless be treated as favorable conditions. The distinction between "tectonic" and "structural" processes is so "fine," as it was characterized by one commenter, that the final rule uses only the former term. The references to "the start of the Quaternary Period" have been removed because of the difficulties that might be involved in dating this point with precision; for present purposes, all that is important is that processes "operating during the Quaternary Period" be identified and evaluated, and this is reflected in the revised language. Note the fact that while the provision, as before, applies to favorable conditions in the "geologic setting," the broader definition of that term in the final rule recognizes that processes operating more remotely from the geologic repository must be taken into account.

Section 60.122(b)(2) [§ 60.122(f)].

The proposed rule included siting criteria applicable only to disposal in the saturated zone. This paragraph adapts the provision that dealt with hydrogeologic conditions in the host rock and is appropriately limited to the saturated zone option. The Commission no longer identifies "low groundwater content" as a favorable condition because it is the rate and direction of groundwater movement rather than the amount of groundwater present that is of primary significance; thus, instead, the final rule substitutes a reference to low permeability and downward hydraulic gradient. This change also addresses more clearly the prior consideration about inhibition of groundwater circulation in the host rock. Similarly, instead of referring to inhibition of groundwater flow between hydrogeologic units, the Commission specifies the properties which result in such inhibition, namely low vertical permeability and low hydraulic potential. Since the paragraph relates to the host rock, the reference to shafts, drifts, and boreholes was not fully appropriate and, in any event, is dealt with by identification of the pertinent properties.

The reference to groundwater travel time has been modified to conform with the language of the related performance objective. The proposed rule measured this property from the underground facility. However, the changes that may occur in the disturbed zone may negate the favorable condition in that part of the geologic setting and, accordingly, the final rule specifies that the travel time in question is to be measured from the disturbed zone to the accessible environment. There is no basis for identifying a particular number of years that will be deemed to be substantially in excess of 1,000 years. If for a particular site the value is sufficiently high to enhance the Commission's confidence that the performance objectives will be met, then it can appropriately be considered as a favorable condition.

Section 60.122(b)(3) [§ 60.122(g)].

Since the listed geochemical conditions may or may not occur simultaneously, yet since any of them may retard the transport of radionuclides, the paragraph has been stated in the disjunctive in the final rule (by substituting "or" in the place of "and").

Section 60.122(b)(4) [§ 60.122(h)].

This paragraph concerns transformation of "mineral assemblages" under thermal loading. It would be a favorable condition if changes left the capacity to inhibit radionuclide transport unaffected; the proposed rule, which spoke only of "increased" capacity, was too restrictive.

The paragraph is concerned primarily with the behavior of mineral assemblages which form coatings along the fracture paths along which radionuclides are anticipated to migrate; it would be incorrect, when referring to this surface zone, to adopt a commenter's suggestion that the Commission refers instead to "rock" or "geologic media."

Section 60.122(b)(5) [§60.122(i)].

This paragraph, relating to depth of emplacement, is unchanged. The

purpose of the provision is to reflect the consideration that wastes buried at least 300 meters below the surface are less subject to disturbance, especially by human intrusion, than wastes closer to ground level would be. As in the case of other favorable conditions, it should be emphasized that the absence of a particular one or more of them does not rule out a site or even demand explanation; it simply means that other favorable conditions must be cited to show that the criterion set out in § 60.122(a)(1) has been satisfied. (The elevation being referred to is the altitude above mean sea level of the lowest point on the surface but the Commission perceives no need to express the concept, as one commenter had suggested, in such detail)

Section 60.122(b)(6).

New. See *Population—Related Siting Critera*, above.

Section 60.122(j)].

The proposed rule would have treated as a favorable condition "any local condition of the disturbed zone that contributes to isolation." This was criticized as being unduly general and vague. As the key favorable conditions appear to have been identified, the Commission has concluded that inclusion of such a "catch all" is unwarranted.

Section 60.122(c)(1) [§ 60.123(a) (1) and (6)].

This paragraph is adapted from two provisions of the proposed rule. Unlike most of the potentially adverse conditions, the prospect of flooding is of most concern prior to permanent closure. Even though criteria in § 60.133 provide that the underground facility be designed to handle water intrusion, the anticipated design features need not be sufficient to cope with massive inflows that could result from submersion of boreholes and shafts. Should such a situation develop, the ability of the geologic repository to achieve isolation of the wastes that had been emplaced could be compromised.

Because the concern relates to waste isolation, the paragraph has been rewritten so as to be limited to flooding of the underground facility. The design criteria for structures, systems, and components important to safety require that appropriate measures be taken to protect surface facilities against the consequences of flooding.

As there is no reason to differentiate between floods resulting from natural causes (i.e., from occupancy and modification of floodplains) and those resulting from failure of impoundments, the two pertinent paragraphs have been combined.

With respect to required investigations [§ 60.123(b)], see Section-by-Section Analysis, § 60.21(c)(1)(ii)(B).

Section 60.122(c)(2) [§ 60.123(a) (2) and (3)].

Two paragraphs related to the groundwater flow system have been consolidated. The conditions are to be regarded as potentially adverse if the activities in question are "foreseeable." This is more conservative than the original rule, which only identified "planned" activities. The proposed rule encompassed such activities with a potential to "significantly" affect groundwater flow. Any "adverse" effect should be treated as significant, and the final rule makes a change to reflect this.

Section 60.122(c)(3) [§ 60.123(a)(7)].

No substantive change from proposed rule.

Section § 60.122(c)(4) [§ 60.123(b)(8)].
[§ 60.123(b)(5)].
[§ 60.123(b)(6)].
[§ 60.123(b)(7)].

Structural deformation would have been regarded as a potentially adverse condition only if occurring within the disturbed zone during the Quaternary period. This approach was unduly limiting. Structural deformation in the geologic setting, whether or not of recent origin, is potentially adverse because of the effects which it may have upon the regional groundwater flow system. Of course, it is to be expected that structural deformation remote from the site, especially if ancient, can readily be found not to significantly affect the ability of the geologic repository to isolate the waste. Still, it is a potentially adverse condition and should be recognized as such.

Faulting is one kind of structural deformation. By including it here, the prior specific references to faulting can be eliminated.

Section 60.122(c)(5) [§ 60.123(b)(12)].

This paragraph is no longer restricted to the disturbed zone, but otherwise is unchanged in substance.

Section 60.122(c)(6) [§ 60.123(a)(8)].

The proposed rule referred to "expected climatic changes." Climatology is not sufficiently understood to enable us to limit our concern to "expected" changes, and the final rule therefore refers to characteristics of the geologic setting likely to be affected directly by reasonably foreseeable climatic change, viz. the hydrologic conditions.

Section 60.122(c)(7) [§ 60.123(b)(14)].

This paragraph referred to groundwater conditions that could "affect" solubility and chemical reactivity. The concern is not with effects *per se*, but rather with effects that increase the solubility or chemical reactivity of the engineered barrier system. This was not made explicit. In order to be more comprehensive, chemical composition of the host rock is added to the relevant groundwater conditions.

Section 60.122(c)(8) [§ 60.123(b)(15)].

Aside from the extension of this paragraph beyond the disturbed zone, there are no changes in substance. One clarifying addition, "of radionuclides," following "sorption" was made.

Section 60.122(c)(9) [§ 60.123(b)(13)].

This paragraph, related to non-reducing groundwater conditions, is only appropriate to disposal in the saturated zone.

Section 60.122(c)(10) [§ 60.123(b)(5)].

Dissolutioning will be treated as a potentially adverse condition throughout the geologic setting. Examples of the kinds of features that provide evidence of dissolutioning have been included so as to make it clear that the paragraph refers to processes that provide gross manifestations of their presence.

Section 60.122(c)(11) [§ 60.123(b)(8)].

No substantive changes.

Section 60.122(c)(12) [§ 60.123(a)(4)].

Section 60.122(c)(13) [§ 60.123(b)(10)].

Section 60.122(c)(14) [§ 60.123(b)(9)].

Section 60.122(c)(15) [§ 60.123(b)(11)].

Section 60.122(c)(16) [§ 60.123(b)(4)].

Extended from disturbed zone to the entire geologic setting, but otherwise unchanged.

Section 60.122(c)(17) [§ 60.123(b)(3)].

Consistent with the references to resources in the requirements for the content of the safety analysis report, § 60.21(c)(13), the presence on naturally occurrring materials for which economic extraction is currently feasible or potentially feasible during the foreseeable future may give rise to a potentially adverse condition. The provision now applies to the site, rather that the disturbed zone, since it is the site that provides isolation of the waste.

Section 60.122(c)(18) [§ 60.123(b)(1)].

Extended from the disturbed zone to the site.

Section 60.122(c)(19) [§ 60.123(b)(2)].

Extended from the disturbed zone to the site.

Section 60.122(c)(20) [§ 60.123(b)(16)].

The paragraph refers to "rock or groundwater" conditions that would require complex engineering measures. Although the engineering measures being referred to would be applied before permanent closure, the reason for having this criterion—as in the remainder of § 60.122(c)—stems from concerns about the ability of the geologic repository to satisfy the performance objectives with respect to isolation of the waste. Although complex engineering measures are not inherently unacceptable, their reliability must be carefully scrutinized in a licensing process. A geologic setting that requires the adoption of such complex engineering measures therefore can be viewed as exhibiting a potentially adverse condition. Although the final rule applies to the geologic setting instead of the disturbed zone, this paragraph would apply over only that part of the geologic setting that has features relevant to the selection of engineering measures.

Section 60.122(c)(21) [§ 60.123(b)(17)].

The criterion pertaining to stable underground openings is also unchanged in substance, except that it is no longer expressly limited to the disturbed zone. This is another criterion that pertains to the period of operations. However, like the preceding one, its underlying purpose is to assure that waste isolation objectives can be achieved. Failure of underground openings could result in the inability of the licensee to retrieve the wastes practicably, should such a course of action be found to be warranted. The consequence of this failure could be a transport of radionuclides to the accessible environment at levels exceeding the performance objectives.

Design Criteria for the Geologic Repository Operations Area

Section 60.130 Scope of design criteria for the geologic repository operations area. [§ 60.130(a)]

The separation of final § 60.130 from related sections is an editorial change.

As indicated in § 60.131, Subpart E is intended to specify site and design criteria. References to construction requirements are therefore inappropriate and have been deleted.

Section 60.131 General design criteria for the geologic repository operations area.

(a) Radiological protection. [§ 60.130(b)(1)].

Aside from editorial changes, the only revision relates to the design of the radiation alarm system; the language has been modified to conform to 10 CFR 72.74(b), and reference to radioactivity in effluents was deleted since this section has to do with radiation protection in restricted areas. Provisions for control of radioactivity in effluents are contained in § 60.131(b)(4), for emergency conditions, and in § 60.132(c), for normal operations.

(b) Structures, systems, and components important to safety.

(1) Protection against natural phenomena and environmental conditions. [§ 60.130(b)(2)].

The two proposed subparagraphs were duplicative and have been consolidated. The change of "site" to "geologic repository operations area" is appropriate because the concern being addressed is accident conditions at the HLW facility that could result in specified doses at the boundary. Similarly, "any relevant time period" has been deleted since this provision deals with the prevention or mitigation of accidents associated with waste storage and handling activities. Also, since it is accident conditions that are of concern, the provisions of the proposed rule dealing with operations, maintenance and testing were inappropriate and have been deleted. (The effects of natural phenomena and environmental conditions on waste isolation are addressed in § 60.122.)

(2) Protection against dynamic effects of equipment failure and similar events. [Section 60.130(b)(3)]

Editorial change, characterizing missile impacts as dynamic effects.

(3) Protection against fires and explosives. [Section 60.130(b)(4)]

The design criterion pertaining to continued operation during and after fires has been limited to such events as are "credible." This responds to comments that suggested that the proposed language could be interpreted to require protection against any fire or explosion that might be physically possible.

Because Subpart E is concerned with siting and design criteria, the Commission has not adopted a suggestion to incorporate, at this point, a requirement that explosives be excluded from areas containing radioactive materials. However, such a provision could be one of the license specifications found to be appropriate under § 60.43.

(4) Emergency capability [Section 60.130(b)(5)]

Provision has been made to require control of effluents during emergency conditions, see §§ 60.131(a). Otherwise unchanged.

(5) Utility services. [Section 60.130(b)]

Paragraph (i) has been clarified by inserting an explicit reference to systems "important to safety." Since the definition of "important to safety" refers to "accidents," the term "emergency conditions" has been changed to "accident conditions."

Proposed paragraph (iii) has been deleted because it was redundant with the general provision for inspection, testing, and maintenance.

Proposed paragraph (iv) [now (iii)] has been abbreviated. As proposed, it could have been interpreted as requiring systems, even if redundant, to be functional at all times. The intent was to assure that timely emergency power can be provided to structures, systems, and components important to safety. The provision has been modified accordingly. There is no need to state that emergency power be sufficient to allow safe conditions to be maintained, since this is implicit in the remainder of the text.

(6) Inspection, testing, and maintenance. [Section 60.130(b)(7)]

No change from proposed rule.

(7) Criticality control. [Section 60.130(b)(8)]

No change from proposed rule.

(8) Instrumentation and control systems. [Section 60.130(b)(9)]

The adjective "engineered" has been deleted, in reference to systems important to safety, so as to retain uniform terminology throughout the rule.

The provision for design "with sufficient redundancy to ensure that adequate margins of safety are maintained," which was criticized as being vague, has been deleted. The objective was to ensure that the design incorporate needed instrumentation and this has been accomplished more clearly by the amended language.

(9) Compliance with mining regulations. [Section 60.130(b)(10)]

No change from proposed rule. It should be noted that this provision is not intended to assert NRC authority over mining safety practices generally; but to the extent that the safety of workers is necessary for systems important to safety to perform their intended functions, the relevant design features are of legitimate concern to NRC.

(10) Shaft conveyances used in radioactive waste handling. [Section 60.133(c)]

The specific criteria applicable to hoists important to safety have remained unchanged. The general requirement that shaft conveyances used to transport radioactive materials be designed to satisfy the requirements for systems, structures, and components important to safety has been deleted because it was unduly broad; to the extent that the shaft conveyances are in fact important to safety, the applicable design requirements will still apply.

Section 60.132 Additional design criteria for surface facilities in the geologic repository operations area. [Section 60.131]

(a) Facilities for receipt and retrieval of waste. [Section 60.131(a)]

This paragraph has been shortened by deleting redundant and unnecessary detail. The requirement for safe handling and storage implies provision for inspection, repair, and decontamination as appropriate. Similarly, it is not necessary to state that surface storage capacity need not be provided for all emplaced waste; there must be sufficient capacity, however, to allow safe handling and storage.

(b) Surface facility ventilation. [Section 60.131(b)]

The only change is the reference to § 60.111(a) by paragraph. This is not a substantive amendment, as this is the only part of the performance objectives relevant to ventilation.

(c) Radiation control and monitoring. [Section 60.131(c)]

The reference to emergency operations is omitted because that subject is covered by § 60.131(b)(4). Editorial changes have been made here for the same reasons as were discussed in connection with that paragraph.

(d) Waste treatment. [Section 60.131(d)]

No change from proposed rule.

(e) Consideration of decommissioning. [Section 60.131(e)]

See *Decommissioning*, above. The term "decommissioning" has been retained in this context because surface facilities may continue to be used even after permanent closure. The requirement has been made more precise by specifying that the same standards apply here as to other activities licensed by NRC.

§ 60.133 Additional design criteria for the underground facility. [Section 60.132]

(a) General criteria for the underground facility. [Section 60.132(a)]

Proposed paragraphs (a)(1) and (a)(2) have been deleted because they were redundant.

The requirement that design features "enhance [containment and isolation of radionuclides] to the extent practicable at the site" has been changed to provide that the design shall "contribute" to such containment and isolation. As proposed, this provision could have been construed as imposing requirements substantially in excess of those needed to satisfy the performance objectives. This was not the intention. See also the discussion of *ALARA*, above.

The requirement to design the underground facility against the effects of disruptive events has been modified to apply to events occurring during the period of operations and to exclude water and gas intrusions to eliminate redundancy with other provisons of the rule. The requirement is also limited to consideration of *credible* disruptive events.

(b) Flexibility of design. [Section 60.132(b)]

The only change, in puncutation, is editorial.

(c) Retrieval of waste. [Section 60.132(d)]

Proposed paragraph (d)(2) has been deleted because it was redundant with proposed paragraph (d)(1) and was read to prohibit backfilling.

Proposed paragraph (d)(3) has been deleted because it is subsumed in the remaining text of the paragraph.

(d) Control of water and gas. [Section 60.132(g)]

Because of confusion about the meaning of the term "service water," the design requirement has been rephrased so as to refer more generally to "water or gas intrusion."

Additional proposed requirements have been deleted in response to comments regarding the level of detail in the rule. (See *Level of Detail*, above.) While each of the items that had been addressed will in all probablility be needed, the remaining general design criterion for control of water and gas is adequate to ensure that each of the features will be incorporated in the design where necessary.

(e) Underground openings. [Section 60.132(e)]

This paragraph has been rewritten in functional terms so as to require design so that operations in the underground facility "can be carried out safely and the retrievability option maintained."

The requirement that the design reduce the potential for deleterious rock movement or fracturing of rock has been retained. The identification of considerations that must be taken into account has been deleted as being more appropriate for treatment in regulatory guides. The Commission anticipates, however, that each of the factors that had been listed would in fact have been included in complying with this paragraph.

(f) Rock excavation. [Section 60.132(f)]

The proposed rule required design to "limit damage to and fracturing of rock." The extent to which damage should be "limited" was not stated. Moreover, for some geologic media and sites, the requirement could be interpreted to prescribe particular excavation methods, which was not the intent. The paragraph has been rephrased to indicate that the design must reduce the potential for creating a preferential pathway to the accessible environment.

(g) Underground facility ventilation. [Section 60.132(h)]

The term "subsurface facility" has been eliminated, conforming to the caption of the section. Paragraph (g)(1) now refers to control within and from the "underground facility."

Proposed paragraph (h)(2), which would have required design to permit continuous occupany of all excavated areas through permanent closure, was excessively restrictive. Ventilation will need to be maintained, however, where normal operations are being carried out, so as to satisfy paragraph (g)(1).

Proposed paragraph (h)(3) was deleted. It is adequately covered by paragraph (g)(1).

As in some other contexts, reference is now made to "accident conditions" instead of "emergency conditions" (see discussion of § 60.131(b)(5) above). The requirement for design to assure continued function is retained, but the means for accomplishing this is left to the designer. Redundant equipment and fail-safe control systems would continue to be employed where necessary and appropriate.

(h) Engineered barriers. [Section 60.132(i)]

The proposed rule, in paragraph (i), would have specified several design requirements for the engineered barriers, including backfill and barriers at shafts. While the Commission continues to expect that such feautures will ordinarily be incorporated into the design, it has concluded that its earlier approach would have been unduly restrictive. The Commission has therefore left only the general functional statement that the engineered barriers shall be designed to assist the geologic setting in meeting long-term performance objectives.

(i) Thermal loads. [Section 60.132(k)]

This provision retains the substance of proposed paragraph (k)(l). The reference to the "ability of the natural or engineered barriers to retard radionuclide migration" is deleted because it is already covered by requiring that the performance objectives be met.

Proposed (k)(2), identifying factors to be taken into account in the design of waste loading and waste spacings, has been omitted as containing excessive detail.

Other omitted provisions. [Sections 60.132(c), 60.132(j)]

Proposed § 60.132(c), dealing with the modular concept, was excessively restrictive. The Commission recognizes that to some degree the concurrent conduct of excavation with waste emplacement could "impair" waste emplacement or retrieval operations. Concurrent excavation and waste emplacement would be acceptable, provided that all other applicable requirements are satisfied. The provision for insulation of individual modules is not necessary, since paragraph (a)(3) requires that the design limit the effects of disruptive events and paragraph (g)(2) provides that the design assure continued function of ventilation systems under accident conditions. Section 60.131(a), including the design requirement to control the dispersal of radioactive contamination, is also relevant.

Proposed § 60.132(j) would have specified fail-safe designs in systems for handling, transporting, and emplacing wastes. This too was excessively restrictive. What protective measures are needed will be determined in the light of a range of factors, including the probability and consequences of mishaps and the costs of alternative means for dealing with them. Similarly, the final rule does not require that handling systems "minimize the potential for operator error;" specifications for such systems will depend upon an evaluation of the particular risks involved. Where protective measures are needed, particularly insofar as they relate to radiological consequences, the remaining design requirements suffice.

Section 60.134 Construction specifications for surface and subsurface facilities.

The proposed rule contained a section on construction specifications that was not appropriate, since (under § 60.31(a)(2)), the scope of Subpart E was limited to site and design criteria.

Although the section has therefore been deleted, this does not mean that construction procedures are not of vital significance. As stated in § 60.31(a)(1)(iv), the Commission will consider whether DOE has adequately described construction procedures which may affect the capability of the geologic repository to serve its intended function. Appropriate provisions will be included in a construction authorization, as provided in § 60.32.

Proposed § 60.134(c), dealing with construction records, has been retained, with minor modifications. It now appears as § 60.72, and is discussed in the analysis of that section.

Section 60.134 Design of seals for shafts and boreholes. [§ 60.133]

The proposed rule contained a number of provisions which commenters criticized as being unachievable, or at least incapable of being demonstrated. Specifically, there was objection to the requirements that shaft and seal design not create preferential pathways and that sealed shafts and boreholes inhibit radionuclide transport to, at the least, the same degree as the undisturbed rock. The Commission acknowledges that in some cases a pathway may be created that may be preferential in relation to the undisturbed rock. Whether or not this is acceptable will depend upon the characteristics of the rock in question, the quality of the seal under projected conditions, the age, nature, and location of the waste, and the design of the underground facility. The important thing is that the seals not become pathways that compromise the geologic repository's ability to meet the performance objectives for the period relating to isolation of the waste. This concept now appears as § 60.134(a).

Additionally, although the Commission's general approach has been to avoid ALARA-type concepts, it has in this instance specified that materials and placement methods for seals be selected to reduce to the extent practicable, the potential for creating a preferential pathway or the migration of radionuclides through existing pathways. This approach is based upon a concern that significant deficiencies in seal design could largely, or entirely, eliminate the contribution to waste isolation which is to be provided by the geologic setting. By insisting that seal design reduce preferential pathways to the extent practicable, the Commission ensures that the design will facilitate its arriving at licensing decisions.

Proposed § 60.133(b)(1) provided that shafts and boreholes be sealed as soon as possible after they have served their operational purpose. As in the other portions of the section, the objective was to address the question of long-term isolation. Early sealing can prevent deformations that might otherwise develop prior to permanent closure; such events could make it more difficult or impractical to achieve maximum integrity of the permanent seals when they are put into place. To the extent that this is an important concern, it too is covered under the text of the final § 60.134.

Design Criteria for the Waste Package

Section 60.135 Criteria for the waste package and its components.

A geologic repository operations area, by definition, is a facility that may be used for the disposal of high-level radioactive waste. The rule must therefore address matters related to HLW, including as appropriate requirements as to HLW waste form and waste package. Whether or not other radioactive materials are emplaced in the facility is speculative, and even if this should occur, the quantities, specific activity, half-lives and other relevant factors may be so variable as to make it impossible at this time to establish reasonable rules. The final rule accordingly expressly limits the applicability of the requirements of this section to high-level radioactive waste. Nonradioactive wastes are not addressed at all. The Commission defers for later consideration, should the occasion arise, an examination of the legal and technical questions that would be presented if the disposal of nonradioactive wastes in a geologic repository operations area were to be proposed.

Section 60.135(a) High-level waste package design in general.

This paragraph has been revised editorially. It is now limited to HLW packages, but is otherwise unchanged in substance from the proposed rule.

Section 60.135(b) Specific criteria for HLW package design. [§ 60.135(c)]

Two paragraphs relate to contents of the waste package—one dealing with explosive, pyrophoric, and chemically reactive materials and a second dealing with free liquids. Editorial changes have been made so as to provide parallel language. Insofar as the period of operations is concerned, this is done by adopting the proposed language that has applied to free liquids. Insofar as waste isolation is concerned, both paragraphs are related to the relevant performance objective, adapting for this purpose the proposed provisions on explosive, pyrophoric, and chemically reactive materials.

Also, as revised, the provision pertaining to explosive, pyrophoric, and

chemically reactive materials avoids the possible interpretation that insignificant quantities of such materials may not be incorporated in waste packages.

Other changes are merely editorial.

Section 60.135(c) Waste form criteria for HLW. [§ 60.135(b)].

The portion of this paragraph that deals with combustibles has been modified so as to specify that a fire involving waste packages containing combustibles will not affect the integrity of other waste packages, adversely affect any structures, systems or components important to safety, or compromise the ability of the underground facility to contribute to waste isolation. This parallels the corresponding changes in the waste package design criteria.

The reference to structures, systems, or components is modified by the defined term "important to safety" rather than the undefined adjective "safety-related."

Section 60.135(d) Design criteria for other radioactive wastes.

This paragraph is new. Its purpose is described in the introductory analysis for this section.

Performance Confirmation Requirements

Section 60.137 General requirements for performance confirmation.

Unchanged from proposed rule.

Subpart F—Performance Confirmation Program

Section 60.140 General requirements

The proposed rule would have specified that the performance confirmation program "ascertain" certain data. While achievement of that goal would be desirable; it is more accurate to state that the program is to "provide data which indicates, where practicable," whether conditions are within assumed limits and systems are functioning as intended.

The proposed requirement that the confirmation program be implemented so as not to "adversely affect" the natural and engineered barriers, § 60.140(d)(1), also needed to be qualified. The Commission's intention was not to prohibit useful tests that would have trivial impacts upon the repository's performance; instead, it wishes to assure that significant potentially adverse effects are taken into account in designing the performance confirmation program. The paragraph has been modified accordingly.

See also the amendment to § 60.74, which provides for the conduct of the performance confirmation program.

Section 60.141 Confirmation of geotechnical and design parameters.

Unchanged from proposed rule.

Ssection 60.142 Design testing.

Unchanged from proposed rule.

Section 60.143 Monitoring and testing waste packages.

The ambiguous term "repository" has been replaced by the defined terms "geologic repository operations area" or "underground facility," as appropriate. Other changes are editorial in nature.

Subpart G—Quality Assurance

Section 60.150 Scope.

This section has been revised to correspond to the counterpart provision of 10 CFR Part 50, Appendix B. Where the same term (here, "quality assurance") is employed in related contexts, it is generally desirable to use a common definition. For this reason, the Commission has declined to substitute "reasonable assurance" for "adequate confidence" as the measure of satisfactory performance.

Section 60.151 Applicability

The final rule defines "important to safety" in a manner related to the period of operations. Because quality assurance requirements must be applied with a view to long-term performance, Subpart G is also made applicable to those elements of the geologic repository that must function in a prescribed manner so as to satisfy the performance objectives for the period after permanent closure. The proposed rule's reference to "events that could cause an undue risk to the health and safety of the public" has been deleted because of the inclusion of the more definite standards that are referred to in the revised first sentence of the section.

Further, the Commission has adopted a suggestion to revise the list of activities to which Subpart G pertains so as to correspond more closely with the structure of the rule.

Section 60.152 Implementation.

Unchanged from proposed rule.

[Section 60.153 Quality assurance for performance confirmation.]

This section of the proposed rule has been deleted because performance confirmation is now made subject, by § 60.151(b), to explicit requirement for the conduct of performance confirmation.

Subpart H—Training and Certification of Personnel

Provisions for training and Certification of Personnel are unchanged in substance from the proposed rule. The rule has been clarified by replacing the undefined term "operations important to safety" with the phrase "operations of systems and components important to safety." Other changes are merely editorial.

Subpart I—Emergency Planning Criteria

Section 60.31(a) provides that one of the considerations bearing upon the issuance of a construction authorization is whether DOE's emergency plan complies with the criteria contained in Subpart I. The proposed technical criteria were silent with respect to Subpart I, and the contents of that subpart here continue to be reserved.

Environmental Impact

Pursuant to Section 121(c) of the Nuclear Waste Policy Act of 1982, the promulgation of these criteria shall not require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969 or any environmental review under subpargraph (E) or (F) of Section 102(2) of such Act.

Paperwork Reduction Act

This rule contains no new or amended recordkeeping, reporting, or application requirement, or any other type of information collection requirement, subject to the Paperwork Reduction Act (Pub. L. 96–511).

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. The only entity subject to regulation under this rule is the U.S. Department of Energy.

List of Subjects in 10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting requirements, Waste treatment and disposal.

Issuance

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the Nuclear Regulatory Commission is

adopting the following amendments to 10 CFR Part 60.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

1. The Table of Contents for Part 60 is revised to read as follows:

Subpart A—General Provisions

Sec.
60.1 Purpose and scope.
60.2 Definitions.
60.3 License required.
60.4 Communications.
60.5 Interpretations.
60.6 Exemptions.
60.7 License not required for certain preliminary activities.
60.8 Reporting, recordkeeping, and application requirements; OMB approval not required.
60.9 Employment protection.

Subpart B—Licenses

Preapplication Review

60.10 Site characterization.
60.11 Site characterization report.

License Applications

60.21 Content of application.
60.22 Filing and distribution of application.
60.23 Elimination of repetition.
60.24 Updating of application and environmental report.

Construction Authorization

60.31 Construction authorization.
60.32 Conditions of construction authorization.
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License Issuance and Amendment

60.41 Standards for issuance of a license.
60.42 Conditions of license.
60.43 License specification.
60.44 Changes, tests, and experiments.
60.45 Amendment of license.
60.46 Particular activities requiring license amendment.

Permanent Closure

60.51 License amendment for permanent closure.
60.52 Termination of license.

Subpart C—Participation by State Governments and Indian Tribes

60.61 Site review.
60.62 Filing of proposals for State participation.
60.63 Approval of proposals.
60.64 Participation by Indian tribes.
60.65 Coordination.

Subpart D—Records, Reports, Tests, and Inspections

60.71 General recordkeeping and reporting requirements.
60.72 Construction records.
60.73 Reports of deficiencies.
60.74 Tests.
60.75 Inspections.

Subpart E—Technical Criteria

Sec.
60.101 Purpose and nature of findings.
60.102 Concepts.

Performance Objectives

60.111 Performance of the geologic repository operations area through permanent closure.
60.112 Overall system performance objective for the geologic repository after permanent closure.
60.113 Performance of particular barriers after permanent closure.

Land Ownership and Control

60.121 Requirements for ownership and control interests in land.

Siting Criteria

60.122 Siting criteria.

Design Criteria for the Geological Repository Operations Area

60.30 Scope of design criteria for the geologic respository operations area.
60.131 General design criteria for the geologic repository operating area.
60.132 Additional design criteria for surface facilities in the geologic repository operations area.
60.133 Additional design criteria for the underground facility.
60.134 Design of seals for shafts and boreholes.

Design Criteria for the Waste Package

60.135 Criteria for the waste package and its components.

Performance Confirmation Requirements

60.137 General requirements for performance confirmation.

Subpart F—Performance Confirmation Program

60.140 General requirements.
60.141 Confirmation of geotechnical and design parameters.
60.142 Design testing.
60.143 Monitoring and testing waste packages.

Subpart G—Quality Assurance

60.150 Scope.
60.151 Applicability.
60.152 Implementation.

Subpart H—Training and Certification of Personnel

60.160 General requirements.
60.161 Training and certification program.
60.162 Physical requirements.

Subpart I—Emergency Planning Criteria [Reserved]

2. The authority citation for Part 60 is revised to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95-601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); sec. 121, Pub. L. 97-425, 96 Stat. 2228 (42 U.S.C. 10141).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 60.71 to 60.75 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

3. Section 60.2 is revised to read as follows:

§ 60.2 Definitions.

As used in this part—

"Accessible environment" means: (1) The atmosphere, (2) the land surface, (3) surface water, (4) oceans, and (5) the portion of the lithosphere that is outside the controlled area.

"Anticipated processes and events" means those natural processes and events that are reasonably likely to occur during the period the intended performance objective must be achieved. To the extent reasonable in the light of the geologic record, it shall be assumed that those processes operating in the geologic setting during the Quaternary Period continue to operate but with the perturbations caused by the presence of emplaced radioactive waste superimposed thereon.

"Barrier" means any material or structure that prevents or substantially delays movement of water or radionuclides.

"Candidate area" means a geologic and hydrologic system within which a geologic repository may be located.

"Commencement of construction" means clearing of land, surface or subsurface excavation, or other substantial action that would adversely affect the environment of a site, but does not include changes desirable for the temporary use of the land for public recreational uses, site characterization activities, other preconstruction monitoring and investigation necessary to establish background information related to the suitability of a site or to the protection of environmental values, or procurement or manufacture of components of the geologic repository operations area.

"Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

"Containment" means the confinement of radioactive waste within a designated boundary.

"Controlled area" means a surface location, to be marked by suitable monuments, extending horizontally no more than 10 kilometers in any direction from the outer boundary of the underground facility, and the underlying subsurface, which area has been committed to use as a geologic repository and from which incompatible activities would be restricted following permanent closure.

"Director" means the Director of the Nuclear Regulatory Commission's Office of Nuclear Material Safety and Safeguards.

"Disposal" means the isolation of radioactive wastes from the accessible environment.

"Disturbed zone" means that portion of the controlled area the physical or chemical properties of which have changed as a result of underground facility construction or as a result of heat generated by the emplaced radioactive wastes such that the resultant change of properties may have a significant effect on the performance of the geologic repository.

"DOE" means the U.S. Department of Energy or its duly authorized representatives.

"Engineered barrier system" means the waste packages and the underground facility.

"Geologic repository" means a system which is intended to be used for, or may be used for, the disposal of radioactive wastes in excavated geologic media. A geologic repository includes: (1) The geologic repository operations area, and (2) the portion of the geologic setting that provides isolation of the radioactive waste.

"Geologic repository operations area" means a high-level radioactive waste facility that is part of a geologic repository, including both surface and subsurface areas, where waste handling activities are conducted.

"Geologic setting" means the geologic, hydrologic, and geochemical systems of the region in which a geologic repository operations area is or may be located.

"High-level radioactive waste" or "HLW" means: (1) Irradiated reactor fuel, (2) liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (3) solids into which such liquid wastes have been converted.

"HLW facility" means a facility subject to the licensing and related regulatory authority of the Commission pursuant to Sections 202(3) and 202(4) of the Energy Reorganization Act of 1974 (88 Stat 1244).[1]

[1] These are DOE "facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from activities licensed under such Act [the Atomic Energy Act]" and "Retrievable Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive wastes generated by [DOE], which are not used for, or are part of, research and development activities."

"Host rock" means the geologic medium in which the waste is emplaced.

"Important to safety," with reference to structures, systems, and components means those engineered structures, systems, and components essential to the prevention or mitigation of an accident that could result in a radiation dose to the whole body, or any organ, of 0.5 rem or greater at or beyond the nearest boundary of the unrestricted area at any time until the completion of permanent closure.

"Indian tribe" means an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

"Isolation" means inhibiting the transport of radioactive material so that amounts and concentrations of this material entering the accessible environment will be kept within prescribed limits.

"Permanent closure" means final backfilling of the underground facility and the sealing of shafts and boreholes.

"Performance confirmation" means the program of tests, experiments, and analyses which is conducted to evaluate the accuracy and adequacy of the information used to determine with reasonable assurance that the performance objectives for the period after permanent closure will be met.

"Public Document Room" means the place at 1717 H Street N.W., Washington, D.C., at which records of the Commission will ordinarily be made available for public inspection and any other place, the location of which has been published in the Federal Register, at which public records of the Commission pertaining to a particular geologic repository are made available for public inspection.

"Radioactive waste" or "waste" means HLW and other radioactive materials other than HLW that are received for emplacement in a geologic repository.

"Restricted area" means any area access to which is controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials. "Restricted area" shall not include any areas used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

"Retrieval" means the act of intentionally removing radioactive waste from the underground location at which the waste had been previously emplaced for disposal.

"Saturated zone" means that part of the earth's crust beneath the deepest water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

"Site" means the location of the controlled area.

"Site characterization" means the program of exploration and research, both in the laboratory and in the field, undertaken to establish the geologic conditions and the ranges of those parameters of a particular site relevant to the procedures under this part. Site characterization includes borings, surface excavations, excavation of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing at depth needed to determine the suitability of the site for a geologic repository, but does not include preliminary borings and geophysical testing needed to decide whether site characterization should be undertaken.

"Tribal organization" means a tribal organization as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

"Unanticipated processes and events" means those processes and events affecting the geologic setting that are judged not to be reasonably likely to occur during the period the intended performance objective must be achieved, but which are nevertheless sufficiently credible to warrant consideration. Unanticipated processes and events may be either natural processes or events or processes and events initiated by human activities other than those activities licensed under this part. Processes and events initiated by human activities may only be found to be sufficiently credible to warrant consideration if it is assumed that: (1) The monuments provided for by this part are sufficiently permanent to serve their intended purpose; (2) the value to future generations of potential resources within the site can be assessed adequately under the applicable provisions of this part; (3) an understanding of the nature of radioactivity, and an appreciation of its hazards, have been retained in some functioning institutions; (4) institutions are able to assess risk and to take remedial action at a level of social organization and technological competence equivalent to, or superior to, that which was applied in initiating the processes or events concerned; and (5) relevant records are preserved, and remain accessible, for several hundred years after permanent closure.

"Underground facility" means the underground structure, including openings and backfill materials, but excluding shafts, boreholes, and their seals.

"Unrestricted area" means any area, access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials, and any area used for residential quarters.

"Waste form"means the radioactive waste materials and any encapsulating or stabilizing matrix.

"Waste package" means the waste form and any containers, shielding, packing and other absorbent materials immediately surrounding an individual waste container.

"Water table" means that surface in a groundwater body at which the water pressure is atmospheric.

4. Section 60.10 is amended by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§ 60.10 Site characterization.

(a) Prior to submittal or an application for a license to be issued under this part DOE shall conduct a program of site characterization with respect to the site to be described in such application.

* * * * *

(d) The program of site characterization shall be conducted in accordance with the following:

(1) Investigations to obtain the required information shall be conducted in such a manner as to limit adverse effects on the long-term performance of the geologic repository to the extent practical.

(2) The number of exploratory boreholes and shafts shall be limited to the extent practical consistent with obtaining the information needed for site characterization.

(3) To the extent practical, exploratory boreholes and shafts in the geologic repository operations area shall be located where shafts are planned for underground facility construction and operation or where large unexcavated pillars are planned.

(4) Subsurface exploratory drilling, excavation, and in situ testing before and during construction shall be planned and coordinated with geologic repository operations area design and construction.

5. Section 60.11 is amended by revising paragraph (a) to read as follows:

§ 60.11 Site characterization report.

(a) As early as possible after commencement of planning for a particular geologic repository operations area, and prior to site characterization, DOE shall submit to the Director a Site Characterization Report. The report shall include [3]: (1) A description of the site to be characterized; (2) the criteria used to arrive at the candidate area; (3) the method by which the site was selected for site characterization; (4) identification and location of alternative media and sites at which DOE intends to conduct site characterization and for which DOE anticipates submitting subsequent Site Characterization Reports; (5) a description of the decision process by which the site was selected for characterization, including the means used to obtain public, Indian tribal and State views during selection; (6) a description of the site characterization program including: (i) The extent of planned excavation and plans for in situ testing, (ii) a conceptual design of a geologic repository operations area appropriate to the named site in sufficient detail to allow assessment of the site characterization program, with respect to investigation activities which address the ability of the site to host a geologic repository and isolate radioactive waste, or which may affect such ability, and (iii) provisions to control any adverse, safety-related effects from site characterization, including appropriate quality programs; (7) a description of the quality assurance program to be applied to data collection; and (8) any issues related to site selection, alternative candidate areas, or other sites, or design of the geologic repository operations area which the DOE wishes the Commission to review. Also included shall be a description of the research and development activities being conducted by DOE which deal with the waste form and packaging which may be considered appropriate for the site to be characterized, including research planned or underway to evaluate the performance of such waste forms and packaging.

* * * * *

6. Section 60.21 is amended by revising paragraphs (c)(1), (c)(3), (c)(4), (c)(8), (c)(9), (c)(11), (c)(13), (c)(14), and (c)(15) to read as follows:

§ 60.21 Content of application.

* * * * *

(c) The Safety Analysis Report shall include:

(1) A description and assessment of the site at which the proposed geologic repository operations area is to be located with appropriate attention to those features of the site that might affect geologic repository operations area design and performance. The description of the site shall identify the location of the geologic repository operations area with respect to the boundary of the accessible environment.

(i) The description of the site shall also include the following information regarding subsurface conditions. This description shall, in all cases, include such information with respect to the controlled area. In addition, where subsurface conditions outside the controlled area may affect isolation within the controlled area, the description shall include such information with respect to subsurface conditions outside the controlled area to the extent such information is relevant and material. The detailed information referred to in this paragraph shall include—

(A) The orientation, distribution, aperture in-filling and origin of fractures, discontinuities, and heterogeneities;

(B) The presence and characteristics of other potential pathways such as solution features, breccia pipes, or other potentially permeable features;

(C) The geomechanical properties and conditions, including pore pressure and ambient stress conditions;

(D) The hydrogeologic properties and conditions;

(E) The geochemical properties; and

(F) The anticipated response of the geomechanical, hydrogeologic, and geochemical systems to the maximum design thermal loading, given the pattern of fractures and other discontinuities and the heat transfer properties of the rock mass and groundwater.

(ii) The assessment shall contain—

(A) An analysis of the geology, geophysics, hydrogeology, geochemistry, climatology, and meteorology of the site,

(B) Analyses to determine the degree to which each of the favorable and potentially adverse conditions, if present, has been characterized, and the extent to which it contributes to or detracts from isolation. For the purpose of determining the presence of the potentially adverse conditions, investigations shall extend from the surface to a depth sufficient to determine critical pathways for radionuclide migration from the underground facility to the accessible environment. Potentially adverse conditions shall be investigated outside of the controlled area if they affect isolation within the controlled area.

(C) An evaluation of the performance of the proposed geologic repository for the period after permanent closure, assuming anticipated processes and events, giving the rates and quantities of

[3] To the extent that the information indicated in items 2 through 5 appears in an Environmental Impact Statement prepared by DOE for site characterization at the named site, it may be incorporated into DOE's Site Characterization Report by reference.

releases of radionuclides to the accessible environment as a function of time; and a similar evaluation which assumes the occurrence of unanticipated processes and events.

(D) The effectiveness of engineered and natural barriers, including barriers that may not be themselves a part of the geologic repository operations area, against the release of radioactive material to the environment. The analysis shall also include a comparative evaluation of alternatives to the major design features that are important to waste isolation, with particular attention to the alternatives that would provide longer radionuclide containment and isolation.

(E) An analysis of the performance of the major design structures, systems, and components, both surface and subsurface, to identify those that are important to safety. For the purposes of this analysis, it shall be assumed that operations at the geologic repository operations area will be carried out at the maximum capacity and rate of receipt of radioactive waste stated in the application.

(F) An explanation of measures used to support the models used to perform the assessments required in paragraphs (A) through (D). Analyses and models that will be used to predict future conditions and changes in the geologic setting shall be supported by using an appropriate combination of such methods as field tests, in situ tests, laboratory tests which are representative of field conditions, monitoring data, and natural analog studies.

* * * * *

(3) A description and analysis of the design and performance requirements for structures, systems, and components of the geologic repository which are important to safety. This analysis shall consider—(i) The margins of safety under normal conditions and under conditions that may result from anticipated operational occurrences, including those of natural origin; and (ii) the adequacy of structures, systems, and components provided for the prevention of accidents and mitigation of the consequences of accidents, including those caused by natural phenomena.

(4) A description of the quality assurance program to be applied to the structures, systems, and components important to safety and to the engineered and natural barriers important to waste isolation.

* * * * *

(8) A description of the controls that the applicant will apply to restrict access and to regulate land use at the site and adjacent areas, including a conceptual design of monuments which would be used to identify the controlled area after permanent closure.

(9) Plans for coping with radiological emergencies at any time prior to permanent closure and decontamination or dismantlement of surface facilities.

* * * * *

(11) A description of design considerations that are intended to facilitate permanent closure and decontamination or dismantlement of surface facilities.

* * * * *

(13) An identification and evaluation of the natural resources of the geologic setting, including estimates as to undiscovered deposits, the exploitation of which could affect the ability of the geologic repository to isolate radioactive wastes. Undiscovered deposits of resources characteristic of the area shall be estimated by reasonable inference based on geological and geophysical evidence. This evaluation of resources, including undiscoverd deposits, shall be conducted for the site and for areas of similar size that are representative of and are within the geologic setting. For natural resources with current markets the resources shall be assessed, with estimates provided of both gross and net value. The estimate of net value shall take into account current development, extraction and marketing costs. For natural resources without current markets, but which would be marketable given credible projected changes in economic or technological factors, the resources shall be described by physical factors such as tonnage or other amount, grade, and quality.

(14) An identification of those structures, systems, and components of the geologic repository, both surface and subsurface, which require research and development to confirm the adequacy of design. For structures, systems, and components important to safety and for the engineered and natural barriers important to waste isolation, DOE shall provide a detailed description of the programs designed to resolve safety questions, including a schedule indicating when these questions would be resolved.

(15) The following information concerning activities at the geologic repository operations area:

(i) The organizational structure of DOE as it pertains to construction and operation of the geologic repository operations area including a description of any delegations of authority and assignments of responsibilities, whether in the form of regulations, administrative directives, contract provisions, or otherwise.

(ii) Identification of key positions which are assigned responsibility for safety at and operation of the geologic repository operations area.

(iii) Personnel qualifications and training requirements.

(iv) Plans for startup activities and startup testing.

(v) Plans for conduct of normal activities, including maintenance, surveillance, and periodic testing of structures, systems, and components of the geologic repository operation area.

(iv) Plans for permanent closure and plans for the decontamination or dismantlement of surface facilities.

(vii) Plans for any uses of the geologic repository operations area for purposes other than disposal of radioactive wastes, with an analysis of the effects, if any, that such uses may have upon the operation of the structures, systems, and components important to safety and the engineered and natural barriers important to waste isolation.

7. Section 60.22 is amended by revising paragraphs (a) and (d) to read as follows:

§ 60.22 Filing and distribution of application.

(a) An application for a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area at a site which has been characterized, and an accompanying environmental report, and any amendments thereto, shall be filed in triplicate with the Director and shall be signed by the Secretary of Energy or the Secretary's authorized representative.

* * * * *

(d) At the time of filing of an application and environmental report, and any amendments thereto, one copy shall be made available in an appropriate location near the proposed geologic repository operations area (which shall be a public document room, if one has been established) for inspection by the public and updated as amendments to the application or environmental report are made. An updated copy shall be produced at any public hearing on the application for use by any parties to the proceedings.

* * * * *

8. Section 60.31 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 60.31 Construction authorization.

* * * * *

(a) *Safety.* That there is reasonable assurance that the types and amounts of

radioactive materials described in the application can be received, possessed, and disposed of in a geologic repository operations area of the design proposed without unreasonable risk to the health and safety of the public. In arriving at this determination, the Commission shall consider whether:

(1) DOE has described the proposed geologic repository including but not limited to: (i) The geologic, geophysical, geochemical and hydrologic characteristics of the site; (ii) the kinds and quantities of radioactive waste to be received, possessed, stored, and disposed of in the geologic repository operations area; (iii) the principal architectural and engineering criteria for the design of the geologic repository operations area; (iv) construction procedures which may affect the capability of the geologic repository to serve its intended function; and (v) features or components incorporated in the design for the protection of the health and safety of the public.

(2) The site and design comply with the performance objectives and criteria contained in Subpart E of this part.

* * * * *

9. Section 60.32 is amended by revising paragraphs (b) and (c) to read as follows:

§ 60.32 Conditions of construction authorization.

* * * * *

(b) The Commission will incorporate in the construction authorization provisions requiring DOE to furnish periodic or special reports regarding: (1) Progress of construction, (2) any data about the site obtained during construction which are not within the predicted limits upon which the facility design was based, (3) any deficiencies in design and construction which, if uncorrected, could adversely affect safety at any future time, and (4) results of research and development programs being conducted to resolve safety questions.

(c) The construction authorization will include restrictions on subsequent changes to the features of the geologic repository and the procedures authorized. The restrictions that may be imposed under this paragraph can include measures to prevent adverse effects on the geologic setting as well as measures related to the design and construction of the geologic repository operations area. These restrictions will fall into three categories of descending importance to public health and safety as follows: (1) Those features and procedures which may not be changed without: (i) 60 days prior notice to the Commission (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, and (ii) prior Commission approval; and (3) those features and procedures which may not be changed without 60 days notice to the Commission. Features and procedures falling in paragraph (c)(3) of this section may not be changed without prior Commission approval if the Commission, after having received the required notice, so orders.

* * * * *

10. Section 60.43 is amended by revising paragraphs (b)(3) and (b)(5) to read as follows:

§ 60.43 License specifications.

* * * * *

(b) License conditions shall include items in the following categories—

* * * * *

(3) Restrictions as to the amount of waste permitted per unit volume of storage space considering the physical characteristics of both the waste and the host rock.

* * * * *

(5) Controls to be applied to restricted access and to avoid disturbance to the controlled area and to areas outside the controlled area where conditions may affect isolation within the controlled area.

* * * * *

11. Section 60.46 is amended by revising paragraphs (a)(3) and (a)(6) and adding (a)(7) to read as follows:

§ 60.46 Particular activities requiring license amendment.

(a) Unless expressly authorized in the license, an amendment of the license shall be required with respect to any of the following activities—

* * * * *

(3) Removal or reduction of controls applied to restrict access to or avoid disturbance of the controlled area and to areas outside the controlled area where conditions may affect isolation within the controlled area.

* * * * *

(6) Permanent closure.

(7) Any other activity involving an unreviewed safety question.

* * * * *

12. Section 60.51 is amended by changing the undesignated center heading immediately preceding the section from "**Decommissioning**" to "**Permanent Closure**" and by revising paragraphs (a)(1), (2), (4), (5) and (6), and paragraph (b).

§ 60.51 License amendment for permanent closure.

(a) DOE shall submit an application to amend the license prior to permanent closure. The application shall consist of an update of the license application and environmental report submitted under §§60.21 and 60.22, including:

(1) A description of the program for post-permanent closure monitoring of the geologic repository.

(2) A detailed description of the measures to be employed—such as land use controls, construction of monuments, and preservation of records—to regulate or prevent activities that could impair the long-term isolation of emplaced waste within the geologic repository and to assure that relevant information will be preserved for the use of future generations. As a minimum, such measures shall include—

(i) Identification of the controlled area and geologic repository operations area by monuments that have been designed, fabricated, and emplaced to be as permanent as is practicable; and

(ii) Placement of records in the archives and land record systems of local State, and Federal government agencies, and archives elsewhere in the world, that would be likely to be consulted by potential human intruders—such records to identify the location of the geologic repository operations area, including the underground facility, boreholes and shafts, and the boundaries of the controlled area, and the nature and hazard of the waste.

* * * * *

(4) The results of tests, experiments, and any other analyses relating to backfill of excavated areas, shaft sealing, waste interaction with the host rock, and any other tests, experiments, or analyses pertinent to the long-term isolation of emplaced wastes within the geologic repository.

(5) Any substantial revision of plans for permanent closure.

(6) Other information bearing upon permanent closure that was not available at the time a license was issued.

(b) DOE shall update its environmental report in a timely manner so as to permit the Commission to review, prior to issuance of an amendment, substantial changes in the permanent closure activities proposed to be carried out or significant new information regarding the environmental impacts of such permanent closure.

13. Section 60.52 is amended by revising paragraphs (a) and (c)(2) to read as follows:

§ 60.52 Termination of license.

(a) Following permanent closure and the decontamination or dismantlement of surface facilities, DOE may apply for an amendment to terminate the license.

* * * * *

(c) A license shall be terminated only when the Commission finds with respect to the geologic repository—

(1) * * *

(2) That the final state of the geologic repository operations area conforms to DOE's plans for permanent closure and DOE's plans for the decontamination or dismantlement of surface facilities, as amended and approved as part of the license.

* * * * *

14. Subpart D is revised to read as follows:

Subpart D—Records, Reports, Tests, and Inspections

§ 60.71 General recordkeeping and reporting requirements.

(a) DOE shall maintain such records and make such reports in connection with the licensed activity as may be required by the conditions of the license or by rules, regulations, and orders of the Commission as authorized by the Atomic Energy Act and the Energy Reorganization Act.

(b) Records of the receipt, handling, and disposition of radioactive waste at a geologic repository operations area shall contain sufficient information to provide a complete history of the movement of the waste from the shipper through all phases of storage and disposal.

§ 60.72 Construction records.

(a) DOE shall maintain records of construction of the geologic repository operations area.

(b) The records required under paragraph (a) shall include at least the following—

(1) Surveys of the underground facility excavations, shafts, and boreholes referenced to readily identifiable surface features or monuments;

(2) A description of the materials encountered;

(3) Geologic maps and geologic cross sections;

(4) Locations and amount of seepage;

(5) Details of equipment, methods, progress, and sequence of work;

(6) Construction problems;

(7) Anomalous conditions encountered;

(8) Instrument locations, readings, and analysis;

(9) Location and description of structural support systems;

(10) Location and description of dewatering systems; and

(11) Details, methods of emplacement, and location of seals used.

§ 60.73 Reports of deficiencies.

DOE shall promptly notify the Commission of each deficiency found in the characteristics of the site, and design and construction of the geologic repository operations area which, were it to remain uncorrected, could: (a) Be a substantial safety hazard, (b) represent a significant deviation from the design criteria and design bases stated in the application, or (c) represent a deviation from the conditions stated in the terms of a construction authorization or the license, including license specifications. The notification shall be in the form of a written report, copies of which shall be sent to the Director and to the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix D of Part 20 of this chapter.

§ 60.74 Tests.

(a) DOE shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part. These may include tests of: (1) Radioactive waste, (2) the geologic repository including its structures, systems, and components, (3) radiation detection and monitoring instruments, and (4) other equipment and devices used in connection with the receipt, handling, or storage of radioactive waste.

(b) The tests required under this section shall include a performance confirmation program carried out in accordance with Subpart F of this part.

§ 60.75 Inspections.

(a) DOE shall allow the Commission to inspect the premises of the geologic repository operations area and adjacent areas to which DOE has rights of access.

(b) DOE shall make available to the Commission for inspection, upon reasonable notice, records kept by DOE pertaining to activities under this part.

(c)(1) DOE shall upon requests by the Director, Office of Inspection and Enforcement, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air-conditioning, light, electrical outlets and janitorial services shall be furnished by DOE. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acqoustic privacy.

(2) The space provided shall be adequate to accommodate a full-time inspector, a part-time secretary and transient NRC personnel and will be generally commensurate with other office facilities at the geologic repository operations area. A space of 250 square feet either within the geologic repository operations area's office complex or in an office trailer or other onsite space at the geologic repository operations area is suggested as a guide. For locations at which activities are carried out under licenses issued under other parts of this chapter, additional space may be requested to accomodate additional full-time inspectors. The Office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies and communication equipment will be furnished by the Commission.

(3) DOE shall afford any NRC resident inspector assigned to that location, or other NRC inspectors identified by the Regional Administrator as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular employees, following proper identification and compliance with applicable access control measures for security, radiological protection and personal safety.

15. Subparts E, F, G, H, and I are added to read as follows:

Subpart E—Technical Criteria

§ 60.101 Purpose and nature of findings.

(a)(1) Subpart B of this part prescribes the standards for issuance of a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area. In particular, § 60.41(c) requires a finding that the issuance of a license will not constitute an unreasonable risk to the health and safety of the public. The purpose of this subpart is to set out performance objectives and site and design criteria which, if satisfied, will support such a finding of no unreasonable risk.

(2) While these performance objectives and criteria are generally stated in unqualified terms, it is not expected that complete assurance that they will be met can be presented. A reasonable assurance, on the basis of the record before the Commission, that the objectives and criteria will be met is the general standard that is required. For § 60.112, and other portions of this subpart that impose objectives and criteria for repository performance over long times into the future, there will inevitably be greater uncertainties. Proof of the future performance of engineered barrier systems and the geologic setting over time periods of many hundreds or many thousands of

years is not to be had in the ordinary sense of the word. For such long-term objectives and criteria, what is required is reasonable assurance, making allowance for the time period, hazards, and uncertainties involved, that the outcome will be in conformance with those objectives and criteria. Demonstration of compliance with such objectives and criteria will involve the use of data from accelerated tests and predictive models that are supported by such measures as field and laboratory tests, monitoring data and natural analog studies.

(b) Subpart B of this part also lists findings that must be made in support of an authorization to construct a geologic repository operations area. In particular, § 60.31(a) requires a finding that there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received, possessed, and disposed of in a geologic repository operations area of the design proposed without unreasonable risk to the health and safety of the public. As stated in that paragraph, in arriving at this determination, the Commission will consider whether the site and design comply with the criteria contained in this subpart. Once again, while the criteria may be written in unqualified terms, the demonstration of compliance may take uncertainties and gaps in knowledge into account, provided that the Commission can make the specified finding of reasonable assurance as specified in paragraph (a) of this section.

§ 60.102 Concepts.

This section provides a functional overview of Subpart E. In the event of any inconsistency with definitions found in § 60.2, those definitions shall prevail.

(a) *The HLW facility.* NRC exercises licensing and related regulatory authority over those facilities described in section 202 (3) and (4) of the Energy Reorganization Act of 1974. Any of these facilities is designated a *HLW facility.*

(b) *The geologic repository operations area.* (1) This part deals with the exercise of authority with respect to a particular class of HLW facility—namely a *geologic repository operations area.*

(2) *A geologic repository operations area* consists of those surface and subsurface areas that are part of a geologic repository where radioactive waste handling activities are conducted. The underground structure, including openings and backfill materials, but excluding shafts, boreholes, and their seals, is designated the *underground facility.*

(3) The exercise of Commission authority requires that the geologic repository operations area be used for *storage* (which includes *disposal*) of *high-level radioactive wastes (HLW).*

(4) HLW includes irradiated reactor fuel as well as reprocessing wastes. However, if DOE proposes to use the geologic repository operations area for storage of *radioactive waste* other than HLW, the storage of this radioactive waste is subject to the requirements of this part.

(c) *Areas related to isolation.* Although the activities subject to regulation under this part are those to be carried out at the geologic repository operations area, the licensing process also considers characteristics of adjacent areas that are defined in other ways. There is to be an area surrounding the underground facility referred to above, which is designated the *controlled area,* within which DOE is to exercise specified controls to prevent adverse human actions following permanent closure. The location of the controlled area is the *site.* The *accessible environment* is the atmosphere, land surface, surface water, oceans, and the portion of the lithosphere that is outside the controlled area. There is an area, designated the *geologic setting,* which includes the geologic, hydrologic, and geochemical systems of the region in which a geologic repository operations area is or may be located. The geologic repository operations area plus the portion of the geologic setting that provides isolation of the radioactive waste make up the *geologic repository.*

(d) *Stages in the licensing process.* There are several stages in the licensing process. The *site characterization* stage, though begun before submission of a license application, may result in consequences requiring evaluation in the license review. The *construction stage* would follow, after issuance of a construction authorization. A *period of operations* follows the issuance of a license by the Commission. The period of operations includes the time during which *emplacement* of wastes occurs; any subsequent period before permanent closure during which the emplaced wastes are *retrievable;* and *permanent closure,* which includes sealing of shafts. Permanent closure represents the end of active human intervention with respect to the engineered barrier system.

(e) *Isolation of waste.* (1) During the first several hundred years following permanent closure of a geologic repository, when radiation and thermal levels are high and the uncertainties in assessing repository performance are large, special emphasis is placed upon the ability to contain the wastes by waste packages within an *engineered barrier system.* This is known as the *containment period.* The *engineered barrier system* includes the waste packages and the underground facility. A *waste package* is composed of the waste form and any containers, shielding, packing, and absorbent materials immediately surrounding an individual waste container. The *underground facility* means the underground structure, including openings and backfill materials, but excluding, shafts, boreholes, and their seals.

(2) Following the containment period special emphasis is placed upon the ability to achieve isolation of the wastes by virtue of the characteristics of the geologic repository. The engineered barrier system works to control the release of radioactive material to the geologic setting and the geologic setting works to control the release of radioactive material to the accessible environment. *Isolation* means inhibiting the transport of radioactive material so that amounts and concentrations of the materials entering the accessible environment will be kept within prescribed limits.

Performance Objectives

§ 60.111 Performance of the geologic repository operations area through permanent closure.

(a) *Protection against radiation exposures and releases of radioactive material.* The geologic repository operations area shall be designed so that until permanent closure has been completed, radiation exposures and radiation levels, and releases of radioactive materials to unrestricted areas, will at all times be maintained within the limits specified in Part 20 of this chapter and such generally applicable environmental standards for radioactivity as may have been established by the Environmental Protection Agency.

(b) *Retrievability of waste.* (1) The geologic repository operations area shall be designed to preserve the option of waste retrieval throughout the period during which wastes are being emplaced and, thereafter, until the completion of a preformance confirmation program and Commission review of the information obtained from such a program. To satisfy this objective, the geologic repository operations area shall be designed so that any or all of the emplaced waste could be retrieved on a reasonable schedule starting at any time up to 50 years after waste emplacement

operations are initiated, unless a different time period is approved or specified by the Commission. This different time period may be established on a case-by-case basis consistent with the emplacement schedule and the planned performance confirmation program.

(2) This requirement shall not preclude decisions by the Commission to allow backfilling part or all of, or permanent closure of, the geologic repository operations area prior to the end of the period of design for retrievability.

(3) For purposes of this paragraph, a reasonable schedule for retrieval is one that would permit retrieval in about the same time as that devoted to construction of the geologic repository operations area and the emplacement of wastes.

§ 60.112 Overall system performance objective for the geologic repository after permanent closure.

The geologic setting shall be selected and the engineered barrier system and the shafts, boreholes and their seals shall be designed to assure that releases of radioactive materials to the accessible environment following permanent closure conform to such generally applicable environmental standards for radioactivity as may have been established by the Environmental Protection Agency with respect to both anticipated processes and events and unanticipated processes and events.

§ 60.113 Performance of particular barriers after permanent closure.

(a) *General provisions.* (1) *Engineered barrier system.* (i) The engineered barrier system shall be designed so that assuming anticipated processes and events: (A) Containment of HLW will be substantially complete during the period when radiation and thermal conditions in the engineered barrier system are dominated by fission product decay; and (B) any release of radionuclides from the engineered barrier system shall be a gradual process which results in small fractional releases to the geologic setting over long times. For disposal in the saturated zone, both the partial and complete filling with groundwater of available void spaces in the underground facility shall be appropriately considered and analysed among the anticipated processes and events in designing the engineered barrier system.

(ii) In satisfying the preceding requirement, the engineered barrier system shall be designed, assuming anticipated processes and events, so that:

(A) Containment of HLW within the waste packages will be substantially complete for a period to be determined by the Commission taking into account the factors specified in § 60.113(b) provided, that such period shall be not less than 300 years nor more than 1,000 years after permanent closure of the geologic repository; and

(B) The release rate of any radionuclide from the engineered barrier system following the containment period shall not exceed one part in 100,000 per year of the inventory of that radionuclide calculated to be present at 1,000 years following permanent closure, or such other fraction of the inventory as may be approved or specified by the Commission; provided, that this requirement does not apply to any radionuclide which is released at a rate less than 0.1% of the calculated total release rate limit. The calculated total release rate limit shall be taken to be one part in 100,000 per year of the inventory of radioactive waste, originally emplaced in the underground facility, that remains after 1,000 years of radioactive decay.

(2) *Geologic setting.* The geologic repository shall be located so that pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment shall be at least 1,000 years or such other travel time as may be approved or specified by the Commission.

(b) On a case-by-case basis, the Commission may approve or specify some other radionuclide release rate, designed containment period or pre-waste-emplacement groundwater travel time, provided that the overall system performance objective, as it relates to anticipated processes and events, is satisfied. Among the factors that the Commission may take into account are—

(1) Any generally applicable environmental standard for radioactivity established by the Environmental Protection Agency;

(2) The age and nature of the waste, and the design of the underground facility, particularly as these factors bear upon the time during which the thermal pulse is dominated by the decay heat from the fission products;

(3) The geochemical characteristics of the host rock, surrounding strata and groundwater; and

(4) Particular sources of uncertainty in predicting the performance of the geologic repository.

(c) Additional requirements may be found to be necessary to satisfy the overall system performance objective as it relates to unanticipated processes and events.

Land Ownership and Control

§ 60.121 Requirements for ownership and control of interests in land.

(a) *Ownership of land.* (1) Both the geologic repository operations area and the controlled area shall be located in and on lands that are either acquired lands under the jurisdiction and control of DOE, or lands permanently withdrawn and reserved for its use.

(2) These lands shall be held free and clear of all encumbrances, if significant, such as: (i) Rights arising under the general mining laws; (ii) easements for right-of-way; and (iii) all other rights arising under lease, rights of entry, deed, patent, mortgage, appropriation, prescription, or otherwise.

(b) *Additional controls.* Appropriate controls shall be established outside of the controlled area. DOE shall exercise any jurisdiction and control over surface and subsurface estates necessary to prevent adverse human actions that could significantly reduce the geologic repository's ability to achieve isolation. The rights of DOE may take the form of appropriate possessory interests, servitudes, or withdrawals from location or patent under the general mining laws.

(c) *Water rights.* (1) DOE shall also have obtained such water rights as may be needed to accomplish the purpose of the geologic repository operations area.

(2) Water rights are included in the additional controls to be established under paragraph (b) of this section.

Siting Criteria

§ 60.122 Siting criteria.

(a)(1) A geologic setting shall exhibit an appropriate combination of the conditions specified in paragraph (b) of this section so that, together with the engineered barriers system, the favorable conditions present are sufficient to provide reasonable assurance that the performance objectives relating to isolation of the waste will be met.

(2) If any of the potentially adverse conditions specified in paragraph (c) of this section is present, it may compromise the ability of the geologic repository to meet the performance objectives relating to isolation of the waste. In order to show that a potentially adverse condition does not so compromise the performance of the geologic repository the following must be demonstrated:

(i) The potentially adverse human activity or natural condition has been adequately investigated, including the

extent to which the condition may be present and still be undetected taking into account the degree of resolution achieved by the investigations; and

(ii) The effect of the potentially adverse human activity or natural condition on the site has been adequately evaluated using analyses which are sensitive to the potentially adverse human activity or natural condition and assumptions which are not likely to underestimate its effect; and

(iii)(A) The potentially adverse human activity or natural condition is shown by analysis pursuant to paragraph (a)(2)(ii) of this section not to affect significantly the ability of the geologic repository to meet the performance objectives relating to isolation of the waste, or

(B) The effect of the potentially adverse human activity or natural condition is compensated by the presence of a combination of the favorable characteristics so that the performance objectives relating to isolation of the waste are met, or

(C) The potentially adverse human activity or natural condition can be remedied.

(b) *Favorable conditions.* (1) The nature and rates of tectonic, hydrogeologic, geochemical, and geomorphic processes (or any of such processes) operating within the geologic setting during the Quaternary Period, when projected, would not affect or would favorably affect the ability of the geologic repository to isolate the waste.

(2) For disposal in the saturated zone, hydrogeologic conditions that provide—

(i) A host rock with low horizontal and vertical permeability;

(ii) Downward or dominantly horizontal hydraulic gradient in the host rock and immediately surrounding hydrogeologic units; and

(iii) Low vertical permeability and low hydraulic potential between the host rock and surrounding hydrogeologic units; or

(iv) Pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years.

(3) Geochemical conditions that—(i) Promote precipitation or sorption of radionuclides; (ii) Inhibit the formation of particulates, colloids, and inorganic and organic complexes that increase the mobility of radionuclides; or (iii) Inhibit the transport of radionuclides by particulates, colloids, and complexes.

(4) Mineral assemblages that, when subjected to anticipated thermal loading, will remain unaltered or alter to mineral assemblages having equal or increased capacity to inhibit radionuclide migration.

(5) Conditions that permit the emplacement of waste at a minimum depth of 300 meters from the ground surface. (The ground surface shall be deemed to be the elevation of the lowest point on the surface above the disturbed zone.)

(6) A low population density within the geologic setting and a controlled area that is remote from population centers.

(c) *Potentially adverse conditions.* The following conditions are potentially adverse conditions if they are characteristic of the controlled area or may affect isolation within the controlled area.

(1) Potential for flooding of the underground facility, whether resulting from the occupancy and modification of floodplains or from the failure of existing or planned man-made surface water impoundments.

(2) Potential for foreseeable human activity to adversely affect the groundwater flow system, such as groundwater withdrawal, extensive irrigation, subsurface injection of fluids, underground pumped storage, military activity or construction of large scale surface water impoundments.

(3) Potential for natural phenomena such as landslides, subsidence, or volcanic activity of such a magnitude that large-scale surface water impoundments could be created that could change the regional groundwater flow system and thereby adversely affect the performance of the geologic repository.

(4) Structural deformation, such as uplift, subsidence, folding, or faulting that may adversely affect the regional groundwater flow system.

(5) Potential for changes in hydrologic conditions that would affect the migration of radionuclides to the accessible environment, such as changes in hydraulic gradient, average interstitial velocity, storage coefficient, hydraulic conductivity, natural recharge, potentiometric levels, and discharge points.

(6) Potential for changes in hydrologic conditions resulting from reasonably foreseeable climatic changes.

(7) Groundwater conditions in the host rock, including chemical composition, high ionic strength or ranges of Eh-pH, that could increase the solubility or chemical reactivity of the engineered barrier system.

(8) Geochemical processes that would reduce sorption of radionuclides, result in degradation of the rock strength, or adversely affect the performance of the engineered barrier system.

(9) For disposal in the saturated zone, groundwater conditions in the host rock that are not reducing.

(10) Evidence of dissolutioning such as breccia pipes, dissolution cavities, or brine pockets.

(11) Structural deformation such as uplift, subsidence, folding, and faulting during the Quaternary Period.

(12) Earthquakes which have occurred historically that if they were to be repeated could affect the site significantly.

(13) Indications, based on correlations of earthquakes with tectonic processes and features, that either the frequency of occurrence or magnitude of earthquakes may increase.

(14) More frequent occurrence of earthquakes or earthquakes of higher magnitude than is typical of the area in which the geologic setting is located.

(15) Evidence of igneous activity since the start of the Quaternary Period.

(16) Evidence of extreme erosion during the Quaternary Period.

(17) The presence of naturally occurring materials, whether identified or undiscovered, within the site, in such form that:

(i) Economic extraction is currently feasible or potentially feasible during the foreseeable future; or

(ii) Such materials have greater gross value or net value than the average for other areas of similar size that are representative of and located within the geologic setting.

(18) Evidence of subsurface mining for resources within the site.

(19) Evidence of drilling for any purpose within the site.

(20) Rock or groundwater conditions that would require complex engineering measures in the design and construction of the underground facility or in the sealing of boreholes and shafts.

(21) Geomechanical properties that do not permit design of underground opening that will remain stable through permanent closure.

Design Criteria for the Geologic Repository Operations Area

§ 60.130 Scope of design criteria for the geologic repository operations area.

Sections 60.131 through 60.134 specify minimum criteria for the design of the geologic repository operations area. These design criteria are not intended to be exhaustive, however. Omissions in §§ 60.131 through 60.134 do not relieve DOE from any obligation to provide such safety features in a specific facility needed to achieve the performance objectives. All design bases must be consistent with the results of site characterization activities.

§ 60.131 General design criteria for the geologic repository operations area.

(a) *Radiological protection.* The geologic repository operations area shall be designed to maintain radiation doses, levels, and concentrations of radioactive material in air in restricted areas within the limits specified in Part 20 of this chapter. Design shall include—

(1) Means to limit concentrations of radioactive material in air;

(2) Means to limit the time required to perform work in the vicinity of radioactive materials, including, as appropriate, designing equipment for ease of repair and replacement and providing adequate space for ease of operation;

(3) Suitable shielding;

(4) Means to monitor and control the dispersal of radioactive contamination;

(5) Means to control access to high radiation areas or airborne radioactivity areas; and

(6) A radiation alarm system to warn of significant increases in radiation levels, concentrations of radioactive material in air, and of increased radioactivity released in effluents. The alarm system shall be designed with provisions for calibration and for testing its operability.

(b) *Structures, systems, and components important to safety. (1) Protection against natural phenomena and environmental conditions.* The structures, systems, and components important to safety shall be designed so that natural phenomena and environmental conditions anticipated at the geologic repository operations area will not interfere with necessary safety functions.

(2) *Protection against dynamic effects of equipment failure and similar events.* The structures, systems, and components important to safety shall be designed to withstand dynamic effects such as missile impacts, that could result from equipment failure, and similar events and conditions that could lead to loss of their safety functions.

(3) *Protection against fires and explosions.* (i) The structures, systems, and components important to safety shall be designed to perform their safety fuctions during and after credible fires or explosions in the geologic repository operations area.

(ii) To the extent practicable, the geologic repository operations area shall be designed to incorporate the use of noncombustible and heat resistant materials.

(iii) The geologic repository operations area shall be designed to include explosion and fire detection alarm systems and appropriate suppression systems with sufficient capacity and capability to reduce the adverse effects of fires and explosions on structures, systems, and components important to safety.

(iv) The geologic repository operations area shall be designed to include means to protect systems, structures, and components important to safety against the adverse effects of either the operation or failure of the fire suppression systems.

(4) *Emergency capability.* (i) The structures, systems, and components important to safety shall be designed to maintain control of radioactive waste and radioactive effluents, and permit prompt termination of operations and evacuation of personnel during an emergency.

(ii) The geologic repository operations area shall be designed to include onsite facilities and services that ensure a safe and timely response to emergency conditions and that facilitate the use of available offsite services (such as fire, police, medical and ambulance service) that may aid in recovery from emergencies.

(5) *Utility services.* (i) Each utility service system that is important to safety shall be designed so that essential safety functions can be performed under both normal and accident conditions.

(ii) The utility services important to safety shall include redundant systems to the extent necessary to maintain, with adequate capacity, the ability to perform their safety functions.

(iii) Provisions shall be made so that, if there is a loss of the primary electric power source or circuit, reliable and timely emergency power can be provided to instruments, utility service systems, and operating systems, including alarm systems, important to safety.

(6) *Inspection, testing, and maintenance.* The structures, systems, and components important to safety shall be designed to permit periodic inspection, testing, and maintenance, as necessary, to ensure their continued functioning and readiness.

(7) *Criticality control.* All systems for processing, transporting, handling, storage, retrieval, emplacement, and isolation of radioactive waste shall be designed to ensure that a nuclear criticality accident is not possible unless at least two unlikely, independent, and concurrent or sequential changes have occurred in the conditions essential to nuclear criticality safety. Each system shall be designed for criticality safety under normal and accident conditions. The calculated effective multiplication factor (k_{eff}) must be sufficiently below unity to show at least a 5% margin, after allowance for the bias in the method of calculation and the uncertainty in the experiments used to validate the method of calculation.

(8) *Instrumentation and control systems.* The design shall include provisions for instrumentation and control systems to monitor and control the behavior of systems important to safety over anticipated ranges for normal operation and for accident conditions.

(9) *Compliance with mining regulations.* To the extent that DOE is not subject to the Federal Mine Safety and Health Act of 1977, as to the construction and operation of the geologic repository operations area, the design of the geologic repository operations area shall nevertheless include such provisions for worker protection as may be necessary to provide reasonable assurance that all structures, systems, and components important to safety can perform their intended functions. Any deviation from relevant design requirements in 30 CFR, Chapter I, Subchapters D, E, and N will give rise to a rebuttable presumption that this requirement has not been met.

(10) *Shaft conveyances used in radioactive waste handling.* (i) Hoists important to safety shall be designed to preclude cage free fall.

(ii) Hoists important to safety shall be designed with a reliable cage location system.

(iii) Loading and unloading systems for hoists important to safety shall be designed with a reliable system of interlocks that will fail safely upon malfunction.

(iv) Hoists important to safety shall be designed to include two independent indicators to indicate when waste packages are in place and ready for transfer.

§ 60.132 Additional design criteria for surface facilities in the geologic repository operations area.

(a) *Facilities for receipt and retrieval of waste.* Surface facilities in the geologic repository operations area shall be designed to allow safe handling and storage of wastes at the geologic repository operations area, whether these wastes are on the surface before emplacement or as a result of retrieval from the underground facility.

(b) *Surface facility ventilation.* Surface facility ventilation systems supporting waste transfer, inspection, decontamination, processing, or packaging shall be designed to provide protection against radiation exposures and offsite releases as provided in § 60.111(a).

(c) *Radiation control and monitoring. (1) Effluent control.* The surface facilities shall be designed to control the release of radioactive materials in effluents during normal operations so as to meet the performance objections of § 60.111(a).

(2) *Effluent monitoring.* The effluent monitoring systems shall be designed to measure the amount and concentration of radionuclides in any effluent with sufficient precision to determine whether releases conform to the design requirement for effluent control. The monitoring systems shall be designed to include alarms that can be periodically tested.

(d) *Waste treatment.* Radioactive waste treatment facilities shall be designed to process any radioactive wastes generated at the geologic repository operations area into a form suitable to permit safe disposal at the geologic repository operations area or to permit safe transportation and conversion to a form suitable for disposal at an alternative site in accordance with any regulations that are applicable.

(e) *Consideration of decommissioning.* The surface facility shall be designed to facilitate decontamination or dismantlement to the same extent as would be required, under other parts of this chapter, with respect to equivalent activities licensed thereunder.

§ 60.133 Additional design criteria for the underground facility.

(a) *General criteria for the underground facility.* (1) The orientation, geometry, layout, and depth of the underground facility, and the design of any engineered barriers that are part of the underground facility shall contribute to the containment and isolation of radionuclides.

(2) The underground facility shall be designed so that the effects of credible disruptive events during the period of operations, such as flooding, fires and explosions, will not spread through the facility.

(b) *Flexibility of design.* The underground facility shall be designed with sufficient flexibility to allow adjustments where necessary to accommodate specific site conditions identified through in situ monitoring, testing, or excavation.

(c) *Retrieval of waste.* The underground facility shall be designed to permit retrieval of waste in accordance with the performance objectives of § 60.111.

(d) *Control of water and gas.* The design of the underground facility shall provide for control of water or gas intrusion.

(e) *Underground openings.* (1) Openings in the underground facility shall be designed so that operations can be carried out safely and the retrievability option maintained.

(2) Openings in the underground facility shall be designed to reduce the potential for deleterious rock movement or fracturing of overlying or surrounding rock.

(f) *Rock excavation.* The design of the underground facility shall incorporate excavation methods that will limit the potential for creating a preferential pathway for groundwater or radioactive waste migration to the accessible environment.

(g) *Underground facility ventilation.* The ventilation system shall be designed to—(1) Control the transport of radioactive particulates and gases within and releases from the underground facility in accordance with the performance objectives of § 60.111(a).

(2) Assure continued function during normal operations and under accident conditions; and

(3) Separate the ventilation of excavation and waste emplacement areas.

(h) *Engineered barriers.* Engineered barriers shall be designed to assist the geologic setting in meeting the performance objectives for the period following permanent closure.

(i) *Thermal loads.* The underground facility shall be designed so that the performance objectives will be met taking into account the predicted thermal and thermomechanical response of the host rock, and surrounding strata, groundwater system.

§ 60.134 Design of seals for shafts and boreholes.

(a) *General design criterion.* Seals for shafts and boreholes shall be designed so that following permanent closure they do not become pathways that compromise the geologic repository's ability to meet the performance objectives or the period following permanent closure.

(b) *Selection of materials and placement methods.* Materials and placement methods for seals shall be selected to reduce, to the extent practicable: (1) The potential for creating a preferential pathway for groundwater; or (2) radioactive waste migration through existing pathways.

Design Criteria for the Waste Package

§ 60.135 Criteria for the waste package and its components.

(a) *High-level-waste package design in general.* (1) Packages for HLW shall be designed so that the in situ chemical, physical, and nuclear properties of the waste package and its interactions with the emplacement environment do not compromise the function of the waste packages or the performance of the underground facility or the geologic setting.

(2) The design shall include but not be limited to consideration of the following factors: solubility, oxidation/reduction reactions, corrosion, hydriding, gas generation, thermal effects, mechanical strength, mechanical stress, radiolysis, radiation damage, radionuclide retardation, leaching, fire and explosion hazards, thermal loads, and synergistic interactions.

(b) *Specific criteria for HLW package design. (1) Explosive, pyrophoric, and chemically reactive materials.* The waste package shall not contain explosive or pyrophoric materials or chemically reactive materials in an amount that could compromise the ability of the underground facility to contribute to waste isolation or the ability of the geologic repository to satisfy the performance objectives.

(2) *Free liquids.* The waste package shall not contain free liquids in an amount that could compromise the ability of the waste packages to achieve the performance objectives relating to containment of HLW (because of chemical interactions or formation of pressurized vapor) or result in spillage and spread of contamination in the event of waste package perforation during the period through permanent closure.

(3) *Handling.* Waste packages shall be designed to maintain waste containment during transportation, emplacement, and retrieval.

(4) *Unique identification.* A label or other means of identification shall be provided for each waste package. The identification shall not impair the integrity of the waste package and shall be applied in such a way that the information shall be legible at least to the end of the period of retrievability. Each waste package identification shall be consistent with the waste package's permanent written records.

(c) *Waste form criteria for HLW. High-level radioactive waste that is emplaced in the underground facility shall be designed to meet the following criteria:*

(1) *Solidification.* All such radioactive wastes shall be in solid form and placed in sealed containers.

(2) *Consolidation.* Particulate waste forms shall be consolidated (for example, by incorporation into an encapsulating matrix) to limit the

availability and generation of particulates.

(3) *Combustibles.* All combustible radioactive wastes shall be reduced to a noncombustible form unless it can be demonstrated that a fire involving the waste packages containing combustibles will not compromise the integrity of other waste packages, adversely affect any structures, systems, or components important to safety, or compromise the ability of the underground facility to contribute to waste isolation.

(d) *Design criteria for other radioactive wastes.* Design criteria for waste types other than HLW will be addressed on an individual basis if and when they are proposed for disposal in a geologic repository.

Performance Confirmation Requirements

§ 60.137 General requirements for performance confirmation.

The geologic repository operations area shall be designed so as to permit implementation of a performance confirmation program that meets the requirements of Subpart F of this part.

Subpart F—Performance Confirmation Program

§ 60.140 General requirements.

(a) The performance confirmation program shall provide data which indicates, where practicable, whether—

(1) Actual subsurface conditions encountered and changes in those conditions during construction and waste emplacement operations are within the limits assumed in the licensing review; and

(2) Natural and engineered systems and components required for repository operation, or which are designed or assumed to operate as barriers after permanent closure, are functioning as intended and anticipated.

(b) The program shall have been started during site characterization and it will continue until permanent closure.

(c) The program shall include in situ monitoring, laboratory and field testing, and in situ experiments, as may be appropriate to accomplish the objective as stated above.

(d) The program shall be implemented so that:

(1) It does not adversely affect the ability of the natural and engineered elements of the geologic repository to meet the performance objectives.

(2) It provides baseline information and analysis of that information on those parameters and natural processes pertaining to the geologic setting that may be changed by site characterization, construction, and operational activities.

(3) It monitors and analyzes changes from the baseline condition of parameters that could affect the performance of a geologic repository.

(4) It provides an established plan for feedback and analysis of data, and implementation of appropriate action.

§ 60.141 Confirmation of geotechnical and design parameters.

(a) During repository construction and operation, a continuing program of surveillance, measurement, testing, and geologic mapping shall be conducted to ensure that geotechnical and design parameters are confirmed and to ensure that appropriate action is taken to inform the Commission of changes needed in design to accommodate actual field conditions encountered.

(b) Subsurface conditions shall be monitored and evaluated against design assumptions.

(c) As a minimum, measurements shall be made of rock deformations and displacement, changes in rock stress and strain, rate and location of water inflow into subsurface areas, changes in groundwater conditions, rock pore water pressures including those along fractures and joints, and the thermal and thermomechanical response of the rock mass as a result of development and operations of the geologic repository.

(d) These measurements and observations shall be compared with the original design bases and assumptions. If significant differences exist between the measurements and observations and the original design bases and assumptions, the need for modifications to the design or in construction methods shall be determined and these differences and the recommended changes reported to the Commission.

(e) In situ monitoring of the thermomechanical response of the underground facility shall be conducted until permanent closure to ensure that the performance of the natural and engineering features are within design limits.

§ 60.142 Design testing.

(a) During the early or developmental stages of construction, a program for in situ testing of such features as borehole and shaft seals, backfill, and the thermal interaction effects of the waste packages, backfill, rock, and groundwater shall be conducted.

(b) The testing shall be initiated as early as is practicable.

(c) A backfill test section shall be constructed to test the effectiveness of backfill placement and compaction procedures against design requirements before permanent backfill placement is begun.

(d) Test sections shall be established to test the effectiveness of borehole and shaft seals before full-scale operation proceeds to seal boreholes and shafts.

§ 60.143 Monitoring and testing waste packages.

(a) A program shall be established at the geologic repository operations area for monitoring the condition of the waste packages. Waste packages chosen for the program shall be representative of those to be emplaced in the underground facility.

(b) Consistent with safe operation at the geologic repository operations area, the environment of the waste packages selected for the waste package monitoring program shall be representative of the environment in which the wastes are to be emplaced.

(c) The waste package monitoring program shall include laboratory experiments which focus on the internal condition of the waste packages. To the extent practical, the environment experienced by the emplaced waste packages within the underground facility during the waste package monitoring program shall be duplicated in the laboratory experiments.

(d) The waste package monitoring program shall continue as long as practical up to the time of permanent closure.

Subpart G—Quality Assurance

§ 60.150 Scope.

As used in this part, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that the geologic repository and its subsystems or components will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

§ 60.151 Applicability.

The quality assurance program applies to all systems, structures and components important to safety, to design and characterization of barriers important to waste isolation and to activities related thereto. These activities include: site characterization, facility and equipment construction, facility operation, performance confirmation, permanent closure, and

decontamination and dismantling of surface facilities.

§ 60.152 Implementation.

DOE shall implement a quality assurance program based on the criteria of Appendix B of 10 CFR Part 50 as applicable, and appropriately supplemented by additional criteria as required by § 60.151.

Subpart H—Training and Certification of Personnel

§ 60.160 General requirements.

Operations of systems and components that have been identified as important to safety in the Safety Analysis Report and in the license shall be performed only by trained and certified personnel or by personnel under the direct visual supervision of an individual with training and certification in such operation. Supervisory personnel who direct operations that are important to safety must also be certified in such operations.

§ 60.161 Training and certification program.

DOE shall establish a program for training, proficiency testing, certification and requalification of operating and supervisory personnel.

§ 60.162 Physical requirements.

The physical condition and the general health of personnel certified for operations that are important to safety shall not be such as might cause operational errors that could endanger the public health and safety. Any condition which might cause impaired judgment or motor coordination must be considered in the selection of personnel for activities that are important to safety. These conditions need not categorically disqualify a person, so long as appropriate provisions are made to accommodate such conditions.

Subpart I—Emergency Planning Criteria [Reserved]

Dated at Washington, D.C., this 13th day of June 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-16319 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous **Federal Register** document, FR Doc. 83-15384 (List of OTC Margin Stocks), which was published at page 26587 of the issue for Thursday, June 9, 1983, to be effective June 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2781.

SUPPLEMENTARY INFORMATION: Based upon corrected information received from the Company, the stock of Chemical Leaman Corporation, $2.50 par common, should remain on the List of OTC Margin Stocks. The stock of The Central Bancorporation, Inc., $5.00 par common was inadvertently omitted from the printed copy of the complete List of OTC Margin Stocks although it was not listed as a deletion from the list.

Accordingly, in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U the stock of Chemical Leaman Corporation, $2.50 par common, is removed from the list of deletions from the Board's List and is added to the complete List of OTC Margin Stocks on file at the Office of the Federal Register; and the stock of the Central Bancorporation, Inc., $5.00 par common, is added to the complete List on file at the Office of the Federal Register.

By order of the Board of Governors of the Federal Reserve System, June 16, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16908 Filed 6-16-83; 4:06 pm]

BILLING CODE 6210-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1406

Provision of Performance and Technical Data for Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rule which requires that coal and wood burning stoves, freestanding fireplaces, and similar appliances bear a label stating that furnishings and other combustibles should be kept a "considerable distance away" from the appliance. The amendment would allow the use of alternate language stating that such objects should be kept "far away" from the appliance. This change is made to allow manufacturers to use a shorter statement to convey the safety message.

EFFECTIVE DATES: This amendment shall become effective October 17, 1983, which is also the effective date of the rule.

ADDRESSES: All materials that the Commission has that are relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 8th Floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On May 16, 1983, the Commission published a final rule in the **Federal Register** that requires that certain performance and technical data be supplied with coal and wood burning stoves, freestanding fireplaces, and similar appliances in order that consumers will be aware of important safety information concerning the installation, operation, and maintenance of these appliances. 16 CFR Part 1406; 48 FR 21898. Part of the data required by this rule is to be in the form of labeling on the device, and the rule also requires that complete installation, operation, and maintenance directions be provided with the appliance, Sales catalogs and other point of sale literature are required to state certain minimum clearance distances to combustibles and to refer to the possibility of other installation restrictions.

Section 1406.4(a)(1)(ix) of the rule requires that the label contain a "statement that furnishings and other combustible materials should be kept a considerable distance from the appliance." This requirement is intended to help prevent fires that can occur if furnishings or other combustible materials are placed too close to the appliance.

After the Commission had voted on the present language of § 1406.4(a)(1)(ix), a stove manufacturer wrote to the Commission, suggesting that the requirement be changed so that

the statement "Keep furnishings and other combustibles far away" would be acceptable. This manufacturer indicated that, for his product, warnings that are to be visible during use, as required by the rule for the label information concerning the unit's operation and maintenance, must be cast into the stove. He stated that he did not have room on the stove for the present wording that combustibles should be kept "a considerable distance away."

The Commission agrees that the terminology "far away" would convey the safety message intended by "a considerable distance away" and could be useful in some cases where label space is limited. Therefore, in the amendment set forth below, the Commission has decided to allow the use of the language suggested by this manufacturer as an alternative to the language presently required.[1]

The Commission also received a letter from a trade association, representing a substantial portion of the affected industry, concerning this section of the rule. The trade association urged that the language be changed to "Keep furnishings and combustibles away." The association's concern for the clarity and simplicity of the statement will be largely addressed by the amendment set forth below that allows the use of the term "far away." However, the Commission believes that use of the qualifier "far" is important in order to convey to the consumer the idea that the combustibles should be kept a substantial distance from the appliance. Thus, the amendment set forth below does not fully implement the language requested by the association.

The labeling rule goes into effect on October 17, 1983, for the subject appliances that are manufactured on or after that date. For those manufacturers who wish to use the alternative language allowed by this amendment, it is important that the amendment be issued immediately so that the manufacturers can order the labels and incorporate them into their production by the effective date. For this reason, the Commission finds that notice and public procedure thereon are impracticable and contrary to the public interest, and the requirement of 5 U.S.C. 553(b) for a general notice of proposed rulemaking is inapplicable.

Furthermore, the amendment to the rule merely provides for an alternative to the language presently in the rule. This alternative may be advantageous for certain manufacturers and should not have an adverse impact on any manufacturer. Accordingly, the Commission determines that this amendment will not have a significant economic impact on a substantial number of small entities, and the final regulatory flexibility analysis described in 5 U.S.C. 604 is not required.

[1] The amendment was approved by a 4–1 vote of the Commission. Chairman Nancy Harvey Steorts and Commissioners Terrence Scanlon, Stuart M. Statler, and Sam D. Zagoria voted for the amendment. Commissioner Edith Barksdale Sloan voted against amending the rule.

List of Subjects in 16 CFR Part 1406

Advertising, Consumer protection, Fire prevention, Housing standards, Labeling.

For the reasons given above, and under the authority of 5 U.S.C. 553 and 15 U.S.C. 2076(e), the Commission revises 16 CFR 1406.4(a)(1)(ix) to read as follows (the introductory portion of § 1406.4(a)(1), although unchanged, is set forth below for context):

PART 1406—[AMENDED]

§ 1406.4 Requirements to provide performance and technical notice to prospective purchasers and purchasers.

Manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3 shall give notification of performance and technical data related to performance and safety to prospective purchasers at the time of original purchase and to the first purchaser of such products for purposes other than resale, in the manner set forth below:

(a) *Written notice on appliance.* (1) The appliance shall bear a legible notice containing the following performance and technical data.

* * * * *

(ix) A statement that furnishings and combustible materials should be kept a considerable distance from the appliance or a statement to keep furnishings and other combustibles far away.

* * * * *

Dated: June 15, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-16477 Filed 6-20-83; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210 and 211

[Release No. SAB-53]

Staff Accounting Bulletin No. 53

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This Staff Accounting Bulletin expresses the staff's views with respect to certain disclosure and reporting requirements relating to the issuance of securities guaranteed by affiliates of the issuer and to Rule 3–10 of Regulation S–X (17 CFR 210.3–10).

DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: David Martin, (202) 272–2573, or, regarding Rule 3–10, Howard Hodges, (202) 272–2553, Division of Corporation Finance, or Robert K. Herdman, (202) 272–2141, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George F. Fitzsimmons,

Secretary.

June 13, 1983.

List of Subjects in 17 CFR Part 210

Accounting, Reporting and recordkeeping requirements, Securities.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 53 to the table found in Subpart B.

Staff Accounting Bulletin No. 53

The staff herein adds Sections G and H to Topic 1 of the Staff Accounting Bulletin Series. Section G discusses the requirements for financial statements of an issuer of securities guaranteed by its parent to be included in registration statements and reports. Section H interprets the financial statement requirements of Rule 3–10 of Regulation S–X for a subsidiary that guarantees securities of its parent.

Topic 1: Financial Statements

* * * * *

G. Financial Statement Requirements in Filings Involving the Guarantee of Securities by a Parent

Facts:

Company B files a registration statement under the Securities Act of 1933 (the "Securities Act") involving the

issuance of debt guaranteed by its parent, Company A. Company B is a consolidated subsidiary of Company A.

Question 1:

Must Company B's registration statement always contain all of the financial statements specified by the applicable registration form?

Interpretive Response:

No, provided that certain conditions are met.

The disclosure provisions of the Securities Act generally mandate full disclosure for each issuer that is registering the sale of its securities. Because the registration of a guaranteed security involves the registration of two securities,[1] each by a separate issuer, the general requirement is for full financial statement disclosure by both the issuer of the guaranteed security and the guarantor of that security. The staff believes, however, that under certain circumstances full financial statement disclosure by the issuer of the guaranteed security may be unnecessary. The appropriate disclosure for the issuer of the guaranteed security will depend on the nature of that entity in relation to the guarantor and the nature of the guarantee. The staff is of the view that such factors can justify three levels of disclosure: no separate disclosure, summarized disclosure and full disclosure.

No Separate Disclosure. Where the issuer of the guaranteed security is wholly owned (as defined in Rule 1-02(z) of Regulation S-X) by the guarantor and essentially has no independent operations, and where the guarantee is full and unconditional, the staff generally will not require separate financial statements of the issuer of the guaranteed security because the consolidated financial statements of the guarantor parent are adequate for the protection of investors. Subsidiaries that typically fall into this category are foreign financing subsidiaries, export-import subsidiaries, and other entities that function essentially as special purpose divisions of the parent. In these cases, the investor's investment decision is based on the credit worthiness of the guarantor.

Summarized Disclosure. Where the issuer of the guaranteed security is wholly owned by the guarantor but has more than minimal independent operations of its own, and where the guarantee is full and unconditional, the staff generally will not require the issuer of the guaranteed security to present all the financial information specified by the applicable registration form if the registration statement contains summarized financial information regarding the subsidiary. Such information should include at least that described in the definition of "summarized financial information" in Rule 1-02(aa)(1) of Regulation S-X. The summarized financial information should be included in the footnotes to the audited consolidated financial statements of the guarantor parent, and should be as of the same dates and for the same periods as the consolidated financial statements.

Full Disclosure. Where the issuer of the guaranteed security is not wholly owned by the guarantor, or where the guarantee is not full and unconditional, the staff generally will require the issuer subsidiary to include all the financial statements required by the applicable registration form as well as the financial statements of the guarantor parent.

Question 2:

What financial statements of the issuer subsidiary must be included in reports filed pursuant to the Securities Exchange Act of 1934 (the "Exchange Act")?

Interpretive Response:

Generally, the staff will apply the same criteria used in determining the level of disclosure for the issuer of a guaranteed security under the Securities Act to govern questions regarding that issuer's reporting obligations under the Exchange Act. Thus, if the issuer of a guaranteed security falls into the first category above—that is, it is wholly owned, it essentially has no independent operations, and the guarantee is full and unconditional—separate financial information for the issuer will generally be unnecessary. If the issuer of the guaranteed security falls into the second category above—that is, it is wholly owned, it has more than minimal independent operations of its own, and the guarantee is full and unconditional—it generally will be sufficient to include summarized financial information about the issuer subsidiary in the notes to the parent guarantor's consolidated financial statements.[2] Finally, if the issuer of the guaranteed security is in the third category above—that is, it is not wholly owned by the guarantor or the guarantee is not full and unconditional—the issuer of the guaranteed security would have to satisfy all Exchange Act reporting obligations.

H. Financial Statement Requirements in Filings Involving the Guarantee of Securities by a Subsidiary

Facts:

Company A files a registration statement involving the issuance of debt guaranteed by its subsidiary, Company B.

Question 1:

Does Rule 3-10(a) of Regulation S-X require the inclusion in the registration statement of the financial statements of Company B?

Interpretive Response:

In the relatively infrequent situations where a registration statement covers the issuance by a parent of a security that is guaranteed by its subsidiary, the staff has concluded that, as a general rule, financial statements for both of the issuers would be material to the investment decision.[3]

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BILLING CODE 8010-01-M

[1] *See* Section 2(1) of the Securities Act.

[2] Further, in situations where the parent guarantor of an issuer subsidiary in either the first or second category is a reporting company under the Exchange Act, upon application to the Commission such a subsidiary would be conditionally exempted pursuant to Section 12(h) of the Exchange Act from reporting obligations under such Act.

[3] Rule 3-10(a) of Regulation S-X recently was amended to reflect the requirement that a guarantor must provide financial statements when the guaranteed security is registered or being registered. *See*, Accounting Series Release No. 302 (November 6, 1981) [46 FR 56171], restated in part in section 213.05 of Financial Reporting Release No. 1 (April 15, 1983) [47 FR 21028].

Certain registrants have misinterpreted the last sentence of Rule 3-10(a) as requiring only the consolidated financial statements of the parent in situations where a consolidated subsidiary has guaranteed the parent's securities. Under this interpretation registrants have asserted that the guarantor subsidiary's financial statements are filed by virtue of inclusion in the parent's consolidated financial statements. Rather, the last sentence of Rule 3-10(a) clarifies the relationship of the requirements of that rule to those of Rule 3-09. For example, financial statements of an unconsolidated guarantor subsidiary filed pursuant to the requirements of Rule 3-09 on an individual basis or consolidated with its subsidiaries will satisfy the requirements of Rule 3-10(a). However, financial statements of such a guarantor subsidiary filed on a combined basis with other unconsolidated subsidiaries pursuant to Rule 3-09(c) will not satisfy the requirements of Rule 3-10(a).

17 CFR Part 240

[Release No. 34-19860; File No. S7-948]

Maintenance of Accurate Securityholder Files and Safeguarding of Funds and Securities by Registered Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rules.

SUMMARY: In order to further the national system for the clearance and settlement of securities transactions under Section 17A of the Securities Exchange Act of 1934 and to ensure the prompt and accurate clearance and

settlement of those transactions, the Securities and Exchange Commission (the "Commission") is adopting rules that: (1) Require registered transfer agents to maintain certain information concerning securityholder records; (2) require registered transfer agents to maintain current and accurate securityholder records; (3) require registered transfer agents to post promptly all transfers, purchases and redemptions to those securityholder records and to notify their appropriate regulatory agency if they are unable to do so; (4) require registered transfer agents to exercise diligent and continuous attention in resolving record inaccuracies; (5) require registered transfer agents to disclose directly to the issuers for whom they perform transfer agent functions and to their appropriate regulatory agency information regarding record inaccuracies; (6) require registered transfer agents to buy-in certain record inaccuracies that result in a physical overissuance of securities; (7) prescribe a minimum level of communication between registered transfer agents contractually related to the same issuer; (8) set standards for the safeguarding of funds and securities in the custody or possession of registered transfer agents; (9) require certain registered transfer agents to obtain, on an annual basis, an internal accounting control report prepared by an independent public accountant; and (10) eliminate the requirement that transfer agents whose appropriate regulatory agency is either the Commission or the Office of the Comptroller of the Currency file notices regarding their status as exempt transfer agents under § 204.17Ad–4(b).

EFFECTIVE DATES: Sections 240.17Ad–12, 240.17Ad–4 (b) and (c): July 25, 1983; Sections 240.17Ad–9, 240.17Ad–10, 240.17Ad–11 and 240.17Ad–13: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Office of Securities Processing Regulation: Dan W. Schneider, Jonathan Kallman, Ester Saverson, Jr., Heidi Steinberg Coppola, or Sandra A. Sciole at (202) 272–2775, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On October 15, 1982, the Securities and Exchange Commission issued Securities Exchange Act Release No. 19142 (the "October Release",[1] proposing for comment, among other things, a series of rules for registered transfer agents establishing minimum standards for the prompt and accurate creation and maintenance of issuer securityholder records and for the safeguarding of funds and securities used in transfer agent activities. In addition, the Commission proposed amendments to Rule 17Ad–4 designed to reduce filing requirements for certain registered transfer agents that qualify for certain exemptions under existing Commission rules. Finally, the Commission solicited comment on the desirability of amending certain existing Rules that establish performance standards for certain registered transfer agents in respect of the "turnaround" of "routine" items presented for transfer and the desirability of proposing net worth and insurance requirements for registered transfer agents (other than federally regulated banks and transfer agents that perform transfer functions exclusively for their own securities).

In response to the October Release, the Commission received 53 letters of comment, including letters from the staff of the Board of Governors of the Federal Reserve System (the "BGFRS") and the Office of the Comptroller of the Currency (the "OCC").[2] As discussed below, a majority of commenters supported the concepts underlying proposed Rules 17Ad–9 through 17Ad–13. Although some commenters suggested changes that they believed would significantly enhance investor protection and would promote more prompt and accurate settlement of securities transactions, a majority of the commenters suggested refinements that would reduce compliance costs associated with the proposed rules. A small number questioned the need for any of the proposed rules, while others criticized only certain provisions as drafted that, in their view, would impose significant costs without substantial countervailing benefits.

The comments received were thoughtful and informative. Various transfer agent associations, including the Stock Transfer Association, numerous registered transfer agents, broker-dealers and one registered clearing agency have, through their comments, assisted the Commission in the formulation of appropriate limited rules. The Commission appreciates, in particular, the many comments respecting the proposed buy-in requirement, the comments of the American Institute of Certified Public Accountants respecting the proposed external accountant study and evaluation requirement, and the helpful overall comments of the federal bank regulatory agencies.[3] The Commission believes that the success of the comment process in this proceeding is evident in the rules as adopted today.

The Commission has determined to adopt Rules 17Ad–9 through 17Ad–13 modified, as discussed below, to accommodate many of the suggestions made by the commenters. Consistent with its intent as stated in the October Release, the Commission, in modifying the proposed rules, has sought to avoid creating new costs for any substantial segment of the transfer agent industry. Moreover, to the extent that new costs are imposed on some registered transfer agents, the Commission believes that those costs, on balance, are outweighed by the significant benefits associated with the modified rules.[4]

I. Rules 17Ad–9 through 13

A. Basis, Purpose and General Discussion

The Commission proposed Rules 17Ad–9 through 17Ad–13 as a result of its experience since 1975 in operating the transfer agent regulatory program pursuant to Section 17A of the Securities Exchange Act of 1934 (the "Act").[5] In the October Release, the Commission indicated its belief that the proposed new rules, in principle, appeared "necessary to investor protection and to * * * the uninterrupted and efficient operation of the national clearance and settlement system and the securities markets."[6] The Commission noted that whenever transfer agents fail to perform their activities promptly, accurately and safely, the securities clearance and settlement process suffers, and financial intermediaries, including registered broker-dealers and registered clearing

[1] 47 FR 47269 (October 25, 1982).

[2] File No. S7–948 contains all these public comment letters.

[3] In accordance with Section 17A(d)(3)(A)(i) of the Act, the Commission has consulted with, and requested the views of, the federal bank regulatory agencies at least fifteen days prior to this announcement.

[4] In making this determination, the Commission has attempted to balance compliance costs in this large and diverse service market against the value to the national clearance and settlement system, the securities industry, the securities markets and the investing public of better assured promptness and accuracy in transfer performance.

[5] 15 U.S.C. 78q–1 (1982).

[6] 47 FR 47269, 47269–270 (October 25, 1982). Section 17A of the Act, as added by the Securities Acts Amendments of 1975, directs the Commission to use its authority under the Exchange Act to facilitate the development of a national system for the prompt and accurate clearance and settlement of securities transactions, including securities transfers.

agencies, face significant financial exposure.[7]

Of the fifty-three letters of comment received by the Commission, approximately fourteen criticized the proposed rules as either unnecessary or inappropriate at this time. Several transfer agents asserted, for example, that most transfer agents, except in isolated cases, have experienced no substantial problems in connection with recordkeeping functions or the safeguarding of funds and securities used in transfer agent operations. Several of these commenters suggested that the Commission and the other Appropriate Regulatory Agencies (the "ARAs")[8] should focus their resources, through examinations in particular cases, on those transfer agents that are unable to perform their recordkeeping, transfer and related functions promptly and safely. Several others, including the American Bankers Association and at least one transfer agent trade association, noted that the proposed rules may be untimely because of industry preoccupation with recent federal tax law changes that require the withholding of federal taxes on dividend and interest payments to securityholders.

The majority of commenters, however, either concurred generally in the proposed rules and supported the regulatory and operational objectives underlying the proposed rules, or focused their discussion on particular provisions that they believed would introduce unnecessary costs. Commenters generally supporting all the proposed rules included one transfer agent trade association, five registered transfer agents, one registered securities depository and two registered broker-dealers. For example, in its comment letter, the Depository Trust Company ("DTC"), a registered securities depository, stated that it "supports the Commission's efforts to ensure prompt, accurate, and efficient transfer services for shareowners and those acting on their behalf." DTC continued, stating that:

> Generally speaking the proposed record-keeping rules strengthen that effort and provide greater safeguards against abuse. We do not think they are overly burdensome in that well-run transfer agents probably maintain their records in as complete a fashion as contemplated by the proposed rules or almost so. Those that do not may find more stringent record-keeping will have long term benefits to their issuer clients and the issuer's shareholders.

Similarly, American Stock Transfer, Inc., a registered transfer agent, indicated its support for the proposed rule changes:

> The concept of developing a better, unified set of transfer agent rules based on up-to-date processing procedures is extremely exciting and ultimately beneficial to the entire investment community.

After reviewing the record in this rulemaking proceeding, the Commission continues to believe that, because transfer agents occupy a crucial role in making the nation's securities markets safe and efficient, it is important that transfer agents observe reasonable, uniform minimum performance standards.[9] Moreover, in view of recent and anticipated accelerating trading volume, and in view of the increasing dependence of most financial institutions on efficient, safe and economical clearance and settlement systems, it is paramount that all registered transfer agents routinely operate in ways that ensure promptness and accuracy in transfer agent activities.

With respect to the scope of the rules as proposed in the October Release, the Investment Company Institute (the "ICI") and several transfer agents for mutual funds urged the Commission to exempt from the proposed rules registered transfer agents that perform transfer agent functions for redeemable securities issued by companies registered under the Investment Company Act of 1940. These commenters asserted that these transfer agents and their activities are already subject to regulation, through requirements under the Investment Company Act. In addition, these commenters noted that most of these securities issued by companies registered under that Act are issued and transferred in uncertificated form and argued, drawing a parallel to the Commission's "Turnaround Rules"[10] and the general exemption granted with respect to those rules,[11] that proposed Rules 17Ad–9 through 17Ad–13 appeared to be designed essentially for transfer and processing of certificated securities.

The Commission believes, however, that exemptions respecting uncertificated securities, although appropriate in regulations governing transfer agent processing and turnaround of certificates and certificate-related items presented for transfer, are inappropriate in regulations regarding registered transfer agents' accurate creation and maintenance of issuer securityholder records and safeguarding of funds and securities in their operations. Indeed, in the absence of certificates reflecting the rights of securityholders, the integrity of an issuer's securityholder records is critically dependent on the controls and safeguards relating to its transfer agent's operations. Moreover, since critical records are maintained by mutual fund transfer agents on behalf of many investment company issuers, these transfer agents have direct responsibility for the integrity of issuer securityholder records and the adequacy of related transfer agent controls. Responsibilities derived from the issuer's obligations to securityholders under applicable law, including the Investment Company Act,[12] while important, cannot be controlling. Thus, the Commission declines at this time to adopt the exemption requested by ICI.

B. Rule 17Ad–9–Definitions

Proposed Rule 17Ad–9 would define the principal terms used throughout proposed Rules 17Ad–10 through 13, including the terms "certificate detail," "debit," "credit," "master securityholder file" and "record difference." The definitions drew significant comment.

Proposed paragraph (a) of the rule would define the term "certificate detail" to include certain minimum identifying information about securities

[7] More specifically, the Commission cited examples of substandard transfer agent performance in the areas of recordkeeping and safeguarding, which presented significant potential adverse operational and financial problems for the issuer community and the investing securties industry, the securities markets, the public. *See* 47 FR at 47270, notes 5–7.

[8] *See* Section 3(a)(34)(B) of the Act, 15 U.S.C. 78c(a)(34)(B), which defines "ARA."

[9] The Commission believes that these minimum standards are critical to: (i) Providing the Commission with needed additional legal authority to address seriously deficient transfer agent performance; (ii) reducing the potential for transfer agent failure, which inevitably imposes substantial potential liabilities and costs on issuers, securities firms and securityholders; and (iii) improving generally transfer agent performance and thereby reducing the broker-dealers' costs associated with fails to settle and extended transfer delays.

[10] *See* Rules 17Ad–1 through 17Ad–7 (17 CFR 240.17Ad–1 through 17Ad–7).

[11] *See* Rule 17Ad–4(a), 17 CFR 240.17Ad–4(a) (1982).

[12] By directing the Commission to promote the prompt and accurate clearance, settlement, and transfer of securities, and granting the Commission broad rulemaking authority with respect to transfer agent activities, Section 17A of the Exchange Act recognizes both the crucial securities processing role of transfer agents and the basic responsibility placed on transfer agents to monitor and control all transfer agent activities.

Although certain investment companies obtain an external review of transfer agents' systems of internal accounting control in connection with preparing Form N–1R, the criteria associated with that review are substantially different from the criteria set forth in Rule 17Ad–13. Nonetheless, to the extent that the same accountants conduct both Form N–1R evaluations and Rule 17Ad–13 evaluations and the required scopes of those reviews and tests overlap, the expense of preparing reports required by Rule 17Ad–13 should be significantly reduced.

which transfer agent experience has shown to be important to the maintenance of acccurate securityholder records and to the efficient and effective research of inaccuracies in the master securityholder file. "Certificate detail" would include, at a minimum: the certificate number; the number of shares of equity securities or the principal dollar amount of debt securities represented by the certificate; the securityholder's registration (registered owner's name) and address; the date the certificate was issued; the cancellation date of the certificate; and, in the case of redeemable securities of investment companies, an appropriate description of the transaction for each debit and credit being posted (*e.g.*, "purchase," "redemption," or "transfer").

One commenter suggested that, notwithstanding the proposed requirement that transfer agents maintain certain minimum certificate detail, issuers should be permitted, in their discretion, to waive certain of these items that comprise certificate detail. The Commission believes, however, that it is important for all registered transfer agents to maintain certain standard information about securities, particularly since the component parts of the national system for the clearance and settlement of securities transactions are becoming increasingly integrated.[13] Indeed, requiring standard minimum certificate detail is likely to be essential to effective development of "book-entry transfer" of securities ownership.[14]

In response to comments from the Investment Company Institute and several registered transfer agents, the Commission is modifying the definition of "certificate detail" to clarify that that term applies to information about both certificated and uncertificated securities and related account detail. The Commission is also amending paragraph (a)(7) to clarify that, with respect to open-end mutual fund shares, a transfer agent may designate a transaction as a transfer, purchase or redemption by using any appropriate notation or reference in the master securityholder file.

In response to commenters who suggested that certain items of information, not previously proposed, become "required certificate detail," the Commission has added paragraph (a)(8) to the proposed definition. That paragraph would require a transfer agent that includes in its records non-minimum items of information about securities or securityholders to maintain that information if that information is reasonably necessary to the transfer agent's record difference resolution process. Such information could include certificate number prefixes and suffixes, as well as taxpayer identification numbers, to the extent the transfer agent depends on either of these items of information in identifying or researching record differences.[15]

Paragraph (b) of Rule 17Ad–9, as proposed in the October Release, would define "master securityholder file" as "the official list of individual securityholder accounts." That file is the record recognized by the issuer as the official listing of persons or entities that are the record owners of the issuer's securities.[16] Because of the legal and operational importance of this listing, Rule 17Ad–10 requires that postings of certificate detail to the master securityholder file remain on the list until a debit to a securityholder account in the master securityholder file is appropriate.

The Investment Company Institute and several registered transfer agents suggested a change in the definition of "master securityholder file" to allow a mutual fund transfer agent to use a number of interrelated files in lieu of one "master securityholder file." They explained that current industry practice with respect to uncertificated securities is to maintain a group of three or more computer files, commonly linked by the securityholder's account number. Taken together, these files contain the required "certificate detail," as well as other useful account information.

In response to these comments, the Commission is modifying the definition of "master securityholder file" to allow the master securityholder file to consist of multiple, but linked, automated files for uncertificated securities of open-end investment companies registered under the Investment Company Act of 1940. The Commission is not extending this modification to other securities issues because the Commission understands that, with respect to those issues, current industry practice is to post certificate detail to a single master securityholder file. Furthermore, the Commission recognizes, as do most transfer agents, that maintaining a single record containing all critical certificate and account detail simplifies performance of transfer agent functions, contributes to efficient transfer agent operations, and promotes the accuracy of securityholder records.

In the October Release, paragraphs (e) and (f) defined "credit" as "an addition of certificate detail to the master securityholder file because of the purchase or transfer of a security," and "debit" as "a cancellation of certificate detail from the master securityholder file because of the transfer or redemption of a security." The American Bankers Association and other commenters suggested that this definition of "credit" does not account for the issuance of a replacement certificate for a lost security or the issuance of a new certificate in a different denomination than the old certificate. Similarly, these commenters also suggested that the definition of "debit" does not account for the cancellation of a certificate that is lost or the cancellation of a certificate that has been reissued in a different denomination.[17]

In response to these comments, the Commission is modifying the definitions of "credit" and "debit" to broaden their scope as recommended and is adding the term "issued" to paragraph (a) of

[13] Significantly, in an effort to increase immobilization and to improve efficiency in handling securities certificates, registered transfer agents, in conjunction with registered securities depositories, have developed transfer agent custodian programs. Under one such program, DTC's FAST Program, transfer agents maintain custody of an "omnibus" balance security certificate representing the positions that DTC holds for its participants in that issue. *See* Securities Exchange Act Release No. 19678 (April 15, 1983) 48 FR 17604 (April 25, 1983) and DTC Participant Operating Procedures, Section D.

[14] Book-entry systems for the transfer, purchase and redemption of shares are now used extensively by registered investment companies and their transfer agents. In the future, book-entry systems well be used in connection with corporate or other securities issues when applicable commercial, corporate and other state laws are amended to accommodate uncertificated securities.

[15] Several commenters suggested that the certificate number prefix or suffix and the taxpayer identification number should be included in the required minimum certificate detail. According to some commenters, a transfer agent that handles many issues or that has multiple co-transfer agents might have to suspend activity on all matching-numbered certificates if the prefix or suffix is not immediately known. One commenter suggested that taxpayer identification numbers would greatly enhance the master securityholder file by allowing "identification and proper accounting" among common name accounts. The Commission believes that the decision to include these items of information as certificate detail is better left to the discretion of each registered transfer agent in light of its record format, particularly since the taxpayer identification number is supplied voluntarily to the transfer agent by the securityholder.

[16] As noted in the October Release, the master securityholder file is intended to be synonymous with the record referred to in state corporate law as the "stockholder ledger" or "stockholder register."

[17] One commenter cited another hypothetical "debit" not included in the proposed definition. Occasionally an issuer will issue a new class of securities to replace an outstanding class without calling in the old class and, therefore, without cancelling the outstanding physical certificates. The Commission believes that, in such circumstances, posting debits to the master securityholder file would not be appropriate since certificates reflecting the old issue have not been cancelled.

Rule 17Ad–10. Thus, "credit" and "debit," as defined in this Rule, and the prompt posting requirement of Rule 17Ad–10(a) now refer to any change in certificate detail reflected on the master securityholder file.

As a related matter, some commenters noted that the proposed definition of "debit" appears to require that all certificate detail be purged from the master securityholder file in the event of a debit, but that in practice some certificate detail, *e.g.*, securityholder registration and address, should not be deleted from the file whenever there are other certificates outstanding in the particular securityholder account.[18] For this reason, the Commission is adding the word "appropriate" to the definitions of "credit" and "debit" to clarify that only appropriate elements of certificate detail need to be added to, or cancelled from, the master securityholder file in connection with each credit or debit.

The term "record difference" was defined in Rule 17Ad–9(g) of the October Release relative to two situations: first, when "the total number of shares or total principal dollar amount of securities in the master securityholder file does not equal the number of shares or principal dollar amount in the control book"; and second, when "the security transferred or redeemed contains certificate detail different from the certificate detail currently on the master securityholder file, which difference cannot be immediately resolved."

The Stock Transfer Association, Inc. ("STA") and other commenters sought clarification of the definition of "record difference" because of its importance to the buy-in requirement in proposed Rule 17Ad–10.[19] Since those commenters opposed any buy-in requirement for the second type record difference, (*i.e.*, aged record differences that do not reflect an actual physical overissuance of securities), those commenters suggested that the term "record difference" describe only situations involving actual physical overissuances.

The Commission has determined to adopt the definition of "record difference" as proposed in the October Release. Retaining that definition will enable the Commission to continue to require, in Rule 17Ad–10, that recordkeeping transfer agents use diligent and continuous attention in resolving record differences that may not involve actual physical overissuances and, in Rule 17Ad–11, that recordkeeping transfer agents report to issuers and ARAs respecting both types of record differences. Nevertheless, as discussed below,[20] the Commission is responding to the commenters' basic concern by narrowing the buy-in requirement respecting aged record differences in Rule 17Ad–10.

Paragraphs (c) and (d) as proposed would define the terms "subsidiary file" and "control book." Paragraphs (h), (i), (j), and (k) of the rule define several types of transfer agents. The Commission received no substantive comments concerning these paragraphs and has determined to adopt them without modification.

Finally, in response to requests for clarification from several commenters, the Commission is adding paragraph (l), concerning the term "file," to the definitions. That new definition clarifies that a registered transfer agent's files can consist of either automated or manual records.

C. Rule 17Ad–10—Accurate Creation and Maintenance of Securityholder Files

Paragraph (a). Proposed Rule 17Ad–10(a) would require each recordkeeping transfer agent to post promptly certificate detail to its master securityholder file after a security is transferred, purchased or redeemed. This rule also would require a recordkeeping transfer agent to post any unreconciled portion of the debit and related certificate detail to a subsidiary file and maintain it there until resolved.[21] Furthermore, the transfer agent would be required to use diligent and continuous attention to research these discrepancies. Upon resolution, the item must be promptly posted in accordance with the Rule.

The Commission proposed three specific categories of transfer agents and corresponding time frames within which posting would generally have to occur to be deemed "prompt."[22] For recordkeeping transfer agents that are exempt transfer agents under Rule 17Ad–14(b)[23] and that do not perform transfer agent functions for issuers of redeemable securities of registered investment companies, posting would be deemed prompt if certificate detail is posted within one month after the related security has been transferred. For non-exempt recordkeeping transfer agents that perform transfer agent functions for issues with sustained low transfer volume, the prompt posting requirement would be satisfied if certificate detail is posted within five business days after transfer of the related security. For non-exempt recordkeeping transfer agents that perform transfer agent functions for issues with sustained high transfer volume, posting would be deemed prompt if certificate detail is posted within three business days following the transfer of the related security. The Commission intended the same time frames to apply to the posting of co-transfer agent journals, except that the posting period would commence upon receipt of the journals by the recordkeeping transfer agent.

The Commission received thirty-four comment letters opposing the proposed "prompt" posting time frames. Five commenters objected to the proposal as unnecessary in light of current transfer

[18] The October Release also cited at least two reasons why certificate detail might continue to appear on the master securityholder file but nevertheless might relate to certificates that have been cancelled, *i.e.*, situations in which certificate detail may be retained on the files despite a credit or debit. First, many registered transfer agents retain information about former securityholders to comply with requirements of the Internal Revenue Service that certain information be reported annually. Accordingly, transfer agents generally do not purge their files more often than once a year. Second, some registered transfer agents retain certificate detail on the files as long as possible to facilitate research of potential record differences.

[19] The STA, for example, emphasized that there are two entirely separate types of record differences. The first is created by an unpostable debit, which is usually the result of a prior file error. These errors, while not routine, are not rare and generally represent clerical entry or past system conversion errors. This type of record difference results when equal debits and credits are presented and transferred, but are not equally posted to the master securityholder file, and does not represent a difference between the shares or debt amount authorized and outstanding (as reflected in the control book) and the actual shares or debt amount issued.

The second type of record difference, the first type referred to in proposed paragraph (g), is, according to the STA, the only true out-of-balance condition. The condition exists whenever, for example, the shares issued and outstanding in the hands of the public exceed the shares authorized and reflected as outstanding in the control book. This error is most commonly created when shares are transferred over stop orders or when one class or series of securities is issued against another class or series.

[20] *See* discussion in text at notes 28–31, *infra.*

[21] A registered transfer agency may reject securities presented for transfer or redemption if appropriate under the Uniform Commercial Code. If rejection is inappropriate, however, the transfer agent must process the item in compliance with the Turnaround Rules.

[22] As stated in the October Release, the prompt posting rules are minimum standards that do not mandate the use of any particular type of recordkeeping system. In addition, a recordkeeping transfer agent may post to its master securityholder file debits and credits prior to, or contemporaneously with, but in no case later than promptly after, the transfer, pruchase or redemption of an item to which the debits and credits relate.

[23] This rule exempts from certain of the Turnaround Rules, transfer agents that receive during any six consecutive months fewer than 500 items for transfer and fewer than 500 items for processing. *See* 17 CFR 240.17Ad–4(b) (1982).

agent efficiency. Twenty-six commenters favored either: (i) Less restrictive time frames for high and low volume issues,[24] or (ii) a uniform time frame.[25] One transfer agent and two broker-dealers, however, favored more restrictive time frames. Seven issuer transfer agents opposed the proposed time frames to the extent that the proposal would require them to abandon "batch" posting. That technique, which entails daily posting to a front-end subsidiary file and less frequent "batch" updating to the master securityholder file, minimizes costs by enabling issuers to allocate efficiently their computer facilities to various activities. Finally, ten commenters sought clarification concerning the time frame for posting certificate detail from co-agent transfer journals and recommended that any posting requirement for recordkeeping transfer agents using co-transfer agents account for delays caused by mailing transfer journals. These commenters urged, in addition, that the posting time frames should not commence until the recordkeeping transfer agent receives the appropriate transfer records from the co-transfer agent.

As a general matter, the Commission believes that timely updating of the master securityholder file is essential since delayed posting or the failure to post may promote the proliferation of record inaccuracies that would impede the accurate payment of dividends and interest and the processing of proxy solicitations. In response to the comments, however, the Commission has determined not to predicate posting time frames on the volume of items presented for transfer within each security issue, but instead, has decided to set a uniform five day prompt posting standard for registered, non-exempt transfer agents to correspond more accurately to the prevailing industry standard as reflected in the comments. The Commission nonetheless urges all transfer agents to post with a view toward assuring maintenance of accurate securityholder records and encourages all registered transfer agents that now post on a same-day or next-day basis to continue that exemplary practice.[26] In addition, the Commission is extending the time frame for issuer transfer agents that batch post. Because of the limited number of issues transferred by issuers and the absence of any evidence of problems resulting from the use of batching systems, the Commission believes that this flexibility is consistent with the objectives of the Rule. The Commission also has clarified transfer agents' posting obligations with respect to co-transfer agent journals. Thus, as adopted, Rule 17Ad–10(a) defines the term "prompt" to mean:

> the following number of days after issuance, purchase, transfer, or redemption of a security:
>
> (i) With respect to recordkeeping transfer agents that are exempt transfer agents under § 240.17Ad–4(b), 30 calendar days;
>
> (ii) With respect to recordkeeping transfer agents that: (i) Perform transfer agent functions solely for their own or their affiliated companies' securities issues, and (ii) employ batch processing systems, ten business days; and
>
> (iii) with respect to all other recordkeeping transfer agents, five business days;
>
> *Provided, however,* That all securities transferred prior to record date but posted subsequent thereto, shall be posted "as of" the record date. With respect to posting certificate detail from transfer journals received by the recordkeeping transfer agent from a co-transfer agent, the time frames set forth in [the above paragraph] shall commence upon receipt of those journals by the recordkeeping transfer agent.

The definition of "prompt" now contains a proviso concerning posting "as of record date." Various commenters emphasized the importance of maintaining the master securityholder file in ways that reflect securities transferred prior to record date and that are thereby subject to record date protection. The phrase "as of the record date" is intended to afford recordkeeping transfer agents flexibility in posting debits and credits resulting from securities transferred immediately prior to record date and to enable those transfer agents to continue the customary practice of "leaving open" the master securityholder file to post those debits and credits whenever heavy transfer volume immediately prior to record date delayed posting those debits and credits by a day or two.

The Commission believes the standards, as adopted, will be easier for registered transfer agents and ARAs to administer. In addition, although the Commission generally has relaxed the prompt posting standard, the Commission believes that the modified rules appropriately identify the performance standards minimally necessary to assure the maintenance of accurate securityholder records and correspond better to the needs and practices of responsible issuer, bank, and other registered transfer agents.

The Commission is also adding "or issued" to the list of situations that may give rise to the need to post certificate detail to the master securityholder file. Thus, for example, Rule 17Ad–10(a) will apply to the posting of certificate detail related to the initial issuance of securities or to the issuance of replacement certificates.

Numerous commenters sought clarification concerning retroactive application of the requirement in Rule 17Ad–10(a) to maintain accurate securityholder files. More specifically, commenters questioned whether paragraph (a) would be interpreted to require registered transfer agents to reconstruct the master securityholder file for missing certificate detail respecting debits and credits posted prior to the effective date of this section.[27]

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[24] Most of the commenters noted that only the three day prompt posting standard would impose too severe a burden on their current processing systems. Two commenters opposed the three day prompt posting standard because the higher volume issues require more time for posting to the master securityholder file, not less, as the Commission's proposal implied.

Fifteen commenters suggested implementation of less restrictive time frames, and ten suggested that the cost of compliance might hinder transfer agents' adherence to the three or five day prompt posting standard. Several of these commenting transfer agents stated that they could comply with a five day prompt posting standard with little additional financial or operational burden. Several others, mostly issuer transfer agents, viewed a two week or thirty day prompt posting standard as more appropriate. Still others did not state what their capabilities were, but expressed the view that the costs of compliance with a three day time frame would be excessive. Two commenters indicated that the costs of compliance with the Rule, as proposed, may be so excessive as to force certain transfer agents out of business. Both of these transfer agents, as well as the STA, however, noted that most registered transfer agents generally should be able to adhere to a five day prompt posting standard.

[25] Five commenters suggested a uniform five day prompt posting standard; three suggested a uniform three day standard; one suggested a uniform four day standard; and three commenters endorsed a uniform approach without suggesting any specific time frame. Several endorsed a uniform prompt posting standard because uniformity would avoid confusion and potential competitive injury. In addition, they stated that it would promote easy administration by transfer agents and their ARAs.

[26] In the October Release, the Commission also proposed to establish a 30 day posting time frame for registered transfer agents that handle insubstantial transfer volume, so that such transfer agents could post periodically. Some commenters objected to that exemption, asserting that transfer delays emanate with greater frequency from such transfer agents. The Commission, however, has determined not to change that proposal for two reasons. First, the introduction of a 30 day posting standard, while less strict than the general five-day standard, nonetheless introduces a uniform and reasonably strict discipline for exempt transfer agents. Second, the Commission is proposing today, in a separate release, that exempt transfer agents who handle depository-eligible securities turnaround routine items within five business days of their receipt. That proposal, if adopted, would create significant discipline with respect to those transfer functions that most directly affect presentors.

[27] One commenter suggested that the Commission should require "the previous records to be pulled to set up the certificate detail from the manual records previously maintained."

In response to those inquiries, the Commission is adding new paragraph (h). That paragraph clarifies that registered transfer agents will not be required to reconstruct the master securityholder file to add certificate detail for securities transferred prior to the effective date of Rule 17Ad–10. Paragraph (h), however, provides that subsequent to the effective date, successor recordkeeping transfer agents that establish a new master securityholder file for a particular issue, or recordkeeping transfer agents converting from manual to automated recordkeeping systems, must carry over certificate detail existing on the master securityholder file.

Paragraph (b): The buy-in requirement. Proposed Rule 17Ad–10(b) would require every registered recordkeeping transfer agent to maintain accurate master securityholder files and any necessary related subsidiary files. If a record difference exists and the recordkeeping transfer agent cannot resolve the difference within 6 months, the proposed rule would require the transfer agent to purchase in the open market ("buy-in") an amount of securities sufficient to reduce the record difference. The transfer agent would also be required, by this Rule, to devote continuous and diligent attention to resolving any record differences.

In the October Release, the Commission indicated its initial belief that the "buy-in" provision, if adopted, would deter transfer agents from permitting record differences to accrue and, in that respect, would tend to reduce financial exposure to the transfer agent, issuer and securityholders. In addition, the Commission stated that the maintenance of a complete and accurate master securityholder file would assure securityholders that they are identified as such by the issuer and, as a result, will receive all corporate distributions and communications.

Most of the comments the Commission received regarding this provision endorsed the buy-in requirement, at least in limited circumstances, as a means of assuring accurate master securityholder files.[28] Several commenters, however, indicated that a buy-in requirement may be unnecessary,[29] and many commenters objected to the Commission's broad proposal to require buy-ins for all record differences. For example, as noted previously, the STA emphasized the existence of two distinct categories of record differences and suggested that a buy-in be required only for a true out-of-balance condition, wherein the shares issued and outstanding exceed the shares authorized and outstanding and reflected in the control book. (Most often, such an actual physical overissuance occurs when shares are transferred over stop orders or when one class or series of securities is issued against another class or series.) Six commenters also sought clarification that the buy-in provision would not require a recordkeeping transfer agent to buy-in record differences caused by a registered co-transfer agent or a predecessor transfer agent.

In response to these comments, the Commission is narrowing the scope of the proposed buy-in requirement to cover actual physical overissuances[30] created by transfers or issuances subsequent to the effective date of the Rule, rather than all record differences. While the Rule continues to require good-faith efforts by registered transfer agents to resolve all record differences, the Commission recognizes that, where no actual overissuance has occurred, a strict buy-in requirement could impose costs on transfer agents which substantially exceed the potential financial exposure. In addition, to avoid any confusion, the Commission is removing the buy-in requirement from paragraph (b), as proposed, and is placing the buy-in obligation, together with all relevant considerations, in a separate paragraph (g). Furthermore, in light of the comments received, the Commission has determined to modify the requirement that only recordkeeping transfer agents are responsible for buy-ins; instead, the provision will require that transfer agents responsible for the actual physical overissuances, including co-transfer agents, effect the "buy-ins."[31]

With respect to actual physical overissuances, therefore, new Rule 17Ad–10(g) will require:

> [a] registered transfer agent, in the event of any actual physical overissuance that such transfer agent caused and of which it has knowledge, shall within thirty days of the discovery of such overissuance, buy-in securities equal to the number of shares overissued in the case of equity securities or the principal dollar amount overissued in the case of debt securities. This paragraph requires a buy-in by the transfer agent that erroneously issued the certificate(s) giving rise to the physical overissuance.

Based upon the Commission's experience and the observations made by commenters during this rulemaking proceeding, there appear to be only three common instances of physical overissuance that necessitate a buy-in: (1) The transfer of a certificate over a stop order on the transfer agent's records; (2) the issuance of a certificate ("new certificate") in a dollar or share amount that exceeds the authorized dollar or share amount of the certificate against which the new certificate was issued; and (3) the erroneous issuance of a certificate on cancellation of a certificate of a different security issue class or series (*e.g.*, common for preferred).

Paragraphs (c) and (d). Proposed paragraphs (c) and (d) of Rule 17Ad–10 would require, respectively, that every registered co-transfer agent: (1) Promptly dispatch or mail to the recordkeeping transfer agent a record of certificate detail for every certificate cancelled and every certificate issued; and (2) promptly respond to all inquiries from the recordkeeping transfer agent regarding that record of certificate detail. As proposed in the October Release, the Commission would define "prompt," for both paragraphs, to require a co-transfer agent to perform its

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[28] One commenter suggested that the Commission require all record differences to be bought in within one year of the Rule's effective date so that all recordkeeping transfer agents would have complete and accurate files.

[29] For example, seven commenters objected to the buy-in provision because some transfer agents currently have procedures for reconciling record differences. Some commenters cited internal procedures that entail periodic reports to the issuer and to its internal audit department or independent accountant. Other commenters believe the buy-in provision is unnecessary since ARAs currently monitor transfer agent records and procedures. Several other commenters stated that a federal buy-in requirement may be unnecessary since state law already imposes an obligation to purchase securities in the open market or through original issue on behalf of securityholders in order to satisfy any legitimate shareholder claims.

[30] Often the error giving rise to the physical overissuance occurs upon issuance or cancellation of a security certificate. If a co-transfer agent arrangement exists for a particular security issue, it is often the case that the co-transfer agent is responsible for the issuance and cancellation of the actual certificate. In instances such as this, the Commission believes it should be the responsiblity of the co-transfer agent to reconcile the error, by buying-in the overissuance when appropriate under new Rule 17Ad–10(g).

[31] Issuers and their transfer agents may be required to buy-in securities that reflect an "overissue" under state law (*see* § 8–104 of the Uniform Commercial Code). This obligation reflects, essentially, a remedy granted to persons directly and adversely affected by the "overissue." Although the Commission is establishing a federal buy-in requirement for actual physical overissuances by registered transfer agents, Rule 17Ad–10(g) is not intended to affect rights or remedies granted to securityholders under § 8–104 of the Uniform Commercial Code or under any other applicable state law. Rule 17Ad–10(g) would require registered transfer agents to buy-in an amount of authorized securities equal to the number of unauthorized equity shares or principal dollar amount of unauthorized debt securities and hold those authorized shares or securities against the transfer agents' potential liability to bona fide purchasers of the unauthorized securities.

obligations by the end of the next business day after the triggering event.[32]

The Commission received five comments stating that the definition of "prompt," for the purposes of these paragraphs, is too strict.[33] Commenters also suggested that proposed time frames be specified in the Rule, rather than in the release. In response, the Commission is relaxing somewhat the time frame for dispatch of certificate detail to the recordkeeping transfer agent to allow co-transfer agents to mail or dispatch certificate detail within two business days after transfer of certificates and is incorporating that time frame in Rule 17Ad–10(c). The Commission believes that this change will reduce the burben associated with the proposed rule by enabling co-transfer agents to dispatch certificate detail every other day, rather than daily. While a two-day time frame is stricter than suggested by the commenters, the Commission believes it important to assure that recordkeeping transfer agents receive transfer journals near the date of transfer, so that the master securityholder file can be maintained from the issuer on a timely basis. Moreover, because dispatch of those journals commonly occurs after work associated with transfer is completed, the Commission believes that a two-day time frame will not be unduly burdensome. Indeed, some commenters that perform cotransfer agent functions, as well as the STA, expressed approval of the strict time frame originally proposed. Furthermore, because of the critical need to post promptly debits and credits around record date, Rule 17Ad–10(c), as modified, requires co-transfer agents to dispatch on a daily basis certificate detail concerning transfers that occur within five business days of record date. This will enable recordkeeping transfer agents to post appropriate credits and debits promptly at the time such posting is most important and should, to some extent, relieve posting backlogs near record date.

Also, in response to commenters' suggestions that the rules provide co-transfer agents with suitable time to research aged transfer records whenever they receive inquiries from recordkeeping transfer agents, the Commission is extending the minimum response time required by Rule 17Ad–10(d) to require a response within five business days of the inquiry. This time frame parallels the requirements of Rule 17Ad–5.

Finally, to facilitate compliance with the reporting provisions of Rule 17Ad–11, the Commission is requiring co-transfer agents to mail recordkeeping transfer agents, within three business days of the end of each month, a record of all buy-ins executed by the co-transfer agent during the preceding month. Because this requirement concerns a special communication between co-transfer agents that the proposed rules necessarily contemplated but did not specifically mention, the Commission is adding appropriate language to paragraph (c).

Paragraph (e). Paragraph (e) of Proposed Rule 17Ad–10 would require every registered recordkeeping transfer agent to "maintain and keep currrent an accurate control book for each issue of securities." The control book (along with the master securityholder file) is a basic source used by transfer agents to determine the nature and extent of record differences. This Rule would require that a change in the control book not be made "except upon written authorization from a duly authorized agent of the issuer." As understood by the only commenter to address this paragraph, the Commission intends the phrase "written authorization" in this paragraph to include a blanket written authorization to make necessary changes in the control book and accordingly is adopting paragraph (e) as proposed.

Paragraph (f). Proposed Rule 17Ad–10(f) would require recordkeeping transfer agents to retain, for a period of six years, a copy of all certificate detail purged from the master securityholder file. This requirement was proposed to facilitate the resolution of record differences by recordkeeping transfer agents.

The Commission received several comments addressing the appropriate length of time for which purged certificate detail should be retained. The STA suggested that purged certificate detail need be retained only for three years.[34] Two commenters, however, suggested indefinite retention of purged certificate detail. One of these stated that it recently reconciled an account imbalance only after searching through securityholder records dating back more than twenty years.

The Commission continues to believe that a six year record maintenance requirement is desirable to facilitate the resolution of record differences and therefore, is adopting paragraph (f) as proposed. Although not required by this paragraph, the Commission encourages registered transfer agents that retain purged certificate detail for periods of time in excess of six years to continue that exemplary practice.

Three commenters questioned who should be required to maintain purged certificate detail in the event a transfer agent terminates its engagement with an issuer, and suggested that, under these circumstances, the issuer would be the appropriate party. In addition, the STA noted that the obligation should be passed on to the successor transfer agent, if and when such an appointment is made. In response, the Commission has modified paragraph (f) to permit recordkeeping transfer agents to give records to the issuer or an outside service bureau, to be maintained or preserved in accordance with Rules 17Ad–7(f) or 17Ad–7(g), provided the conditions in those rules are satisfied.

D. Rule 17Ad–11—Reporting Requirements

Rule 17Ad–11 governs reports regarding aged record differences, buy-ins and instances of failure to post certificate detail to securityholder files. The Commission believes that the reporting requirements would further two objectives. First, the reports would provide issuers with information necessary to make informed decisions about whether the transfer agent is performing its recordkeeping functions in a satisfactory manner, and whether the amount of aged record differences is sufficiently serious to require disclosure to securityholders. In this manner, the reports should enhance the ability of issuers to monitor transfer agent performance, thereby reducing the need for direct government intervention.

Second, the reports provide regulatory authorities with timely information concerning the source and extent of aged record differences and buy-ins and the identity of registed transfer agents who are experiencing serious difficulties in posting their records.[35] Armed with

[32] In the case of paragraph (c), the triggering event is the accomplishment of transfer of a security; in the case of paragraph (d), the triggering event is receipt of an inquiry from a recordkeeping transfer agent.

[33] With regard to paragraph (c), three commenters stated that a three day standard should be adopted. With regard to paragraph (d), one commenter suggested a five day standard. The fifth commenter suggested, with regard to both paragraphs (c) and (d), that there be either no time limit or a percentage requirement analogous to that established for the turnaround of routine items presented for transfer, pursuant to § 240.17Ad–2.

[34] The STA stated that this would be consistent with other Commission record retention requirements for registered transfer agents and that most, if not all, record differences come to light and are resolved well within three years.

[35] These reports, particularly in conjuction with transfer agent reports already required under Rule 17Ad–2 (c) and (d), should provide regulatory authorities with information regarding those

such reports, regulatory authorities should be able to focus their limited resources more effectively on those transfer agents whose performance may represent potential harm to investors or a threat to the smooth operation of the national system for clearance and settlement of securities transactions. For these reasons, the Commission has determined to adopt Rule 17Ad–11 with the modifications discussed below.

Reports to Issuers.[36] As proposed in the October Release, paragraph (a) of Rule 17Ad–11 would require registered recordkeeping transfer agents (except those that perform transfer agent functions solely for their own securities) to report to the chief executive officer of the affected issuer, within ten business days following the end of each month, regarding aged record differences in each issue for which it acts as recordkeeping transfer agent when either: (i) The aggregate principal dollar amount of debt securities or the aggregate market value [37] of equity securities for all record differences in that issue that have existed for more than 30 calendar days (7 calendar days in the case of redeemable securities issued by a registered openend investment company) exceeds $50,000[38] or (ii) the total number of shares of equity securities comprising record differences in that issue that have existed for more than 30 calendar days (7 calendar days in the case of redeemable securities issued by a registered open-end investment company) exceeds 10,000 shares and $10,000. Each report would set forth, for each issue of securities, the amount of the record difference, the reasons for the record difference and the steps being taken to resolve the record difference.

In response to suggestions from eigtht commenters, the Commission is changing the requirement of proposed paragraph (a)(3) that registered recordkeeping transfer agents (except those that perform transfer agent functions solely for their own securities) send reports under this section to the chief executive officer of the affected issuer. While the proposed rule was intended to produce reports that had an impact on the issuer, the commenters recommended that reports to the corporate official that performs corporate secretarial functions would be most likely to stimulate responsive corporate action. Accordingly, the Commission is requiring, in amended paragraph (b)(3), that reports of aged record differences be sent by the registered transfer agent to the official performing corporate secretary functions for a corporate issuer and to the chief financial officer of the issuer in the case of municipal securities.

Although three commenters suggested requiring reports only where there is a true overissuance and not where aged record differences result from mere clerical errors, the rule, as adopted, will continue to require reports concerning all aged record differences. The Commission believes that such information, if timely and complete, can provide an early warning to issuers that a registered transfer agent may be performing its recordkeeping functions in an unsatisfactory manner or in a manner that could harm the issuer's securityholders and financial intermediaries. For these reasons, the Commission is also retaining the requirement of monthly reports to issuers as proposed in the October Release, despite some comments suggesting less frequent reports. Moreover, since aged record difference reports to ARAs will only be required quarterly and only when aggregate aged record differences exceed federal interest thresholds, monthly reports to affected issuers may enable resolution of these record differences through issuer involvement without federal regulatory intervention.

Several commenters expressed concern that requiring reports for record differences that are aged only seven days in the case of redeemable securities of registered open-end investment companies would not provide adequate opportunity for registered transfer agents to resolve those record differences. In particular, two mutual fund transfer agents noted that Section 22(e) of the Investment Company Act of 1940 allows them seven days to process redemptions and that requiring reports of record differences aged only seven additional days substantially limits the opportunity to resolve those record differences. For this reason, those transfer agents suggested that a period of thirty days be afforded to resolve record differences in redeemable securities issues of registered open-end investment companies before reporting to issuers.

In response to these comments, the Commission is adopting a uniform thirty-day timeframe after which aged record differences must be reported to issuers. The Commission believes that thirty days provides adequate time for most mutual fund transfer agents to resolve most record differences and that those record differences not resolved within thirty days should be reported to issuers.

Many commenters expressed a general concern that the proposed thresholds for reports to affected issuers regarding aged record differences would result in routine and frequent reports, thus ensuring only issuer apathy.[39] Several commenters responded more specifically to the inquiry in the October Release whether the reporting thresholds should be based on a certain dollar amount or a set percentage of the outstanding securities issued. Most of these commenters suggested the Commission use a set percentage of the outstanding shares, since rigid dollar amounts tend to lose their validity over time. One commenter, however, specifically rejected the use of a set percentage, arguing instead that setting a uniform dollar amount facilitates maximum adherence to the rule.

In response to those varying comments, the Commission has determined to adopt tiered dollar thresholds that depend on issuer capitalization.[40] The Commission has decided not to adopt a uniform percentage of outstanding securities as a threshold because such a threshold does not accommodate the wide range of market values for equity issues or relate the level of financial exposure to issuer capitalization as well as a dollar threshold. In addition, in an effort to avoid setting a dollar threshold level

registered transfer agents that are not performing their functions promptly or accurately. *See* § 240.17Ad–10 (a) and (b).

[36] Under the Rule as adopted, paragraph (a) defines "issuer capitalization" and "aged record difference" for purposes of Rule 17Ad–11. Paragraph (b), as adopted, sets forth the requirements concerning reports to issuers. Amended paragraph (d), as adopted, sets out the required content of these reports.

[37] Rule 17Ad–11(e) provides that market value must be determined as of the last business day on which market value information is available in each reporting period.

[38] The dollar value of the debits and credits for the *same* transaction should not be aggregated, however. For example, suppose the transfer agent transfers a certificate from shareholder A to shareholder B for 50,000 shares of common stock with a market value of $50,000. Because in this example the master securityholder file does not show any shares as having been issued to A, the transfer agent posts to the master securityholder file the tranfer to B of 50,000 shares and posts to a subsidiary file a debit of 50,000 shares to A. For purposes of determining whether a report is required, the aggregate market value of this transaction would be $50,000 (not $100,000).

[39] Several commenters suggested that the dollar and share thresholds are too low and would generate too many reports, which might undermine the desired impact of all reporting. One commenter, however, suggested that the proposed dollar and share threshold levels for reporting aged record differences to issuers are too high, considering that many recordkeeping transfer agents represent small companies with few shares outstanding or shares of low market value. In the case of these issues, the commenter argued, many posting problems could exist before the reporting levels would be reached.

[40] *See* Table in paragraph (b) of Rule 17Ad–11.

that is, for some issues, too high and, for other issues, too low, the Commission has developed the tiered approach and has relied in some respects on commenters' suggestions in setting threshold levels.

In light of the revisions to the buy-in requirement of Rule 17Ad–10, the Commission is adding in paragraph (b)(2) of Rule 17Ad–11 a requirement of reports by recordkeeping transfer agents to affected issuers regarding all buy-ins executed by transfer agents pursuant to Rule 17Ad–10. Moreover, as discussed above,[41] so that recordkeeping transfer agents have all the information necessary to prepare complete reports to issuers, Rule 17Ad–10(c)(2) requires co-transfer agents to report to the recordkeeping transfer agent any buy-ins executed pursuant to Rule 17Ad–10(g).

Reports to Appropriate Regulatory Agencies. As proposed in the October Release, Rule 17Ad–11(b) would require a recordkeeping transfer agent to file with its ARA in accordance with Rule 17Ad–2(h) a report containing the information specified in paragraph (a)(2)[42] within ten business days following the end of each month when the aggregate market value of record differences for all issues handled by that transfer agent exceeds certain levels.[43] Under the adopted Rule, the requirements concerning reports to ARAs are contained in paragraph (c), and the required content of the reports concerning aged record differences and buy-ins is set out in paragraph (d).

The Investment Company Institute and two mutual fund transfer agents indicated their belief that a rule requiring reports of aged record differences to ARAs duplicates the existing requirement to file Form N–1R with the Commission on an annual basis. The information filed on an annual basis by open-end registered investment companies on Form N–1R, however, concerns only delayed, lost and cancelled orders and does not provide timely information to ARAs respecting the source and extent of aged record differences and buy-ins or the identity of registered transfer agents that are experiencing difficulties in posting their records. Accordingly, the Commission continues to believe that reports to ARAs concerning those operational details will create a unique and important early warning and monitoring program respecting transfer agent performance and should be filed by all registered transfer agents, including mutual fund transfer agents.

In response to requests from several commenters, the Commission is modifying the Rule to require reports to ARAs on a quarterly, rather than monthly basis. Moreover, the rule provides that, if ARA reports are required for a particular recordkeeping transfer agent, that transfer agent may, in lieu of preparing a new document, file copies of relevant reports sent to issuers pursuant to paragraph (b). Moreover, to the extent those reports do not disclose all aged record differences in issues for which the recordkeeping transfer agent maintains the master securityholder file, the Rule permits the recordkeeping transfer agent to disclose those aged record differences in an attachment or cover letter.

Commenters suggested various threshold levels for reporting to ARAs aged record differences.[44] Because the frequency of ARA reports is being extended from monthly to quarterly, and because some commenters assumed that the required reports would concern only record differences that constitute actual over-issuances, the Commission is adding an additional upper-level category and is increasing substantially the dollar threshold levels.[45]

For the same reasons that the Commission has determined to require reports to issuers of buy-ins in amended paragraph (b)(2), the Commission is requiring quarterly reports to ARAs of certain buy-ins in new paragraph (c)(2). These reports must disclose the amount of all buy-ins executed pursuant to Rule 17Ad–10(g) by all relevant transfer agents for issues for which the recordkeeping transfer agent maintains the master securityholder file, and must be filed whenever the aggregate market value of all such buy-ins during that quarter exceeds $100,000.

As proposed, paragraph (c) of Rule 17Ad–11 focused on problems experienced by registered transfer agents in posting certificate detail to their securityholder records. This paragraph would require a recordkeeping transfer agent to report immediately to its ARA when any debits or credits for securities transferred, purchased, redeemed or issued are unposted to the master securityholder and/or subsidiary files for more than five business days after debits or credits are required to be posted to the master securityholder file under Rule 17Ad–10. As indicated in paragraph (c)(3), the report would state the existence of unposted debits and credits and would indicate the steps being taken to correct the situation.

Most commenters on this Rule were concerned that five business days from the posting time proposed in Rule 17Ad–10 would be insufficient to enable resolution of problems that relate to co-transfer agent journals or non-routine items. Two of the commenters suggested exempting from the reporting requirement the posting of co-agent journal input and other "unusual event processing," since the posting and issuance of physical certificates should have a higher priority.

The Commission believes that the changes in posting time frames set forth in Rule 17Ad–10 should resolve these commenters' concerns. In the event a recordkeeping transfer agent requires more than five days from transfer to resolve record differences, the Commission believes that the recordkeeping transfer agent nevertheless should post the credit to the master securityholder file and the debit to a subsidiary file, as required by Rule 17Ad–10(a). At that point, no report would be required under Rule 17Ad–11. Moreover, in such an instance, the certificates to which the debit and credit relate will already have been cancelled and issued, and the mere existence of a record difference should not justify neglect in posting the relevant debits and credits. Thus, the Commission is adopting paragraph (c), redesignated as paragraph (c)(3), without significant modification.

Miscellaneous Provisions. Paragraph (d), proposed as paragraph (a)(2), drew no substantial comment, although some commenters requested clarification concerning the information that may be disclosed in reports. That paragraph, as adopted, sets out the information required to be contained in the reports of record differences (paragraph (d)(1)) and buy-ins (paragraph (d)(2)). Both paragraphs (d)(1) and (d)(2) require the

[41] *See* discussion in text at notes 28–31, *supra.*

[42] Paragraph (a)(2) has been redesignated as paragraph (d).

[43] $100,000 for 5 or fewer issues; $200,000 for 6 to 24 issues; $300,000 for 25 to 49 issues; $400,000 for 50 to 74 issues; $500,000 for 75 to 99 issues; $800,000 for 100 to 999 issues; or $1,000,000 for over 1,000 issues.

[44] For example, the STA suggested a sliding scale identical to that proposed by the Commission with the exception of one category: The STA suggested a threshold of $1,000,000 for a registered transfer agent handling 500 to 999 issues instead of the proposed $800,000 for 100 to 999 issues. Another commenter suggested only two categories: $100,000 for 99 or fewer issues and $200,000 for 100 or more issues. A third commenter suggested only one category—$1,000,000 for each 1000 issues.

[45] The Commission is adopting the change in categories suggested by the STA. *See* footnote 44, *supra.* For the specific reporting thresholds, *see* Rule 17Ad–11(c)(1), *infra.* When aggregating aged record differences under this paragraph (or when aggregating all record differences in an issue for reports under paragraph (b)(1)), a reporting registered transfer agent may not "net" overages and underages in issues. Instead, that transfer agent must aggregate the absolute value of all the aged record differences.

reports to issuers and ARAs to specify the principal dollar amount of debt securities or the number of shares and related market value of equity securities comprising the aged record differences or the buy-ins and the reason for the aged record differences or buy-ins. In addition, paragraph (d)(1) requires those reports to state the steps being taken to resolve any aged record difference, and paragraph (d)(2) requires reports to identify the entity that executed any buy-in. Furthermore, in response to comments, paragraph (d)(1) is being clarified to indicate that aged record differences that existed before the effective date of the rules must be reported to issuers and ARAs. The Commission believes that issuers and ARAs should be informed of the progress made by the current recordkeeping transfer agent in resolving these aged record differences.[46]

Proposed paragraph (d) would provide the basis for calculating market value for purposes of Rule 17Ad–11. According to this paragraph, the market value of an issue would be determined as of the last business day of each month. One commenter explained that it cannot always obtain a quotation as of the last business day of the month, especially for small issues with low transfer volume. This commenter suggested instead that the rule allow a "last available" quotation or a letter from the issuer stating the approximate per share value. Another commenter requested clarification of the source of the market value, especially as it applies to over-the-counter securities or thinly traded bond issues.

In response to the commenters' concerns, the Commission is modifying the paragraph, resdesignated as paragraph (e), to allow registered transfer agents to determine the market value as of the last business day on which market value information is available in the reporting period. For example, reporting transfer agents may use the latest publicly disseminated quotation in the reporting period. Transfer agents should, however, make a good faith effort to obtain an accurate market value for the security. For example, with respect to securities not listed on an exchange or for which price quotations are available in the NASDAQ System, transfer agents generally should not rely on "representative quotations" printed in the "pink" or "white sheets" without, either directly through market makers in the security or indirectly through the issuer, confirming the actual price at which the security is trading.

Finally, the Commission is adopting paragraph (f) of Rule 17Ad–11, proposed as paragraph (e), without modification. That paragraph requires reporting registered transfer agents to retain a copy of any report filed under this rule for three years, the first year in an easily accessible place.

E. Rule 17Ad–12—Safeguarding Funds and Securities

Proposed Rule 17Ad–12 would require registered transfer agents to safeguard funds and securities used in transfer agent operations by prohibiting them from taking any action with respect to those funds or securities unless the transfer agent has taken appropriate steps to ensure the safeguarding of those funds and securities. Proposed Rule 17Ad–12, however, would provide registered transfer agents with considerable flexibility in adopting measures to safeguard funds and securities, because the appropriate steps would be tested "in light of all facts and circumstances." Although the Commission listed in the October Release several safeguarding measures that could be implemented,[47] the Commission noted that each transfer agent should exercise responsible discretion [48] in adopting safeguards appropriate for its own operations.

The Commission received seventeen comments concerning this proposed rule. Overall, the comments favored the general purpose of the proposed rule. Several commenters, however, criticized the construction of the rule insofar as it appeared to require transfer agents that violate this rule to halt all transfer agent activities, which, in turn, would force such transfer agents to violate other regulations, including the turnaround requirements of Rule 17Ad–2. Other commenters sought clarification that compliance with this rule would not require adoption of security measures that were not cost-justified.[49] Three commenters suggested that a minimum insurance requirement would prevent the need for installing unnecessary safeguards and would at the same time help transfer agents minimize costs.

The Commission continues to believe that the adoption of this rule is desirable because it would establish a clear and straightforward legal standard regarding transfer agents' responsibilities to safeguard funds and securities. In response to these comments, however, the Commission is restating this rule to require affirmatively that registered transfer agents assure that funds and securities used in their transfer agent operations are adequately safeguarded. Rule 17Ad–12, as modified, thus will not require a transfer agent to cease acting as such upon violation of this Rule. In addition, the Commission is adding to the Rule the following provision concerning the relevance of cost considerations in making decisions respecting various safeguarding mechanisms and procedures:

> In evaluating which particular safeguards and procedures must be employed, the cost of various safeguards and procedures as well as the nature and degree of potential financial exposure are two relevant factors.

This change should clarify that the decision to select among various safeguards can be based upon, among other factors, the cost-effectiveness of particular alternative safeguards in light of each transfer agent's particular operations and risks.

In the October Release, the Commission noted that transfer agents registered with the Commission should exercise caution in hiring personnel who had been convicted within the previous ten years of any crime involving dishonesty or a breach of trust and should establish suitable safeguards prior to authorizing access by such

[46] A transfer agent who, like some commenters, believes that a stigma is attached to a successor transfer agent when it must report a record difference that was caused by other transfer agents or that existed before the effective date of the rules can note the cause of, as well as the entity responsible for, the aged record difference, in the "reasons" portion of the reports to issuers or to ARAs under paragraph (d)(1).

[47] That list included: A dual control vault for safekeeping of unissued blank certificates and unissued dividend checks; sign-in procedures for vault entry; closed circuit TV cameras; security guards; locked doors to departments or offices where transfer agent activities are performed; identification badges worn by persons entering those areas; magnetized identification or other cards or electronically controlled locked doors for entry to the transfer agents' EDP department; user codes, password procedures or other terminal access controls to ensure security over EDP system terminals in connection with operator identification and the initiation and processing of transactions; and dual control vaults or other secure locations for the original books and records regarding securities transfers (*e.g.*, transfer journals).

[48] As indicated in the October Release, however, although transfer agents have considerable discretion in this regard, they must take into account other applicable federal and state statutes or regulations. The Commission also acknowledged, in the October Release, that most transfer agents, particularly banks, currently have many of these safety measures in place.

[49] Twelve commenters stated that the appropriate measures for safeguarding the funds and securities in the custody or possession of a transfer agent should remain within the discretion of the transfer agent's management or the transfer agent's internal audit department. Most of these commenters indicated, for example, that certain of the security measures enumerated by the Commission were not cost-justified in light of their particular transfer agent operation (since no cash or negotiable instruments were held on the premises).

personnel to funds, securities or records in the possession of the transfer agent. Two commenters expressed concern that exclusion of such personnel from employment under certain circumstances may violate federal laws prohibiting discriminatory hiring practices.

The Commission believes that relevant criminal history is one factor to be considered by registered transfer agents in making employment decisions regarding staff assignments that entail access to funds or securities. Indeed, the Commission believes that Sections 17A and 17(f)(2) of the Act explicitly make it legitimate to include criminal history as one among several employment-related factors.[50] Although the Commission believes that an applicant's criminal record may be relevant in employment decisions and interprets Rule 17Ad-12 to authorize consideration of that factor in making employment decisions, the Commission emphasizes that such decisions remain within the responsible discretion of transfer agent management in light of all facts and circumstances. Relevant facts and circumstances could include the nature of the prior violation, the type of employment activities and the nature of controls over the applicant's future activities and access to funds or securities.

F. Rule 17Ad–13—Annual Study and Evaluation of Internal Accounting Controls

The October Proposal. Proposed Rule 17Ad–13 would require certain registered transfer agents to obtain a report by an independent accountant on the adequacy of internal accounting controls relative to the transfer agents' operations. The proposal would exempt registered transfer agents that perform transfer agent functions for their own securities, for securities issued by wholly owned subsidiaries or for securities issued by other corporations that own 100% of the capital stock of the registered transfer agents (collectively, "issuer transfer agents"). The proposal also would exempt certain other registered transfer agents that qualify under Rule 17Ad–13(f) (generally, transfer agents that are small businesses (referred to in this release as "small transfer agents")). The proposal also would permit the federal bank regulatory agencies to exempt bank transfer agents subject to their jurisdiction that are not otherwise exempt as small transfer agents or issuer-transfer agents, provided that a report similar in scope to the report required by Rule 17Ad–13 is prepared by the bank's internal auditors for the bank's Board of Directors or an audit committee of the Board of Directors. Therefore, assuming the federal bank regulators took appropriate action, the proposal would apply primarily to non-bank professional registered transfer agents that perform transfer agent activities on behalf of other issuers.

The report, as proposed,[51] would be required to be prepared annually by an independent accountant and would be filed with the ARA. The report would be based on a study and evaluation of the system of internal accounting control used in the transfer agent's operations[52] and would describe and comment on any material inadequacy found to exist, as of the date of the examination, or would state that the study and evaluation did not disclose any material inadequacy.[53]

If the accountant's report specified any "material inadequacies," proposed paragraph (d) would require the transfer agent receiving that report to indicate, in writing, to its appropriate regulatory agency and to the accountant within thirty calendar days of receipt of the accountant's report, the corrective action taken, or planned to be taken, by the transfer agent. Sixty calendar days thereafter, the transfer agent would be required to obtain from the accountant and forward to the transfer agent's ARA a written statement regarding whether the corrective action has been implemented, and if not, the reasons therefor.[54]

Finally, paragraph (e) would require that the accountant's report and all documents required by paragraph (d) be maintained by the transfer agent for at least three years, the first year in an easily accessible place.[55]

Comments and Specific Modifications—External Study and Evaluation.[56] The Commission received 32 comments concerning proposed Rule 17Ad–13 from various types of institutions within the securities industry.[57] All commenters except one agreed that some type of internal control examination is appropriate, and thirteen, including the STA, specifically endorsed the concept of an independent accountant's study and evaluation ("Evaluation") of the system of internal accounting control and procedures used by registered transfer agents for operations and safeguarding funds and securities ("External Evaluation"). Eight commenters, however, objected to an annual External Evaluation because it would increase the cost of doing business without, in their view, producing any significant increase in benefits.[58]

The Commission believes that the goal of the External Evaluation, ultimately, is to enhance securityholder protection. The safe and accurate performance of transfer agent functions depends on the accuracy and reliability of the systems and procedures used by registered transfer agents in performing transfer agent activities, and the Commission believes it is imperative that there be systematic verification that transfer agents operate safely and accurately. The Commission also believes that an adequate system of internal accounting control is critical to the accurate and safe clearance and settlement system for securities

[50] Section 17A(d) of the Act, 15 U.S.C. 78q–1, prohibits transfer agents from violating rules adopted by the Commission designed, among other things, to safeguard funds and securities used in transfer agent operations. Section 17(f)(2) of the Act, 15 U.S.C. 78q(f)(2), requires registered transfer agents, among other things, to fingerprint their partners, directors, officers and employees and to submit those fingerprints to the Attorney General of the United States for identification and appropriate processing. Section 17(f)(2), in particular, which was added to the Exchange Act in 1975, is designed to reduce the incidence of securities thefts. The Commission believes, therefore, that Congress would not have authorized transfer agent access to federal records regarding the criminal history of prospective transfer agent personnel, unless it intended transfer agents to use that information in a responsible manner to limit the risk of securities theft. *See also Green v. Missouri Pac. R.R.*, 549 F.2d 1158, 1160 (8th Cir. 1977); *Richardson v. Hotel Corp. of America*, 332 F. Supp. 519 (E.D. La. 1971), *aff'd mem.*, 468 F.2d 951 (5th Cir. 1972).

[51] Proposed paragraph (b) has been revised to permit accountants to use the report format specified in SAS 30 as supplemented by Rule 17Ad–13 and has been incorporated into paragraph (a). *See* Rule 17Ad–13(a)(1), *infra*.

[52] *See* American Institute of Certified Public Accountants, Statement on Auditing Standards No. 30, Reporting on Internal Accounting Control, paragraphs 54–59 (July 1980) ("SAS 30").

[53] *See* Rule 17Ad–13(a)(3) for the definition of material inadequacy.

[54] As adopted, paragraph (d) has been revised and redesignated as paragraph (b). *See* Rule 17Ad–13(b).

[55] Paragraph (e) has been redesignated as paragraph (c) in adopted Rule 17Ad–13.

[56] In response to several commenters who criticized use of the term "audit," the Commission has revised Rule 17Ad–13 to clarify that the type of examination intended by this Rule is a "study and evaluation" not related to an audit of transfer agent financial statements.

[57] The Commission received comment letters concerning Rule 17Ad–13 from a wide spectrum of organizations within the securities industry: Seventeen registered transfer agents (including five bank transfer agents, four mutual fund transfer agents and three issuer transfer agents), two broker-dealers, eight trade associaitons, one federal bank regulatory agency, one registered clearing agency and one accounting firm.

[58] Two of these commenters also questioned whether independent public accountants possess the expertise to study and evaluate a transfer agent's internal accounting controls and believed that internal auditors or the appropriate regulatory agency are better able to conduct an Evaluation of a transfer agent's system of internal accounting control.

transactions. Moreover, through the discipline associated with an External Evaluation, transfer agents will be informed on a timely basis about any inadequacies in their system of internal accounting control for transfer agent activities and for safeguarding related funds and securities and should, as a result, be able to make any needed changes on a timely basis.

The Commission believes that the External Evaluation is a critical feature of the scheme of internal disciplines that the rules adopted today are designed to promote. The External Evaluation provides an important objective review and should promote uniform high-quality transfer agent performance. Moreover, the External Evaluation should increase public confidence in the national clearance and settlement system.

Scope of the Study and Evaluation. Two commenters objected to the proposed "checklist approach" to the scope of the Evaluation [59] and suggested that the scope of the Evaluation be left to the independent accountant in accordance with generally accepted auditing standards. The AICPA noted that many registered transfer agents handle funds and securities for purposes unrelated to their transfer agent functions and suggested that the Commission clarify that such funds and securities are not part of the required Evaluation.[60]

In response to these and related comments, the Commission has revised proposed Rule 17Ad–13 to clarify the scope of the Evaluation and to accommodate varying types of registered transfer agents and their activities. The Commission also has revised the rule to focus on transfer agent activities more generically.[61] In addition, the rule as adopted has been revised to clarify that internal accounting controls respecting "funds and securities" to be evaluated are only those related to transfer agent functions and activities.

Material Inadequacy. Two commenters [62] suggested modifying the definition of "material inadequacy" to conform to the definition of "material weakness" in SAS 30. The AICPA also recommended adding a clarifying footnote to the rule to indicate that the source of the definition of "material inadequacy" is the definition of "material weakness" contained in SAS 30.

While noting that the four conditions listed in the proposed Rule under "material inadequacy" are essentially the same criteria used to evaluate inadequacies in the reports for registered broker-dealers, the AICPA pointed out that the AICPA's Stockbrokerage Auditing Subcommittee and the Commission are attempting further to define the conditions that would rise to a level of a "material inadequacy." The AICPA and Peat, Marwick suggested that the final rule should reflect changes, if any, in the definition of "material inadequacy" that result from these discussions between the AICPA and the Commission.[63] In addition, both commenters objected to the language "or the relevant issue's financial statements" in subparagraph (a)(2)(iii) of proposed Rule 17Ad–13. They suggested that establishing materiality by reference to the issuer's financial statements is neither practical nor economically feasible.[64]

The Commission specifically proposed the term, as well as the definition of, "material inadequacy" to avoid confusing that term with the concept of "material weakness" defined in SAS 30. SAS 30 defined "material weakness" solely in relation to the financial statements of the entity whose controls are being evaluated. The study and evaluation under this rule, however, is intended to detect weaknesses involving amounts that may not be considered material when compared to the transfer agent's assets, but would be considered material when viewed against the transfer agent's ability promptly and accurately to transfer record ownership and safeguard related securities and funds. The Commission believes that this standard is critical to the effective operation of the Rule and has therefore decided to retain the term "material inadequacy" with certain modifications.[65] Specifically, the Commission is deleting the phrase "among other things," as well as items (iii) and (iv) of proposed paragraph (a)(2).[66]

Accountants' Reports. The Commission has incorporated proposed paragraph (b) in adopted paragraph (a)(1) and has revised the latter paragraph to identify certain statements that must be included in the accountant's report. The Commission expects that an accountant preparing reports under this rule will use the general standards and format established by the AICPA in SAS 30, including primarily paragraphs 54–59. The rule, as adopted, requires that the accountant's report state whether the Study and Evaluation was made in accordance with generally accepted auditing standards using the criteria set forth in paragraph (a)(3) of the rule and describe and comment upon any material inadequacies found to exist in the system of internal accounting control as of the date of the Evaluation. The Commission is requiring the accountant to represent, in particular, that the criteria set forth in paragraph (a)(3) of the rule were used, because these criteria differ in important

[59] One commenter stated that a "checklist approach" may be too broad for some registered transfer agents, causing the scope of the evaluation to be "needlessly extended (which could result in increased cost)," and inadequate for others (which would result in material inadequacies being overlooked).

[60] Other commenters sought clarification concerning various aspects of the scope of the Evaluation. One commenter sought clarification as to whether the scope of the Evaluation was limited to an evaluation of "safeguarding controls and procedures of the transfer agent or an evaluation of each individual transfer account." This commenter believed that the evaluation should be limited only to the examination of the transfer agent's safeguards and controls to ensure that these safeguards provide reasonable assurance against losses from unauthorized use or disposition of funds and securities, that transfers are promptly recorded, and that transactions are executed in accordance with management's authorization and should not extend to the accuracy of each individual transfer account. Although the primary scope of the Evaluation is the system of internal accounting control in the aggregate, the Commission believes that accountants may wish to test individual securityholder accounts if deemed necessary, in accordance with generally accepted auditing standards, to opine with respect to the system taken as a whole. *See* revised Rule 17Ad–13(a), *infra*.

[61] *See* Rule 17Ad–13(a)(2), *infra*.

[62] The Commission received comment letters from the AICPA and from Peat, Marwick Mitchell & Co. ("Peat, Marwick") concerning the definition of "material inadequacy."

[63] Peat, Marwick recommended that the Commission not adopt this rule until the AICPA's Stockbrokerage Committee, in consultation with the Commission, defines "material inadequacy" for purposes of broker-dealer External Evaluations. Failing that, Peat, Marwick recommended that the Commission, as an interim measure, adopt the specific language of Paragraph 30 of SAS 30.

[64] Commenters also objected to the ambiguity introduced by the phrase "among other things" in proposed Rule 17Ad–13(a)(2).

[65] Indeed, paragraph 54 of SAS 30, by implication, recommends that an agency set "specific criteria for the evaluation of the adequacy of internal accounting control procedures for their purposes and * * * require a report based on those criteria." *Id.*, ¶54. The Commission has used a similar definition of material weakness in connection with the annual study and evaluation of clearing agency systems of internal accounting control. *See* Securities Exchange Act Release No. 16900 (June 17, 1980) 45 FR 41920 (June 23, 1980). In light of the special recordkeeping and turnaround role of registered transfer agents in the national clearance and settlement system, the Commission is not prepared to conclude at this time that the criteria for evaluating transfer agent internal accounting controls should be co-extensive with the criteria for evaluating brokerage firm systems of internal accounting control.

[66] The Commission appreciates the comment that reference to issuers' financial statements would create unproductive studies and present special problems. The Commission accordingly, has determined to delete that reference in Rule 17Ad–13.

respects from traditional definitions of material weakness.

The accountant's report serves not only as a prevention and maintenance device for transfer agents, but also as an early warning mechanism for ARAs. In that respect, the accountant's report should enable the ARAs, particularly the Commission, to focus limited resources on problem areas that might affect investor protection and the national clearance and settlement system processes.

Filing Requirement. The Commission is modifying proposed paragraph (c) (incorporated into the adopted rule as paragraph (a)) to conform the filing requirement under that paragraph to the filing requirement in Rule 17Ad–2(h). Thus, within ninety days of the date of the Evaluation a registered transfer agent must submit the report to the transfer agent's ARA and the Commission, or if the ARA is the Commission, to the Commission and the appropriate regional office of the Commission.

Notice of Corrective Action. The Commission recognizes that in some cases registered transfer agents may be unabel both to propose corrective action within 30 days of the report and to implement it within 90 days. The Commission also recognizes that in cases where material inadequacies exist, the independent accountant, before issuing an opinion regarding the effect of corrective action, ordinarily would need to review and test the corrective measures and in any event could not express an opinion concerning decisions that depend on cost/benefit assessments. The Commission, therefore, in response to comments has extended the 30 day reporting requirement respecting proposed corrective action to 60 days and has eliminated the requirement that the independent accountant prepare a follow-up report concerning the effect of any corrective action.[67]

Exemptions. Eleven commenters supported certain exemptions from the annual report requirement, as proposed for different types of registered transfer agents, including issuer transfer agents and bank transfer agents. Two commenters, however, objected to any exemptions from this section because they believe that an annual External Evaluation is the only means to insure the public that the transfer agent is in compliance with all recordkeeping and reporting requirements.

Exemptions for Issuer Transfer Agents. One commenter suggested that the word *"wholly"* in proposed subparagraph (f)(1)(ii) of Rule 17Ad–13, as it refers to a subsidiary of a parent company, be changed to *"principally."* This commenter contended that without that change, a company that is substantially owned by another company could be required to undergo a costly annual External Evaluation for a relatively small number of securityholders.

In response to this commenter, the Commission has extended the scope of this exemption to include transfer agents that perform functions for securities issued by subsidiaries in which the transfer agent owns more than 51% of the subsidiary's common stock. Similarly, the Commission has revised the issuer exemption to include transfer agents that perform transfer agent function on behalf of companies that own more than 51% of the transfer agent's common stock. These exemptions recognize the issuer's special interest in, and obligation respecting, efficient and accurate recordkeeping in instances where the issuer is capable of exercising direct ownership and management control over the registered transfer agent's operations.

Exemptions for Bank Transfer Agents. In response to comments from the staff of the BGFRS and others, the Commission is modifying this exemption to exempt bank transfer agents from Rule 17Ad–13 unless otherwise informed by their ARA. This change, as noted by the commenters, will reduce the administrative burden that would be associated under the proposed rule with either rulemaking by the federal bank regulatory agencies or case-by-case processing of bank exemption requests. In order to claim the exemption, however, bank transfer agents must obtain an annual report on their system of internal accounting control similar to the scope of the report required by Rule 17Ad–13, prepared either by the bank's internal auditors or independent accountants.

Some commenters argued that an exemption for bank transfer agents that internally review system controls would affect the ability of non-bank transfer agents to compete with exempt banks for transfer agent business. These commenters continued that non-banks required to obtain an external accountant's report must pay expenses that banks will not incur. Under the proposal, however, banks will not be eligible for an exemption unless they obtain, in fact, an internal Evaluation similar in scope to the Evaluation required for non-bank transfer agents under Rule 17Ad–13. That internal Evaluation, while perhaps less expensive as a general matter than an External Evaluation, nonetheless involves similar work and similar expense. The Commission cannot conclude from the record and its experience with systems control reviews that the incremental difference in cost between external Evaluations and internal Evaluations would have any appreciable impact on competition among similarly sized and similarly situated registered transfer agents. Moreover, bank transfer agents currently absorb substantial costs associated with bank regulation and oversight, including bank examinations, and, as is not the case with non-bank transfer agents, internal and external bank examinations are coordinated elements in an extensive regulatory scheme designed to assure safety and soundness in the banking industry. As a result, the competitive impact of the rules is more likely to neutralize existing expense disparities, rather than introduce a new factor adversely and inappropriately affecting competition among different types of registered transfer agents. For those reasons, the Commission is adopting the proposed exemptions as paragraph (d)(3).

Other Proposed Exemptions. One commenter suggested that the Commission exempt named transfer agents from Rule 17Ad–13, provided the service company complies with the annual examination requirements of Rule 17Ad–13 and provides the named transfer agent with a copy of that report. The Commission is declining to adopt that suggestion, however. In the Commission's experience, named transfer agents that contract with service companies do not receive more than 500 items for transfer nor more than 500 items for processing in six consecutive months and, therefore, qualify for the small transfer agent exemption.

G. Minimum Net Worth/Insurance Requirement

In the October Release, the Commission solicited comment on whether to establish minimum net worth and/or insurance requirements for registered transfer agents (other than bank or issuer transfer agents). Most commenters favored a minimum insurance requirement and many favored both minimum insurance and minimum net-worth requirements. These

[67] Instead, the registered transfer agent would be required to obtain specific comments from the independent accountant concerning previously identified material inadequacies in the next accountant's report. *See* Rule 17Ad–13(a)(1)(iii), *infra*.

commenters, however, suggested widely varying ranges of minimum insurance and net worth levels.

The Commission believes that minimum insurance and/or net worth requirements are appropriate regulatory measures to enhance the financial capacity of registered transfer agents. The Commission also believes, however, that it is important to move forward with the regulations adopted today. Thus, the Commission will assess the impact of those regulations on transfer agent operations and performance over the ensuing month and will then consider the need for and substance of minimum net worth/insurance requirements.

H. Transfer Turnaround Time Frames

In the October Release, the Commission requested specific comment concerning the present minimum transfer and processing turnaround performance standards set forth in Rule 17Ad–2 (a) and (b) and the threshold for the exemption in Rule 17Ad–4(b) for "exempt transfer agents." Several commenters, including the STA, suggested that the Commission lengthen the minimum performance times. The overwhelming majority of the commenters, however, including three other transfer agent trade associations (the Corporate Transfer Association, Inc., the Western Stock Transfer Association, Inc. and the Midwest Stock Transfer Association, Inc.) generally approve the current minimum performance standards.

Commenters recommending that the Commission extend the turnaround time frame from 3 to 5 business days cited difficulties in handling mail items. Most commenters that responded to the question concerning mail items, however, believed that it is important to foster regulatory continuity in this area by maintaining the uniform three day turnaround standard for all routine items, noting that their present systems are all designed to accommodate that standard.

Because the majority of commenters believed, as does the Commission, that the turnaround performance rules work well, the Commission has determined not to amend the applicable time frames for non-exempt transfer agents. At the same time, however, the Commission agrees with the recommendation made by commenters concerning the need for a specific turnaround time frame for exempt transfer agents under Rule 17Ad–4(b) and, as a result, is today issuing in a separate release a proposed amendment to Rule 17Ad–2 that would require such items to be turned around in five business days.[68]

II. Deletion of the Notice Requirements—Rule 17Ad–4 (b) and (c)

Rule 17Ad–4(b) exempts from certain portions of the Turnaround Rules a registered transfer agent that receives within any six consecutive months, with respect to all issues serviced, fewer than 500 items for transfer and fewer than 500 items for processing, provided the transfer agent files with its ARA within ten business days of the close of the sixth such month, a notice described in that section (an "Exemption Notice"). Rule 17Ad–4(c) requires a transfer agent to monitor its transfer and processing volume and to file a notice with its ARA when it exceeds the threshold for the exemption provided in Rule 17Ad–4(b).

In the October Release, the Commission proposed to eliminate the requirement that, under appropriate circumstances, a registered transfer agent file an Exemption Notice with its ARA. Only four commenters specifically addressed these proposed amendments. Two registered transfer agents and the OCC supported adoption of the proposal; the BGFRS, however, opposed the proposal because it uses Exemption Notices in carrying out its regulatory and examination responsibilities under the Act. For the same reason, the staff of the Federal Deposit Insurance Corporation ("FDIC") also opposed the proposal.

The Commission is adopting the proposed amendments to Rule 17Ad–4 (b) and (c), modified, in particular, to account for the views of the BGFRS and FDIC. As adopted, these amendments will eliminate the Exemption Notice filing requirement for registered transfer agents whose ARA is either the Commission or the OCC, while retaining that requirement for registered transfer agents whose ARA is either the BGFRS or the FDIC. The Commission notes, however, that as amended with respect to Commission and OCC registered transfer agents, Rule 17Ad–4(b) will continue to require the preparation of an Exemption Notice and will require those transfer agents to maintain a copy of the Exemption Notice among their records in lieu of filing the Exemption Notice with either the Commission or the OCC.

III. Effective Dates

Rule 17Ad–12 and the amendments to Rule 17Ad–4 (b) and (c) will become effective on July 25, 1983. Rules 17Ad–9, 17Ad–10, 17Ad–11 and 17Ad–13 will become effective on September 30, 1983. Delayed effectiveness will permit registered transfer agents to effect any necessary changes in their recordkeeping systems and to make arrangements with an independent accountant to obtain a report on internal accounting controls consistent with Rule 17Ad–13.

IV. Regulatory Flexibility Act

Pursuant to 15 U.S.C. 605(b), the Chairman of the Commission has certified that the proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments specifically addressing the Chairman's certification. The Commission received several comments concerning the cost of complying with Rule 17Ad–10 and, more particularly, with the prompt posting and buy-in requirements of that Rule. In response to those comments, as discussed in greater detail above, the Commission has generally relaxed the prompt posting requirement to avoid imposing significant new costs on any registered transfer agents; has adopted a separate, more relaxed posting time-frame for those transfer agents that qualify as small entities under the Regulatory Flexibility Act; and has limited the buy-in requirement to instances in which an actual physical overissuance occurs. That change should reduce drastically the frequency and expense of required buy-ins.

V. Paperwork Reduction Act

The collection of information required by these rules has been cleared by the Office of Management and Budget. The rules have been assigned the following clearance numbers: Rule 17Ad–4 (b) and (c): 3235–0138 (expires January 31, 1986); Rule 17Ad–10: 3235–0273 (expires January 31, 1984); Rule 17Ad–11: 3235–0274 (expires January 31, 1986); Rule 17Ad–13: 3235–0275 (expires January 31, 1986).

VI. Statutory Basis and Competitive Considerations

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 2, 17(a), 17A(d) and 23(a) thereof, 15 U.S.C. 78b, 78q(a), 78q–1(d) and 78w(a), the Commission is adopting amendments to Rule 17Ad–4(b) and is adopting new Rules 17Ad–9, 17Ad–10, 17Ad–11, 17Ad–12 and 17Ad–13 in Chapter II of Title 17 of the Code of Federal Regulations. The Commission has determined, as discussed above, that the rules will further the development of a prompt and accurate national clearance and

[68] *See* Securities Exchange Act Release No. 19661 (June 10, 1983).

settlement system and will further the particular goals of Section 17A of the Act. In addition, in accordance with Section 23(a)(2) of the Act, the Commission has considered whether the rules will impose a burden on competition not necessary or appropriate in furtherence of the purposes of the Act. For the reasons discussed in the text of the Release above, the Commission finds that the Rules adopted today will not impose a burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act and, in particular, Section 17A of the Act.

List of Subjects in 17 CFR Part 240

Reporting requirements, Securities.

VII. Text of Amendments

17 CFR Part 240 is amended as follows:

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

1. By revising paragraphs (b) and (c) of § 240.17Ad–4 to read as follow:

§ 240.17Ad–4 Applicability of Sections 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6(a) (1) through (7) and (11).

* * * * *

(b)(1) For purposes of this section, "exempt transfer agent" means a transfer agent that during any six consecutive months shall have received fewer than 500 items for transfer and fewer than 500 items for processing.

(2) Except as provided in paragraph (c) of this section, an exempt transfer agent that satisfies the requirements of paragraph (b)(3) shall be exempt from the provisions of §§ 240.17Ad–2 (a), (b), (c), (d) and (h), 240.17Ad–3 and 240.17Ad–6(a) (2) through (7) and (11).

(3) Within ten business days following the close of the sixth consecutive month described in paragraph (b)(1) of this section, an exempt transfer agent shall:

(i) If its appropriate regulatory agency is either the Commission or the Office of the Comptroller of the Currency, prepare and maintain in its possession a document certifying that the transfer agent qualifies as exempt under paragraph (b)(1) of this section; or

(ii) If its appropriate regulatory agency is either the Board of Governors of the Federal Reserve System or the Federal Deposit Insurance Corporation, file with the appropriate regulatory agency a notice certifying that it qualifies as exempt under paragraph (b)(1) of this section.

(c) Within five business days following the close of each month, every exempt transfer agent shall calculate the number of items which it received during the preceding six months. Whenever any exempt transfer agent no longer qualifies as such under paragraph (b)(1), within ten business days after the end of such month: (1) It shall prepare and maintain in its possession a document so stating, if subject to paragraph (b)(3)(i) of this section; or (2) it shall file with its appropriate regulatory agency a notice to that effect, if subject to paragraph (b)(3)(ii) of this section. Thereafter, beginning with the first month following the month in which such document is required to be prepared or such notice is required to be filed, the registered transfer agent no longer shall be exempt under paragraph (b) of this section. Any registered transfer agent which has ceased to be an exempt transfer agent under this paragraph shall not qualify again for exemption until it has conducted its transfer agent operations pursuant to the foregoing sections for six consecutive months following the month in which it was required to prepare the document or prepare and file the notice specified in this paragraph.

* * * * *

2. By adding §§ 240.17Ad–9 through 240.17Ad–13 to read as follows:

§ 240.17Ad–9 Definitions.

As used in this section and §§ 240.17Ad–10, 240.17Ad–11, 240.17Ad–12 and 240.17Ad–13:

(a) "Certificate detail," with respect to certificated securities, includes, at a minimum, all of the following, and with respect to uncertificated securities, includes items (2) through (8):

(1) The certificate number.

(2) The number of shares for equity securities or the principal dollar amount for debt securities;

(3) The securityholder's registration;

(4) The address of the registered securityholder;

(5) The issue date of the security;

(6) The cancellation date of the security;

(7) In the case of redeemable securities of investment companies, an appropriate description of each debit and credit (*i.e.*, designation indicating purchase, redemption, or transfer); and

(8) Any other identifying information about securities and securityholders the transfer agent reasonably deems essential to its recordkeeping system for the efficient and effective research of record differences.

(b) "Master securityholder file" is the official list of individual securityholder accounts. With respect to uncertificated securities of companies registered under the Investment Company Act of 1940, the master securityholder file may consist of multiple, but linked, automated files.

(c) A "subsidiary file" is any list or record of accounts, securityholders, or certificates that evidences debits or credits that have not been posted to the master securityholder file.

(d) A "control book" is the record or other document that shows the total number of shares (in the case of equity securities) or the principal dollar amount (in the case of debt securities) authorized and issued by the issuer.

(e) A "credit" is an addition of appropriate certificate detail to the master securityholder file.

(f) A "debit" is a cancellation of appropriate certificate detail from the master securityholder file.

(g) A "record difference" occurs when either: (1) The total number of shares or total principal dollar amount of securities in the master securityholder file does not equal the number of shares or principal dollar amount in the control book; or (2) the security transferred or redeemed contains certificate detail different from the certificate detail currently on the master securityholder file, which difference cannot be immediately resolved.

(h) A "recordkeeping transfer agent" is the registered transfer agent that maintains and updates the master securityholder file.

(i) A "co-transfer agent" is the registered transfer agent that transfers securities but does not maintain and update the master securityholder file.

(j) A "named transfer agent" is the registered transfer agent that is engaged by an issuer to perform transfer agent functions for an issue of securities but has engaged a service company to perform some or all of those functions.

(k) A "service company" is the registered transfer agent engaged by a named transfer agent to perform transfer agent functions for that named transfer agent.

(l) A "file" includes automated and manual records.

§ 240.17Ad–10 Prompt posting of certificate detail to master securityholder files, maintenance of accurate securityholder files, communications between co-transfer agents and recordkeeping transfer agents, maintenance of current control book, retention of certificate detail and "buy-in" of physical over-issuance.

(a)(1) Every recordkeeping transfer agent shall promptly and accurately post to the master securityholder file debits and credits containing minimum and appropriate certificate detail representing every security transferred, purchased, redeemed or issued:

Provided, however, That if a security transferred or redeemed contains certificate detail different from that currently posted to the master securityholder file, the credit shall be posted to the master securityholder file and the debit and related certificate detail shall be maintained in a subsidiary file until resolved. The recordkeeping transfer agent shall exercise diligent and continuous attention to resolve the resulting record difference and, once resolved, shall post to the master securityholder file the debit maintained in the subsidiary file. Postings of certificate detail shall remain on the master securityholder file until a debit to a securityholder acount is appropriate.

(2) As used in this paragraph, the term "promptly" means the following number of days after issuance, purchase, transfer, or redemption of a security:

(i) With respect to recordkeeping transfer agents (other than transfer agents that perform transfer agent functions with respect to redeemable securities issued by investment companies registered under Section 8 of the Investment Company Act of 1940) that are exempt transfer agents under § 240.17Ad–4(b), 30 calendar days;

(ii) With respect to recordkeeping transfer agents (other than transfer agents that perform transfer agent functions with respect to redeemable securities issued by investment companies registered under Section 8 of the Investment Company Act of 1940) that: (A) Perform transfer agent functions solely for their own or their affiliated companies' securities issues, and (B) employ batch posting systems, ten business days; and

(iii) With respect to all other recordkeeping transfer agents, five business days;

Provided, however, That all securities transferred, purchased, redeemed or issued prior to record date, but posted subsequent thereto, shall be posted as of the record date.

(3) With respect to posting certificate detail from transfer journals received by the recordkeeping transfer agent from a co-transfer agent, the time frames set forth in paragraph (a)(2) shall commence upon receipt of those journals by the recordkeeping transfer agent.

(b) Every recordkeeping transfer agent shall maintain and keep current an accurate master securityholder file and subsidiary files. If such transfer agent has any record difference, its master securityholder file and subsidiary files must accurately represent all relevant debits and credits until the record difference is resolve. The recordkeeping transfer agent shall exercise diligent and continuous attention to resolve all record differences.

(c)(1) Every co-transfer agent shall dispatch or mail promptly to the recordkeeping transfer agent a record of debits and credits for every security transferred or issued. For the purposes of this paragraph, "promptly" means within two business days following transfer of each security.

(2) Within three business days following the end of each month, every co-transfer agent shall mail to the recordkeeping transfer agent for each issue of securities for which it acts as a co-transfer agent, a report setting forth:

(i) The principal dollar amount of debt securities or the number of shares and related market value of equity securities comprising any buy-in executed by the co-transfer agent during the preceding month pursuant to paragraph (g) of this section; and

(ii) The reason for the buy-in.

(d) Every co-transfer agent shall respond promptly to all inquiries from the recordkeeping transfer agent regarding records required to be dispatched or mailed by the co-transfer agent pursuant to § 240.17Ad–10(c). For the purposes of this paragraph, "promptly" means within five business days of receipt of an inquiry from a recordkeeping transfer agent.

(e) Every recordkeeping transfer agent shall maintain and keep current an accurate control book for each issue of securities. A change in the control book shall not be made except upon written authorization from a duly authorized agent of the issuer.

(f) Every recordkeeping transfer agent shall retain a record of all certificate detail deleted from the master securityholder file for a period of six years from the date of deletion. In lieu of maintaining a hard copy, a recordkeeping transfer agent may comply with this paragraph by complying with § 240.17Ad–7(f) or § 240.17Ad–7(g).

(g) A registered transfer agent, in the event of any actual physical overissuance that such transfer agent caused and of which it has knowledge, shall, within 30 days of the discovery of such overissuance, buy-in securities equal to either the number of shares in the case of equity securities or the principal dollar amount in the case of debt securities. This paragraph requires a buy-in only by the transfer agent that erroneously issued the certificate(s) giving rise to the physical overissuance.

(h) Subsequent to the effective date of this section, registered transfer agents that:

(1) Assume the maintenance and updating of master securityholder files from predecessor transfer agents,

(2) Establish a new master securityholder file for a particular issue, or

(3) Convert from manual to automated systems,

must carry over any existing certificate detail required by this section on the master securityholder file.

A recordkeeping transfer agent shall not be required to add certificate detail to the master securityholder file respecting certificates issued prior to the effective date of this section.

240.17Ad–11 Reports regarding aged record differences, buy-ins and failure to post certificate detail to master securityholder and subsidiary files.

(a) *Definitions.* (1) "Issuer capitalization" means the market value of the issuer's authorized and outstanding equity securities or, with respect to a municipal securities issuer, the market value of all debt issues for which the transfer agent performs recordkeeping functions on behalf of that issuer, determined by reference to the control book and current market prices.

(2) An "aged record difference" is a record difference that has existed for more than thirty calendar days.

(b) *Reports to Issuers.* (1) Within ten business days following the end of each month, every recordkeeping transfer agent shall report the information specified in paragraph (d)(1) of this section to the persons specified in paragraph (b)(3) of this section, when the aggregate market value of aged record differences in all equity securities issues or debt securities issues maintained on behalf of a particular issuer exceeds the thresholds set forth in the table below.

Issuer capitalization	Aggregate market value of aged record differences exceeds	
	For equity securities	For debt securities
(1) $5 million or less	$50,000	$100,000
(2) Greater than $5 million but less than $50 million	250,000	500,000
(3) Greater than $50 million but less than $150 million	500,000	1,000,000
(4) Greater than $150 million	1,000,000	2,000,000

(2) Within ten business days following the end of each month (or within ten days thereafter in the case of a named transfer agent that receives a report from a service company pursuant to paragraph (b)(3)(i)(C)), every recordkeeping transfer agent shall report

the information specified in paragraph (d)(2) of this section to the persons specified in paragraph (b)(3) of this section, with respect to each issue of securities for which it acts as recordkeeping transfer agent, concerning any securities bought-in pursuant to § 240.17Ad-10(g) or reported as bought-in pursuant to § 240.17Ad-10(c) during the preceding month.

(3) The report shall be sent:

(i) By every recordkeeping transfer agent (other than a recordkeeping transfer agent that performs transfer agent functions solely for its own securities):

(A) To the official performing corporate secretary functions for the issuer of the securities for which the aged record difference exists or for which the buy-in occurred;

(B) With respect to an issue of municipal securities, to the chief financial officer of the issuer of the securities for which the aged record difference exists or for which the buy-in occurred; or

(C) If it acts as a service company, to the named transfer agent; and

(ii) By every named transfer agent that is engaged by an issuer to maintain and update the master securityholder file:

(A) to the official performing corporate secretary functions for the issuer of the securities for which the aged record difference exists or for which the buy-in occurred; or

(B) with respect to an issue of municipal securities, to the chief financial officer of the issuer of the securities for which the aged record difference exists or for which the buy-in occurred.

(c) *Reports to Appropriate Regulatory Agencies.*—(1) Within ten business days following the end of each calendar quarter, every recordkeeping transfer agent shall report the information specified in paragraph (d)(1) of this section to its appropriate regulatory agency in accordance with § 240.17Ad-2(h), when the aggregate market value of aged record differences for all issues for which it performs recordkeeping functions exceeds the thresholds specified below:

(i) $300,000 if it is a recordkeeping transfer agent for 5 or fewer issues;

(ii) $500,000 for 6–24 issues;

(iii) $800,000 for 25–49 issues;

(iv) $1 million for 50–74 issues;

(v) $1.2 million for 75–99 issues;

(vi) $1.4 million for 100–499 issues;

(vii) $1.6 million for 500–999 issues;

(viii) $2.6 million for 1,000–1,999 issues; and

(ix) An additional $1 million for each additional 1,000 issues.

(2) Within ten business days following the end of each calendar quarter, every recordkeeping transfer agent shall report the information specified in paragraph (d)(2) of this section to its appropriate regulatory agency in accordance with § 240.17Ad-2(h), concerning buy-ins of all issues for which it acts as recordkeeping transfer agent, when the aggregate market value of all buy-ins executed pursuant to § 240.17Ad-10(g) during that calendar quarter exceeds $100,000.

(3) When the recordkeeping transfer agent has any debits or credits for securities transferred, purchased, redeemed or issued that are unposted to the master securityholder and/or subsidiary files for more than five business days after debits and credits are required to be posted to the master securityholder file or subsidiary files pursuant to § 240.17Ad-10, it shall immediately report such fact to its appropriate regulatory agency in accordance with § 240.17Ad-2(h) and shall state in that report what steps have been, and are being, taken to correct the situation.

(d) *Content of Reports.*—(1) Each report pursuant to paragraphs (b)(1) and (c)(1) of this section shall set forth with respect to each issue of securities:

(i) The principal dollar amount and related market value of debt securities or the number of shares and related market value of equity securities comprising the aged record difference (including information concerning aged record differences existing as of the effective date of this section);

(ii) The reasons for the aged record difference; and

(iii) The steps being taken or to be taken to resolve the aged record difference.

(2) Each report pursuant to paragraphs (b)(2) and (c)(2) of this section shall set forth with respect to each issue of securities:

(i) The principal dollar amount of debt securities and related market value or the number of shares and related market value of equity securities comprising any buy-in executed pursuant to § 240.17Ad-10(g);

(ii) The party that executed the buy-in; and

(iii) The reason for the buy-in.

(e) For purposes of this section, the market value of an issue shall be determined as of the last business day on which market value information is available during the reporting period.

(f) A copy of any report required under this section shall be retained by the reporting transfer agent for a period of not less than three years, the first year in an easily accessible place.

§ 240.17Ad-12 Safeguarding of funds and securities.

(a) Any registered transfer agent that has custody or possession of any funds or securities related to its transfer agent activities shall assure that: (1) All such securities are held in safekeeping and are handled, in light of all facts and circumstances, in a manner reasonably free from risk of destruction, theft or other loss; and (2) all such funds are protected, in light of all facts and circumstances, against misuse. In evaluating which particular safeguards and procedures must be employed, the cost of the various safeguards and procedures as well as the nature and degree of potential financial exposure are two relevant factors.

§ 240.17Ad-13 Annual study and evaluation of internal accounting control.

(a) *Accountant's Report.* Every registered transfer agent, except as provided in paragraph (d) of this section, shall file annually with the Commission and the transfer agent's appropriate regulatory agency in accordance with § 240.17Ad-2(h), a report specified in paragraph (a)(1) of this section prepared by an independent accountant concerning the transfer agent's system of internal accounting control and related procedures for the transfer of record ownership and the safeguarding of related securities and funds. That report shall be filed within 90 calendar days of the date of the study and evaluation set forth in paragraph (a)(1).

(1) The accountant's report shall:

(i) State whether the study and evaluation was made in accordance with generally accepted auditing standards using the criteria set forth in paragraph (a)(3) of this section;

(ii) Describe any material inadequacies found to exist as of the date of the study and evaluation and any corrective action taken, or if no material inadequacy existed, the report shall so state;

(iii) Comment on the current status of any material inadequacy described in the immediately preceding report; and

(iv) Indicate the date of the study and evaluation.

(2) The study and evaluation of the transfer agent's system of internal accounting control for the transfer of record ownership and the safeguarding

of related securities and funds shall cover the following:

(i) Transferring securities related to changes of ownership (*i.e.*, cancellation of certificates or other instruments evidencing prior ownership and issuance of certificates or instruments evidencing current ownership);

(ii) Registering changes of ownership on the books and records of the issuer;

(iii) Transferring record ownership as a result of corporate actions (*e.g.*, issuance, retirement, redemption, liquidation, conversion, exchange, tender offer or other types of reorganization);

(iv) Dividend disbursement or interest paying-agent activities;

(v) Administering dividend reinvestment programs; and

(vi) Distributing statements respecting initial offerings of securities.

(3) For purposes of this report, the objectives of a transfer agent's system of internal accounting control for the transfer of record ownership and the safeguarding of related securities and funds should be to provide reasonable, but not absolute, assurance that securities and funds are safeguarded against loss from unauthorized use or disposition and that transfer agent activities are performed promptly and accurately. For purposes of this report, a material inadequacy is a condition for which the independent accountant believes that the prescribed procedures or the degree of compliance with them do not reduce to a relatively low level the risk that errors or irregularities, in amounts that would have a significant adverse effect on the transfer agent's ability promptly and accurately to transfer record ownership and safeguard related securities and funds, would occur or not be detected within a timely period by employees in the normal coruse of performing their assigned functions. Occurrence of errors or irregularities more frequently than in isolated instances may be evidence that the system has a material inadequacy. A significant adverse effect on a transfer agent's ability promptly and accurately to transfer record ownership and safeguard related securities and funds could result from any condition or conditions that individually, or taken as a whole, would reasonably be expected to:

(i) Inhibit the transfer agent from promptly and accurately discharging its responsibilities under its contractual agreement with the issuer;

(ii) Result in material financial loss to the transfer agent; or

(iii) Result in a violation of §§ 240.17Ad–2, 17Ad–10 or 17Ad–12(a).

(b) *Notice of Corrective Action.* If the accountant's report describes any material inadequacy, the transfer agent shall, within sixty calendar days after receipt of the report, notify the Commission and its appropriate regulatory agency in writing regarding the corrective action taken or proposed to be taken.

(c) *Record Retention.* The accountant's report and any documents required by paragraph (b) of this section shall be maintained by the transfer agent for at least three years, the first year in an easily accessible place.

(d) *Exemptions.* The requirements of § 240.17Ad–13 shall not apply to registered transfer agents that qualify for exemptions pursuant to this paragraph, 17Ad–13(d).

(1) A registered transfer agent shall be exempt if it performs transfer agent functions solely for:

(i) Its own securities;

(ii) Securities issued by a subsidiary in which it owns 51% or more of the subsidiary's capital stock; and

(iii) Securities issued by another corporation that owns 51% or more of the capital stock of the registered transfer agent.

(2) A registered transfer agent shall be exempt if it:

(i) Is an exempt transfer agent pursuant to § 240.17AD–4(b); and

(ii) In the case of a transfer agent that performs transfer agent functions for redeemable securities issued by companies registered under Section 8 of the Investment Company Act of 1940, maintains master securityholder files consisting of fewer than 1000 shareholder accounts, in the aggregate, for each of such issues for which it performs transfer agent functions.

(3) A registered transfer agent shall be exempt if it is a bank or financial institution subject to regulation by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency or the Federal Deposit Insurance Corporation, provided that it is not notified to the contrary by its appropriate regulatory agency and provided that a report similar in scope to the requirements of § 240.17Ad–13(a) is prepared for either the bank's board of directors or an audit committee of the board of directors.

Dated: June 10, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16452 Filed 6-20-83; 8:45 am]

BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 9H5202/R565; PH-FRL 2367-7]

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

Correction

In FR Doc. 83–13779 beginning on page 23385 in the issue of Wednesday, May 25, 1983, make the following correction on page 23386: In the second column, § 193.219, in the last line of paragraph (b), "June 1, 1954" should read "June 1, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 82N-0362]

Antibiotic Drugs; Sterile Cefoperazone Sodium; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, sterile cefoperazone sodium. The diluent and reference concentration are corrected.

DATE: Effective January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–203 in the issue for Friday, January 7, 1983 (48 FR 788), the following corrections are made:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. In the amendment to Part 436 appearing under item 2 on page 789, § 436.338(d) and (e) (1) and (2) (i) and (ii) is corrected to read as follows:

§ 436.338 High-pressure liquid chromatographic assay for cefoperazone.

* * * * *

(d) *Preparation of working standard solution.* Dissolve approximately 40 milligrams of working standard, accurately weighed, with mobile phase to obtain a solution containing 0.16 milligram of cefoperazone activity per milliliter.

(e) *Preparation of sample solutions*— (1) *Product not packaged for dispensing (micrograms of cefoperazone per milligram).* Dissolve an accurately weighed portion of the sample with sufficient mobile phase to obtain a solution containing 0.16 milligram of cefoperazone activity per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

(2) * * *

(i) *Micrograms of cefoperazone per milligram.* Dissolve and accurately weighed portion of the sample with sufficient mobile phase to obtain a solution containing 0.16 milligram of cefoperazone activity per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

(ii) *Milligrams of cefoperazone per container.* Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute and aliquot of this solution with mobile phase to a concentration of 0.16 milligram of cefoperazone activity per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

* * * * *

PART 442—CEPHA ANTIBIOTIC DRUGS

2. In the amendment to Part 442 appearing under item 3 on page 790, § 442.12a (a)(1)(vi) and (b)(6) is corrected to read as follows:

§ 442.12a Sterile cefoperazone sodium.

(a) * * *

(1) * * *

(vi) It passes the identity test if the retention times of the sample and working standard agree within ±3 percent.

* * * * *

(b) * * *

(6) *Identity.* From the high-pressure liquid chromatograms of the sample and the cefoperazone working standard determined as directed in paragraph (b)(1) of this section, calculate the adjusted retention times of the cefoperazone in the sample and standard solutions as follows:

Retention time of cefoperazone = $t_s - t_m$

where:

t_s = Retention time of working standard measured from point of injection into the chromatograph until the peak maximum appears on the chromatogram; and

t_m = Retention time of sample measured from point of injection into the chromatograph until the peak maximum appears on the chromatogram.

* * * * *

Dated: June 15, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-16494 Filed 6-20-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 249

Off-Reservation Treaty Fishing

June 14, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule and request for comments.

SUMMARY: These regulations implement the 1983 treaty Indian fishing schedule for sockeye and pink salmon in treaty fishing areas located in waters coming under the Convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fisheries of the Fraser River System.

DATES: Effective: June 21, 1983. Comments are due by July 21, 1983.

ADDRESS: Written comments should be mailed to Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Bldg. A., Olympia, Washington 98502.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9). This interim rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1451 *et seq.*, 25 U.S.C. §§ 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of off-reservation fishing rights secured by the Treaty of Point Elliott, 12 Stat. 927 (1859); Treaty with the Makah, 12 Stat. 939 (1859); and Treaty of Point No Point, 12 Stat. 933 (1859), as affirmed in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 (1979). Such treaty Indian fisheries include a sockeye and pink salmon fishery in treaty fishing places in waters coming under the United States Convention with Canada respecting the sockeye and pink salmon fisheries of the Fraser River System.

On February 2, 1983, the International Pacific Salmon Fisheries Commission (IPSFC) forwarded to the Governments of Canada and the United States, for the approval required by the Convention, the regulations applicable in Convention waters during the 1983 fishing season. On April 27, 1983, the United States, acting through the Department of State, approved the regulations except as to treaty Indians fishing in accordance with regulations promulgated by this Department providing for the exercise of fishing rights secured by the United States treaties. The IPSFC assumes control over United States Convention waters westerly of the Bonilla-Tatoosh line on June 15, 1983, with the season opening on July 31, 1983. The IPSFC assumes control over United States inside fishing areas on June 19, 1983, with the season opening on July 17, 1983. These regulations implement domestic law of the United States to provide treaty Indian tribes the full opportunity to harvest one-half of the United States' share of sockeye and pink salmon in Convention waters in a manner consistent with the United States' obligations to Canada under the Fraser River Convention. The regulations are promulgated by the Department of the Interior to apply only to Indians exercising fishing rights secured to them by treaties with the United States. The all-citizen fisheries are regulated by 50 CFR Part 371, published by the Department of Commerce.

The United States has two primary obligations to Canada under the Fraser River Convention. The first such obligation is to assure the proper escapement of sockeye and pink salmon into the Fraser River. The second obligation is to assure the equal division of the catch between Canadian and United States fishermen fishing in the Convention waters. The United States also has treaty obligations to certain Northwest Indian tribes to assure that such tribes have the full opportunity to harvest one-half of the fish that pass through tribal usual and accustomed fishing areas.

As in the 1982 Fraser River Convention fishery, regulation of the

treaty Indian fishery in 1983 will be consistent with fulfilling the United States' obligation to provide the treaty tribes full opportunity to catch one-half of the United States' share and to comply with the United States' obligations to Canada under the Convention.

The fishing season provisions of § 249.17 have been revised in order to reflect yearly changes in run timing and abundance that affect achievement of escapement goals and division of catch between the two countries. Provisions of § 249.20 are again being amended to exempt treaty Indians fishing in State Area 7B from the prohibitions of that section when such fishing is conducted pursuant to tribal regulations authorizing a chinook salmon fishery restricted to a seven (7) inch or greater mesh size.

The United States' action and these regulations implement the regulatory system which the United States has used since 1977 to meet its obligations both to Canada and to United States treaty Indians. The Supreme Court approved this regulatory system in *Washington* v. *Fishing Vessel Association*, 443 U.S. 658 (1979). This year, as in previous years, the affected treaty tribes will regulate their fisheries concurrently and in a manner consistent with the regulations of the Department.

In order to allow the affected tribes to exercise their treaty fishing rights in a timely manner, these regulations are issued on an emergency basis and are subject to modification in-season to accommodate changes in run timing and run abundance that can affect achievement of escapement goals and division of catch between the two countries. Given the time constraints, court imposed requirements, and international obligations under the Convention, the Department finds there is good cause to make these regulations effective immediately and they will expire on October 15, 1983.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this interim rule to the location identified in the Addresses section of this preamble. Comments must be received on or before August 15, 1983.

The Bureau of Indian Affairs has determined that this rule is not major within the terms of Executive Order 12291. It will not have a major effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Furthermore, because of these factors it does not have a significant economic effect on a substantial number of small entities within the terms of the Regulatory Flexibility Act.

An environmental assessment has been completed and it has been concluded that the implementation of a treaty Indian fishery by these regulations is not a major Federal action which would significantly affect the environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary author of this document is Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, United States Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, telephone number (206) 753-9460.

List of Subjects in 25 CFR Part 249

Fisheries, Fishing, Great Lakes, Indians, Reporting requirements.

Certain sections and paragraphs of 25 CFR Part 249, Subpart B, are revised to read as follows:

PART 249—OFF-RESERVATION TREATY FISHING

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

1. Section 249.17 is revised to read as follows:

§ 249.17 Fishing seasons.

(a) Treaty Indian commercial trolling in United States high seas Convention waters west of the Bonilla-Tatoosh line:

(1) No retention of sockeye and pink salmon from Wednesday, June 15, 1983, to Sunday, July 10, 1983.

(2) Retention of sockeye and pink salmon allowed from Monday, July 11, 1983, to Saturday, September 10, 1983.

(b) No treaty Indian shall fish for sockeye or pink salmon with nets in United States Convention waters (State Areas 4B, 5, and 6C) from June 19, 1983, to July 11, 1983, both dates inclusive, except for a two-night ceremonial fishery for the Makah Tribe from June 30, 1983, to July 2, 1983, conducted on salmon with a maximum catch composition of 100 sockeye.

(c) No treaty Indian shall fish for sockeye or pink salmon with nets in United States Convention waters (State Areas 6, 7, and 7A) from June 19, 1983, to July 15, 1983, both dates inclusive.

(d) No treaty Indian shall fish for sockeye or pink salmon in United States Convention waters in State Areas 4B, 5, and 6C except with lawful gear from:

(1) 5:00 a.m. Monday, July 11, 1983, to 9:30 a.m. Friday, July 15, 1983.

(2) 7:00 p.m. Saturday, July 16, 1983, to 9:30 a.m. Friday, July 22, 1983.

(3) 7:00 p.m. Saturday, July 23, 1983, to 9:30 a.m. Friday, July 29, 1983.

(4) 7:00 p.m. Saturday, July 30, 1983, to 9:30 a.m. Friday, August 5, 1983.

(5) 7:00 p.m. Saturday, August 6, 1983, to 9:30 a.m. Friday, August 12, 1983.

(6) 6:00 p.m. Saturday, August 13, 1983, to 9:00 a.m. Friday, September 9, 1983 (7-day per week fishery).

(7) 6:00 p.m. Saturday, September 10, 1983, to 9:00 a.m. Friday, September 16, 1983 (after which IPSFC is scheduled to relinquish control).

(e) No treaty Indian shall fish for sockeye or pink salmon in United States Convention waters in State Areas 6, 7, and 7A except with lawful gear from:

(1) 7:00 p.m. Saturday, July 16, 1983, to 9:30 p.m. Tuesday, July 19, 1983.

(2) 7:00 p.m. Saturday, July 23, 1983, to 9:30 p.m. Tuesday, July 26, 1983.

(3) 7:00 p.m. Saturday, July 30, 1983, to 9:30 p.m. Tuesday, August 2, 1983.

(4) 7:00 p.m. Saturday, August 6, 1983, to 9:30 p.m. Tuesday, August 9, 1983.

(5) 6:00 p.m. Saturday, August 13, 1983, to 9:00 a.m. Friday, September 9, 1983 (7-day per week fishery).

(6) 6:00 p.m. Saturday, September 10, 1983, to 9:00 p.m. Thursday, September 15, 1983 (after which IPSFC is scheduled to relinquish control over the major portion of inside fishing areas).

(f) *Area 6A.* (1) Fishing regulations will be the same as for Areas 6, 7, and 7A from June 19, 1983, through August 13, 1983.

(2) Closed to sockeye and pink salmon fishing from August 14, 1983, through September 17, 1983.

(g) *Area 7D.* (1) Closed to sockeye and pink salmon fishing from June 19, 1983, through September 3, 1983.

(h) *Area 7B.* (1) Fishing regulations will be the same as for Areas 6, 7, and 7A, except for a closure to fishing for pink salmon from July 16, 1983, through August 20, 1983.

(i) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in United States Convention waters lying westerly and northerly of a straight line drawn from Iverson's Dock on Point Roberts to Georgina Point Light at Active Pass, from August 28, 1983, to September 3, 1983, all dates inclusive.

(j) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in United States

Convention waters lying westerly and northerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary across the east tip of Point Roberts to the East Point Light on Saturna Island from September 4, 1983, to October 1, 1983, both dates inclusive.

(k) The foregoing regulations shall not apply to the following United States Convention waters:

(1) State Areas 6B, 6D, and 7C.

(2) Preserves previously established by the Director of Washington Department of Fisheries of the State of Washington for the protection and preservation of other species of food fish.

* * * * *

2. Section 249.20 is revised to read as follows:

§ 249.20 Unlawful possession.

No treaty Indian shall possess sockeye or pink salmon on board a fishing vessel which is engaged in a fishery for other species in United States Convention waters during the times Convention waters are closed to sockeye and pink salmon fishing by the regulations in this subpart, except that this prohibition will not apply after July 16, 1983, to any treaty Indian fishing pursuant to treaty tribe fishing regulations authorizing a chinook salmon fishery in State Area 7B, when such fishery is restricted to a seven inch or greater mesh size.

* * * * *

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-16629 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

Undue Hardship for Withholding on Interest and Dividends; Undue Hardship

AGENCY: Internal Revenue Service, Treasury.

ACTION: Rule-related notice of undue hardship for interest and dividend withholding.

SUMMARY: This document announces that the Secretary of the Treasury has determined that undue hardship exists with respect to withholding by all payors from interest and dividends paid or accrued from July 1, 1983, through July 31, 1983.

DATES: This undue hardship exists for payments of interest, dividends, and patronage dividends paid or accrued from July 1, 1983, through July 31, 1983.

ADDRESS: Commissioner of Internal Revenue (Attention CC:LR:T), 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Pamela F. Olson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3828).

Notice

The Secretary of the Treasury has determined that, since the Senate has adopted an amendment to H.R. 2973 that would repeal withholding on interest and dividends and would provide expanded backup withholding and other compliance measures, undue hardship exists with respect to all payors of interest, dividends, and patronage dividends paying or accruing those amounts from July 1, 1983 through July 31, 1983. Therefore, under the authority of section 308(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248), all payors of interest, dividends, and patronage dividends are exempted from the requirement of withholding on interest, dividends, and patronage dividends contained in sections 3451 through 3456 of the Internal Revenue Code of 1954 for payments paid or accured from July 1, 1983, through July 31, 1983.

Philip E. Coates,

Acting Commissioner of Internal Revenue.

[FR Doc. 83-16697 Filed 6-17-83; 3:03 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 634

Motor Vehicle Traffic Supervision; Drunk Drivers and Driving

AGENCY: Deputy Chief of Staff for Personnel, Department of the Army, Department of Defense.

ACTION: Interim rule.

SUMMARY: The Department of the Army proposes to revise its regulation for dealing with all drunk drivers on US Army installations, and active duty Army personnel charged with drunk driving either on or off Army installations. The change is necessary to provide guidance to commanders in implementing the revised policy. Drunk driving is incompatible with the maintenance of high standards of performance, military discipline, and readiness, and is a serious threat to the health and welfare of the Army community. Army commanders are required to ensure that all intoxicated drivers are removed from the roads of Army installations as quickly as possible, that active duty Army personnel are also discouraged from driving on public roads, and that appropriate sanctions against drunk drivers are expeditiously applied.

These revised regulations are intended to effectively reduce the incidence of drunk driving on Army installations, and among active duty Army military personnel wherever they drive.

DATES: Effective on June 21, 1983. Comments must be received on or before July 15, 1983.

ADDRESS: Send written comments to HQDA (DAPE-HRE), Washington, DC 20310.

FOR FURTHER INFORMATION CONTACT: Sergeant Major Ronald A. Tate, (202) 756-1896.

SUPPLEMENTARY INFORMATION: This regulation is not significant under requirements of Executive Order 12291, and a regulatory analysis is not required. The Department of the Army has also determined as required by the Regulatory Flexibility Act (Pub. L. 96-354) that the proposed rule poses no burden upon small entities.

List of Subjects in 32 CFR Part 634

Transportation, Traffic regulations, Motor vehicles, Alcohol and alcoholic beverages.

John O. Roach II,

DA Liaison Officer with the Federal Register.

Part 634 is added to 32 CFR to read as follows:

PART 634—MOTOR VEHICLE TRAFFIC SUPERVISION

Sec.

634.1 General.
634.2 Driving privileges.
634.3 Motor vehicle registration and driver records.
634.4 Police traffic supervision.
634.5 Off-installation traffic activities.
634.6 Traffic point system.
Appendix A—Explanation of Terms as They Pertain to This Joint Service Regulation.
Appendix B—Chemical Testing Policies and Procedures.
Appendix C—State Chemical Breath Testing Training Programs.
Appendix D—Chemical Breath Testing, Training, and Certification Requirements.

Authority: 10 U.S.C. 3012(g); 5 U.S.C. 2951; Pub. L. 89-564; 89-670; 91-605; 93-87.

§ 634.1 General.

(a) *Purpose.* This regulation establishes policy, responsibilities, and procedures for motor vehicle traffic supervision, which includes but is not limited to the following: granting, suspending, or revoking the privilege to operate a privately owned motor vehicle on a military installation or in oversea areas where traffic operations are under military supervision; registation of motor vehicles with a military installation or department; administration of vehicle registration and driver performance records, to include driver improvement, police traffic supervision and off-installation traffic activities.

(b) *Applicability.* (1) The provisions of this regulation are applicable to individuals serving in, or employed by, the military services and the Defense Supply Agency, and all other individuals subject to the motor vehicle registration and driver records requirements set forth in § 634.3 of this part.

(2) The terms "installation" and 'installation commander," used throughout this regulation apply equally to overseas "commands" and "major oversea commanders" responsible for command motor vehicle traffic supervision programs. Commanders in oversea areas are authorized to modify policies and procedures when dictated by host-nation relationships, treaties or agreements.

(c) *General policy* (1) The principal objective in supervising motor vehicle traffic is to assure safe and efficient movement of vehicles, material, and personnel to destinations over streets and highways. Programs and procedures will be based on National Highway Safety Program Standards. (NHSPS) promulgated under the National Highway Safety Act of 1966, as amended. Subjects addressed by NHSPS and considered applicable to the military services and Defense logistics agency motor vehicle traffic supervision programs include periodic motor vehicle inspections, motorcycle and pedestrain safety, driver education, traffic codes, alcohol in relation to highway safety identification and surveilance of accident locations, traffic engineering services, police traffic services and records, and accident investigation and reporting.

(2) The goal of motor vehicle traffic supervision is to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Traffic accidents are caused and, as such, are preventable. Motor vehicle accidents, as caused occurreances, will be examined through an assessment of the roadway and environment, the operator, the vehicle, and supervision and control measures employed. To be fully effective, motor vehicle traffic supervision programs require total coordination and integration of installation education, engineering, and enforcement capabilities and resources.

(d) Intoxicated driving is incompatible with the maintenance of high standards of performance, military discipline, and readiness, and is a serious threat to the health and welfare of the Army community. Army commanders will insure that intoxicated drivers are removed from the roads as quickly as possible and that appropriate sanctions are expeditiously applied.

(e) *Responsibilities. Departmental.* The Deputy Chief of Staff for Personnel, DA and designated officers of the Departments of Navy and Air Force, the Marine Corps, and the Defense Supply Agency, exercise staff supervision over policy programs for motor vehicle traffic supervision applicable to their respective services or agencies and will—

(i) Develop standardized policies and procedures.

(ii) Coordinate and maintain liaison with interested staff agencies and other military departments in matters pertaining to motor vehicle traffic supervision including the establishment of working groups and committees.

(iii) Coordinate and maintain liaison with appropriate departmental safety personnel in matters pertaining to motor vehicle traffic safety and accident reporting systems.

(iv) Coordinate with national, regional, and State traffic officials and agencies, including active participation in conferences and workshops sponsored by government or private groups at the national level.

(v) Assist in the organization and monitoring of police traffic supervision training within their respective Departments.

(vi) Coordinate and maintain liaison with the Department of Transportation and other Federal departments and agencies regarding Federal Traffic Safety standards and programs which are applicable to the military services' traffic supervision programs.

(2) *Major commanders.* Major commanders of the Army, Navy, Air Force, and Marine Corps will—

(i) Manage motor vehicle traffic supervision within their commands to insure maximum compliance with the objectives of this regulation to improve the service-wide traffic safety performance of vehicle operators.

(ii) Cooperate with and support programs of State and regional highway traffic safety organizations.

(iii) Coordinate regional motor vehicle traffic supervision activities with other major military commanders within assigned geographic areas of responsibility.

(iv) Encourage establishment of agreements between installation and host-states for reciprocal reporting of moving violations and suspension and revocation of driving privileges.

(3) *Installation or activity commanders.* Installation or activity commanders will—

(i) Establish an effective motor vehicle traffic supervision program in accordance with this regulation.

(ii) Cooperate with civil police agencies and other local governmental agencies or civil traffic organizations concerned with motor vehicle traffic supervision.

(iii) Insure that all matters pertaining to motor vehicle traffic supervision are properly related to the overall installation traffic safety program.

(iv) Where possible, actively support and participate in Alcohol Safety Action Projects (ASAP) in neighboring civil communities.

(4) *Law enforcment officer.* The installation or activity law enforcement officer, while sharing the responsibility for a balanced traffic program with other staff agencies, is the officer charged with overall staff responsibility for motor vehicle traffic supervision.

(5) *Safety officer.* Within the mission, scope, and responsibility for the installation safety program, safety personnel will participate in all activities relating to the prevention of motor vehicle traffic accidents.

(6) *Facilities enginer or engineer officer (Public Works Officer at Navy installations).* The facilities engineer or engineer officer is responsible for performing that phase of engineering which is concerned with the planning, construction, and maintenance of streets, highways, and abutting lands. Additionally, he is responsibile for the procurement, construction, installation and maintenance of permanent traffic control devices for control of traffic flow and parking in coordination with the law enforcement officer. Traffic signs, signals, and pavement markings will conform to the standards established in the current Manual on Uniform Traffic Control Devices for Streets and Highways. Planning, design, construction and maintenance of streets and highways should conform to the NHSPS standards on highway design, construction, and maintenance, wherever practicable.

(7) *Traffic engineer.* The traffic engineer is responsible for conducting

formal traffic engineering studies and applying traffic engineering measures and techniques, including the use of traffic control devices, to reduce the number and severity of traffic accidents. When an installation traffic engineer is not available, traffic engineering services may be requested through appropriate channels from the Commander, MTMC (§ 634.4(3)).

(8) *Alcohol and drug control officer.* The alcohol and drug control officer for Army installations, and comparable officers of other services, are responsible for providing appropriate alcohol education/treatment and/or rehabilitation services to personnel identified as having alcohol and/or drug abuse problems.

§ 634.2 Driving privileges.

(a) *Policy.* The operation of a privately owned motor vehicle on a military installation constitutes a conditional privilege extended by the installation commander. Individuals desiring the privilege will meet the following sustaining conditions:

(1) Comply with laws and regulations governing motor vehicle operation on the installation.

(2) Comply with the requirements for installation registration (§ 634.3).

(3) Possess while operating a motor vehicle and produce on demand of enforcement personnel—

(i) Proof of vehicle ownership or State registration.

(ii) A valid State driver's license.

(iii) A valid record of motor vehicle safety inspection, if required.

(4) Military personnel agree to attend remedial driver training or participate in alcohol/drug treatment or rehabilitation programs as determined by the installation commander. Civilian personnel and dependents may participate in such programs on a voluntary basis.

(5) Any person granted the privilege of operating a motor vehicle on a military installation shall be deemed to have given his or her consent to a chemical test of his or her blood, breath or urine for the purpose of determining the alcoholic content of his or her blood if lawfully stopped, apprehended, or cited for any offense allegedly committed while driving or in actual physical control of a motor vehicle on the installation under the influence of intoxicating liquor. The test shall be incidental to a lawful traffic stop, apprehension, or citation and administered at the direction of the installation law enforcement official having reasonable cause to believe such person was driving or in actual physical control of a motor vehicle upon the installation while under the influence of intoxicating liquor. Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn consent and such tests may be administered whether or not such person is told that failure to submit to or complete the test will result in the suspension of the privilege to operate a motor vehicle. (See procedures for invoking implied consent in § 634.4(3)(iii) of this Part.

(b) *Suspension and revocation.* The privilege of driving privately owned motor vehicles on military installations is subject to either administrative suspension or revocation for cause by an installation commander or his designated representative. Suspension and revocation actions based on commission of serious moving traffic violations and/or point assessment for other moving violations are covered in § 634.6 of this Part. The termination of installation registration is inherent to revocation actions and individuals must make application for re-registration in accordance with § 634.3 of this Part after the expiration of the specified period.

(1) *Suspension.* (i) The suspension of the driving privilege for a period not to exceed six months normally is applied to individuals when other measures such as counselling, remedial driver training or rehabilitation programs have failed to produce the desired driver performance. Driving privileges also may be suspended whenever an individual subject to this regulation consistently (as determined by the installation commander) violates installation traffic regulations.

(ii) Immediate suspension pending resolution of drunk driving charges is authorized for Army personnel and their dependents, DA civilian employees, and others with installation driving privileges, regardless of the geographic location of a drunk driving incident. Suspension is authorized for other civilian persons only with respect to incidents occurring on the installation or in areas subject to military traffic supervision. After a review of available evidence § 634.2(b)(4)(i) personnel will immediately have their installation driving privileges suspended pending resolution of drunk driving charges brought in the following circumstances (in such cases, personnel may request a hearing per § 634.2(b)(4) this regulation; however, driving privileges will remain suspended pending a determination at the hearing):

(A) Lawful apprehension for drunk driving.

(B) Refusal to take or complete a lawfully requested chemical test for blood alcohol content.

(C) Driving or being in physical control of a motor vehicle on post when blood alcohol content is 0.10 percent or higher, irrespective of other charges; or off post when blood alcohol content exceeds the applicable state standard, irrespective of other charges.

(2) Revocation.

(i) The revocation of installation driving privileges is a severe administrative measure to be exercised for serious moving violations or when other available corrective actions fail to produce the desired driver improvement. Revocation of the driving privilege will be for a specific period, but never less than six months.

(ii) Driving privileges are subject to revocation when an individual fails to comply with any of the conditions requisite to the granting of the privilege (see § 634.2(a) of this section).

(iii) Driving privileges will be revoked for a mandatory period of one year in the following circumstances:

(A) When the installation commander or designee has determined that the person lawfully apprehended for driving while intoxicated/drunk driving refused to submit to a test to measure blood alcohol content required by the law of the jurisdiction, this regulation, or installation traffic code.

(B) When there has been a conviction, nonjudicial punishment, or an administrative determination in civilian channels (for example, suspension or revocation of driver's license) for drunk driving. Appropriate official documentation of such conviction, etc., is required as the basis for revocation.

(iv) When temporary suspensions under § 634.2(b)(1)(ii) of this section are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full drving privileges may have been restored pending resolution of charges. (Example: Privileges were initially suspended on 1 January 1983 for a charge of drunk driving with a blood alcohol content of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on 1 February pending resolution of the charge. On 1 March there was a conviction for drunk driving. The mandatory one-year revocation period will consist of January 1983 plus March 1983 through January 1984, for a total of twelve months with no installation driving privileges.)

(v) Administrative revocation for a period of no less than five years will be

imposed against persons apprehended while driving on the installation while a suspension or revocation of their driving privileges and/or drivers license is in effect. In addition to this administrative action, separate action may also be initiated on the basis of any traffic offense committed.

(Vi) For each subsequent determination within a five-year period that revocation is authorized under § 634.2(b)(2)(iii), the offender will be prohibited from obtaining or using a US Government Motor Vehicle Operator's identification Card (SF 46) for a minimum of six months. This does not preclude a commander from imposing such prohibition for a first offense, or for a longer period of time for a first or subsequent offense, or for such other reasons as may be appropriate.

(3) *Restricted privileges.* (i) Requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to one of the following officials for determination:

(A) General Court-Martial Convening Authority will act upon all requests for restricted driving privileges subsequnet to suspension or revocation of installation driving privileges for apprehension or conviction for drunk driving/driving while intoxicated.

(B) Installation commanders will act upon other cases.

(ii) The appropriate authority may consider and grant requests for restricted driving privileges or probation to preclude adverse military mission impact, severe family hardship, or detrimental effect on ongoing or contemplated alcohol or drug treatment and rehabilitation programs involving the affected individual. Probation or restricted driving privileges will not be given to persons, whose drives licenses are under suspension or revocation by a state, Federal, or host country court or administrative agency.

(iii) The limitations of the restricted driving privilege (for example, authorization to drive to and from place of employment of duty, and/or selected installation facilities such as hospital, commissary, etc., within specified time periods) and conditions of the probation will be specified in writing and provided the individual concerned. Persons detected in violation of the restricted privilege or probation are subject to revocation action as prescribed in § 634.2 (b)(2)(v) of this section. The appropriate authority may reinstate the original period of suspension or revocation for cause (for example, driver at fault in a traffic accident, or driver cited for a moving traffic violation).

(4) *Administrative due process.* Individual Services may promulgate separate regulations establishing administrative due process procedures. The following procedures apply to actions under this paragraph taken by Army commanders with respect to Army personnel and family members, and civilian personnel operating motor vehicles on Army installations.

(i) Prior to suspension actions under § 634.2(b)(1)(iii) of this section, the best evidence readily available will be presented promptly to an individual designated by the installation commander for review and authorization for immediate suspension of installation driving privileges. The reviewer should be an officer outside the installation law enforcement agency. Best readily available evidence includes material such as sworn witness statements, military or civilian police report of apprehension, chemical test resuts if completed, refusal to consent to chemical testing, video tapes, statements by the apprehended individual, field sobriety or preliminary breath test results, and/or other pertinent evidence. Reviews normally will be accomplished within twelve hours after assembly of evidence. When detailed and reliable evidence is not available, immediate suspension should not be authorized. For example, suspensions for off-post offenses should not be based on published lists of arrested persons, statements by parties not witnessing the apprehension, telephone conversations, or other information not supported by documented and reliable evidence. Installation commanders may authorize the Provost Marshal to conduct reviews and authorize suspension in cases where the designated reviewer is not reasonably available and, in the judgment of the Provost Marshal, such immediate action is warranted. Review by the designated officer will follow as soon as practicable in such cases. When a suspension notice is based on the Provost Marshal's review, there is no requirement for confirmation notice following subsequent review by the designated officer.

(A) For active duty military personnel, written notice of suspension will be provided without delay to the individual's unit chain of command for immediate presentation to the individual.

(B) For civilian personnel, written notice of suspension will normally be provided without delay via registered mail. If the person is employed on the installation, such notice may be forwarded through the military or civilian supervisor. When the notice of suspension is forwarded through the supervisor, the person whose privileges are suspended should be required to provide written acknowledgement of receipt of the suspension notice.

(ii) Notices of suspension will include the following:

(A) The fact that the suspension can be made a revocation under § 634.2(b)(2)(iii) of this section.

(B) The right to request, in writing, a hearing before the installation commander or designee to determine if post driving privileges will be restored pending resolution of the charge; and that such request must be made within five working days of the notice of suspension.

(iii) If a hearing is requested, it must take place within ten working days of receipt of the request. The suspension will remain in effect until a decision has been made by the installation commander or designee, but will not exceed seven working days after the hearing while awaiting the decision. If there is no decision by that time, full driving privileges will be restored until such time as the accused is notified of a decision to continue the suspension.

(iv) Hearing on suspension actions under § 634.2(b)(1)(9)(ii) of this section pending resolution of charges will only cover the pertinent issue(s) of whether—

(A) The law enforcement official had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor;

(B) The apprehension was lawful;

(C) The person was lawfully requested to submit to a blood alcohol content test, and had been informed of the consequences of refusal of such test (unless incapable of refusig, as described in paragraph 2–l);

(D) The person refused to submit to the blood alcohol content test, or failed to complete the test, or submitted to the test and the result was 0.10 percent or higher blood alcohol content for an on-post apprehension, or in violation of state laws for an off-post apprehension;

(E) The testing method used was valid and reliable, and the results accurately evaluated;

(v) For offenses other than those described in §§ 634.2(6)(1)(ii) and 634.2(b)(1)(ii) of this section suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers the person an administrative hearing. Suspension or revocation will take place seven days after this written notice is received unless an application for a hearing is made by the affected person

within this period. Such application will stay the pending suspension or revocation for a period of seven days. If, due to action by the Government, a hearing is not held within seven days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the seven-day period, the suspension or revocation shall become effective immediately on receipt of notice that request for continuance has been granted.

(A) If it is determined as the result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective immediately upon receipt of the written notification of such action. An individual whose driving privilege is suspended or revoked will have the right to appeal or request consideration per (B) below.

(B) If the revocation or suspension is imposed after such hearing, the person whose driving privilege has been suspended or revoked will have the right to appeal or request reconsideration. Such requests must be forwarded through channels to the installation commander within ten working days from the date the individual is notified of the suspension or revocation action or the result of the administrative hearing. The suspension or revocation will remain in effect pending a final ruling on the request. Requests for restricted privileges will be approved per § 634.2(b)(3) of this section.

(vi) For revocation actions under § 634.2(b)(2)(iii) of this section, the revocation is mandatory upon conviction or other finding that confirms the charge. Such revocations are effective upon receipt of written notice by the individual concerned, and cancel any full or restricted driving privileges that may have been restored pending resolution of charges. Requests for restoration of full driving privileges are not authorized. Requests for restricted driving privileges or probation will be expeditiously acted upon. Approval authority is the General Court-Martial Convening Authority (§ 634.2(b)(3) of this section).

(5) Restoration of Driving Privileges Upon Acquittal. The suspension or revocation of driving privileges will be vacated upon acquittal of drunk driving charges (or other determination which sets aside a finding of "guilty"), or a determination by appropriate officials not to prosecute the charge. In such cases, the affected person must make application for re-registration per chapter 3, this regulation. Acquittal of drunk driving charges will not result in vacation of any suspension or revocation of driving privileges when such action was based on either:

(i) The persons refusal to submit to a lawfully requested test to measure blood alcohol content, after being informed of the consequences of refusal of such test (unless incapable of refusing, as described in § 634.2(b)(5) of this section; or,

(ii) The person driving or being in physical control of a motor vehicle while a suspension or revocation was in effect under §§ 634.2(b)(1)(ii)or 634.2(b)(2)(iii) of this section.

(c) *Reciprocal States—military action.* The military services recognize the primacy of the States in matters pertaining to privately owned motor vehicle administration and driver licensing. In support of these activities and the National Highway Safety Program Standards, the following procedures will be followed at installation/command level:

(1) If statutory authority exists within the host-State for reciprocal suspension and revocation of driving privileges, installation and oversea commanders are authorized and encouraged to enter into agreements with State driver licensing authorities for reciprocal reporting of all moving violations and infractions of motor vehicle laws and regulations for which the driver has been penalized. On receipt of written notification, the receiving party may assess traffic points against individual driving records, and/or suspend or revoke driving privileges to the extent such actions could have been taken if the violation or incident had occurred within the receiving party's respective jurisdiction. (See § 634.6(c)(4) of this section for assessment of traffic points or suspension and revocation of driving privileges by State driver licensing authorities.)

(2) If statutory authority does not exist within the host-State for formal State-military reciprocity:

(i) Commanders will take appropriate action on reports of moving traffic violations, suspensions, or revocations received from State authorities. When State authority suspends or revokes and individual's drivers license, the installation or command driving privilege is automatically terminated. Administrative actions (suspension, revocation and point assessments) for moving traffic violations committed off the installation should not be less than that required for similar offenses if committed on the installation. The installation or oversea commander, when notified of State action, may also suspend or revoke the individual's US Government Motor Vehicle Operator's Identification Card (SF 46). In all cases, however, authorization to drive a Government vehicle will be restricted to the limits of the installation.

(ii) When an individual's installation or command driving privilege is revoked through action initiated by military authority, commanders will transmit such information to the appropriate State licensing authority for their information and action in accordance with the laws applicable to that jurisdiction. Actions reported will include withdrawals of driving privileges because of physical or mental disqualifications, as recommended by a physician. Information furnished to the State will include a complete basis for action. Reporting action may be deferred on those persons who voluntarily submit to approved medical treatment programs for drug abuse or problem drinking, provided close supervision of the individual's activities, including safe operation of a motor vehicle, is prudently exercised.

(d) *Remedial driver training.* (Air Force activities will comply with AFR 50–24; Navy with OPNAVINST 5100.12 series; Marine Corps activities with Marine Corps Order 5100.19A.)

(1) Installation commanders will establish a remedial driver training program to instruct and correct military personnel who have been identified as problem drivers. The selection of personnel to attend remedial driver's training should be based on the information entered on the individual driver's record. The course curriculum should provide, as a minimum, 10 hours of instruction designed to improve driver performance and compliance with traffic laws. Attendance at the remedial training course may be waived in cases of drivers referred to alcohol education classes at installation alcohol and drug centers.

(2) Installation commanders may hold periodic courses of instruction when the establishment of a remedial driving school on a continuing basis is impractical. In localities where civil authorities conduct remedial driver training courses, local arrangements may be made for installation personnel to addend these courses in lieu of courses conducted on military installations.

(3) Civilian personnel employed on the installation, contractor employees, and military dependents may voluntarily attend remedial driver training or similar courses. Driving privileges which have been suspended or revoked may be withheld beyond expiration of the

sanction, pending completion of an approved remedial driver training course or alcohol/drug counseling programs.

TABLE 2-1.—GUIDE TO ACTIONS ON DRUNK DRIVING-RELATED OFFENSES [1]

	Drunk driving	Refuse BAC test	BAC 0.10 or more [2] irrespective of other charges/convictions
A. Actions Upon Apprehension			
1. Review evidence; suspend driving privileges.	Yes	Yes	Yes, if charged with drunk driving.
		Paragraphs 2-2a(2) and 2-2d(1) and (2).	
2. May request hearing for privileges after suspension [3] (installation commander is approval authority; if privileges are denied, General Court Martial Convening Authority is approval authority for restricted privileges.).	Yes	Yes	Yes.
		Paragraphs 2-2d(3) and 2-2d(4).	
3. Refer to ADAPCP (evaluation, appropriate track) [4].	Yes	Yes	Yes, regardless of charges.
		Paragraphs 4-5f.	
4. Review service record for bar to reenlistment, administrative reduction/discharge.	Yes	Yes	Yes, regardless of charges.
		Paragraphs 4-5h(2).	
B. Actions Upon Conviction/Confirmation			
1. Mandatory 1-year revocation of driving privileges.	Yes	Yes	No.
		Paragraphs 2-2b(3).	
2. May request restricted privileges (General Court-Martial Convening Authority is approval authority).	Yes	Yes	N/A.
		Paragraphs 2-2c(1)(a).	
3. General officer letter of reprimand [4]	Yes	Yes	Yes.
		Paragraphs 4-5h(1).	

NOTES.—
[1] Army personel: offenses on or off installation. Family members/civilians; on installation.
[2] BAC 0.10 or higher, or intoxication level established by other overriding standard.
[3] Hearing must be within 7 working days of receipt of request; decision must be made within 7 working days of hearing or full privileges restored.
[4] Active duty Army only.

§ 634.3 Motor vehicle registration and driver records.

(a) *General.* This chapter prescribes general policies for motor vehicle registration and maintenance of driver records which are uniform among all military departments and the Defense Supply Agency. Specific policies and procedures for registration inspection and marking of privately owned vehicles are contained in applicable separate service directives.

(b) *Policy.* (1) Motor vehicles which are owned by a person who resides, performs duty, is employed on, or frequently uses the facilities of a military installation will be registered in accordance with this regulation as modified by separate service policies.

(2) Vehicles designed exclusively for construction and material handling, vehicles used solely off the traffic way, and bicyles with fractional housepower engines will not be registered.

(3) Commanders are authorized to grant temporary registration for a period not to exceed 30 days pending permanent registration or in other circumstances when deemed appropriate.

(4) Unless security requirements dictate otherwise, valid vehicle registration and decalcomania from other installations/activities of the same service or other services and DSA will be honored at all installations/activities.

(5) Motor vehicles driven by visitors may be issued appropriate locally produced identification media.

(c) *Registration requirements.* Systems for registration of privately owned motor vehicles on military installations will include the following requirements:

(1) Evidence of vehicle ownership and certificate of State registration as may be required by the State in which the vehicle is registered.

(2) Possession of a valid State driver's license.

(3) Certification to the continuing possession of motor vehicle liability insurance in an amount not lower than the minimum limits prescribed by the financial responsibility, or the compulsory law of the State in which the installation is located.

(4) Evidence of satisfactory completion of a safety and mechanical vehicle inspection by State or jurisdiction in which the vehicle is licensed or located. If neither State nor local jurisdiction requires a periodic safety inspection, the establishment of an installation vehicle safety inspection program will be in accordance with separate service policy.

(5) Issue of decalcomania or license plates (oversea areas only) as a means of identifying registered vehicles.

(d) *Termination of registration.* Installation/activity or oversea commanders, or their designated representatives, may terminate the registration or deny initial registration whenever:

(i) The owner fails to comply with the registration requirements or conditions (§ 634.3(c) of this section).

(ii) The owner sells or otherwise disposes of the vehicle, is released from active duty, is separated from the service, is transferred to a new duty station, or terminates civilian employment with a military department.

(iii) The owner is other than active military or civilian employee and discontinues regular operation of the vehicle on the installation.

(iv) The owner's State driver's license has been suspended or revoked and/or the installation driving privilege has been revoked. Termination of installation registration in connection with the suspension or revocation of the owner's State driver's license or installation driving privileges are prerogatives of the installation/activity or oversea commanders concerned. The option of continuing registration, if the effect of termination would cause undue hardships on dependents, may be exercised provided that such action does not conflict with the laws of the State in which the installation is located.

(2) Decalcomania used for the identification of registered motor vehicles will be removed when installation registration is terminated.

(3) Installation registration may be continued in those instances where the service member (sponsor) is transferred to an oversea area and the spouse or other dependents continue to reside in the geographic area contiguous to the installation.

(e) *Driver records.* (1) Applicable service forms will be used to record chargeable motor vehicle traffic accidents, moving violations, suspension or revocation actions, and/or point assessments involving military and civilian personnel and their dependents and other personnel privileged to operate motor vehicles on a military installation.

(2) Driver records will be used as an aid in identification of drivers in need of driver improvement such as counseling and remedial driver training. Records will be forwarded to the next duty

station when the service member is transferred.

§ 634.4 Police traffic supervision.

(a) *General.* The safe and efficient movement of traffic on an installation is largely dependent on the effectiveness of police traffic supervision. Principal functions of a police traffic supervision program include planning, supervision and control of motor vehicle traffic, promulgation and enforcement of traffic laws and regulations, and investigation of motor vehicle accidents.

(b) *Traffic planning.* (1) Installation commanders are responsible for the development of traffic circulation plans which provide for the maximum safe and efficient use of roadways and support systems. Circulation plans should be a major consideration in all long-range master planning at installations. Traffic circulation plans are normally developed by the installation law enforcement officer in conjunction with the installation engineer and other appropriate installation and staff agencies. Coordination also must be made with highway engineering representatives of adjacent civil communities to insure that installation traffic circulation plans are compatible with the existing or future circulation plans of the civil community. Plans developed should incorporate as a minimum the following provisions:

(i) Normal and peak load routing based on traffic control studies.

(ii) Effective control over traffic by planned and coordinated traffic direction including contingency measures for special events and adverse road or weather conditions.

(iii) Point control at congested locations by qualified law enforcement personnel and designated traffic directors or traffic wardens, including volunteer trained adults as school crossing or bus guards.

(iv) Judicious use of uniform traffic control signs and devices.

(v) Maximum efficient use of available parking facilities.

(vi) Maximum efficient use of available mass transportation facilities.

(2) The acquisition of factual data pertaining to existing roadways, traffic density and flow patterns, and points of congestion are requisite to the development of sound traffic circulation plans. Data is normally obtained through various traffic control studies conducted by the installation law enforcement officer. This data when properly collected and evaluated can materially assist in determining major and minor routes, location of traffic control devices, and conditions requiring engineering and/or enforcement services.

(3) Traffic engineering services also area available through the US Army Transportation Engineering Agency (USATEA), Military Traffic Management Command (MTMC) to assist installation commanders in the solution of complex on-installation highway traffic engineering problems. These services include reconnaissance traffic engineering studies of limited areas and situations and complete traffic engineering studies of traffic operations of entire installations including long-range planning for future development of installation roads, public highways, and related facilities. Request for traffic engineering services should be submitted in accordance with paragraph 7–2, AR 55–80/NAVFAC INST 11210.1B/AFR 75–88/MCO 11210.2/DSAR 4500.19 (Highways for National Defense).

(c) *Traffic codes.* (1) Installation or activity commanders will establish a vehicle code applicable to the operation of motor vehicles on the installation. The code will contain a rules of the road section and will, where possible, conform to the code of the state in which the installation is located. The development and publication of installation vehicle codes will be based on applicable portions of the "Uniform Vehicle Code" (UVC) and "Model Traffic Ordnance" (MTO) published by the National Committee on Uniform Traffic Laws and Ordnances, 1776 Massachusetts Avenue, NW, Washington, DC 20036.

(2) In addition to provisions contained in the UVC and MTO, installation traffic codes will contain provisions requiring:

(i) Motorcycles to be operated with headlights on at all times.

(ii) Operators and passengers of motorcycles to wear approved protective helmets and eye protection devices.

(iii) The wearing of seat belts by operators and passengers of US Government vehicles, when so equipped.

(d) *Traffic law enforcement.* (1) A primary function of traffic law enforcement is to motivate drivers to operate vehicles safely within the framework of traffic laws and regulations. Effective enforcement emphasizes voluntary compliance by drivers and is achieved, in part, by the following actions:

(i) Publishing realistic regulations which can be enforced and which are made known to all affected personnel.

(ii) Utilizing capable and qualified traffic law enforcement personnel.

(iii) Adopting standard signs, markings, and signals that conform to the Manual on Uniform Traffic Control Devices for Streets and Highways.

(iv) Insuring that enforcement personnel establish courteous personal contract with drivers.

(v) Having enforcement personnel act promptly when defects in driving behavior or the equipment of road users are detected.

(vi) Employing speed measuring devices in traffic control studies and enforcement programs, where appropriate.

(vii) Maintaining an aggressive program to detect and apprehend individuals who drive while privileges are suspended or revoked.

(2) Selective and preventive enforcement practices will be employed whenever practicable. Preventive enforcement, the presence or suggested presence of law enforcement personnel at locations where violations, congestion, or accidents frequently occur, is designed to deter traffic violations and reduce accidents. Selective enforcement defines the traffic problem in terms of high frequency violation and accident locations and areas of congestion during selected time periods and applies appropriate enforcement measures to accident-causative violations and conditions. As an enforcement practice, selective enforcement permits maximum effective utilization of law enforcement resources and is therefore endorsed by the military services.

(3) *Traffic violations.* (i) Installation commanders will establish administrative procedures for processing traffic violations. Individuals committing traffic violations on military installations will be issued either an Armed Forces Traffic Ticket (DD Form 1408) or Violation Notice (DD Form 1805) as appropriate.

(A) One copy of the traffic ticket will be forwarded through command channels to the violator's commander, to the commander of the dependent's sponsor, or to a civilian supervisor or employer. Evidence of previous traffic violations committed by the offender, including points previously assessed, will be indicated.

(B) A copy of all violation reports on military personnel and civilian employees of the Government apprehended for driving under the influence of alcohol or drugs will be provided the installation alcohol and drug center.

(C) For those violations requiring a report of action taken, the traffic ticket will be returned to the office of record

through such reviewing authority as may be established by the installation commander.

(D) When the report of action taken is received by the office of record, an appropriate entry will be made on the individual's driver record.

(ii) Installation commanders will determine procedures to be used in the disposition of cases involving traffic violations through administrative or judicial action consistent with the provisions of the UCMJ and Federal law. The DD Form 1805 will be used to refer violations of state traffic laws made applicable to the military reservation (Assimilative Crimes, 18 U.S.C. 13) and other violations of Federal law to the US Magistrate in accordance with separate departmental policies.

(e) *Alcohol and drug countermeasures* (1) *Program.* Installation commanders will establish an overall program patterned after the Department of Transportation Alcohol Safety Action Projects (ASAP) to minimize the contribution of alcohol and drugs as causative factors in traffic accidents. The program should emphasize the development and coordination of appropriate countermeasures involving public information and education, enforcement, administration of justice, and rehabilitation and treatment. The program should be evaluated periodically to determine the effectiveness of each element of the overall program.

(2) *Enforcement countermeasures.* These will include as a minimum—(i) Measures for detection, apprehension and testing of personnel who are suspected of driving while under the influence of alcohol or drugs, to include employment of special patrols during periods when driving while under-the-influence violations most frequently occur.

(ii) Training of law enforcement personnel in special enforcement techniques.

(iii) Establishment of blood-alcohol concentration standards.

(iv) Denial of installation driving privileges to personnel whose use of alcohol or other drugs demonstrably jeopardizes their capacity to operate a motor vehicle safely.

(3) *Detection, apprehension and testing.* (i) Law enforcement personnel normally detect drunk driving violators by observing unusual, abnormal, or illegal driver behavior. Drivers exhibiting such behavior will be stopped immediately to determine the cause of the behavior and/or to take appropriate enforcement action. Drivers involved in traffic accidents also should be observed for evidence of sensory impairment.

(ii) When a law enforcement officer reasonably concludes that the individual driving or in control of the vehicle might be impaired, field sobriety tests should be made of that individual. The Alcoholic Influence Report, DD Form 1920, will be utilized by law enforcement agencies in examining, interpreting and recording results of such tests. Installations with existing capabilities are encouraged to use photographs, motion pictures, or video tapes to document the demonstrated condition of individuals apprehended for driving under the influence of intoxicants. If motion picture or video tape recording procedures include voice recording capability, the provisions of paragraph 3–24, AR 190–30, must be complied with.

(iii) Voluntary breath and bodily fluid testing based on implied consent.

(A) Implied consent. Under the implied consent policy set out in § 634.2(a)(e) of this Part, any individual who has been stopped, apprehended or cited on a military installation for any offense or incident related to driving a motor vehicle while under the influence of intoxicants is deemed to have given consent to chemical tests, as described in Appendix B, of his or her blood, breath, or urine for the purpose of determining its alcoholic content.

(B) *Procedures.* The law enforcement official relying on implied consent will warn the individual that failure to voluntarily submit to or complete a requested chemical test of his or her breath or bodily fluids may result in the revocation of the privilege to operate a motor vehicle on the installation. Such persons do not have the right to have an attorney present before stating whether he or she will submit to a testing, nor during the administration of the test. Installation commanders will prescribe the type or types of chemical tests which will be administered. Testing will be conducted in accordance with policies and procedures contained in Appendix C. The results of chemical tests administered under the implied consent provisions of this regulation may be used as evidence in courts-martial, nonjudicial proceedings under the UCMJ, administrative actions and civilian courts.

(C) *Refusal.* If an individual suspected of driving while intoxicated refuses the request of an individual law enforcement official to submit to a chemical test, none will be given unless the individual was involved in an accident and the procedures set forth in § 634.4(e)(3)(iv) of this section, are followed.

(iv) Involuntary bodily fluid extraction based upon a valid search and seizure authorization.

(A) Authorization requirement and procedure. An individual who does not consent to chemical testing, as described above, may nonetheless be subjected to an involuntary blood (or other bodily fluid) extraction for such testing, only in the following circumstances and only in accordance with the following procedures:

(*1*) Any individual subject to the Uniform Code of Military Justice who was driving a motor vehicle involved in an accident resulting in *death, personal injury, or property damage,* may be subjected to a nonconsensual blood (or bodily fluid) extraction to test for the presence of intoxicants only when there is a probable cause to believe that such an individual was driving or in control of a vehicle while under the influence of an intoxicant. A search authorization by an appropriate commander or a military judge obtained pursuant to Rule 315, Military Rules of Evidence (Manual for Courts-Martial, Chapter XXVII), is required prior to such nonconsensual extraction, unless there is a clear indication that evidence of intoxication will be found, and there is good reason to believe the delay which would result if an authorization were sought could result in the destruction of such evidence. Because such "warrantless" intrusions are subject to close scrutiny by the courts obtaining an authorization is highly preferable, and a "warrantless" intrusion should be conducted generally only after attempts to obtain authorization from an appropriate official prove unsuccessful due to the unavailability of a commander or judge empowered to authorize the extraction.

(*2*) The commander of a medical facility, or his or her delegate, is empowered by Rule 315(d), Military Rules of Evidence, to authorize such extraction from an individual situated in that facility at the time the authorization is sought. In most circumstances, the medical facility commander or his or her delegate authorizing the extraction under Rule 315(d) will not be on duty as the attending physician at the facility where the extraction is to be performed; however, in such cases, the actual extraction should be accomplished by other qualified medical personnel. The authorizing official may consider his or her own observations of the individual in determining probable cause. Authorization should not, however, be sought from the commander of the medical facility, or his or her delegate, unless efforts to obtain authorization from a military judge or other

appropriate commander prove unsuccessful due to the unavailability of such officials.

(B) *Role of medical personnel.* Authorization for the nonconsensual extraction of blood samples for evidentiary purposes by qualified medical personnel is independent of, and not limited by, provisions defining medical care, such as the provision for nonconsensual medical care pursuant to section IV, Medical Care, Army Regulation 600–20. Extraction of blood will be accomplished by qualified medical personnel (see Mil.R.Evid. 312(g)). In performing this duty, medical personnel are expected to use only that amount of force necessary to administer the extraction. Any force necessary to overcome an individual's resistance to the extraction normally will be provided by law enforcement personnel or by personnel acting under orders from the member's unit commander. All law enforcement and medical personnel will keep in mind the possibility that the individual may require medical attention for possible disease or injury. Nonconsensual extractions of blood will be carried out in a manner that will not interfere with or delay proper medical attention. Medical personnel will determine the priority to be given involuntary blood extractions when other medical treatment is required.

(C) The procedures outlined herein pertain only to traffic incidents. Extractions of body fluids in furtherance of other kinds of investigations are governed by Rule 312(d) of the Military Rules of Evidence and regulatory rules concerning requesting and granting authorizations for searches.

(v) Testing at the request of the apprehended person. Any person lawfully apprehended for an offense allegedly committed while he or she was driving a motor vehicle under the influence of intoxicants may request a chemical test made of his or her blood, breath, or urine for the purposes of determining the alcoholic content of his or her blood, and, if so requested, the apprehending law enforcement officer will make arrangements for the test. A person may, at his or her own expense, have a physicialn, or qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing, administer a state approved chemical test or tests, in addition to any administered at the direction of an installation law enforcement official. The failure or inabiiity to obtain this additional test shall not preclude the use of the results of the test or tests taken at the direction of a law enforcement official to support actions taken under the provisions of Army regulations or the UCMJ.

(vi) Initiation of revocation procedures. Regardless of whether a nonconsensual test, as authorized in § 634.4(e)(3)(iv) to this section, is authorized and conducted, when a person suspected of driving while intoxicated refuses the request to voluntarily submit to or fails to voluntarily complete a breath or bodily fluid test, the apprehending law enforcement officer will complete a sworn statement describing the events relating to the suspected offense including the refusal to submit to chemical testing (Figure 4–1). The installation commander or his or her designee, upon receipt of the apprehending law enforcement officer's sworn statement, will take action in accordance with the procedures outlined in § 634.2(b)(4) of this Part, to revoke the individual's installation driving privileges (see Table 6–1). Mandatory revocation of the installation driving privilege for refusal to voluntarily submit to or complete a chemical test shall not be a bar to initiating judicial, nonjudicial or administrative action against an individual based on other competent evidence.

(4) *Training.* (i) As a minimum, installation law enforcement personnel will be trained to—

(A) Recognize manifestations of alcohol and drug impairment in connection with motor vehicle operation.

(B) Properly execute the DD Form 1920, Alcoholic Influence Report including the performance and evaluation of appropriate behavioral tests.

(C) Be alert to the possibility that although a person may appear to be intoxicated, he may in fact be physically or mentally ill and in need of prompt medical attention.

(D) Understand the principles of operation of as well as the techniques of using chemical breath screening devices (if employed by installations).

(ii) Each installation employing chemical breath testing devices will insure that personnel selected as operators of chemical breath testing devices possess integrity, maturity and sound judgment and meet certification requirements prescribed in the highway safety program of the state in which the installation is located. Appendix D lists those states which have formal chemcial breath testing training programs and have indicated that military personnel are eligible for participation in their programs. Specific information on course dates, costs, and prerequisites for attendance may be obtained by contacting the state agency responsible for the training. Installations located in states where no formal training program exists should consider training personnel at courses offered by selected civilian institutions or by commercial manufacturers of chemical breath testing equipment. Appendix E prescribes minimum course requirements for the training and certification of chemical breath testing operators for CONUS installations and oversea commands located in States/countries not having formal chemical breath training and certification programs who elect not to participate in civilian institution and manufacturers training programs.

(5) Blood alcohol concentration standards. (i) As a uniform basis for administrative revocation of driving privileges and/or taking enforcement action against a driver suspected of driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor, the amount of alcohol in that person's blood at the time alleged as shown by chemical analysis of his blood, urine, breath or other bodily substance shall give rise to the following presumptions:

(A) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor.

(B) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(C) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor.

(ii) Percent of weight by volume of alcohol in the blood shall be based on grams of alcohol per 100 milliliters of blood.

(iii) The above standards may be modified to coincide with blood-alcohol concentration standards established by the host-State.

(iv) The adoption of these standards does not preclude the use of other competent evidence bearing on the question whether the person was under the influence of intoxicating liquor. However, use of these standards are required except for those cases in which

they specifically conflict with host-country agreements or arrangements. These standards in no way change the rules of evidence in judicial or nonjudicial proceedings under the UCMJ.

(6) Alcoholics, "problem drinkers," and drug abusers. Installation medical authorities will maintain appropriate records to identify persons who are diagnosed by competent medical personnel as alcoholics, "problem drinkers," and drug abusers. Individuals who have exhibited behavior patterns indicative of the use of alcohol or drugs, to the extent which renders them incapable of safely driving a motor vehicle, will be reported to the installation commander or designated representative for appropriate action under this regulation. Active duty Army personnel apprehended for drunk driving, on or off the installation, will be referred to the local Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) for evaluation within seven working days to determine if the individual is dependent on alcohol or other drugs, and for enrollment in Track I or other appropriate track. Results of the evaluation will be made available to the commander having jurisdiction over the case prior to adjudication. For problem drinking and alcoholism among Federal civilian employees, 42 USC 4561 authorizes Federal agencies to establish preventive treatment and rehabilitation programs. Supervisors of those civilian employees apprehended for drunk driving will advise employees of ADAPCP services available. Employees apprehended for drunk driving while on duty will be referred to the ADAPCP for evaluation in accordance with AR 600–85. Commanders will ensure that sponsors encourage family members apprehended for drunk driving to seek ADAPCP evaluation and assistance. Installation driving privileges of any person who refuses to submit to chemical testing for blood-alcohol content when apprehended for drunk driving, or convicted for other offenses described in § 632.2(b)(1)(ii) of this part, will not be reinstated unless the person successfully completes either an alcohol education and treatment program sponsored by the installation, state, county, municipality, etc., or private program evaluated as accepted by the installation ADAPCP. The person must also be evaluated by installation alcohol treatment/rehabilitation authorities as sufficiently rehabilitated to no longer pose a high safety risk on the highways. Driving privileges will not be reinstated before the expiration of a mandatory revocation period except as determined by the General Court-Martial Convening Authority.

(7) *Evaluation.* A formal evaluation will be conducted of the enforcement countermeasures program at least annually. All elements of the program will be examined; however, particular attention will be given to determining effectiveness of selective enforcement measures, suspension and revocation actions and chemical breath testing programs in reducing traffic accidents and fatalities.

(8) *Actions against drunk drivers.* Army commanders will take appropriate action against drunk drivers. These actions will include—

(i) A general officer letter of reprimand, administrative in nature, will be given active duty Army personnel in the following cases. Subsequent filing of the letter will be in accordance with the provisions of AR 600–37.

(A) Conviction of driving while intoxicated/drunk driving either on or off the installation.

(B) Refusal of a lawfully requested test to measure blood alcohol content, either on or off the installation, when there is substantial evidence of drunk driving.

(C) Driving or being in physical control of a motor vehicle on post when blood alcohol content is 0.10 percent or higher, irrespective of other charges; or off post when blood alcohol content is in violation of state laws, irrespective of other charges.

(ii) Review by commanders of the service records of active duty Army personnel apprehended for offenses described in (1) above to determine if the individuals warrant—

(A) Administrative reduction per AR 600–200;

(B) Bar to reenlistment per AR 601–280;

(C) Administrative discharge per AR 635–100 or AR 635–200, Chapter 14.

(f) *Traffic accident investigation.* (1) All traffic accidents occurring on a military installation should be investigated provided adequate trained resources are available. However, installation law enforcement personnel will perform detailed on-the-scene and follow-up investigations of the following accidents:

(i) All motor vehicle accidents involving Government vehicles or property on the installation. Whenever practicable, investigations of off-installation motor vehicle accidents involving Government vehicles will be conducted in coordination with the civil police agency having primary jurisdiction.

(ii) Fatal or nonfatal personal injury or disabling property damage accidents involving privately owned vehicles on the installation.

(2) Drivers and/or owners of motor vehicles involved in accidents described in preceding paragraph will immediately notify the installation law enforcement office. Operators of Government vehicles involved in traffic accidents off installations will also notify the police of the jurisdiction in which the accident occurred.

(3) Traffic accident investigation results will be recorded on appropriate departmental forms. Release of information from these reports will be in accordance with separate departmental policies.

(4) In privately owned vehicle accidents occurring on the installation and involving only property damage, not involving Government property and where the vehicle can be normally and safely driven away from the scene, the drivers or owners of the vehicles involved may be required to submit a written report to the installation law enforcement office within 72 hours of the accident. Information contained in these reports may not be used in any criminal proceedings against individuals submitting these reports. (See chapter 10, UVC and applicable State laws concerning duties and responsibilities for reporting of traffic accidents.) Information contained in these reports may not be used in any criminal proceedings against individuals submitting these reports. Each report so submitted will include, as a minimum, the following information relating to the accident:

(i) Location.

(ii) Time.

(iii) Identification of driver(s).

(iv) Identification of pedestrian(s), passenger(s), or pedalcyclist(s).

(v) Identification of the vehicle.

(vi) Direction of travel of each unit.

(vii) Other property involved.

(viii) Environmental conditions existing at the time of the accident, i.e., weather, visibilitiy, etc.

(ix) A narrative description of the events and circumstances leading up to the time of impact and immediately after impact.

(5) Data derived from traffic accident investigation reports should be analyzed for the purpose of determining probable causes of accidents, injuries, and deaths. High accident frequency locations should be examined in terms of type of collisions occurring (collision diagram) and physical conditions at the location (condition diagram).

(6) When warranted by accident experience, installation commanders should consider establishing traffic accident review boards comprised of law enforcement, engineer, safety, and medical (behavior and social scientists) representatives to review accidents to determine principal contributing factors to motor vehicle accidents and to recommend appropriate measures to reduce the frequency and/or severity of accidents occurring both on and off the installation.

(7) Traffic accident investigation data in addition to being used to formulate selective enforcement programs should be furnished to installation safety, legal (claims), engineer and transportation offices (if government vehicle is involved) for use in information, education, and traffic engineering activities.

(g) *Parking.* (1) As a basic principle, maximum efficient use of existing on- and off-street parking facilities should be stressed on a nonreserved (first come, first served) basis. Whenever certain reserved or assigned parking requirements are objectively justified, installation commanders are encouraged to use the following priorities as guidelines:

(i) Government motor vehicles used in direct support of installation/departmental missions.

(ii) Government motor vehicles used in general support missions, e.g., couriers, postal, cargo delivery.

(iii) Privately owned vehicles of disabled/handicapped personnel.

(iv) Privately owned vehicles of patrons (including out-patients) and visitors.

(v) Privately owned vehicles of assigned personnel and employees not otherwise accommodated, with preference given to car pools as determined by weights applied to significant factors, e.g. commuting time distances, availability of public transportation and support fringe parking, number of pool members or riders, and years of Federal service of each participant. Rank or grade may influence qualification for parking by relative weight, but should not be an absolute criterion for determining eligibility.

(2) Reserved parking facilities should be designated as "parking by permit" or numerically by category of eligible parkers. Designation of parking spaces by name, grade, rank, or title will be avoided.

(3) Illegal parking significantly contributes to congestion and impedes traffic flow on an installation. Aggressive enforcement of parking restrictions results in more efficient utilization of available parking facilities and eliminates conditions which contribute to traffic accidents. (See also abandoned property procedures in DOD Directive 4160.21 and separate service regulations or manuals.)

§ 634.5 Off-installation traffic activities.

(a) *Policy.* In areas not under military control the responsibility for maintaining law and order rests with civil authority. The enforcement of traffic laws falls within the purview of this principle. Off-duty or off-installation driving performance, however, is indicative of driving ability and safety consciousness. Accordingly, a system of coordination which facilitates the exchange of information between military and civil authorities will be established. Within the framework of Armed Forces Disciplinary Control Boards (see AR 190–24/MCO 1620.2/AFR 125–11/COMDINST 1620.1A), major commanders should consider establishment of a central clearing house to process reports of serious traffic violations and accident reports involving persons subject to this regulation which may be received from civil law enforcement agencies.

(b) *Compliance with State laws.* (1) Installation commanders will impress on service members and civilian employees the importance of complying with State and local traffic laws when operating motor vehicles within these jurisdictions. When military necessity requires movement on public roads and highways of Government vehicles that exceed legal limitations or regulations, or that subject highway users to unusual hazards, prior coordination will be effected with the appropriate civil law enforcement agency prior to movement. Procedures for such a movement, which will require special permits to move on public roads and highways, are contained in joint service regulation AR 55–162/OPNAVIST 4600.11A/AFR 75–24/MOC 4643.5.

(2) Installation commanders will conduct continuing liasion with civil enforcement agencies to encourage—

(i) Release of an official driver to military authorities, unless his offense is of such a nature as to warrant detention or his condition is such that further operation of a motor vehicle could result in injury to himself or others.

(ii) Prompt notification of military authority in all instances when military personnel or drivers of official military vehicles have been involved in traffic accidents and/or have violated civil traffic laws.

(C) *Civil-military cooperative programs.* (1) *State-Armed Forces Traffic Workshop Program.* This program represents an organized effort to coordinate military and civil traffic safety activities throughout a state or area. Installation commanders will cooperate with state and local officials in this program by providing appropriate support and participation.

(2) *Community-Installation Traffic Workshop Program.* Sound and practical traffic planning depends on the development of a balanced program of traffic enforcement, engineering, and education. Installation commanders should foster a local workshop program as a medium for coordinating the installation traffic efforts with those of local communities. Civilian and military legal and enforcement officers, traffic engineers, safety officials and information officers would normally be expected to participate in such a program.

§ 634.6 Traffic point system.

(a) *Purpose.* The traffic point system provides the military services with an impartial and uniform administrative device for evaluating driving performances of personnel under their jurisdiction. The use of this system is not to be construed as a disciplinary measure or substitute for punitive action. It is not intended to interfere in any way with the reasonable exercise of an installation commander's prerogative to issue, suspend, revoke, or deny installation driving privileges for cause without regard to point assessments made under this chapter.

(b) *Application.* The use of the point system and procedures prescribed is mandatory for the military services and the Defense Supply Agency. This system is not subject to modification or alteration. The point system applies to military and civilian personnel operating Government vehicles on or off the installation; to military personnel operating privately owned vehicles on or off the installation; and to dependents, civilian employees and all other individuals subject to this regulation operating privately owned vehicles on the installation. Points will be assessed in instances where the individual has been found to have committed a violation by either the unit commander, the civilian supervisor, or a military or civilian court (including a U.S. Magistrate), or upon payment of fine or forfeiture. THE POINT SYSTEM WILL NOT BE USED FOR NONMOVING VIOLATIONS.

(c) *Procedures.* Subject to the foregoing provisions, reports of moving traffic violations will be processed and return endorsements required from commanders or supervisors. Normally,

administrative processing and disposition of violations will be accomplished within a 21-day period, inclusive of the date on which the Armed Forces Traffic Ticket (DD Form 1408) was issued by law enforcement personnel.

(2) On receipt of a traffic ticket or other report of a moving traffic violation, the unit commander (or person otherwise designated by the installation commander) will conduct an inquiry and take appropriate disciplinary and/or administrative action. For those cases involving judicial or non-judicial actions, the report of action taken will not be forwarded until final adjudication.

(3) On receipt of the report of action taken, the installation law enforcement officer will enter the number of points assessed or indicate suspension or revocation of the driving privilege to the individual's driver record as prescribed in table 6–1. Points will not be assessed nor the driving privilege suspended or revoked if the report of action taken indicate that neither disciplinary action and/or administrative action is appropriate, and this finding is approved by the installation commander. In appropriate cases, the commander should consult the installation Staff Judge Advocate before taking such action.

(4) When notified of a conviction or payment of a fine or forfeiture of bond for a traffic violation adjudicated by a state or Federal court, the installation law enforcement officer will assess the appropriate number of points to the individual's driver record and initiate suspension or revocation action when warranted. Points assessed by state driver licensing authorities will be reviewed to insure consistency with the assessement of traffic points in table 6–1 and to preclude duplication of traffic point assessment on the military record for the same violation. The individual concerned will be notified of point assessments by the law enforcement officer through normal channels.

(5) To maximize the effective use of driver improvement actions, installation commanders will require as a minimum the following measures:

(i) Advisory letter sent to the individual on accumulation of six traffic points within a 6-month period.

(ii) Commander counseling or driver improvement interview of the individual on accumulation of more than six but less than 12 traffic points within a 6-month period. Counseling or interview should result in recommendations designed to improve driver performance.

(iii) Referral for medical evaluation when an individual driver, based on reasonable belief, has mental or physical limitations which have had or may have an adverse effect on his driving performance.

(iv) Attendance at remedial driver training following the identification of the individual as a problem driver, or whenever a commander concludes that such treatment may improve the subject's driving performance.

(v) Referral to an alcohol/drug treatment/rehabilitation facility for appropriate counseling services when deemed appropriate. (On Army installations referral will be made in all cases involving driving while intoxicated.)

(6) Individuals whose driving privilege is suspended or revoked (including the accumulation of 12 traffic points within 12 consecutive months, or 18 traffic points within 24 consecutive months) will be notified in writing through official channels of the specific driving privilege withdrawal action as prescribed by § 634.2(b)(4). Except for the mandatory minimum or maximum suspension or revocation periods prescribed by this regulation, the determination of periods of suspension or revocation is the prerogative of the installation commander. The revocation of driving privilege based upon accumulation of traffic points shall be for a period of not less than 6 months. Ordinarily, a longer period of loss of driving privilege should be imposed on the basis of an individual's overall driving record to include frequency, flagrancy, and severity of moving violations and response to previous driver improvement measures. In any case, the individual shall be required to successfully complete a prescribed course in remedial driver training before the privilege is reinstated.

(7) Points assessed against an individual will remain in effect for point accumulation purposes for a consecutive 24-month period, or until separation from the service (not applicable in cases of immediate reenlistment, change of officer component, military retirement and continuation of vehicle registration as retiree or reemployment as a civilian), or final termination of employment, whichever is sooner. The review of driver records in connection with deletion of traffic points should be accomplished routinely as records are required to be handled, i.e., to update data, to record new offenses, to forward to new duty stations, etc. The termination of a revocation period will, of itself, warrant the mandatory removal from the driver record of all points assessed prior to the driving privilege withdrawal action.

(8) Removal of points does not, however, constitute authority to remove driver record entries for moving violations, chargeable accidents, suspensions, or revocations of driving privileges. Driver record entries will remain posted on individual driver records for periods as specified below:

(i) Chargeable nonfatal traffic accidents/moving violations—3 years.

(ii) Nonmandatory suspensions or revocations—5 years.

(iii) Mandatory revocations—7 years.

(9) Procedures will be established to assure prompt notification of the installation law enforcement officer that an individual assigned to or employed on the installation is being transferred to another installation, released from military service, or terminates employment. Where an individual being transferred to a new installation has accumulated point assessments or has other valid entries on his driver record, the driver record will be forwarded to the law enforcement officer of the gaining installation in accordance with appropriate service policies. (Does not apply for personnel being assigned to transfer points/stations immediately prior to discharge or release from active military service, in which case driver records will be destroyed.) Dependent driver records containing traffic point assessments or other entries will also be forwarded to the sponsor's gaining installation. On receipt thereof, records will be analyzed and made available temporarily to the gaining unit commander or supervisor for review. Applicable state driver licensing authorities will be notified concerning the continuation of revocation of driving privileges or restoration of driving privileges by the gaining installation. Points accumulated or entries on the driver record regarding suspensions, revocations, moving violations, or chargeable accidents will not be deleted from individual driver record except as provided in § 634.6(c)(5)(iv) (7) and (8) of this section.

Table 6–1. Suspension/Revocation of Driving Privileges/Point Assessment for Moving Traffic Violations

Part I

Violation	
Driving while drivers license or installation driving privileges are under suspension or revocation.	5 year revocation is mandatory on determination of facts by installation Cdr.
Refusal to submit to chemical tests (Implied consent).	1 year revocation is mandatory on determination of facts by installation Cdr.
Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle.	1 year revocation is mandatory on conviction.

Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor (0.10% or greater on DOD installations; violation of civil jurisdiction law off post).	
Driving a motor vehicle while an habitual user or under the influence of any narcotic or while under the influence of any other drug to a degree rendering person incapable of safe operation thereof.	
Any felony in the commission of which a motor vehicle is used.	
Fleeing the scene—death, or personal injury (Hit and Run).	
Perjury or making false affidavit or statement under oath to responsible officials or under law or regulations relating to the ownership or operation of motor vehicles.	
Unauthorized use of a motor vehicle belonging to another which act does not amount to a felony.	
Commission of an offense for which mandatory revocation is required on conviction.	Suspension for a period of 6 months or less or revocation for period not to exceed 1 year is discretionary.
Is incompetent to drive a motor vehicle, such as mental or physical impairment (not including alcohol or other drug use).	
Has committed an offense in another state which if committed on the installation would be grounds for suspension or revocation.	
Has permitted an unlawful or fraudulent use of an official driver license.	
Has been convicted of fleeing or attempting to elude a police officer.	
Has been convicted of racing on the highway.	
Second 1-year suspension or revocation of driving privileges within 5 years.	Loss of SF 46 for minimum of 6 months is discretionary.

Violations [2]	Points assessed
Reckless driving (willful and wanton disregard for the safety of persons or property (11-901-UVC))	6
Owner knowingly and willfully permitting another to operate his motor vehicle when physically impaired	6
Fleeing the scene (Hit & Run)—property damage	6
Driving vehicle impaired (consumption of alcohol-more than .05% and less than .10%)	6
Speed contests	6
Exceeded stated speed limit or speed too fast for conditions:	
1 to 10 miles per hour over posted speed limit	3
11 to 15 miles per hour over posted speed limit	4
Over 15 but not more than 20 miles per hour above posted speed limit	5
Over 20 miles per hour above posted speed limit	6
Speed too slow for traffic conditions	3
Following too close	4
Failure to yield right of way to emergency vehicles	4
Failure to stop for school bus or school crossing signals	4
Failure to obey traffic signals, traffic instructions of an enforcement officer or traffic warden, or any official regulatory traffic sign or device requiring a mandatory stop, yield right of way, denial of entry, or required direction of traffic	4
Improper passing	4
Failure to yield (no official sign involved)	4
Improper turning movements (no official sign involved)	3
Improper overtaking	3
Other moving violations (involving driver behavior only)	3
Operating an unsafe vehicle	2
Driver involved in accident is deemed responsible (used only as additive to points assessed for specific offense)	1

[1] No points assessable in lieu of revocation. Revocation must be based on convictions (Judicial, Nonjudicial).

[2] When two or more violations are committed on a single occasion, assessment of points will be for the one offense having the greater value.

Appendix A—Explanation of Terms as They Pertain to This Joint Service Regulation

Alcohol Safety Action Program (ASAP)—A state sponsored program in cooperation with the National Highway Traffic Safety Administration designed to reduce highway deaths, injuries and property damage resulting from motor vehicle traffic accidents in which alcohol is a major contributing factor.

Chemical Breath Testing Device—An instrument which uses photoelectric or other sophisticated physical or chemical methods to quantitatively determine blood-alcohol concentrations. Instruments in this category include but are not limited to the following devices: Alco-Analyzer Gas Chromatograph, Alco-tector, Breathalyzer, Gas Chromatograph Intoximeter, and the Photo Electric Intoximeter.

Collision Diagram—A plan of an intersection or section of roadway on which reported accidents are diagramed by means of arrows showing manner of collision. The date, time of day, and road conditions are entered on one of the arrows representing each collision.

Condition Diagram—A scaled drawing of an intersection or section of roadway showing all objects and physical conditions having a bearing on traffic movement and safety at that location.

Countermeasure—An action undertaken to reduce the incidence of motor vehicle traffic accidents.

Conviction—A final conviction, but also includes an unvacated forfeiture of bail, or collateral deposited to secure a defendant's appearance in court, a plea of nolo contendere accepted by a court, a payment of a fine, a plea of guilty or finding of guilty on a traffic violation charge, regardless of whether the penalty is rebated, suspended or probated. Includes judicial and nonjudicial actions taken under Uniform Code of Military Justice.

Disposable screening device—A device used to conduct a one-time qualitative test of blood-alcohol concentration. The device consists of a small glass tube containing either a column or multiple bands of an alcohol-sensitive reagent and a breath-volume measuring device (balloon, plastic bag or air pump).

Driver—Every person who drives or is in actual physical control of a motor vehicle. A person is considered to be in actual physical control when he is in position to control the motor vehicle, whether to regulate or restrain its operation or movement, for example, sitting in a parked car, keeping it in restraint or in position to control its movement. The term "driver" is used interchangeably with the word "operator."

Driver's license—A license to operate a motor vehicle issued under the laws of a state.

Driving privilege—The privilege extended by an installation commander to an individual permitting the operation of a privately owned motor vehicle within the limits of the installation. This privilege, once extended, is subject to administrative suspension or revocation for cause as determined by the installation commander within the standards set forth in this regulation.

High accident frequency location—A location, intersection or length of roadway not more than one-half mile in length where an excessive number of accidents have occurred.

Law enforcement personnel (officials)—Persons authorized by competent authority to direct, regulate, or control traffic or to make apprehension or arrests for violations of traffic regulations. Personnel so designated normally are identified as military police, security police, or civilian guards or police, and operate under the supervision of the installation law enforcement officer.

Motorcycle—Every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motor vehicle—Any vehicle driven or drawn by mechanical power manufacture primarily for use on public streets, roads and highways, except any vehicle operated exclusively on a rail or rails.

Motor vehicle traffic accident (crash)—An unintended event resulting in injury or damage, involving one or more motor vehicles on a highway that is publicly maintained and open to the public for vehicular travel.

Motor vehicle traffic accident classification—The classification of traffic accidents according to severity in terms of degree of injuries or property damage sustained. Major classifications include:

a. Severity according to injury.

(1) *Fatal accident*—A motor vehicle accident that results in fatal injuries (an injury that results in death within 12 months of the motor vehicle traffic accident) to one or more persons.

(2) *Incapacitating injury*—An injury, other than fatal, which prevents the injured person from walking, driving, or normally continuing the activities which he was capable of performing prior to the motor vehicle traffic accident.

Examples. Severe lacerations, broken or distorted limbs, skull fracture, crushed chest, internal injuries, unconscious when taken from the accident scene; unable to leave accident scene without assistance.

(3) *Nonincapacitating evident injury*—An injury, other than fatal and incapacitating, which is evident to any person other than the injured at the scene of the accident.

Examples. Lump on head, abrasions, minor lacerations.

(4) *Possible injury*—An injury reported or claimed which is not a fatal, incapacitating, or nonincapacitating evident injury.

Examples. Momentary unconsciousness; claim of injuries not evident; limping, complaint of pain, nausea, hysteria.

b. Severity according to damage.

(1) Disabling damage is any damage to a motor vehicle such that it cannot be driven or, in the case of trailers, towed from the scene of the accident in the usual manner by daylight after simple repairs, without further damage or hazard to itself, other traffic elements, or the roadway.

(2) Functional damage is any nondisabling damage to a motor vehicle which affects operation of the motor vehicle or its parts. Examples: Doors, windows, hood, and trunk lids which will not operate properly. Broken glass which obscures vision. Any damage which would prevent the motor vehicle from passing an official motor vehicle inspection.

(3) Other motor vehicle damage is any damage to a motor vehicle which is neither disabling nor functional damage. Such damage usually affects only the load on the motor vehicle or the appearance of the motor vehicle.

Examples. Damage to hubcaps, trim, grill, glass cracks which do not interfere with vision. Dents, scratches, body punctures. Damage to load on motor vehicle.

Motor vehicle registration—The procedures which culminate in the issuance of a registration certificate and registration plates for a motor vehicle under the laws of a State (State registration). The term also applies to the registration form and identification media issued under the provisions of this regulation for a motor vehicle authorized to operate on a military installation.

Moving violation—A violation of any traffic law, ordinance, or regulation which was promulgated primarily with the object of making use of traffic-ways safe. Moving violations typically involve unsafe acts and/or unsafe conditions. Illegal parking is not a moving violation.

(1) *Unsafe act.* An act or omission in traffic which is hazardous.

(2) *Unsafe condition.* Causing or permitting an illegal and possibly hazardous condition of streets or highways used by traffic, vehicles used in traffic, or a pedestrian or driver in traffic.

Pedacycle—A vehicle operated solely by pedals, and propelled by human power.

Pedestrian—Any person not in or on a motor vehicle or other road vehicle.

Reciprocity—Reciprocal action between state and military authority to suspend or revoke an individual's US Government Motor Vehicle Operator's Identification Card installation driving privilege, or state driver's license based on action initiated by either jurisdiction.

Revocation of driver's license—The termination by formal action of state authority of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that application may be presented and acted on by the state after the expiration of the applicable period of time prescribed by state law. Such action disqualifies the individual from operating a privately owned motor vehicle on a military installation since he is no longer "licensed" to drive.

Revocation of driver's privilege—Action taken by an installation commander to terminate an individual's privilege to operate a motor vehicle on a military installation. This action precludes renewal or restoration except by application and after the expiration of a specified period of time but not less than 6 months.

State—A constituent unit of the US having a definite territory and governmental organization and includes the District of Columbia, the Commonwealth of Puerto Rico and territories and possessions of the United States as defined in section 101, title 10, United States Code. The term "State" as used herein also refers to a foreign country or to an appropriate political subdivision of a foreign country.

Suspension of driver's license—The temporary withdrawal by formal action (of State authority) of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated. Such action disqualifies the individual from operating a privately owned motor vehicle on a military installation since he is no longer "licensed" to drive.

Suspension of driving privilege—The temporary withdrawal by an installation commander of an individual's privilege to operate a motor vehicle on a military installation for an indefinite period to a maximum of 6 months. Privileges are normally automatically restored on the day following the date the suspension is terminated.

Traffic—Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for the purposes of travel.

Traffic control devices—Signs, signals, markings, lights, and devices placed or erected by an official having jurisdiction for the purposes of regulating, warning, or guiding traffic.

Traffic engineering—That phase of engineering that deals with the planning and geometric design of streets, highways, and abutting lands, and with traffic operations thereon, as their use is related to the safe, convenient, and economic transportation of persons and goods.

Traffic laws—All laws, ordinances, and regulations concerning highway traffic including regulations concerning weight, size, and type of vehicles and vehicle cargo.

US Government Motor Vehicle Operator's Identification Card (SF 46)—An authorization to operate Government-owned vehicles issued under appropriate departmental regulations.

Appendix B—Chemical Testing Policies and Procedures

C–1. General. *a.* Chemical analyses are valid under provisions of this regulation when:

(1) Tests of blood, urine or other bodily substances are performed according to methods prescribed or approved by the departmental Surgeons General or by the designated authority of the state in which the installation is located (for tests conducted outside military jurisdiction).

(2) Breath tests are performed by qualified personnel (see para 4–5c(2) and app E) using a quantitative chemical breath testing device approved by designated authorities of the state in which the installation is located in accordance with procedures established by such authority or as prescribed in paragraph C–2 below.

b. Test results of disposable breath screening devices are not considered sufficiently accurate for use as a basis for administrative or punitive action under this regulation. These devices may, however, be used as a breath screening test to determine if additional quantitative testing is required.

C–2. Chemical breath testing procedures. In the absence of specific state operating procedures for the use of chemical breath testing devices, the following procedures will apply.

a. Quantitative chemical breath testing devices.

(1) Observe person to be tested for at least 20 minutes prior to collection of the breath specimen, during which period the person must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten or smoked.

(2) Verify calibration and proper operation of the instrument by use of a control sample immediately prior to the test.

(3) Comply with operational procedures set forth in the current instructional manual of the manufacturer for the instrument in use.

(4) Perform preventive maintenance in accordance with procedures recommended in the manufacturers current instructional manual.

b. Disposable screening devices will be utilized in accordance with operating instructions issued by the manufacturer.

C–3. Chemical tests of personnel involved in fatal accidents. *a.* Installation medical authorities will immediately notify the installation law enforcement officer of the death of any person as a result of an accident involving a motor vehicle and the circumstances surrounding such accident.

b. In the case of drivers killed in motor vehicle accidents and the death of pedestrians subject to military jurisdiction, or other pedestrians 16 years or older when consent of the sponsor is obtained, medical authorities will, within 8 hours after such death, examine the body and make such tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs, if feasible, in the blood or other fluids of the victim. This information shall be included in each report submitted pursuant to *a* above.

c. To the extent provided by law, and medical conditions permitting, a blood or breath sample will be obtained from any surviving operator whose motor vehicle is involved in a fatal accident.

C–4. Medical considerations. *a.* Persons afflicted with hemophilia or a heart condition requiring an anticoagulant shall not be administered a blood test to determine blood-alcohol concentration for purposes of this regulation.

b. In the event that a quantitative chemical breath test of a subject indicates a blood-alcohol concentration of .35 percent or above, a second test should be administered after a waiting period of 20 minutes. If the second

test indicates a continuing rise, the subject will be immediately referred to the installation medical facility.

c. If a quantitative chemical breath test of a subject indicates blood-alcohol concentration of .05 percent or less and there is evidence of strong physical impairment, the individual should be referred for medical evaluation and treatment as appropriate.

d. If a subject is taken to the installation medical facility because of either a high or low blood-alcohol concentration (quantitative testing devices only), the results of chemical breath tests will be provided the attending physician for diagnostic purposes.

C–5. Technical assistance to civil authorities. Widespread adoption of "implied consent" chemical testing, and the establishment of Alcohol Safety Action Projects, nationwide, under the Highway Traffic Safety Program, may necessitate in the interest of public safety, technical assistance and cooperation from installation law enforcement officers to civil law enforcement agencies in certain type situations. Whenever a member of the military, an operator of a government vehicle, or resident of the military installation, is a suspect drunken driver in an off-base incident and subsequently returns or is evacuated to military control or property jurisdiction, the following action will be taken:

a. Civilian authorities will be given immediate access to the suspect drunken driver and be given the opportunity to invoke "implied consent" and conduct appropriate testing authorized under state law if medical condition of the driver permits such. If the state conducts a test military authorities will request results of such testing for identification purposes as specified in paragraph 4–5.

b. Should civilian authorities fail to request access to the suspect driver for testing purposes, military authorities should conduct testing and report the results to the installation commander or his designee under the provisions of paragraph 4–5*f*. Incidental to such testing, the results of such testing or a portion of the blood or urine sample may be furnished to civilian authorities upon their request. Prior to conducting tests under this subparagraph, the suspect driver will be informed that the primary purpose of this testing is to identify potential problem drivers but that the results of such testing or a portion of a sample taken may be furnished to civilian authorities on their request.

Appendix C—State Chemical Breath Testing Training Programs

The following states are reported to have formal chemical breath testing training programs and currently authorize military personnel to attend their courses of instruction.[1] Information concerning course dates, costs, prerequisites and scope of instruction may be obtained by contacting the appropriate state agency as indicated below:

State	Principal device(s) used	Contact
Alaska	Breathalyzer	Commissioner Pouch N—State Capitol Juneau, Alaska 99801
Alabama	Photo-Electric Intoximeter.	Director, Dept of Public Safety State of Alabama 500 Dexter Ave Montgomery, AL 36102
Arizona	Breathalyzer, Photo-Electric Intoximeter.	Arizona State Dept of Health 1634 W Adams Phoenix, AZ 85005
Arkansas	Breathalyzer, Intoximeter, Gas Chromatograph.	State Law Enforcement Training Academy Little Rock, AR 72203
Florida	Breathalyzer	Florida State Dept of Education Industrial Education Section Tallahassee, FL 32304
Georgia	Photo-Electric Intoximeter.	Associate Director Department of Public Health State of Georgia Atlanta, GA 30301
Hawaii	Breathalyzer	Training Division Police Department City & County of Honolulu Honolulu, Hawaii 96814
Illinois	Breathalyzer, Intoxilyer.	Director Information & Education Section Illinois State Police Armory Bldg Springfield, IL 62706
Iowa	Gas Chromatograph.	Iowa Highway Patrol Lucas Bldg Des Moines, IA 50319
Kentucky	Breathalyzer	Director Traffic Safety Institute Eastern Kentucky University Richmond, KY 40475
Maryland	Breathalyzer	Chemical Test Section Maryland State Police Pikesville, MD 21208
Massachusetts.	Breathalyzer, Alco-Tector.	Department of Public Safety Massachusetts State Police Traffic Section 1010 Commonwealth Ave Boston, MA 02215
Michigan	Breathalyzer	Commanding Officer Safety and Traffic Division Dept of State Police 714 S Harrison Rd East Lansing, MI 48823
Minnesota	Breathalyzer	Project Dir of Chemical Testing Program Toxicologist, Dept of Public Safety, Bureau of Criminal Apprehension Laboratory 1246 University Ave St Paul, MN 55104
Missouri	Breathalyzer	Missouri State Highway Patrol Dir of Personnel & Training PO Box 568 Jefferson City, MO 65101
Montana	Gas Chromatograph.	Montana Law Enforcement Academy of State Univ Bozeman, MT 59715
New Jersey.	Breathalyzer	Commanding Officer Dept of Law & Public Safety ATTN: Breath Test Unit PO Box 68 West Trenton, NJ 08625
New York	Breathalyzer	Superintendent of State Police State Campus Albany, NY 12226
North Carolina.	Breathalyzer, Intoximeter.	Director, North Carolina Dept of Community Colleges ATTN: Law Enforcement Trng Raleigh, NC 27611
North Dakota.	Breathalyzer	State Toxicologist North Dakota State Univ Fargo, ND 58102
Pennsylvania.	Breathalyzer	Director, Bureau of Trng and Education Pennsylvania State Police Harrisburg, PA 17123
Rhode Island.	Breathalyzer	Rhode Island Dept of Health Providence, RI 02903
South Carolina.	Breathalyzer	Director, SC Law Enforcement Div South Carolina Highway Patrol Columbia, SC 29203
South Dakota.	Breathalyzer, Gas Chromatograph.	Coordinator for Law Enforcement/Driver Control Programs Box 141 Huron, SD 57350
Tennessee	Gas Chromatograph.	Commanding Officer Tennessee Highway Patrol Nashville, TN 37209
Utah	Breathalyzer	Superintendent Utah Highway Patrol 317 State Office Bldg Salt Lake City, UT 84114
Vermont	Gas Chromatograph.	Commissioner, Dept of Public Safety Montpelier, VT 05602
Washington.	Breathalyzer	State Training Academy Washington State Patrol Olympia, WA 98504
Wisconsin	Breathalyzer	Wisconsin State Patrol Academy Camp McCoy, WI 54656
Wyoming	Breathalyzer, Alco-Analyzer.	Dept of Public Health Laboratory Service Section Cheyenne, WY 82001

[1] Based on DAPM survey of state chemical breath testing programs, 28 Mar 72.

Appendix D—Chemical Breath Testing, Training, and Certification Requirements

E–1. General. This appendix establishes minimum training and certification requirements for personnel selected as chemical breath testing operators to meet standards established by National Highway Traffic Safety Administration, U.S. Department of Transportation. The requirements are applicable to training programs established at CONUS installations and overseas commands located in States/countries not having a formal chemical breath testing and certification program and when training requirements can not be satisfied at courses conducted at civilian institutions or by manufacturers of chemical breath testing equipment. The requirements established herein apply to operators of quantitative chemical breath testing devices.

E–2. Training course. *a. Objectives.*

(1) Develop skill in the operation of a precision breath testing instrument and an understanding of the operational principles and design/functional features.

(2) Provide an understanding of the technical, historical and legal background surrounding chemical testing.

(3) Provide an understanding of the procedures for processing the suspect, gathering and recording of evidence, and maintaining the chain of evidence.

(4) Develop basic skills in testifying in court regarding observations of and tests performed on the suspect.

b. Course content. The course will consist of a minimum of 44 hours of classroom and laboratory training including review stations and examinations. Subjects and the number of hours allotted for each subject are as follows:

	Time (hrs.)
Group I Course Background, Suspect Processing and Court Testimony:	
1. Course overview	1
2. The drinking driver problem and related countermeasures	1
3. Basics of chemical testing	1
4. Units of measurement	1
5. Alcohol properties and production	1
6. Physiology of alcohol	1
7. Pharmacology of alcohol	1
8. Suspect processing procedures	3
9. Drinking driving statutes and related regulations	3
10. Preparation and presentation of courtroom evidence	3
Group II 11. Equipment theory and operation:	
Part I	2
Part II	3
12. Laboratory—testing known samples	2
13. Laboratory—testing unknown samples	2
14. Laboratory—testing drinking subjects (two 4-hour sessions)	8
III 15. Review (including quiz and review sessions and a final review session—a minimum of five 1-hour sessions)	5
16. Final written examination	2
17. Final practical examination	2

E-3. Course materials. *a.* The above course is based on the "Basic Training Program for Breath Examiner Specialists" prepared for the National Highway Traffic Safety Administration by Dunlap and Associates, Inc.

b. The basic working documents produced as a part of the course are a *Course Guide*, developed to aid in the organization and conduct of the training, the *Instructor's Lesson Plans*, prepared to assist the instructor in conducting each lesson, and the *Student Study Guide*, designed to serve as a basic reference source for the trainee. The course is designed to cover any one of the following five principal breath testing devices used by law enforcement agencies:

(1) Alco-Analyzer Gas Chromatograph (Luckey Laboratories, Inc).

(2) Alco-Tector (Decatur Electronics, Inc).

(3) Breathalyzer (Stephenson Corporation).

(4) Gas Chromatograph Intoximeter (Intoximeter, Inc).

(5) Photo-Electric Intoximeter (Intoximeter, Inc).

c. Course materials are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402:

Publication	Stock No.	Cost
Course Guide	5003-0046	$0.60
Student Study Guide	5003-0045	1.00
Instructor's Lesson Plans [1]	5003-0044	3.00

[1] When ordering Instructor Lesson Plans, requestors should indicate the type equipment being used by the installation/command.

E-4. Recertification. Refresher training consisting of classroom instruction and laboratory practical work is required every 18 months to assure that operators maintain skills and are brought up to date on the newest information relative to alcohol and chemical testing. Satisfactory completion of a written and practical examination administered as a part of the refresher training are required for recertification.

[FR Doc. 83-14667 Filed 6-20-83; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 10

International Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 2 of the International Mail Manual (IMM), which is incorporated in the **Federal Register**, 39 CFR 10.1.

Most of the revisions are minor, editorial, or clarifying. Substantive changes, such as the beginning of International Express Mail Service with Israel and Bahrain, have previously been published in the **Federal Register**.

EFFECTIVE DATE: March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

SUPPLEMENTARY INFORMATION: The International Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 10.1) has been amended by the publication of a transmittal letter for issue 2, dated March 1, 1983. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the International Mail Manual receive these amendments automatically from the Government Printing Office.

List of Subject in 39 CFR Part 10

Foreign relations.

The following is from the Explanation of Changes section of the transmittal letter for issue 2:

Explanation of Changes:

1. The IMM cover and world map are reprinted without the geographical rate divisions for clarity.
2. Chapter 2
   a. Section 221.122 and 222.1 are revised to delete reference to "recorded communications" which may be sent in a small packet (*Postal Bulletin* 21299, 5-21-81).
   b. Section 221.19o is revised to correct the *Domestic Mail Manual* (DMM) reference.
   c. Section 221.322b is rewritten to clarify text.
   d. Section 221.333 is revised to incorporate an exception for South Africa regarding the use and sale of International Reply Coupons.
   e. Section 221.345 is revised to correct the IMM reference.
   f. Section 223.4 is revised to insert a reference to Table 3-3.
   g. Section 224.1, the definition of printed matter is changed to clarify conditions under which computer prepared materials may be mailed as printed matter (*Postal Bulletin* 21347, 4-15-82).
   h. Section 224.9 is rewritten to clarify definition of M-bags.
   i. Section 226.2 is revised to delete East Timor from the list of countries not permitting *small packets*.
   j. Section 232.2 is rewritten to clarify text.
3. Chapter 3
   Section 322.19u is revised to correct the DMM reference.
4. Chapter 4
   a. Section 445.1, 445.2, and 445.3 are revised to reflect new procedures on the use of the new Labels 200-A & B, *Registered Mail* (*Postal Bulletin* 21372, 10-7-82).
   b. Part 460 is rewritten to clarify text.
   c. Part 462 is revised to delete East Timor from the list of countries permitting restricted delivery, and to correct country name for Yemen Arab Republic.
   d. Part 493 is revised to delete Qatar (*Postal Bulletin* 21304, 8-25-81).
   e. Section 493.23 is revised to include the Republic of Korea to the list of countries to which there is money order service (*Postal Bulletin* 21361, 7-22-82), and to correct the spelling of Suriname.
   f. Section 493.432 is revised to delete reference to Form 6083, *Supplemental International Money Order Advice* (*Postal Bulletin* 21258, 8-14-80).
   g. Section 493.5 is revised to include a statement on the validity period for international money orders (*Postal Bulletin* 21347, 4-22-82).
   h. Section 494.34, *Service Availability by County*, is revised. The new section *Service Availability* lists the countries for which Custom Designed and On Demand Express Mail Service is available. The detailed information for each country is specified in the individual country listings.
   i. Section 494.4 is revised to delete reference to Table 7-2 *International Express Mail Service Standards* (which is deleted from Issue 2). Sections 494.5 through 494.7 are renumbered.
   j. Sections 494.71 and 494.712, are revised to delete reference to Label 153, and to include procedures on the use of new Form 5625.

5. Chapter 5
Section 551 is revised to include a reference to section 552.
6. Chapter 6
a. Section 621.11 is rewritten to clarify text.
b. Section 651.4 is revised to show current return charges consistent with domestic rates.
c. Section 652.3 is revised to add the exchange office of New Orleans, LA 700-Rebut. (*Postal Bulletin* 21260, 8–28–80).
7. Chapter 7
Section 761.4 is revised to correct text.
8. Chapter 8
Section 822.5 is revised to correct IMM reference.
9. Chapter 9
Section 931.2 is revised to update the country listing for International Claims and Inquiries Offices (*Postal Bulletin* 21346, 4–8–82).
10. World Map Index is revised to include the new country entry for Antigua and Barbuda, and to correct the spelling of Faroe Islands.
11. Cross Reference List of Localities is revised to delete the country entries for Antigua and Barbuda, and to add the new country Palau, U.S. Trust Territory.
12. Summary Tables
a. Table 1 is revised to:
(1) Delete reference to "recorded communications" in the definition of *letters and letter packages.*
(2) Delete reference for exceptional weight limits for Canada.
b. Table 2 is revised to:
(1) Delete reference to "recorded communication" under the heading of Non-mailable Written, Printed, or Graphic Matter.
(2) Include DMM 124.36 reference for dangerous drugs, narcotics, and controlled substances.
c. Table 3–1 is revised to correct airmail rate table for 3 lbs. 13 ozs., through 4 lbs.
d. Table 3–2 is revised to:
(1) Reflect a 4 pound weight limit for letters and letter packages to all countries.
(2) Reflect that there is no longer an exceptional weight limit to Canada.
e. Table 3–4 is revised to include a reference note to Table 3–5 for applicable weight limits for printed matter.
f. Table 3–5 is revised to:
(1) Correct weight limits for direct sacks to one addressee.
(2) Reflect that there is no longer an exceptional weight limit for Canada.
g. Table 3–7 is revised to delete East Timor from the list of countries to which *small packets* are not permitted.
h. Table 6–1 is revised to conform with the domestic procedures regarding certificate of mailing.
i. Table 7–1 is revised to include current International Express Mail summary information.
j. Table 7–2, *International Express Mail Service Standards,* is deleted because there are no guaranteed service standards.
13. The individual country listings are revised to reflect the following changes:
a. New country listing for Antigua and Barbuda.
b. New size and weight limits for parcel post for China, German Democratic Republic, Hungary, Republic of Korea, and Romania.
c. International money order service for:
(1) Great Britain—the rate table is corrected to reflect the $200 maximum.
(2) Norway—the rate table is corrected to reflect the $400 maximum.
(3) Malaysia—the money order rate table is included.
(4) Republic of Korea—the money order rate table is included.
d. Parcel Post Insurance to:
(1) Mozambique—insurance service is terminated.
(2) Cyprus—maximum insurance limit is increased to $420.
(3) Turkey—maximum insurance limit is increased to $420.
e. International Express Mail Service for: Argentina, Australia, Bahrain, Belgium, Bermuda, Brazil, Canada, China, France, Federal Republic of Germany, Great Britain & Northern Ireland, Hong Kong, Israel, Japan, Republic of Korea, Kuwait, Netherlands, Singapore, South Africa, Switzerland, and Taiwan are revised to reflect changes in size and weight limits, required customs documents, and to delete the reference to Table 7–2.
f. Other individual country listings are revised to reflect new or changed prohibitions and restrictions, and to correct printing errors and omissions of Issue 1.

PART 10—[AMENDED]

In consideration of the foregoing, 39 CFR 10.3 is amended by adding at the end thereof the following:

§ 10.3 Amendments to the International Mail Manual.

* * * * *

Transmittal letter for issue	Dated	FR Publication
*	*	*
2	Mar. 1, 1983	48 FR —

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408)

W. Allen Sanders,

Associate General Counsel Office of General Law and Administration.

[FR Doc. 83-16411 Filed 6-20-83; 8:45 am]

BILLING CODE 7710-12-M

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39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to the Postal Contracting Manual.

SUMMARY: The Postal Service announces a number of changes to the Postal Contracting Manual to reflect enactment of the Federal Courts Improvement Act, Pub. L. 97–164, which combined the Court of Claims and the Court of Customs and Patent Appeals into a new Court of Appeals for the Federal Circuit, and created a new trial court, the United States Claims Court.

EFFECTIVE DATE: June 8, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the **Federal Register** (See 39 CFR 601.100), has been amended by the issuance of PCM Circular 83–3, dated June 8, 1983.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Incorporation by reference.

PART 601—[AMENDED]

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

In 1–313e, the last sentence of the indented paragraph is changed to read "directly in the United States Claims Court. * * *"

In 1–313i, the second line is changed to read "in the Court of Appeals for the Federal Circuit * * *".

In 1–313b, an incorrect reference to section (c) of the Claims and Disputes clause is changed to reference section (d).

In 1-313h, the first sentence is replaced by two sentences which make it clearer that interest does not run on a claim that must be certified until it is certified and how the interest to be paid on a claim is calculated.

In 7-103.12, the Claims and Disputes clause, (e)(ii) is revised to read "in the United States Claims Court" and (g) is revised to make it clearer that interest does not run on a claim that must be certified until it is certified and how the interest to be paid on a claim is calculated. The new clause (May 1983) will be incorporated in procurement forms as they are reprinted. Pending such incorporation, contracting officers must substitute the May 1983 clause for previous editions of the clause.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-16410 Filed 6-20-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2386-1]

Prevention of Significant Deterioration; Delegation of Authority; State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: The Regional Administrator for EPA Region 9, San Francisco, has delegated full authority to the State of Nevada to implement and enforce the Federal Prevention of Significant Deterioration (PSD) Program.

DATE: The effective date of delegation is May 27, 1983.

ADDRESS: Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974-8236.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency has delegated under the provisions which are found in 40 CFR 52.21(u), to the State of Nevada: (A) authority over all sources in that State subject to review for the prevention of significant deterioration of air quality, pursuant to Part C, 160-169 of Title I of the Clean Air Act as amended August 7, 1977 and the requirements promulgated in the July 1, 1979 edition of 40 CFR 52.21 as amended August 7, 1980 under authority of sections 101, 110 and 160-169 of the Clean Air Act; and (B) authority to review, administer, and enforce throughout the State the PSD requirements imposed by the Clean Air Act sections 101, 110, and 160-169, and 40 CFR 52.21 as amended August 7, 1980.

Information on this delegation together with a copy of the delegation is provided below:

On August 12, 1982, the Director of the Nevada Department of Conservation and Natural Resources requested delegation of authority for PSD. Full delegation was granted on May 20, 1983 and became effective on May 27, 1983. The following letter and attached agreement represent the terms and conditions of the delegation.

Ref: NSS-3-1-5

Mr. Roland D. Westergard

Director, Department of Conservation and Natural Resources, State of Nevada, Nye Building, 201 South Fall Street, Carson City, NV

Dear Mr. Westergard: Thank you for your letter of August 12, 1982 requesting delegation of Prevention of Significant Deterioration (PSD) authority to the State of Nevada. The intent of delegating PSD authority is to reduce duplicate source permit reviews by our respective air programs and provide prospective applicants with one less agency to deal with in obtaining a construction permit.

Region 9 staff have evaluated the practices and procedures used by the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (NDCNR-DEP) for reviewing construction permit applications and have determined that the technical and administrative elements of this air program are adequate to implement a delegated PSD program.

Enclosed are two copies of the delegation of authority agreement for the PSD program which I have signed. I believe our respective agencies have developed an arrangement which will benefit our agencies as well as permit applicants. If you will return a signed copy within 10 days, we will publish a notice announcing this delegation in the **Federal Register** in the near future.

Thank you for the cooperation and effort you and your staff contributed in developing this agreement. If you have any questions do not hesitate to contact me or have your staff contact Julie A. Rose of my staff at (415) 974-8236.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

Enclosure.

U.S. EPA—NDCNR-DEP Agreement for Delegation of Authority of the Regulations for Prevention of Significant Deterioration of Air Quality (40 CFR 52.21)

The undersigned, on behalf of the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (NDCNR-DEP) and the United States Environmental Protection Agency (U.S. EPA), hereby agree to the delegation of authority for the administrative, technical and enforcement elements of the source review provisions of 40 CFR 52.21, Prevention of Significant Deterioration (PSD) from the U.S. EPA to the NDCNR-DEP, subject to the terms and conditions below. This delegation is enacted pursuant to 40 CFR 52.21(v), Delegation of Authority.

1. For the first five PSD permits, EPA will assist the NDCNR-DEP in determining BACT. During this time, dual concurrence (Nevada and EPA) will be required for each BACT determination on proposed permits. EPA will ensure NDCNR-DEP access to the BACT Clearinghouse.

2. The NDCNR-DEP and EPA will have dual concurrence responsibility on the White Pine Power Project.

3. EPA concurrence on modeling and BACT will be required for PSD sources with predicted actual emissions exceeding 2,000 tons per year for carbon monoxide, 1,000 tons per year for nitrogen dioxide, and 500 tons per year for total suspended particulate and sulfur dioxide.

4. NDCNR-DEP and U.S. EPA will develop a procedure and communication system which accomplishes the following:

a. The U.S. EPA will within 60 days of the effective date of this Agreement inform the NDCNR-DEP of the compliance status of sources in the State of Nevada which have been issued an NSR or PSD permit by U.S. EPA.

b. The NDCNR-DEP will routinely report to the U.S. EPA the compliance status of the sources which have received an NSR or PSD permit from either NDCNR-DEP or EPA. The Compliance Data System (CDS) will be used for this purpose. Compliance determinations will be made with respect to the conditions established in such NSR and PSD permits.

c. For the PSD permit applications to which 1, 2, or 3 apply, the NDCNR-DEP will forward to the U.S. EPA all relevant permit application materials immediately following receipt of same by the State.

d. For all other PSD permit applications, the NDCNR-DEP will forward to the U.S. EPA, at the onset of the public comment period, 1) a copy of each permit application, 2) a copy of NDCNR-DEP's preliminary determination, and 3) a copy of all applicable technical support documentation. Should there be any comments or concerns about the pending PSD permit, U.S. EPA will communicate these comments and concerns to the NDCNR-DEP as soon as possible before the closing of the public comment period.

e. The NDCNR-DEP will send to EPA a copy of all applicability determinations and justifications made that would involve PSD exemptions due to offsetting or netting.

f. The NDCNR–DEP will, as appropriate, incorporate all comments made by EPA on the draft permit. Any comments not incorporated will be addressed, and a summary of comments and responses will be included in the final permit package available to the public.

g. The NDCNR–DEP will forward to U.S. EPA copies of the final actions on the PSD permit applications at the time of issuance, as well as copies of substantive public comments received during the comment period.

h. The NDCNR–DEP will report the status of incomplete permit applications to the U.S. EPA on an as-needed basis.

i. The NDCNR–DEP will notify the U.S. EPA prior to determinations concerning substantive PSD permit modifications and amendments, making available to the U.S. EPA, upon request, relevant technical data. U.S. EPA will communicate comments and concerns within three weeks of receipt of notification.

j. The NDCNR–DEP shall consult with the appropriate State and local agency primarily responsible for managing land use, prior to issuance of preliminary determinations.

5. Prior U.S. EPA concurrence is to be obtained on any matter involving the interpretation of Sections 160 to 169 of the Clean Air Act or 40 CFR Section 52.21 to the extent that implemenation, review, administration or enforcement of these sections have not been covered by determinations or guidance sent to NDCNR–DEP.

6. The State will at no time grant any waiver or variance to the permit requirements, approve any compliance schedule, or issue any administrative order which violates any presently effective PSD provisions (including NSPS/NESHAPS requirements) without prior written concurrence of U.S. EPA.

7. The primary responsibility for enforcement of the PSD regulations in the State of Nevada will rest with the NDCNR–DEP. The NDCNR–DEP will enforce whichever provisions are more stringent: the Federal PSD program provisions or any EPA approved State regulations. If the State enforces the delegated provisions in a manner inconsistent with the terms and conditions of this delegation or the Clean Air Act, U.S. EPA may exercise its enforcement authority contained in the Clean Air Act with respect to the sources in the State of Nevada subject to the PSD provisions.

8. Registration Certificates (Authorities to Construct) must include appropriate provisions as specified in Attachment A to ensure permit enforceability. Permit conditions shall at a minimum, contain reporting requirements on initiation of construction, start-up, and where applicable, source testing. Upset/breakdown and malfunction conditions shall be included in all permits.

9. Permits issued under this delegation should contain language stating that the Federal PSD requirements have been satisfied.

10. This delegation covers any revisions which are promulgated for 40 CFR 52.21. The term "40 CFR 52.21" as used in the delegation request and throughout this Agreement, includes such regulations as are in effect on the date this Agreement is executed and on revisions which are promulgated after that date.

11. This delegation covers the review of applications subject to 40 CFR 52.21 received after the effective date of this Agreement. Where it is convenient to both NDCNR–DEP and U.S. EPA, and a benefit to the applicant, any PSD reviews already initiated by U.S. EPA prior to this delegation shall be transferred to the NDCNR–DEP for completion.

12. By this Agreement, the NDCNR–DEP assumes authority for enforcement and permit modification/amendment for EPA issued NSR/PSD permits.

13. This delegation may be amended at any time by the formal written agreement of both the NDCNR–DEP and the U.S. EPA including amendments to add, change, or remove conditions or terms of this Agreement.

14. If the Regional Administrator determines that the State is not implementing or enforcing the PSD program in accordance with the terms and conditions of this delegation and the requirements of 40 CFR Section 52.21 or the Clean Air Act, this delegation, after consultation with the NDCNR–DEP, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the State.

15. This delegation of authority is effective upon the date of this Agreement.

Dated: May 27, 1983.

Roland D. Westergard,

Department of Conservation & Natural Resources—Division of Environmental Protection.

Dated: May 20, 1983.

John Wise,

U.S. Environmental Protection Agency.

Attachment A

1. Identification of all points of emission (both stack and fugitive).

2. Specification of a numerical emission limitation for each point of emission in terms of mass rate or concentration limitations. If emission testing based on a numerical emission limitation is infeasible, the permit may instead prescribe a design, operational, or equipment standard. Any permits issued without numerical emission limitations must contain conditions which assure that the design characteristics or equipment will be properly performed so as to continuously achieve the assumed degree of control.

3. Limitations of factors which were the basis for air quality impact analysis must be specified (e.g. hours of operation, stack height, materials processed which affect emissions).

4. Methods and frequency of determining continued compliance for each point of emission must be referenced (if part of the SIP or subject to NSPS or NESHAPS) or explicitly identified if a reference method is not used.

5. Recordkeeping requirements which enable the agency to ascertain continued compliance especially where factors such as hours of operation, through-put of materials, sulfur content of fuels, fuel usage, type or quantity of materials processed are conditions of the permit.

6. A condition that the permit will expire if the construction is not commenced within a certain specified time frame.

7. The condition that the source is responsible for providing sampling and testing facilities at its own expense.

8. Reporting requirements which enable the agency to monitor the progress of source construction and compliance including the date by which construction is completed, and if different from the completion of construction date, the date by which full compliance is to be achieved.

9. Identification of all offsets, with conditions requiring implementation of offsets by a date specified; identification of all banked emissions offsets which are to be applied.

10. As a courtesy to sources exempted from PSD/NSR review due to federally enforceable operational or process restrictions, or the use of controls more stringent than required by applicable SIP limits, the source should be advised that any relaxation of those limits may subject the entire source to full PSD/NSR review as if construction had not yet begun. Suggested language is as follows:

"This source is exempt from PSD/NSR review because of (e.g. "a requirement that operation is limited to eight hours per day"). Any relaxation in this limit that increases your potential to emit above the applicable PSD/NSR threshold will require a full PSD/NSR review of the entire source."

The Regional Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. This delegation became effective according to dates cited in DATES, therefore, it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

A copy of the request for delegation of authority is available for public inspection at the U.S. Environmental Protection Agency, Region 9 Office, Air Management Division, Air Operations Branch, 215 Fremont Street, San Francisco, California 94105.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This rulemaking is under the authority of sections 101, 110, 160–169 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7401, 7410, 7470–79 and 7601(a)].

Dated: June 13, 1983.

John Wise,

Acting Regional Administrator.

PART 52—[AMENDED]

Accordingly, Subpart DD of Title 40 Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. Section 52.1485 is amended by adding a new paragraph (c) to read as follows:

§ 52.1485 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 from sources located in the jurisdiction of the State of Nevada shall be submitted to the Director, Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, Nevada instead of the EPA Region 9 Office.

* * * * *

[FR Doc. 83-16555 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Region II Docket No. 9; A-2-FRL 2378-3]

Revision to the Commonwealth of Puerto Rico Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a date in a final rule which appeared in the **Federal Register** on September 3, 1982 (47 FR 38887). This final rule dealt with a revision to the Puerto Rico Implementation Plan.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: On September 3, 1983 (47 FR 38887), the Environmental Protection Agency (EPA) published its approval of a visible emissions variance issued by the Commonwealth of Puerto Rico to the Owens-Illinois of Puerto Rico Corporation's Vega Alta glassmaking facility, ovens "A" and "B". This variance was approved for a period of three years from the date of EPA's approval. Since EPA's approval became effective on November 2, 1982, approval of the variance will remain in effect until November 2, 1985. However, the September 3, 1983 **Federal Register** notice incorrectly noted that the approval will remain in effect only until September 3, 1985. In addition, today's notice incorporates into the Code of Federal Regulations the date until which the variance will remain in effect.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sections 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Jacqueline E. Schafer,

Regional Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by revising paragraph (c)(29) as follows:

§ 52.2720 Identification of plan.

* * * * *

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

* * * * *

(29) Revision submitted by the Puerto Rico Environmental Quality Board on April 26, 1982, as modified by a July 8, 1982 letter, which grants a visible emissions standard variance to ovens "A" and "B" of the Owens-Illinois, Inc. Vega Alta plant. This variance remains in effect until November 2, 1985.

[FR Doc. 83-16543 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL 2386-4]

40 CFR Part 60

Delegation of New Source Performance Standards (NSPS); State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of NSPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS categories. Delegations of authority were granted by letters dated December 26, 1982 and May 24, 1983 and are reproduced in their entirety as follows:

December 26, 1982.

Mr. Richard Serdoz,

Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV.

Dear Mr. Serdoz: In response to your request of November 8, 1982, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of the delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60. The delegation is effective upon the date of the letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

May 24, 1983.

Mr. Richard Serdoz,

Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV

Dear Mr. Serdoz: In response to your request of December 20, 1982, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) categories in 40 CFR Part 60 listed below. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Subpart EE—Surface Coating of Metal Furniture

Subpart QQ—Graphic Arts Industry: Publication Rotogravure Printing

Subpart SS—Industrial Surface Coating: Large Appliances

Subpart TT—Metal Coil Surface Coating

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

With respect to areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the NDCNR at the address shown in the letter of delegation.

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

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: June 13, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-16552 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2396-3]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the California Air Resources Board on behalf of the Fresno County Air Pollution Control District (FCAPCD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The CARB has requested authority for delegation of certain NSPS and NESHAPS categories on behalf of the FCAPCD. Delegation of authority was granted by a letter dated April 6, 1983 and is reproduced in its entirety as follows:

Mr. James D. Boyd,

Executive Officer, California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA

Dear Mr. Boyd: In response to your request of February 3, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) on behalf of the Fresno County Air Pollution Control District (FCAPCD). We have reviewed your request for delegation and have found the FCAPCD's programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60, Subpart
Fossil-Fuel Fired Steam Generators	Da
Petroleum Storage Vessels	Ka
Glass Manufacturing Plants	CC
Surface Coating of Metal Furniture	EE
Stationary Gas Turbines	GG
Lead-Acid Battery Manufacturing Plants	KK
Automobile & Light-Duty Truck Surface Coating Operations.	MM
Phosphate Rock Plants	NN
Ammonium Sulfate	PP
Graphic Arts: Publication Rotogravure Printing.	QQ
Industrial Surface Coating—Large Appliances.	SS
Metal Coil Surface Coating Operations	TT
Asphalt Processing and Asphalt Roof Manufacturer.	UU

In addition, we are redelegating the following NSPS and National Emission Standards for Hazardous Air Pollutants (NESHAPS) categories since the FCAPCD's revised programs and procedures are acceptable:

NSPS	40 CFR Part 60, Subpart
General Provisions	A
Fossil-Fuel Fired Steam Generators	D
Incinerators	E
Portland Cement Plants	F
Nitric Acid Plants	G
Sulfuric Acid Plants	H
Asphalt Concrete Plants	I
Petroleum Refineries	J
Storage Vessels for Petroleum Liquids	K
Secondary Lead Smelters	L
Secondary Brass & Bronze Ingot Production Plants.	M
Iron and Steel Plants (BOPF)	N
Sewage Treatment Plants	O
Primary Copper Smelters	P
Primary Zinc Smelters	Q
Primary Lead Smelters	R
Primary Aluminum Reduction Plants	S
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants.	T
Phosphate Fertilizer Industry: Superphosphoric Acid Plants.	U
Phosphate Fertilizer Industry: Diammonium Phosphate Plants.	V
Phosphate Fertilizer Industry: Triple Superphosphate Plants.	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate.	X
Coal Preparation Plants	Y
Ferroalloy Production Facilities	Z
Iron and Steel Plants (Electric Arc Furnaces).	AA
Kraft Pulp Mills	BB
Grain Elevators	DD
Lime Manufacturing Plants	HH

NESHAPS	40 CFR Part 61, Subpart
General Provisions	A
Asbestos	B
Beryllium	C
Beryllium Rocket Motor Firing	D
Mercury	E
Vinyl Chloride	F

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the Federal Register in the near future.

Cordially yours,

Sonia F. Crow,

Regional Administrator.

cc: Fresno County Air Pollution Control District.

With respect to Fresno County all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the FCAPCD at the address shown in the letter of delegation.

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

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: June 13, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-16553 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 60 and 61

[A-9-FRL 2386-2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) Maricopa County Health Department, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS and NESHAPS authority to the Maricopa County Health Department (MCHD). This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS and NESHAPS categories from EPA to State and local governments.

EFFECTIVE DATE: April 18, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A-3-1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-8236, FTS 454-8236.

SUPPLEMENTARY INFORMATION: The MCHD has requested authority for delegation of certain NSPS and NESHAPS categories. Delegation of authority was granted by a letter dated April 6, 1983 and is reproduced in its entirety as follows:

Ref: NSS 3-4-1

Mr. Robert W. Evans,
Chief, Bureau of Air Pollution Control,
Maricopa County Health Department,
1825 East Roosevelt, Phoenix, AZ 85001.

Dear Mr. Evans: In response to your request of February 16, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
General provisions	A.
Lead-acid battery manufacturing plants	KK.
Phosphate rock plants	NN.

NESHAPS	40 CFR Part 61 Subpart
General provisions	A.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Parts 60 and 61, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Cordially yours,

Sonia F. Crow,
Regional Administrator.

cc: Arizona Department of Health Services.

With respect to Maricopa County all reports, applications, submittals, and other communications pertaining to the above listed NSPS and NESHAPS source categories should be directed to the MCHD at the address shown in the letter of delegation.

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

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: June 13, 1983.

John Wise,
Acting Regional Administrator.

[FR Doc. 83-16554 Filed 6-20-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[SWH-FRL 2385-3]

Hazardous Waste Management Program; Kentucky, Request for Extension of Application Deadline for Interim Authorization, Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of Extension of Application Submission and Interim Authorization Period.

SUMMARY: On May 27, 1983, the Commonwealth of Kentucky requested an extension of one hundred and fifty (150) days beyond the July 26, 1983, deadline for application for Phase II, Component C, interim authorization (authority to permit land disposal facilities) under the Resource Conservation and Recovery Act of 1976, as amended. EPA is granting this extension. One effect of this action is to allow Kentucky to submit its application after July 26, 1983. It also avoids termination on July 26 of the interim authorization which EPA granted previously to the State for the Phase I and Phase II, Components A and B, portions of the hazardous waste program.

EFFECTIVE DATE: July 26, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of interim authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator may, for good cause, extend the July 26, 1983, deadline for submission for the interim authorization application and the deadline for termination of the approval of the State program.

Note.—40 CFR Part 123, including the July 26, 1982, amendments (47 FR 32373), was recodified on April 1, 1983, as 40 CFR Part 271 (48 FR 14248).

Kentucky received Phase I interim authorization on April 1, 1981. Phase II, Components A and B, interim authorization was granted on January 28, 1983. However, Kentucky's ability to apply for Phase II, Component C, interim authorization before July 26, 1983, was delayed due to several factors: (1) The regulatory adoption process in Kentucky takes at least six (6) months to finalize, (2) the entire set of Kentucky waste management regulations were recodified to allow the insertion of new groundwater, land disposal, and land treatment regulations, (3) the law requires a regulatory impact analysis (RIA) and a fiscal note accompanying each regulation introduced or amended after 1982. Kentucky has committed to the following schedule for applying for authorization:

July 1, 1983—Publish draft regulations in the Kentucky administrative Register
July 26, 1983—Submit a draft application for Component C
August 1, 1983—Hold public hearing on proposed regulations
December 7, 1983—Regulations approved by full Legislative Research Committee
December 23, 1983—Submit a final application to EPA for Phase II, Component C
April, 1984—Submit draft Final Authorization application

Decision

On June 9, 1983, in consideration of the State's efforts to obtain the necessary regulations and Kentucky's past performance in managing and implementing a hazardous waste management program in a timely fashion, I found there was good cause to grant the State's request for an extension of one hundred and fifty (150) days beyond the deadline for applying for Phase II, Component C. Therefore, Kentucky must officially submit a complete application for this component to EPA on or before December 23, 1983, or approval of the State program will terminate automatically and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

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

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: June 9, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-16542 Filed 6-20-83; 8:45 am]
BILLING CODE 6560-50-M

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41 CFR Part 15-1

[OA-FRL 2383-4]

Procurement Regulations; Organizational Conflicts of Interest

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is issuing this amendment to its procurement regulation to strengthen the Agency's ability to identify, evaluate, and resolve contractors' organizational conflicts of interest. The rule requires prospective EPA contractors to either disclose information describing any relationships which could reasonably be considered organizational conflicts of interest or to certify that they are not aware of any such information. The rule also describes EPA's procedures for acting on this information.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Pamela John, Procurement and Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5026.

SUPPLEMENTARY INFORMATION: (a) This rule provides EPA policy and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest. These are situations where the nature of the work to be performed under an EPA contract and a prospective contractor's organizational, financial, contractual, or other interests are such that the award of the contract may result in an unfair competitive advantage or the contractor's objectivity in performing the contract work may be impaired.

(b) The regulation will enhance EPA's ability to identify and resolve organizational conflict of interest situations. Among its provisions, the regulation:

(1) Provides a formal definition and examples of organizational conflicts of interest. This material will help all involved parties decide if a particular situation may involve an organizational conflict of interest.

(2) Places the responsibility for determining the existence of an organizational conflict of interest with the EPA contracting officer.

(3) Requires that all prospective EPA contractors provide information for the contracting officer to use in identifying or resolving organizational conflicts of interest.

List of Subjects in 41 CFR Part 15-1

Conflict of interest, Environmental protection, Government procurement.

(Sec. 205(c), 63 Stat. 390, as amended; 40 U.S.C. 486(c))

Dated: June 8, 1983.

Seymour D. Greenstone,

Deputy Assistant Administrator for Administration.

PART 15-1—[AMENDED]

For the reasons set out in the preamble, 41 CFR Part 15-1 is amended as follows:

1. Part 15-1, table of contents, is amended by removing section 15-1.5301 from Subpart 15-1.53.

2. Part 15-1, table of contents, is amended by adding Subpart 15-1.54 to read as follows:

Subpart 15-1.54 Organizational Conflicts of Interest

Sec.
15-1.5400 Scope.
15-1.5401 Definition.
15-1.5402 Applicability.
15-1.5403 Waiver.
15-1.5404 Contracting officer responsibilities.
15-1.5405 General rules.
15-1.5406 Information sources.
15-1.5407 Procedures.
15-1.5408 Solicitation provision and contract clause.
15-1.5409 Examples.

§ 15-1.53 [Removed]

3. Subpart 15-1.53 is amended by removing § 15-1.5301.

4. Subpart 15-1.54 is added to read as follows:

Subpart 15-1.54 Organizational Conflicts of Interest

§ 15-1.5400 Scope.

This subpart establishes EPA policy and procedures for identifying, evaluating, and resolving organizational conflicts of interest. EPA's policy is to avoid, neutralize, or mitigate organizational conflicts of interest. If EPA is unable to neutralize or mitigate the effects of a potential conflict of interest, EPA will disqualify the prospective contractor or will terminate the contract, when potential or actual conflicts are identified after award.

§ 15-1.5401 Definition.

An "organizational conflict of interest" exists when the nature of the work to be performed under a proposed Government contract and a prospective contractor's organizational, financial, contractual, or other interests (including the interests of its chief executives, directors, consultants, or subcontractors) are such that (a) award of the contract may result in an unfair competitive advantage or (b) the contractor's objectivity in performing the contract work may be impaired.

§ 15-1.5402 Applicability.

This subpart applies to all EPA contracts except agreements with other Federal agencies and contracts with State and local governments.

§ 15-1.5403 Waiver.

The Assistant Administrator for Administration may waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the

Government's interest. Any request for waiver must be in writing and shall set forth the extent of the conflict. The Assistant General Counsel for Contracts and Information Law must be consulted on such waiver requests.

§ 15-1.5404 Contracting officer responsibilities.

(a) EPA contracting officers are responsible for:

(1) Identifying and evaluating potential organizational conflicts of interest as early in the acquisition process as possible; and

(2) Avoiding, neutralizing, or mitigating significant potential or actual organizational conflicts of interest.

(b) Contracting officers must seek the advice of legal counsel and should seek technical assistance from appropriate program specialists in evaluating potential conflicts and in developing any necessary solicitation provisions or contract clauses.

(c) Contracting officers shall apply this subpart's principles to potential or actual conflicts before award, as well as to potential or actual conflicts that may arise or be discovered after award.

§ 15-1.5405 General rules.

(a) The general rules in paragraphs (b) through (e) of this section prescribe limitations on contracting as the means of avoiding, neutralizing, or mitigating organizational conflicts of interest. Each individual contracting situation should be examined on the basis of its particular facts and the nature of the proposed contract. The two underlying principles to be considered are: (1) Preventing the existence of conflicting roles that might bias a contractor's judgment; and

(2) Preventing unfair competitive advantage.

(b) A contractor that provides systems engineering and technical direction for a system, but does not have overall contractual responsibility for its development, integration, assembly, or production, shall not (1) be awarded a contract to supply the system or any of its major components or (2) be a subcontractor or consultant to a supplier of the system or any of its major components. Systems engineering includes a combination of substantially all of the following activities: determining specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design. Technical direction includes a combination of substantially all of the following activities: developing work statements, determining parameters, directing other contractors' operations, and resolving technical controversies.

(c) If a contractor prepares and furnishes complete specifications covering nondevelopmental items, for use in a competitive procurement, that contractor shall not be allowed to furnish these items either as a prime contractor or a subcontractor. This prohibition shall be for a reasonable period of time, including, at least, the duration of the contract containing the furnished specification. This rule shall not apply to:

(1) Contractors that furnish at Government request specifications or data regarding a product they regularly provide, even though the specifications or data may have been paid for separately or in the price of the product; or

(2) Situations in which contractors, acting as industry representatives, help the Government prepare, refine, or coordinate specifications, regardless of source, provided this assistance is supervised and controlled by Government representatives.

(d) If a contractor prepares or assists in preparing a work statement to be used in competitively acquiring services or a system, or if the contractor provides material leading directly, predictably, and without delay to such a work statement, then that contractor shall not supply the services, system, or major components of the system unless:

(1) The contractor is the sole source; or

(2) More than one contractor has been significantly involved in preparing the work statement.

(e) Contracts involving (1) technical evaluations of other contractors' products or (2) consulting services shall not be awarded to a contractor that would evaluate or advise the Government concerning its own products or activities, those of a competitor, or those of other organizations in which it has a substantial interest.

(f) A contractor that gains access to confidential business information of other companies in performing advisory services for the Agency must protect the information from unauthorized use or disclosure, must refrain from using the information for any purpose other than that for which it was furnished, and must otherwise comply with the special requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information. This rule does not apply to information available to the Government or the contractor from other sources without restriction.

§ 15-1.5406 Information sources.

(a) *Disclosure.* Prospective EPA contractors responding to solicitations or submitting unsolicited proposals shall provide information for the contracting officer to use in identifying, evaluating, or resolving potential organizational conflicts of interest. The submittal may be a certification or a disclosure, pursuant to paragraph (a) (1) or (2), of this section.

(1) If the prospective contractor is not aware of any information bearing on the existence of any organizational conflict of interest, it may so certify.

(2) Prospective contractors not certifying to 15-1.5406(a)(1) must provide a disclosure statement which describes concisely all relevant facts concerning any past, present, or planned interests relating to the work to be performed and bearing on whether they, including their chief executives, directors, or any proposed consultant or subcontractor may have a potential organizational conflict of interest.

(b) *Failure to disclose information.* Any prospective contractor failing to provide full disclosure, certification, or other required information will not be eligible for award. Nondisclosure or misrepresentation of any relevant information may also result in disqualification from award or termination of the contract for default, debarment from Government contracts, as well as other legal action or prosecution. In response to solicitations, EPA will consider any inadvertent failure to provide disclosure certification a "minor informality" (as explained in FPR 1-2.405); however, the prospective contractor must correct the omission promptly.

(c) *Exception.* Where the contractor has previously submitted a conflict of interest certification or disclosure for a contract, only an update of such statement is required when the contract is modified.

§ 15-1.5407 Procedures.

(a) If the contracting officer initially decides that a particular acquisition involves a significant potential organizational conflict of interest, the contracting officer shall, before issuing the solicitation, submit to the chief officer responsible for procurement at the contracting activity:

(1) A written analysis, including a recommended course of action for avoiding, neutralizing, or mitigating the conflict, based on the general rules in 15-1.5405 or on another basis not expressly stated in that section;

(2) A draft solicitation provision; and

(3) If appropriate, a proposed contract clause.

(b) The chief officer responsible for procurement at the contracting activity shall:

(1) Review the contracting officer's analysis and recommended course of action, including the draft solicitation provision and any proposed clause;

(2) Consider the benefits and detriments to the Government and prospective contractors; and

(3) Approve, modify, or reject the recommendation in writing.

(c) The contracting officer shall:

(1) Include the approved provision and any approved clause in the solicitation;

(2) Consider additional information provided by prospective contractors in response to the solicitation or during negotiations, as well as other information;

(3) Before awarding the contract, resolve the actual or potential conflict in a manner consistent with the approval or other direction by the chief officer responsible for procurement at the contracting activity;

(4) If the organizational conflict of interest cannot be resolved by other appropriate means, disqualify the prospective contractor from receiving the contract award;

(5) Document in writing the resolution of any potential or actual conflicts identified. The documentation shall be reviewed and approved by the chief officer responsible for procurement at the contracting activity prior to award; and

(6) If the prospective contractor disagrees and requests higher level review, provide the decision and the contractor's position to the head of the procuring activity for review and final decision.

§ 15-1.5408 Solicitation provision and contract clause.

(a) *Advance notice of limitations.* The contracting officer shall alert prospective contractors by placing a notice in the solicitation whenever a particular acquisition might create an organizational conflict of interest. The notice will:

(1) Refer prospective contractors to this subpart;

(2) Indicate the nature of the potential conflict;

(3) State the basis for denying award to the contractor or restraining the contractor's future activities;

(4) Describe the terms of any proposed contract clause designed to neutralize or mitigate the conflict;

(5) Indicate that the terms of the proposed clause and the application of this subpart to the contract are subject to negotiation between the Government and the contractor; and

(6) Require proposers to disclose relevant facts concerning any past, present, or currently planned interests relating to the work described in the solicitation.

(b) *Required solicitation provision.* The contracting officer shall include in all solicitations a provision that:

(1) Requires the prospective contractor to certify it is not aware of any information bearing on the existence of a potential organizational conflict of interest or it has disclosed such information;

(2) Refers prospective contractors to this subpart; and

(3) Provides that if the contracting officer finds a potential conflict exists, the prospective contractor will not receive an award unless the conflict can be avoided or otherwise resolved.

(c) *Required contract clause.* The contracting officer shall include in all contracts over $10,000 and may include in small purchases, a clause that requires the contractor:

(1) To warrant that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest or that it has disclosed such information;

(2) To disclose information about potential or actual conflicts discovered after award and to take steps in consultation with the contracting officer to avoid, mitigate, or neutralize the conflicts; and

(3) To include organizational conflict of interest provisions in subcontracts and consultant agreements.

§ 15-1.5409 Examples.

The examples in the following paragraphs (a) through (g) of this section illustrate situations concerning organizational conflicts of interest (OCI). While more than one type of OCI may exist in the situations described in the examples, the discussion is limited so as to demonstrate a specific conflict. The examples are not all inclusive but are intended to help in applying the general rules in 15-1.5405.

(a) Company A, in response to a request for proposals (RFP), proposes to undertake certain analyses of an air emission control device. In response to the inquiry in the RFP, Company A advises that it is currently performing similar analyses for the manufacturer of the device. Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A. The company would be placed in a position in which its judgment could be biased in relation to its work for EPA. Since other well qualified sources are available, there would be no basis for granting a waiver of the policy.

(b) Company A, in response to an RFP, proposes to undertake an economic analysis of one segment of the chemical industry. Company A advises that it derives a substantial portion of its income from the industry to be studied. Normally this would constitute an OCI and a contract would not be awarded to Company A. It would be placed in a position in which its judgment could be biased in relation to its work for EPA. Should award be made to Company A, the appearance of an OCI could undermine the credibility of the data generated under the contract and render such data useless for its intended purpose, regardless of whether any bias is actually reflected in the data.

(c) Before an ADP equipment acquisition is conducted, Company A is awarded a contract to prepare data system specifications and equipment performance criteria to be used as the basis for the equipment competition. Since the specifications are the basis for selection of commercial hardware, a potential conflict of interest exists. Company A should be excluded from the initial follow-on ADP hardware acquisition.

(d) Company A receives a contract to define the detailed performance characteristics EPA will require for the purchase of automobile emission analysis equipment. Company A has not developed the particular equipment. At the time the contract is awarded, it is clear to both parties that the performance characteristics defined will be used by EPA to choose competitively a contractor to develop or produce the equipment. Normally this would constitute an OCI and Company A should not be permitted to propose on the follow-on procurement.

(e) Company A is selected to study possible methods for disposal of toxic substances. The Agency intends to ask that firms doing research in the field make proprietary information available to Company A. The contract must require Company A to protect any proprietary information it receives, to refrain from using the information for any purpose other than that for which it was intended, and to otherwise comply with the requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information.

(f) The EPA in its regulatory process wishes to develop a system for evaluating and processing license applications. Contractor A is awarded a

contract to help develop the system and process the applications. As part of the agreement to perform this work, Contractor A should be prohibited from acting as a consultant to any of the applicants during the contract period of performance and for a reasonable period thereafter (such as one year).

(g) Company A, in response to an RFP, proposes to perform inspections for EPA. The inspections are to determine if companies are meeting Federal requirements for limiting discharge of pollutants into the air. Company A plans to act as a consultant to the companies to be inspected. Company A should be prohibited in the contract from acting as a consultant to any of the companies being inspected during the contract period of performance and for a reasonable period thereafter.

[FR Doc. 83-16546 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3200

Geothermal Leasing Program; Form Modification

AGENCY: Bureau of Land Management, Interior.

ACTION: Rule Related Notice.

SUMMARY: The Department of the Interior published final regulations concerning corporate qualification statements for the Bureau of Land Management's Geothermal Leasing Program (43 CFR Part 3200) in the Federal Register on June 1, 1983 (48 FR 24367), to be effective July 1, 1983. As a result of this final rulemaking, the existing lease form and assignment form are being modified to reflect changes in the information required of parties wishing to obtain a geothermal lease. Until the new forms are issued by the Bureau, the sections of the present lease form requesting separate qualifications statements may be disregarded. Instead, parties should include the following statement above their required signature on the appropriate form: "The undersigned hereby certifies compliance with 43 CFR Part 3200 and the Geothermal Steam Act of 1970."

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, Division of Fluid Mineral Leasing (620), U.S. Bureau of Land Management, Washington, D.C. 20240, PH: (202) 343-7753.

Dated: June 15, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-16524 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6378

[U-013938B]

Utah; Revocation of Reservoir Site No. 9

Correction

In FR Doc. 83-13177, beginning on page 22150, in the issue of Tuesday, May 17, 1983, make the following correction:

In the middle column of page 22150, under the **SUPPLEMENTARY INFORMATION,** the first complete paragraph, line 2, "1982" should read "1892".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 64, 65, and 70

[Docket No. FEMA 6486]

National Flood Insurance Program; Elimination of Documents

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This regulation makes final a proposed regulation published on January 31, 1983, at 48 FR 4296-98. In finalizing the proposed rule, it amends, revises and removes portions of 44 CFR Parts 64, 65 and 70. It allows for the elimination of certain documents published in the Federal Register for the National Flood Insurance Program (NFIP). These documents contain listings of communities with regard to their flood hazard identification, eligibility for regular program insurance and descriptions of properties, inadvertently included within FEMA delineations of Special Flood Hazard Areas. This action is taken in order to decrease the costs of implementing the NFIP while maintaining the effectiveness of its administrative actions.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0270.

SUPPLEMENTARY INFORMATION: Due to budgetary restraints, FEMA has been examining its administrative procedures to determine means of decreasing the cost of implementing the National Flood Insurance Program (NFIP) while maintaining the effectiveness of its administrative actions. During this examination, the extent, costs and effectiveness of Federal Register publications were reviewed. This review covered all phases of public notification of FEMA's actions under the NFIP. FEMA determined that many of its Federal Register publications could be eliminated since other, more direct means of notification assure knowledge of these actions by the concerned public. Elimination of these publications requires the amendment, revision or removal of some of the sections in Chapter I of Title 44 of the Code of Federal Regulations.

In the course of its administrative procedures which affect the actions listed in the publications being eliminated, FEMA directly notifies the affected community or individual and provides copies of notifications to States, lenders, insurance agents, and affected Federal and private agencies. In addition, FEMA publishes bimonthly its National Flood Insurance Program Community Status Book which contains updated hazard identification and eligibility information. These notifications and publications, along with FEMA's response capabilities to direct inquiry, obviate the need for nationwide information dissemination, through Federal Register publication, of listings and property descriptions.

On August 4, 1982, at 47 FR 33721-22, FEMA published in the Federal Register, a Notice of Intent regarding the above actions and requested comments. The comments received and FEMA's responses were provided with the publication of the proposed rule on January 31, 1983, at 48 FR 4296-98. One comment was received on the proposed rule from a private organization. The organization felt that the Federal Register is the only source of keeping current on flood hazard matters in the communities within its area of concern, particularly with regard to NFIP eligibility, and requested another means for keeping informed.

FEMA will continue Federal Register publication of suspension of, withdrawal from and initial eligibility for communities in the NFIP. Further, the publications being eliminated, with the exception of Part 70, Letters of Map Amendment, are all generated by mapping activities. These maps have, in nearly all cases, been distributed prior to Federal Register publication. Also, FEMA responds to requests for map copies and information on communities

and provides bimonthly copies of the Community Status Book to any requestor. FEMA also employs letter notification of its actions to the communities or individuals, States and the related organizations involved. These resources provide the means by which private organizations can be informed of NFIP actions regarding communities.

The final rule differs from the proposed rule only in order to correct typographical errors and to remove a paragraph (§ 70.7(b)) inadvertently placed in the rule section instead of the supplementary information section. Thus, in § 64.1(a)(1), the qualifier in parentheses is changed from, "(i.e. and flood)," to "(i.e. mudflow)," and in § 70.7, only paragraph (a) is amended by the final rule.

Each of the changes to 44 CFR are at the end of this final rule and are numbered. As a guide to the effect of each of the changes is the following:

Change 1 (paragraph a) will eliminate publication in the **Federal Register** of lists of communities eligible for increased insurance coverage under the Regular Program.

Change 2 is necessitated for conformance of § 64.3(c) with the changes to Part 65.

Change 3 is necessitated for conformance of 65.1 with the changes to the remainder of Part 65.

Change 4 will eliminate publication in the **Federal Register** of lists of FHBM's.

Change 5 will eliminate publication in the **Federal Register** of lists of effective FIRM's.

Change 7 will eliminate publication in the **Federal Register** of lists of withdrawn FHBM's.

Change 8 will eliminate publication in the **Federal Register** of lists of minimally flood prone communities.

Change 9 will eliminate publication in the **Federal Register** of lists of nonflood prone communities.

Change 10 will eliminate a duplication.

Change 11 will eliminate publication in the **Federal Register** of descriptions of properties inadvertently shown within Special Flood Hazard Areas on FIRM's.

In addition, FEMA will eliminate publication in the **Federal Register** of cumulative listings of suspended or sanctioned communities under the NFIP. No change to 44 CFR is required for this action. Suspension, new eligibility and NFIP withdrawal actions will continue to be published under § 64.6.

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it does not affect actual notifications received by communities and individuals regarding the actions discussed in this rule. The proposed rule changes do not involve the collection of information under 44 U.S.C. 3504(h).

List of Subjects in 44 CFR Parts 64, 65 and 70

Flood insurance, Flood plains.

Accordingly, Parts 64, 65 and 70 of Chapter I, of Title 44, Code of Federal Regulations are amended, revised or removed as follows:

PART 64—COMMUNITIES ELIGIBLE FOR SALE OF INSURANCE

1. Section 64.1 is revised to read as follows:

§64.1 Purpose of Part.

(a) 42 U.S.C. 4012(c), 4022 and 4102 require that flood insurance in the maximum limits of coverage under the regular program shall be offered in communities only after the Associate Director, State and Local Programs and Support (herein the Associate Director) has: (1) Identified the areas of special flood, mudslide (i.e., mudflow) or flood-related erosion hazards within the community; and/or (2) completed a risk study for the applicant community. The priorities for conducting such risk studies are set forth in §§ 59.23 and 60.25 of this subchapter. The purpose of this part is to define the types of zones which the Agency will use for identifying the hazard areas on maps.

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby the Associate Director may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This part also describes procedures under the emergency program and lists communities which become eligible under the NFIP.

2. Section 64.3(c) (1) and (2) are revised as follows:

§64.3 Flood insurance maps.

* * * * *

(c) * * *

(1) The information office of the State agency or agencies designated by statute or the respective Governors to cooperate with the Associate Director in implementing the Program whenever a community becomes eligible for Program participation and the sale of insurance pursuant to this section or is identified as flood prone.

(2) One or more official locations within the community in which flood insurance is offered.

* * * * *

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

3. Section 65.1 is revised to read as follows:

§65.1 Purpose of part.

42 U.S.C. 4104 authorizes the Director to identify and publish information with respect to all areas within the United States having special flood, mudslide (i.e., mudflow) and flood-related erosion hazards. The purpose of this part is to outline the steps a community needs to take in order to assist the Agency's effort in providing up-to-date identification and publication, in the form of the maps described in Part 64, on special flood, mudslide (i.e., mudflow) and flood-related erosion hazards.

§65.3 [Removed]

4. Section 65.3 is removed.

§65.4 [Removed]

5. Section 65.4 is removed.

§65.5 [Redesignated as 65.3]

6. Section 65.5 is redesignated as 65.3.

§65.6 [Removed].

7. Section 65.6 is removed.

§65.7 [Removed]

8. Section 65.7 is removed.

§65.8 [Removed]

9. Section 65.8 is removed.

§65.9 [Removed]

10. Section 65.9 is removed.

PART 70—PROCEDURE FOR MAP CORRECTION

1. Section 70.7(a) is revised to read as follows:

§70.7 Notice of letter of map amendment.

(a) The Associate Director, State and Local Programs and Support, shall not publish a notice in the **Federal Register** that the FIRM for a particular community has been amended by letter determination pursuant to this part unless such amendment includes alteration or change of base flood elevations established pursuant to Part 67. Where no change of base flood elevations has occurred, the Letter of Map Amendment provided under §§ 70.5

and 70.6 serves to inform the parties affected.

* * * * *

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 83-16501 Filed 6-20-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-618; RM-4106; FCC 83-246]

Private Land Mobile Radio Services; Authorize Frequencies for Wildlife Tracking Telemetry in the Forestry-Conservation Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is adopting rule changes that permit wildlife tracking telemetry on Forestry-Conservation Radio Service frequencies. Such operations are now authorized only in the Experimental Service (Research). The new rules will benefit licensees by maximizing their options in obtaining necessary communications in an economical, efficient, and effective manner.

DATE: Effective July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Private Land Mobile Radio Services.

Report and Order (Proceeding Terminated)

In the matter of amendment of Part 90 of the Commission's rules and regulations to authorize frequencies for wildlife tracking telemetry in the Forestry-Conservation Radio Service, PR Docket No. 82–618, RM–4016.

Adopted: May 26, 1983.
Released: June 14, 1983.

By the Commission: Commissioner Fogarty not participating; Commissioner Sharp absent.

Background

1. On August 30, 1982, the Commission adopted a Notice of Proposed Rule Making (NPRM) which proposed to amend Part 90 of the Rules and Regulations to allow the use of Forestry-Conservation Radio Service frequency bands for wildlife tracking telemetry.[1]

2. The NPRM was issued in response to a Petition for Rule Making filed by the State of Oregon Department of Forestry (Oregon).[2] Oregon is presently using Forestry-Conservation Radio Service frequencies for wildlife tracking telemetry under a Part 5, Experimental Service (Research) authorization. In the Experimental Service, license renewals are required every two years.[3] In its petition, Oregon requested to be allowed to utilize the same frequencies under a Forestry-Conservation Radio Service authorization, where renewals are required only every five years. Oregon stated that the longer license term would result in a reduction in paperwork and administrative effort by both the licensee and the Commission.

3. In the NPRM, we indicated that there appeared to be merit to Oregon's request, and proposed to permit the use of low-power telemetry in the Forestry-Conservation Radio Service in conjunction with wildlife tracking and official forestry conservation activities. The use of these frequencies was to be on a secondary non-interference basis.

Summary of Comments

4. Comments on the NPRM were received from those parties listed in Appendix A. All of the comments were in favor of the proposed rule changes. Some commenters suggested that other frequency bands for animal tracking telemetry programs, in addition to those proposed, were needed. As an example, the Nevada Department of Wildlife requested that the carrier frequencies be extended to include 159.000 MHz to 159.224 MHz, and 159.466 MHz to 159.995 MHz, stating that they have used these frequencies in the past and expect to use them again in the future. They indicate that to change their equipment to the newly proposed frequencies would be costly and probably not possible because of their limited budget.

5. It is apparent that the proposed rule changes were somewhat misunderstood by some of the commenters. At present, agencies engaged in animal telemetry programs are authorized in the Experimental Service (Research) under Part 5 of the Commission's Rules, and they utilize a wide range of VHF frequencies on a secondary, non-interference basis. Many of these same frequencies are also allocated on a primary basis to various land mobile radio services. As an example, the band 159.466 MHz to 159.995 MHz that was requested by the Nevada Department of Wildlife as mentioned above, is allocated on a primary basis to the Motor Carrier Radio Service. Use of frequencies in that band for animal tracking telemetry is allowed only under an Experimental Service (Research) authorization. There is nothing proposed in the NPRM that would change this arrangement. Agencies presently using any authorized frequencies under an Experimental Service authorization may continue to do so, but are required to renew their licenses every two years. The NPRM simply proposed that anyone eligible for Forestry-Conservation Radio Service frequencies may utilize certain Forestry-Conservation frequency bands for animal tracking telemetry purposes with the attendant benefit of having to renew their authorizations every five years instead of every two years. We wish to emphasize again that all *authorized* animal telemetry operations in the Experimental Service (Research) may continue to use their present frequencies under Experimental Service rules, and are not affected by rules adopted in this proceeding.

6. The Washington State Department of Game questioned the need for license renewals of these transmitters at all. Telonics, Inc. also addressed this subject, stating:

> We request that the Commission consider the underlying fact that some 40,000 to 50,000 such transmitters and 5,000 receivers are in operation 24 hours per day within the lower 48 states alone, with a twenty (20) year history of non-interference. The cost of attempting to administrate these units has been staggering over the years, with little or no resolution. It therefore seems reasonable to consider some means of a simple notification process and "logging" procedure in lieu of formal licensing, whereby the users would simply notify the Commission regarding the actual frequencies in use, and the applicable operating parameters of the hardware. The process would involve most of the work being conducted and would likely be well received. There will doubtless remain those who will fabricate their own hardware, and for various reasons, fail to comply, however, we would expect the number to be a very small percentage of the total community.

7. We have considered the comments suggesting that we replace the present separate licensing procedures with a notification process that would inform us of frequencies and operating

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[1] *Notice of Proposed Rule Making*, PR Docket No. 82–618, 47 FR 40194, September 13, 1982.

[2] Petition for Rule Making, RM–4016, filed November 30, 1981.

[3] Section 5.203 of the Rules states that stations operating in the Experimental Service (Research) may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations set forth in Part 2 of the Rules. These authorizations, in accordance with § 5.63, must be renewed every two years.

parameters of the equipment. In Docket 82-183 (47 FR 54450, December 3, 1982), we eliminated the requirement for agencies in the public safety radio services to obtain separate licenses for the operation of doppler speed radar units if they already were authorized to operate land mobile stations. Additionally, in a Notice of Proposed Rule Making in Docket 82-326, we are proposing to eliminate the separate licensing requirement for self-powered vehicle detectors to be used for traffic control purposes. It appears that the same approach is appropriate for low powered wildlife tracking telemetry transmitters, which share a number of characteristics of the doppler radar and self-powered vehicle detectors—low likelihood of interference, large numbers of units to be used, and controlled operation only by experienced and qualified agencies.

Decision

8. After reviewing the record in this proceeding, we are adopting our proposal to allow the authorization of frequencies for wildlife tracking telemetry in the Forestry-Conservation Radio Service. We are also adopting the technical standards proposed for such equipment. We conclude that these rule changes will benefit licensees by maximizing licensee options in securing necessary communications in an economical, effective, and efficient manner, without adversely affecting our ability to manage this portion of the spectrum.

9. Proper management of the frequency spectrum requires that some record be maintained of the use of radio frequencies. We are therefore adopting a procedure by which Forestry-Conservation Radio Service licensees will be required to register, rather than separately license, their wildlife tracking transmitters. Licensees will be required to state the number of such transmitters and frequencies in use on their application for renewal of their base/mobile radio system authorization. Licensees operating wildlife tracking telemetry systems on other than Forestry-Conservation frequencies under Part 5 Experimental Service authorizations may continue to do so under the rules which govern operations in the Experimental (Research) Service.

10. This rule making permits Forestry-Conservation Radio Service licensees to operate wildlife tracking telemetry systems on Forestry-Conservation Radio Service frequencies under the authorization issued to them for their base/mobile radio systems and should reduce the paper work and other administrative burdens now associated with the operation of those transmitters. Thus the rule making should have a salutary effect on the small entities affected. These rules impose no additional burdens on licensees. Accordingly, the Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding.

11. Accordingly, it is ordered, that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 90 of the Commission's Rules is amended effective July 21, 1983, as set forth in the attached Appendix B. It is further ordered that this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Parties Submitting Comments on PR Docket 82-618, RM-4016

State of Illinois, Division of Communications
Ohio Department of Natural Resources
Oklahoma Department of Wildlife Conservation
Pennsylvania Game Commission
State of Washington, Department of Game
State of Oregon, Department of Fish and Wildlife
State of Michigan, Department of Natural Resources
State of California, Department of Fish and Game
Forestry Conservation Communications Association
Montana Department of Fish, Wildlife, and Parks
University of Idaho, College of Forestry, Wildlife and Range Services
State of Hawaii, Department of Land and Natural Resources
North Carolina Wildlife Resources Commission
State of Utah, Division of Wildlife Resources
Idaho Department of Fish and Game
State of New Mexico, Department of Game and Fish
Arizona Game and Fish Department
Texas Parks and Wildlife Department
Telonics, Inc.
Illinois APCO
Massachusetts Division of Fisheries and Wildlife
New York State Department of Environmental Conservation
Florida Game and Fresh Water Fish Commission
Larry L. Irvin, University of Wyoming
Montana State University Department of Biology
USDA Forest Service, Arizona State University Campus

Appendix B

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. In § 90.25, a new subparagraph (f) is added to read:

§ 90.25 Forestry-Conservation Radio Service.

* * * * *

(f) A licensee in the Forestry-Conservation Radio Service may use, without a specific authorization from the Commission, transmitters on the frequencies indicated below in connection with wildlife tracking and/or telemetry and in connection with official forestry-conservation activities, provided that such use shall be on a secondary basis and shall not cause harmful interference to services of other licensees operating on regularly assigned frequencies. The provisions of § 90.203, § 90.425, and § 90.429 of this part shall not apply to transmitters complying with this subparagraph. To be eligible for operations in this manner, the transmitter must comply with all of the following requirements.

(1) The carrier frequency shall be within the bands of:

(MHz)

31.17 to 31.19	31.85 to 31.87
31.21 to 31.23	31.89 to 31.91
31.25 to 31.27	31.93 to 31.95
31.29 to 31.31	31.97 to 31.99
31.33 to 31.35	44.63 to 44.65
31.37 to 31.39	44.67 to 44.69
31.41 to 31.43	44.71 to 44.73
31.45 to 31.47	44.75 to 44.77
31.49 to 31.51	44.79 to 44.81
31.53 to 31.55	44.83 to 44.85
31.57 to 31.59	44.87 to 44.89
31.61 to 31.63	44.91 to 44.93
31.65 to 31.67	44.95 to 44.97
31.69 to 31.71	44.99 to 45.01
31.73 to 31.75	45.03 to 45.05
31.77 to 31.79	151.145 to 151.475
31.81 to 31.83	159.225 to 159.465

The carrier frequency must be maintained within 0.005 percent of the frequency of operation. Use on assigned channel center frequencies is not required.

(2) The emitted signal shall be non-voice modulation (A9 or F9 emission).

(3) The maximum occupied bandwidth, containing 99 percent of the radiated power, shall not exceed 0.25 kHz.

(4) The transmitter output power shall not exceed a mean power of 5 mW nor shall any peak exceed 100 mW peak power, as measured into a permanently attached antenna; or if the transmitter and antenna combination are contained in a sealed unit, the field strength of the fundamental signal of the transmitter and antenna combination shall not exceed 0.29 V/m mean or 1.28 V/m peak when measured at a distance of 3 meters.

(5) The requirements of § 90.175 regarding frequency coordination apply.

2. Section 90.129 (n) is revised to read as follows:

§ 90.129 Supplemental information to be routinely submitted with application.

* * * * *

(n) All applications for renewal of base/mobile station licenses by licensees who also operate radiolocation transmitters, or wildlife tracking telemetry transmitters as described in Section 90.25(f), must include a statement detailing the number of units in service, by frequency, on Radiolocation or Forestry-Conservation Radio Service frequencies at the time the renewal application is filed.

[FR Doc. 83-16489 Filed 6-20-83; 8:45 am]
BILLING CODE 5712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1175 and 1176

[Ex Parte No. 429]

Elimination and Modification of Certain Securities Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rules and application requirements and issuance of final policy statement; correction.

SUMMARY: At 48 FR 26317, June 7, 1983, the Commission adopted its proposal to eliminate certain securities regulations and modify others. One aspect of the rules adopted, relieved motor carriers of the regulations in Part 1175. The amendatory language for that change contained an error which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245 or John J. Mattras, (202) 275-7677.

SUPPLEMENTARY INFORMATION:

PART 1175—[CORRECTED]

On page 26318, amendatory instruction 1. is corrected by changing the heading given for Part 1175. As corrected the amendatory instruction reads as follows:

1. 49 CFR Part 1175, *Issuance of Securities and Assumption of Obligations and Liabilities*, will be amended by revising §§ 1175.2, 1175.3, 1175.5, 1175.6, 1175.7, and 1175.10 to read as follows:

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-16506 Filed 6-20-83; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 120
Tuesday, June 21, 1983

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 73

[Docket No. PRM-50-36]

Nuclear Utility Backfitting and Reform Group; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from the Nuclear Utility Backfitting and Reform Group.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated April 20, 1983, which was filed with the Commission by the Nuclear Utility Backfitting and Reform Group. The petition was docketed by the Commission on April 21, 1983, and has been assigned Docket No. PRM-50-36. The petitioner requests that the Commission amend its regulations in 10 CFR Parts 50 and 73 to modify existing reporting requirements so as to reduce the regulatory burden on affected nuclear power plant licensees and applicants for construction permits. The petitioner also requests that the Commission revise certain guidance documents to provide additional relief from regulatory requirements.

DATE: Comment period expires August 23, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that certain of the Commission's reporting requirements contained in 10 CFR Parts 50 and 73, and in related guidance documents, place excessive regulatory burdens on licensees and/or are unnecessarily duplicative. The petitioner further states that the preparation and filing of these reports requires significant time and effort on the part of licensees' employees and that this time could be better spent on matters directly related to public health and safety. Finally, the petitioner states that if the Commission were to modify the subject reporting requirements in the manner requested, licensees' employees would be able to prepare and submit to the Commission on a more reasonable schedule the required technical analyses with less interference in their daily duties.

The petitioner requests that the Commission amend its regulations in 10 CFR Parts 50 and 73 as shown below.

1. *Section 50.54(p)* currently states, in part, that licensees may make changes to the security plan or to the safeguards contingency plan without prior approval by the Commission if the changes do not decrease the safeguards effectiveness of the plan. The licensee must submit a report describing each change within two months after a change is made. The petitioner requests that this requirement be changed to provide that these reports be submitted annually.

In support of this requested amendment, the petitioner states, in part, that since reports of changes filed by licensees in compliance with this requirement are not important from the standpoint of public health and safety, they should be treated similar to other reports now filed by licensees with the Commission under 10 CFR 50.59(b), which permits annual reports.

The petitioner requests that § 50.54(p) be amended as follows:

§ 50.54 Conditions of Licenses.

* * * * *

(p) The licensees shall * * * furnish * * * a report containing a description of each change *annually* * * *

2. *Section 50.54(q)* currently states, in part, that nuclear power reactor licensees may make changes in their emergency plans without prior Commission approval only if the changes do not decrease the effectiveness of the plans, and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. The licensee must report this type of change within 30 days after it is made. The petitioner requests that these changes be reported annually. In the alternative, the petitioner requests that these changes be reported to the Commission within two months after they are made.

In support of this requested amendment, the petitioner states, in part, that the type of changes which can be made in an emergency plan without prior NRC approval are by definition insubstantial, and that these changes can neither decrease the plan's effectiveness nor cause the plant to be in non-compliance with applicable requirements. Thus, the petitioner states, these changes are not directly related to public health and safety, and licensees should be permitted to file these reports in a manner similar to the reports filed with the Commission under 10 CFR 50.59(b) (as noted above).

The petitioner requests that § 50.54(q) be amended as follows:

§ 50.54 Condition of licenses.

* * * * *

(q) . . . If a change is made without approval, the licensee shall furnish one copy to the Administrator of the appropriate NRC Regional Office specified in Appendix D of Part 20 of this chapter and two copies to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within a *year* after the change is made.

[or, in the alternative:]

(q) . . . If a change is made without approval, the licensee shall furnish one copy to the Administrator of the appropriate NRC Regional Office specified in Appendix D of Part 20 of this chapter and two copies to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C.

20555 *within two months* after the change is made.

3. *Section 50.55(e)* currently states, in part, that holders of construction permits for nuclear power plants must notify the Commission within 24 hours of each deficiency found in design and construction, which, were it to have remained uncorrected, could have affected adversely the safety of operations of the nuclear power plant at any time throughout the expected lifetime of the plant. The licensee must then follow up this notification with a written report within 30 days. The petitioner requests that the 24-hour notification requirement be eliminated. In the alternative, the petitioner requests that initial notification of a reportable deficiency be permitted for a period of up to five days following discovery of the deficiency.

In support of this requested amendment, the petitioner states, in part, that the 24-hour notification provision does not allow licensees sufficient time to obtain and analyze available data to the extent necessary to determine if a particular problem is, in fact, a reportable deficiency. The petitioner further states that the 24-hour notification provision is unnecessary because ample notification and explanation of a reportable deficiency are provided by means of the existing 30-day written reporting requirement in § 50.55(e)(3).

The petitioner requests that § 50.55(e) be amended as follows:

§ 50.55 Conditions of construction permits.

* * * * *

(e) * * * [Paragraph (e)(2) is deleted and the world *"also"* is deleted from the first sentence of paragraph (e)(3)]

[or, in the alternative:]

* * * * *

(e)(2) The holder of a construction permit shall notify the appropriate Nuclear Regulatory Commission *Inspection and Enforcement* Regional Office of each reportable deficiency *with five days of its discovery.*

4. *Section 50.59*—Section 50.59(a) states, in part, that power reactor licensees are authorized, without prior Commission approval, to: (1) make changes in the facility as described in the safety analysis report, (2) make changes in procedures as described in the safety analysis report, and (3) conduct tests or experiments not described in the safety analysis report, unless the proposed change, test, or experiment involves a change in the technical specifications incorporated in the license or an unreviewed safety question. Section 50.59(b) requires, in part, that licensees submit a report containing a brief description of the changes, tests, and experiments covered under § 50.59(a) to the appropriate NRC Regional Office either annually or at such shorter intervals as may be specified in the license. The petitioner requests: (1) that reports submitted to the Commission under § 50.59(b) which apply to changes in the facility or in procedures described in the SAR (except for those describing tests and experiments) be submitted under the provisions of § 50.71 and be considered to satisfy the requirements of § 50.59(b) (Section 50.71(e) requires, in part, that licensees periodically update the Final Safety Analysis Report (FSAR)—Revisions to the FSAR must reflect all changes made in the facility or procedures as described in the FSAR; all safety evaluations performed by the licensee either in support of requested license amendments or in support of conclusions that changes did not involve an unreviewed safety question; and all analyses of new safety issues performed by or on behalf of the license at Commission request); (2) that reports required under § 5059(b) be submitted on an annual basis [§ 50.59(b) currently requires that licensees furnish reports of changes, tests, and experiments annually or at such shorter intervals as may be specified in the license); and (3) that § 50.59(b) be amended to specify the same annual deadline for submittal of FSAR revisions as is specified in § 50.71.

In support of these requested amendments, the petitioner states, in part, that to the extent that the reporting requirement of § 50.59(b) applies to changes in the facility or in procedures described in the FSAR, it overlaps with the reporting requirements in § 50.71(e), and filing similar reports under both sections is an unnecessarily burdensome and duplicative procedure. In addition, the petitioner states that the submittal of the actual required information itself in compliance with § 50.71 should be deemed to satisfy the requirement of § 50.59(b) for ". . . a report containing a brief description of such changes." The petitioner further states that submittal of the actual FSAR revisions instead of having to prepare a summary of such changes for submittal would decrease the burden on licensees with no attendant adverse effect upon the safety operation of a plant.

The petitioner requests that § 50.59(b) be amended as follows:

§ 50.59 Changes, tests and experiments.

* * * * *

(b) The licensee shall maintain records of changes in the facility and of changes in procedures made pursuant to this section, to the extent that such changes constitute changes in the facility as described in the safety analysis report or constitute changes in procedures as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question.

The licensee shall also furnish *reports containing a brief description of such changes, tests and experiments, including a summary of the safety evaluation of each, to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter with a copy to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.*

In order to eliminate the submittal of duplicate reports, to the extent that this reporting requirement applies to changes in the facility or in procedures, it is satisfied by the submittal by the licensee of a copy of the most recent FSAR revisions, prepared pursuant to § 50.71(e), which reflect changes made in the facility or in procedures, including a summary of each safety evaluation prepared. Such FSAR revisions shall be furnished annually, and shall be scheduled for submittal following, or concurrent with, the licensee's submittal of updated information under § 50.71. Reports describing tests and experiments shall be submitted annually or at such shorter intervals as may be specified in the license.

Any report submitted by a licensee pursuant to this paragraph will be made a part of the public record of the licensing proceeding. In addition to a signed original, 39 copies of each report of changes in a facility of the type described in § 50.21(b) or § 50.22 or a testing facility, and 12 copies of each report of changes in any other facility, shall be filed.

The records reflecting changes in the facility shall be maintained until the date of termination of the license, and records reflecting changes in procedures and records of tests and experiments shall be maintained for a period of five years.

5. *Appendix E, 10 CFR Part 50, Section V* (Implementing Procedures) states, in part, that licensees authorized to operate nuclear power facilities must submit to the Commission changes to the emergency plan or procedures within 30 days of making the changes. The petitioner requests that this requirement be changed to provide that the changes be reported annually. The petitioner also requests that the Commission revise Section V in Appendix E to specify that a criterion for reporting (a "threshold of significance") must be satisfied before a report by licensees would be required and that the revised requirement provide that licensees make the threshold determination for reporting in a manner similar to tha' currently

specified in § 50.54(p) (for determining whether changes may be made in a security plan without prior NRC approval). The petitioner states that if this type of standard were used, procedural changes in the emergency plan would not be reportable if the licensee determined that: 1) the procedural changes did not decrease the effectiveness of the plans, and 2) the plans continued to satisfy the standards of § 50.47(b) and Appendix E.

In support of these requested amendments, the petitioner states, in part, that the procedural changes submitted to the Commission by licensees in response to this reporting requirement rarely reflect substantive modifications to the emergency plan and therefore the reporting requirement constitutes a substantial paperwork burden for licensees which is not justified by any tangible safety benefit. The petitioner further states that the time that would be saved by licensees if its proposed revision were adopted could be devoted to ensuring compliance with other requirements which more directly affect public health and safety.

The petitioner requests that Section V of Appendix E to 10 CFR Part 50 be amended as follows:

Appendix E

Emergency Planning and Preparedness for Production and Utilization Facilities

* * * * *

v. Implementing Procedures

No less than 180 days prior to the scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material, one copy of the applicant's detailed implementing procedures for its emergency plan shall be submitted to the Administrator of the appropriate NRC Regional Office, specified in Appendix D of Part 20 of this chapter and two copies are to be sent to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Licensees who are authorized to operate a nuclear power facility shall *annually* submit one copy of any changes to their emergency plan or procedures to the Administrator of the appropriate NRC Regional Office, specified in Appendix D, 10 CFR Part 20, and two copies to the Document Control Desk, *unless the licensee determines that such changes do not decrease the effectiveness of the emergency plan and that the plan continues to satisfy the standards set forth in § 50.47(b) and this Appendix E.*

6. *Section 73.71* of NRC regulations requires that licensees notify the NRC Operations Center within one hour of: (1) The details and results of any trace investigation conducted because a shipment of strategic special nuclear material is lost or unaccounted for (§ 73.71(a)); (2) any incident in which an attempt has been made, or is believed to have been made, to commit a theft or unlawful diversion of special nuclear material, or to commit an act of radiological sabotage against the licensee's plant or its transportation system (§ 73.71(b)); or (3) any event which significantly threatens or lessens the effectiveness of a physical security system (§ 73.71(c)). Section 73.71 further requires that licensees follow up their oral communications to the Commission with written reports on the details of the incidents. These reports must be submitted within 15 days in the case of events reported under § 73.71(a) or (b), and within 5 days in the case of events reported under § 73.71(c). The petitioner requests that the time period for submission of written reports be extended to 30 days.

In support of this requested amendment, the petitioner states that the existing 15-day time period is unnecessarily short, since in some instances the licensee may not have fully resolved the problem within this brief time period. The petitioner further states that licensees would naturally prefer to leave their employees free to resolve the problem, and even assuming that the situation is resolved during the existing 15-day time period, the licensee's staff will likely be unusually busy throughout the 15-day period as it attempts to deal with an unexpected occurrence of this nature in addition to its routine duties.

The petitioner requests that § 73.71 be amended as follows:

§ 73.71 Reports of unaccounted for shipments, suspected thefts, unlawful diversion, radiological sabotage, or events which significantly threaten or lessen the effectiveness of safeguards.

(a) * * * The licensee shall also file within a period of *thirty (30) days* a written report to the appropriate NRC Regional Office setting forth the details and results of the trace investigation. A copy of this written report must be sent to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(b) * * * The initial notification must be followed within a period of *thirty (30) days* by a written report, submitted to the appropriate NRC Regional Office shown in Appendix A of this part setting forth the details of the incident. Copies of the written report are to be sent to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. After the submission of the written report required by this paragraph, a licensee shall immediately inform the appropriate Regional Office by means of a written report of any substantive additional information which becomes available to the licensee concerning the incident.

(c) * * * The licensee shall submit a written report to the appropriate NRC Regional Office, listed in Appendix A of this part, describing the event in detail within *thirty (30) days* of the time of discovery. A copy of this written report must be sent to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. This notification and these reports satisfy both the notification requirements of Part 21 of this chapter, if the event is also reportable under Part 21, and § 50.72(a)(4) of this chapter, if applicable. A separate log must be maintained to record events reportable under § 73.71. Licensees need not report any event which is designated as not reportable in their security or contingency plans.

The petitioner requests additional relief from existing reporting requirements as described below.

7. *Section 50.72(a)* requires nuclear power plant licensees to notify the NRC Operations Center within an hour of the occurrence of specified events. The petitioner states that certain of the events covered, particularly those addressed in § 50.72(a)(2) and § 50.72(a)(5), also trigger similar reporting requirements contained in the technical specifications incorporated in the license. The petitioner requests that, to the extent that the reporting requirements in license technical specifications duplicate the reporting requirements of § 50.72(a), the plant technical specifications should be amended to eliminate duplicate requirements.

In support of this request, the petitioner states that greater assurance of safe operation will not be achieved by the imposition of license technical specification reporting requirements which parallel reporting requirements in NRC regulations.

8. *NUREG–0123.* The petitioner states that, as noted above, nuclear power plant licensees must comply not only with reporting requirements contained in NRC regulations, but also with reporting provisions set forth in technical specifications incorporated in their licenses. These reporting provisions typically appear in section 6.9 of a licensee's technical specifications and are based upon model technical specifications contained in NUREGs–0103, 0123, 0212, and 0452. The petitioner further states that licensees must respond to certain types of reportable occurrences listed in section 6.9.1.8 of NUREG–0123 by: (1) Notifying the NRC within 24 hours; (2) confirming the occurrence by telegraph, mailgram or facsimile transmission on the first working day following the event; and (3) submitting a written followup report within 14 days. The

written report is to include, at a minimum, a complete copy of a licensee event report form, which must be supplemented, as needed, by additional narrative material to provide a complete explanation of the circumstances surrounding the event. The petitioner requests that the requirement for filing a written followup report within 14 days be changed to provide that licensees may submit the report in response to this NUREG–0123 provision (and to any similar provision in NUREG–0103, NUREG–0212, and NUREG–0452) within 30 days.

In support of this request, the petitioner states that the schedule for filing a written followup report under the NUREG–0123 provision, like that imposed for similar written reports under 10 CFR 73.71, is unnecessarily short. The petitioner further states that NRC is kept continuously informed of any developments in the situation; thus, requiring preparation of the written followup report during a time when the licensee's staff will be unusually busy dealing with the problem itself, is not justified by any convenience which it may afford the NRC staff.

The petitioner requests that section 6.9.1.8 of NUREG–0123 be revised to read as follows:

6.9.1.8. The types of events listed below shall be reported within 24 hours by telephone and confirmed by telegraph, mailgram or facsimile transmission to the Director of the Regional Office or his designate no later than the first working day following the event, with a written followup report within *30 days*. The written followup report shall include, as a minimum, a completed copy of a licensee event report form. Information provided on the licensee event report form shall be supplemented, as needed, by additional narrative material to provide complete explanation of the circumstances surrounding the event.

The petitioner also requests that similar changes be made to the other NUREGs mentioned above, if necessary.

In support of all the requested amendments and revisions described above, the petitioner states the following:

The reporting requirements discussed in this petition constitute clear examples of what NRC Chairman Palladino has characterized as excessive and ill-coordinated demands on licensee resources. Modification of these (and, perhaps, other) excessive and/or redundant requirements as proposed herein is clearly warranted in order to promote efficient NRC regulations, reduce unnecessary regulatory burdens on power plant licensees and, thus, facilitate more productive use of licensee time. By eliminating non-essential paperwork (or allowing a more reasonable schedule for its completion), these changes would promote public health and safety by allowing licensees more time to devote to substantive safety concerns. Adoption of the amendments we have proposed would also reinforce Chairman Palladino's announced intention to reduce NRC requirements to manageable proportions by setting priorities based on demonstrable safety significance and by identifying requirements which can be deferred or dropped entirely. Moreover, the implementation of these changes is clearly consistent with the Commission's responsibilities under the Paperwork Reduction Act, 44 U.S.C. 3501 (1980).

In the petition (which consists of a 26-page brief), the petitioner provides additional justification and support for the requested amendments not included in this **Federal Register** notice. Members of the public interested in filing comments on PRM–50–36 are urged to obtain a copy of the petition by writing to the address noted above.

Dated at Washington, D.C., this 14th day of June, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-16584 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R–0473]

Equal Credit Opportunity; Notice of Intent To Review Regulation; Request for Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent.

SUMMARY: The Board is undertaking a review of Regulation B, Equal Credit Opportunity, pursuant to the Board's policy of reviewing all of its regulations every five years. The Board plans to review Regulation B to consider whether the regulation can be simplified or clarified to carry out more effectively the purposes of the Equal Credit Opportunity Act without diminishing the consumer protections contained in the Act and Regulation B. In order to gather information needed for tis review and to ensure the participation of interested parties at the beginning of the review, the Board is soliciting comment on the issues identified below as well as on any other issues of concern to commenters. The Board contemplates publishing any specific proposed revisions to the regulation later in the year.

DATE: Comments must be received by August 30, 1983.

ADDRESS: Comments may be mailed to William W. Wiles, Secretry, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R–0473.

FOR FURTHER INFORMATION CONTACT: Lucy Griffin or John Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: In its policy statement regarding expanded rulemaking procedures, adopted in January 1979 (44 FR 3957), the Board of Governors of the Federal Reserve System committed to review its existing regulations at least once every five years. Under that policy, the Board is now undertaking a review of Regulation B (12 CFR Part 202), its regulation implementing the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*).

Although the Board expects to review the regulation thoroughly, it is contemplated that the principal purpose of revisions, if any, will be to update the regulation. The Equal Credit Opportunity Act has not been amended. Therefore, the Board does not expect extensive changes similar to the revisions of Regulations Z (Truth in Lending) and C (Home Mortgage Disclosure), which were totally revised to implement substantial statutory amendments.

The Board is seeking public comment generally on ways in which burdens imposed by the regulation can be eased without removing the protections against discrimination, and on whether the regulation's guidance to creditors on how to comply with the act can be simplified. In addition, the Board also seeks comment on whether the regulation should be modified to identify and prohibit discriminatory practice more effectively.

Board staff has already begun an in-depth review of the regulation its operation, and relevant material. Comment is requested on any issues which commenters believe are worthy of review. In the initial phases of this review, staff has identified the following technical issues on which public comment would be helpful:

(1) *Sample notice form.* Regulation B contains a sample form for use in providing reasons for adverse action and states that the sample form, if

properly completed, satisfies the adverse action notification requirement (Section 202.9(b)(2)). Information available to the Board indicates that there has been confusion and resulting misuse of the sample form for providing reasons for adverse action. Should changes be made to the sample notice? Should the regulation contain more than one sample notice? What reasons for adverse action should be added or deleted?

(2) *Credit history information.* Prior to the Equal Credit Opportunity Act, many women had no credit history as creditors routinely reported the history of joint accounts in the husband's name only. As a result, when women sought credit in their own name, they were often turned down because there was no history reported in their name. Regulation B currently requires creditors to consider information offered by the applicant pertaining to credit history shared with a spouse, but does not specify whether or not creditors may require that the information offered by the applicant be in a certain form or from a source acceptable to or chosen by the creditor (Section 202.6(b)(6)).Does the regulation sufficently protect the applicant who must verify or establish a credit history, or should the regulation be revised to more specifically identify under what circumstances and to what extent information offered by the applicant should be considered by the creditor?

(3) *Adverse action notices.* The regulation defines completed applications (Section 202.2(f)) and requires creditors to make a reasonable effort to notify an applicant if an application is incomplete and allow the applicant a reasonable opportunity to complete the application. The regulation requires creditors to notify applicants within 30 days of taking adverse action on an incomplete application (Section 202.9(a)(1)(ii). The regulation excuses the creditor from providing this notice if the application is deemed withdrawn but restricts this exception to one situation—when the parties contemplate that the applicant will inquire about the application's status and the applicant fails to do so (Section 202.9(d)). Should the regulation include other circumstances in which an application can be treated as withdrawn for purposes of determining whether an adverse action notice must be sent to the applicant?

(4) *Open-end credit reapplications.* To protect the rights of account holders upon divorce or the death of a spouse, Regulation B generally prohibits creditors from taking adverse action on an open-end account because of a change in marital status. Creditors are permitted to require a reapplication on an open-end account on the basis of a change of marital status where the credit granted was based on the spouse's income and the applicant's income alone was unable to support the current amount of credit extended (Section 202.7(c)(2)). Are account holders able to maintain their accounts after a change in marital status? Does the creditor's reconsideration usually result in denial? Should the regulation provide procedures for creditors to follow when requiring a reapplication on an open-end credit account under § 202.7(c)(2)?

(5) *Authorized user of open-end credit.* For open-end credit, the regulation distinguishes between account holders who are contractually liable and those who are merely authorized users. (See, for example, §§ 202.7 and 202.10.) The regulation defines contractually liable (Section 202.2(i)), but does not define authorized user. Contractually liable account holders are protected against reapplication requirements, change in terms, or termination of the account on the basis of age, retirement, or a change in marital status whereas authorized users are not (Section 202.7(c)). Should the regulation maintain the distinction between account holders who are contractually liable and those who are authorized users? Should the regulation define authorized user, of should the definition of contractually liable be revised? Are these concepts properly applied in § 202.7(c)?

The Board will review the issues and information offered by commenters responding to this request, and conduct its own research on legal, economic, operational and other issues and data as they relate to Regulation B. Based on this analysis, the Board contemplates that it will identify and publish for public comment any proposed changes to Regulation B later in the year.

List of Subjects in 12 CFR Part 202

Banks, banking, Civil rights, Credit, Federal Reserve System, Marital status discrimination, Penalties, Religious discrimination, Sex discrimination.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16488 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 225

[Docket No. R-0470]

Bank Holding Companies and Change in Bank Control; Proposed Revision of Regulation Y

Correction

In FR 83-13821, beginning on page 23520 in the issue of Wednesday, May 25, 1983, make the following correction.

On page 23524, the third column, first complete paragraph, last line, "223.103" should read "225.103".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Permanent State Regulatory Program of Pennsylvania

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Pennsylvania to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Pennsylvania State Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of a set of modifications to Pennsylvania's surface and underground coal mining permit application reqirements and is intended to satisfy conditions (a) and (c) of the Secretary's approval. This document sets forth the times and locations that the Pennsylvania program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

DATE: Written comments relating to Pennsylvania's proposed modification of its program not received on or before 4:00 p.m. on July 21, 1983, will not necessarily be considered.

If requested, a public hearing will be held on July 18, 1983, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand-delivered to: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101.

If a public hearing is held, its location will be at: The Penn Harris Gator Inn and Convention Center at the Camp Hill bypass at U.S. 11 and 15, Camp Hill, Pennsylvania at the Keystone-A Convention Room.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101; Telephone (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Pennsylvania program, the proposed amendment, and a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

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

Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101

Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business four working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons acheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Pennsylvania State Program

Information pertinent to the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and explanations of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** (47 FR 33050).

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior disapproved the program. The State resubmitted its program on January 25, 1982, and, subsequently the Secretary approved the program conditioned on the correction of minor deficiencies.

At the time of the Secretary's conditional approval, Pennsylvania agreed to meet ten minor conditions, many of which contained several parts.

IV. Submission of Material To Satisfy Conditions

In accepting the Secretary's approval, Pennsylvania agreed to correct deficiencies (a) and (c) by May 1, 1983. In the **Federal Register** dated May 25, 1983, the Secretary extended the time until November 1, 1983, to correct deficiency (a)(1). On April 26, 1983, OSM received a set of documents from the Commonwealth intended to meet conditions (a)(2), (c)(1), (c)(2) and (c)(3). See PA-403. In a letter dated May 12, 1983, from the Commonwealth, OSM received documents intended to meet condition (a)(1). See PA-410. These documents provide additional permit application requirements intended to satisfy these specific conditions.

Condition (a)(1) requires Pennsylvania to require that a permit application for coal refuse operations contain a description of archeological sites within adjacent areas of a permit area which is no less effective than 30 CFR 779.12 and in accordance with Section 507(b)(13) of SMCRA.

In the material submitted dated May 12, 1983, Pennsylvania claims to satisfy condition (a)(1) by (1) entering into a Memorandum of Understanding with the Pennsylvania Museum and Historical Commission to review and comment on all new permit applications and (2) requiring identification of cultural and historic resources, known archeological sites and certain Federal and State sites that have cultural or aesthetic significance.

Condition (a)(2) requires Pennsylvania to amend its program to require that a permit application for anthracite mining operations contain a description of the historic land use if the premining use of the land has changed within five years preceding mining which is no less effective than 30 CFR 779.22(a)(1) and in accordance with Section 508(a)(2)(A) of SMCRA.

In the documents submitted April 26, 1983, the State has incorporated in its "Anthracite Surface Mine Permit Application" the requirement that the applicant identify the present uses of each land area within the permit area and if the use of the land has changed

within the last five years to identify the use of the land prior to the change. Additionally, the Bureau of Water Quality Management Anthracite Underground Mine and Coal Preparation Plant Permit applications submitted by Pennsylvania on April 26, 1983, require a description of the existing land uses and if the premining use of the land was changed within five years before the anticipated date of beginning the proposed operation, the historic use of the land must also be described.

Condition (c)(1) requires Pennsylvania to amend its program to require that the permit application for anthracite underground mining operations contains maps delineating all boundaries of lands and names of present owners of record of those lands both surface and subsurface, included in or contiguous to the proposed permit area which are no less effective than 30 CFR 783.24(a) and in accordance with Section 507(b)(2) of SMCRA.

The State submitted on April 26, 1983, a manual to assist in the preparation of permit applications for Anthracite Underground Coal Mines and Coal Preparation Plants. The manual establishes certain administrative requirements that include: (1) A list of the name and address of every legal or equitable owner of record of the land areas to be affected by the surface operations and facilities, (2) a list of the name(s) and address(es) of any holder(s) of record or any lease-hold interest in the areas to be affected by the surface operations and facilities, (3) a list of the name(s) and address(es) of any purchaser(s) of record under a real estate contract of the area to be affected by surface operations and facilities, (4) a list of the name(s) and address(es) of the owner(s) of record of all surface areas contiguous to any part of the permit area, and (5) a list of all lands contiguous to the area for which it is anticipated that individual or amended permits for mining will be sought as a result of interest in lands, options, or pending bids on interest held or made by the applicant. Additionally, the manual requires that a mine development or site map be submitted delineating the property lines and names of the present owners of record of surface and subsurface lands (for the specific coal seam to be mined) within or contiguous to the permit area.

Condition (c)(2) requires Pennsylvania to amend its program to require that the permit application for bituminous underground mining operations contain maps identifying the location of certain surface features for the entire permit area which are no less effective than 30 CFR 783.24, 783.25 and in accordance with Sections 507(b) (13) and (14) of SMCRA.

Pennsylvania submitted on April 26, 1983, a manual to assist in the preparation of permit applications for bituminous underground coal mines. The manual requires 20 specific features that are to be delineated on the map. Included in these 20 features are requirements intended to satisfy condition (c)(2) by amending the permit application requirements to require maps that depict the location of surface features such as buildings, roads, surface water bodies, etc., for the entire permit area.

Condition (c)(3) requires Pennsylvania to amend its program to require that the permit application for both anthracite and bituminous underground mining operations contain maps showing the location of all buildings in and within 1,000 feet of the proposed permit area together with identification of the current use of such buildings which are no less effective than 30 CFR 783.24(d) and in accordance with Sections 507(b)(3) and 522(e)(5) of SMCRA.

Pennsylvania submitted on April 26, 1983, a manual to assist in the preparation of permit applications for bituminous underground coal mines and instructions for Anthracite Underground and Coal Preparation Plan Permit Applications that require the identification of all buildings in and within 1,000 feet of the proposed mine and permit area and the current use of the building to be delineated on the mine development or site map.

The Secretary seeks public comment on whether the material submitted satisfies the conditions listed above. If the program amendment is approved, conditions (a) and (c) in 30 CFR 938.11 will be removed.

Procedural Matters

1. *Compliance With the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subject in 30 CFR Part 938

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

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: June 16, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83-18449 Filed 6-20-83; 8:45 am]

BILLING CODE 4301-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2336-3]

Approval and Promulgation of Implementation Plans; Sacramento County Air Pollution Control District; Air Pollution Control Regulations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Sacramento County Air Pollution Control District (SCAPCD) adopted a New Source Review Rule on August 17, 1982. The Rule contains provisions comparable to EPA's requirements for both New Source Review (NSR) and Prevention of Significant Deterioration (PSD). It regulates construction and operation of new and modified major sources of both nonattainment and attainment pollutants. Sacramento County adopted the Rule to satisfy conditions on the approval of its previous NSR Rule and to obtain authority from EPA to issue permits for PSD. This Rule was submitted to EPA as a State Implementation Plan (SIP) revision on February 17, 1983. In this notice EPA is proposing to approve the Rule, with minor exceptions, if the SCAPCD makes

revisions necessary to fully meet EPA's requirements.

DATES: Comments may be submitted up to July 21, 1983.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air Management Division, Air Operations Branch, New Source Section, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the revisions and EPA's Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

California State Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814.

Sacramento County Air Pollution Control District, 3701 Branch Center Road, Sacramento, CA 95827.

FOR FURTHER INFORMATION CONTACT: Willard Chin/Mark Brucker, New Source Section, Air Operations Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-7920/974-8249.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1982 (47 FR 28617), EPA approved the Nonattainment Area Plan and NSR Rule for Sacramento County, subject to certain conditions. In part, the approval was made contingent on revision of the NSR Rule to satisfy EPA's regulations of August 7, 1980 (40 CFR 51.18).

The Sacramento Rule under consideration (adopted August 17, 1982) is intended to satisfy the NSR condition imposed by EPA in 1982 and also to secure full authority from EPA for issuing PSD permits. The Rule follows closely the NSR/PSD Rule developed by the California Air Pollution Control Officers' Association (CAPCOA) and the California Air Resources Board. It combines NSR and PSD in a single review program and includes specific procedures to plan and regulate sources in areas where clean air is particularly important.

EPA requires NSR Rules for pollutants for which an area is designated nonattainment. PSD rules apply to pollutants for which an area is designated attainment or unclassifiable. Sacramento County is designated attainment by EPA for sulfur dioxide and nitrogen oxides. The whole County is designated nonattainment for ozone and particulates; its urban area is designated nonattainment for carbon monoxide.

NSR—Part D of the Clean Air Act (Sections 171 to 173) and 40 CFR 51.18 define the requirements for NSR programs, which apply to nonattainment pollutants. The most important requirements are that local NSR rules and programs require applicants for new sources or modifications to: a) meet the Lowest Achievable Emission Rate, b) provide reductions at least equal to the emission increase and consistent with RFP, and c) certify that all sources they own in the State comply with all air pollution control requirements. Where growth allowances are provided offsets may not be needed. The Sacramento County APCD currently administers the NSR program under its conditionally approved Rule.

PSD—Part C of the Clean Air Act (Sections 160 to 169) contains requirements for PSD in areas which are designated either attainment or unclassified for the criteria (Section 109) pollutants. The PSD requirements apply to these attainment pollutants and also regulate the non-criteria pollutants regulated under Sections 111 and 112 of the Act.

EPA also has regulations for PSD, which elaborate on certain requirements. They are found in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality." EPA is currently administering the PSD program in Sacramento County under the federal regulation 40 CFR 52.21. When PSD regulations for the SCAPCD are approved, the SCAPCD will assume authority from EPA.

The primary requirements for a PSD program include: (1) The application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) requiring applicants to demonstrate that the increased emissions in the area affected by the new or modified source will not violate any National Ambient Air Quality Standard (NAAQS) or the applicable air quality increments; and (3) requiring protection of Class I areas, where less air quality deterioration is allowed.

Description of Regulations

In response to the NSR and PSD requirements, the District adopted revisions to their air quality regulations on August 17, 1982. These revisions were submitted to EPA by the Governor's designee as official SIP revisions on November 8, 1982.

The new Rule 56 adopted by the District supersedes and entirely replaces the old rule. It includes the following specific sections: Section 100—General: 101–106; Section 200—Definitions: 201–225; Section 300—Standards: 301–311; and Section 400—Administrative Requirements: 401–415.

EPA's evaluation of the Rule considers the acceptability of the District's entire set of PSD and NSR regulations.

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for an NSR and PSD permitting program. EPA believes that, with the exception of the items described below and in the Evaluation Report, the SCAPCD's Rule satisfies EPA's requirements. SCAPCD regulations will: (1) Require preconstruction review of the sources which would be subject to the federal guidelines; (2) require BACT, and air quality protection in a manner consistent with EPA's PSD requirements (40 CFR 51.24); and (3) require certification of statewide compliance, application of LAER, and offsets in a manner consistent with EPA's NSR requirements (40 CFR 51.18). The SCAPCD regulations also contain adequate guidelines and procedures for the administration and enforcement of the NSR and PSD programs.

EPA reviewed the Rule and found several deviations from EPA requirements and some areas of possible deviation. Specifically, EPA found 18 issues and, in addition, 11 cases where minor wording changes were required. These wording changes have already been made as standard changes to the CAPCOA Rule, and the District has agreed to adopt them as well. For 12 of the 18 identified issues, the SCAPCD has agreed to eliminate the discrepancies. The remaining 6 issues to be resolved are: shutdown credits, transportation offsets, increment consumption analysis, alternative models, Class I protection, and cogeneration exemptions.

The specific problems are that:

(1) The Rule fails to conform to EPA's restrictions on use of credits from shutdowns and production curtailments.

(2) The Rule allows credit for transportation offsets without specifying how such reductions will be distinguished from reductions already needed to attain standards. The District has agreed not to use this provision until procedures are developed to prevent double-counting.

(3) The District does not have an approved method of analyzing increment consumption. A proposed method, developed by the California Air Resources Board, may meet this requirement after technical and procedural problems are corrected.

(4) State law requires the District to permit cogeneration and resource recovery sources even if they would cause increment violations. EPA will resolve this problem.

(5) The Rule would allow the District to use air quality models other than those already approved by EPA without EPA approval.

(6) The Rule does not provide special protection of Class I areas as EPA requires.

Items 1, 5 and 6 have not as yet been resolved.

EPA's Evaluation Report explains in more detail these issues and those that have already been resolved. This Report is available at the locations listed in the ADDRESSES section of this Notice. Many of those issues are very complex and difficult to summarize. The subject areas addressed are the following: Applicability, cogeneration sources, minor source coverage, source definition, impact assessment, netting enforceability, emission calculations, reconstructions, emission baseline, monitoring, "additional impacts," public notice and offset enforceability.

Two of the 12 resolved issues warrant some discussion here:

(1) EPA's regulations stipulate that the local Rules must require applicants to submit sufficient application information to allow a full permit review. Rule 56 does not do so. However, EPA found that Rules 53, 54 and 55, which EPA has already approved, satisfy this requirement.

(2) The Impact Table contained in Section 415 of the Sacramento Rule may indicate ambient concentrations that are lower than those projected by EPA approved air quality modeling techniques. This could cause the Sacramento Rule to be less stringent than the Federal Requirements. However, the District has agreed to satisfy EPA's concerns by prohibiting the use of the Impact Table under any of the following conditions: (1) Complex terrain areas, (2) sources with volume flow of less than 10 m^3/second, (3) stack gas temperature less than 360° K, or (4) sources with a stack height of more than 100 meters.

Proposed Action

EPA proposes to approve under Section 110 and Part C, Subpart 1, and Part D of the Clean Air Act, the SCAPCD rules which were submitted on November 9, 1982, with certain limitations. The problems described in the Evaluation Report will have to be remedied before EPA can approve the Rule. EPA expects that the District will: (1) Adopt the 11 CAPCOA wording changes; (2) adopt the agreed upon revisions to deal with 12 of the 18 issues; and (3) work with EPA to resolve the remaining 6 issues outlined above. Based on these expectations, EPA proposes to approve the Rule with two exceptions. These address the two problems which the Distict may not resolve. First, EPA proposes to remedy one of the inadequacies by retaining permitting authority for cogeneration and resource recovery sources which would cause increment violations and which are major under EPA's PSD regulations. EPA is proposing this action because the District has no authority to override the State law, which creates the problem outlined above. Second, if the District has not developed adequate procedures to prevent double-counting of transportation offsets, EPA proposes to exclude that Section from the approval.

If all the problems are corrected, EPA proposes to rescind 40 CFR 52.270 for Sacramento County except for coverage of some cogeneration and resource recovery sources. According to 40 CFR 52.270, EPA has the authority to regulate and permit PSD sources in Sacramento County. This rescission grants the SCAPCD that authority.

EPA proposes also to rescind 40 CFR 52.232(a)(11)(i)(A) if all the problems outlined here are resolved so that the Rule submitted is approvable. Once these problems are resolved, the SCAPCD will have satisfied the previous condition.

I certify that this action will not have a significant economic impact on a substantial number of small entities.

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response are available for public inspection at the location listed in the Addresses section of this notice.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 129, 160 to 169, 171 to 173, and 301(a) of the Clean Air Act as amended; 42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503 and 7601(a))

Dated: March 18, 1983.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-16551 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL 2345-2]

Approval and Promulgation of Implementation Plans; North Coast Air Basin Air Pollution Control Regulations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Part C, Subpart 1, of the Clean Air Act requires each State Implementation Plan (SIP) to include a program for pre-construction review of new and modified major stationary sources in attainment areas. The three jurisdictions in the North Coast Air Basin (NCAB) adopted Prevention of Significant Deterioration (PSD) regulations to satisfy these requirements in late 1981 and early 1982. These regulations were officially submitted as a SIP revision on August 6, 1982. In this notice, EPA is proposing to approve these revised regulations.

The EPA invites public comments on whether these regulations should be approved, disapproved, or conditionally approved, especially with respect to the requirements of Subpart 1 of Part C and Section 110 of the Clean Air Act.

DATES: Comments may be submitted on or before July 21, 1983.

ADDRESSES: Regional Administrator, Attn: Air Management Division, Air Operations Branch, New Source Section, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Rules and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

California State Air Resources Board, Public Information Office, 1102 Q Street, Sacramento, CA 95814;

North Coast Unified Air Pollution Control District, 5600 S. Broadway, Eureka, CA 95501;

Mendocino County Air Pollution Control District, Courthouse, Ukiah, CA 95482;

Northern Sonoma County Air Pollution Control District, 134 A North St., Healdsburg, CA 95448.

FOR FURTHER INFORMATION CONTACT: Mark C. Brucker, New Source Section, Air Operations Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-8249.

SUPPLEMENTARY INFORMATION:

Background

PSD—Subpart 1 of Part C (Sections 160 to 169) of the Clean Air Act contains requirements for PSD in areas which are designated either attainment or unclassified for any of the criteria (Section 109) pollutants. The PSD requirements apply to these attainment pollutants and also regulate the non-criteria pollutants covered under Sections 111 and 112 of the Act. The entire North Coast is designated either attainment or unclassified for all criteria pollutants. The Basin includes the North Coast Unified Air Pollution Control District (NCUAPCD), which covers Humboldt, Del Norte and Trinity Counties and the separate Districts in Mendocino County and Northern Sonoma County.

EPA's detailed regulations for PSD programs are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality." Presently, EPA is Administering the PSD program in the NCAB under the federal PSD permitting regulation, 40 CFR 52.21. When PSD regulations for the North Coast are approved, the federal regulation 40 CFR 52.21 will be rescinded as applicable for the NCAB, with the exception noted below and the PSD program will be administered by the local Districts.

To be approved by EPA a PSD program must require: (1) The application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) demonstration by the applicant that the increased emissions in the area affected by the new or modified source will not violate any National Ambient Air Quality Standard (NAAQS) or the applicable air quality increments; and (3) protection of any Class I areas, where less air quality deterioration is allowed.

Description of Regulations

The North Coast APCD's adopted revisions to their air quality Regulation I to meet PSD requirements on the following dates: North Coast Unified—December 8, 1981; Mendocino—January 5, 1982; and Northern Sonoma—February 23 and June 15, 1982. Most of the rule sections covered by this notice have previously been submitted to and approved by EPA, but as general permit rules, not PSD rules. The rules EPA is proposing to act on now as PSD rules include revisions, additions and deletions to the rules previously approved as general permit rules. The PSD rules from these counties are identical to each other except for a few additional items in the Northern Sonoma Rules.

The Rules were submitted to EPA by the Governor's designee as SIP revisions on August 6, 1982.

The following specific Rules in Regulation I are addressed by this notice:

Rule 130—Definitions
Chapter II—Permits
Rule 200—Permit Requirements
Rule 210—Environmental Assessment
Rule 220—New Source Review Standards (Including PSD Evaluations)
Rule 230—Action on Applications
Rule 260—Exclusions (Northern Sonoma only)

Evaluation

EPA has evaluated the regulations listed above to determine whether they satisfy all of the criteria for a PSD permitting program. EPA believes that, with the exception of the items described below and in the Evaluation Report, the North Coast Rules satisfy EPA's requirements. The Rules will: (1) Require preconstruction review of the sources which would be subject to the federal guidelines; and (2) require BACT and air quality protection in a manner consistent with EPA's PSD requirements (40 CFR 51.24). The Rules also contain adequate guidelines and procedures for the administration and enforcement of the PSD program.

EPA's review of the rule did identify some deviations from EPA requirements and several areas of ambiguity. There are problems with emission calculations, Class I notification, public notice requirements and coverage of cogeneration sources. There are also minor questions and clarifications needed with regard to the source definition, stack heights and division of responsibility between EPA and the Districts.

The problems are as follows:

(1) There are several areas where the emission calculation procedures seem to conflict with EPA requirements or are unclear. They do not clearly require limitations and emission reductions to be federally enforceable and there is uncertainty about how emission baselines are set.

To be approvable, the Districts must clearly require that (a) controls and operational limits considered in calculating potential emissions, and any reductions used in netting must be federally enforceable, and (b) actual emissions must be used for baselines whenever possible.

(2) EPA regulations require notification of either EPA or federal officials responsible for Class I areas when sources may affect these areas. These Rules must require the Districts to provide that notification.

(3) The provisions for public notice are incomplete. EPA requires that more information be made available to the public than these rules provide for and that the rules allow for a public hearing, if requested.

(4) State law, not these local rules, allows cogeneration sources which would violate air quality increments to be permitted.

A detailed discussion and evaluation of the North Coast Rules is contained in EPA's Evaluation Report (available at the locations listed in the **ADDRESSES** section of this notice).

Proposed Action

EPA proposes to approve the North Coast Rules submitted on August 6, 1982, if the problems decribed in the Evaluation Report are remedied or resolved. The Rules would be approved under both Section 110 and Subpart 1 of Part C (PSD) of the Clean Air Act. The one exception is that EPA proposes to retain permitting authority for cogeneration and resource recovery sources which are major under EPA's regulations and would cause increment violations. EPA proposes this action because the Districts do not have the authority to override the State law and are therefore unable to remedy the problem themselves.

If EPA approves the Rules it will also rescind 40 CFR 52.270 for the North Coast. 40 CFR 52.270 gives EPA authority to regulate and permit PSD sources in the North Coast. The rescission would eliminate EPA's authority while the approval of the North Coast's Rules would give the local Districts that authority. The one exception would be for cogeneration sources, as explained above.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response are available for public inspection at the locations listed in the Addressees section of this notice. Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 129, 160 to 169, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, and 7601(a))

Dated: March 31, 1983.

Sonia F. Crown,

Regional Administrator.

[FR Doc. 83-16550 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 764

[OPTS-62029; TSH-FRL 2345-7]

4,4'-Methylene Bis (2-Chloroaniline); Initiation of Regulatory Investigation

Correction

In FR Doc. 83-13813 beginning on page 22954 in the issue of Monday, May 23, 1983, make the following corrections:

1. On page 22955, the first column, the fourth complete paragraph, the fifth line, the word "polyurethan" should read "polyurethane".

2. On page 22956, the middle column, the first paragraph under "Public Record", the seventh line, the room number should read "E-107".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3900

Oil Shale Management; Reopening of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reopening of comment period on proposed rulemaking.

SUMMARY: The proposed rulemaking providing procedures for the management of Federally-Owned Oil Shale Resources was published in the **Federal Register** on February 11, 1983 (48 FR 6510), with a 60-day comment period ending on April 11, 1983, which was later extended to May 12, 1983. In response to requests that the comment period be again extended, notice is hereby given that the comment period is reopened for an additional 60-day period.

DATE: The comment period is reopened as of June 20, 1983. Comments should be submitted by August 22, 1983. Comments postmarked or received after the second date may not be considered in the decisionmaking process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Donald Brabson, (202) 343-3258

or

Robert C. Bruce, (202) 343-8735.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

June 15, 1983.

[FR Doc. 83-16525 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 63

[CC Docket No. 79-252]

Policy and Rules Concerning Rates for Competitive Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Third Further Notice of Proposed Rulemaking.

SUMMARY: In this Further Notice, the Commission's Common Carrier Bureau, by delegated authority, seeks comments on extending the policies in the Competitive Carrier Rulemaking, CC Docket No. 79-252, to Hawaii, Puerto Rico, the U.S. Virgin Islands, and other offshore domestic points. In that Rulemaking, the Commission has reduced its regulatory oversight of those carriers which do not possess market power, *i.e.*, power to control price in the marketplace. These policies currently apply to such carriers serving points within the 48 contiguous states and those serving Alaska. This action is necessary to bring the rulemaking into conformance with the Record Carrier Competition Act of 1981.

DATES: Comments are due by July 21, 1983 and replies by August 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark C. Wolf, Common Carrier Bureau (202) 254-8100.

List of Subjects

47 CFR Part 61

Communications common carriers, Tariffs.

47 CFR Part 63

Communications common carriers, Common carrier facilities, Extension of lines.

Third Further Notice of Proposed Rulemaking

In the matter of policy and rules concerning rates for competitive carrier services and facilities authorizations therefor, CC Docket No. 79-252.

Adopted June 9, 1983.

Released: June 14, 1983.

By the Common Carrier Bureau:

1. This proceeding involves the Commission's efforts to update its regulatory scheme in view of the significant changes in the telecommunications industry since the enactment of the Communications Act in 1934, particularly the emergence of a more competitive marketplace. It has resulted in a series of decisions in which the Commission has reduced its regulatory oversight of those carriers with do not possess market power, *i.e.*, power to control price in the marketplace. These policies currently apply to such carriers serving points within the 48 contiguous States and those serving Alaska. By this notice, we invite comment on whether these policies should now be extended to carriers providing service to other domestic points.[1]

2. In the *First Report and Order* in this proceeding, 85 FCC 2d 1 (1980) (*First Report*), the Commission classified those carriers lacking market power as non-dominant and streamlined the rules governing tariff filing and facilities authorizations.[2] In its *Second Report and Order*), 91 FCC 2d 59 (1982) (*Second Report*), the Commission asserted discretionary authority to forbear imposing certain Title II requirements on common carriers in instances where the costs of auch regulation outweighed the benefits. As a first step in exercising this forbearance authority, the Commission decided to forbear from tariff and facilities regulation as to resellers of basic, domestic, terrestrial, common

[1] In its Order on reconsideration of the Second Report and Order (Reconsideration Order), FCC 83-69, released March 21, 1983, the Commission delegated authority to the Bureau to solicit comments and issue a final order on this matter. Since, in that Order, the Commission determined that all of the policies of Docket No. 79-252 shall immediately apply to carriers serving Alaska, *see* n.6, *infra*, comments as to carriers serving Alaska will not be considered.

[2] Those carriers found to possess market power were classfied as dominant and remain subject to the full panoply of tariff and licensing regulation to ensure against the exploitation of their dominance to the detriment of the public. Dominant carriers currently include: the American Telephone and Telegraph Company, the independent telephone companies, domestic satellite carriers and resellers of such services, the miscellaneous common carriers, and the Western Union Telegraph Company. Specialized common carriers and resellers of terrestrial services are currently considered non-dominant

carrier services.[3] Under this approach, the Commission recognized that the forces of the competitive marketplace ensure that resellers' rates will be just, reasonable, and not unjustly discriminatory [4] and also that entry and exit regulation of resellers. is unnecessary.[5]

3. The Commission's *First Report* excluded Hawaii, Puerto Rico, and the U.S. Virgin Islands, as well as other offshore points, from the scope of this proceeding because of possible policy, legal, economic, or facility program considerations unique to these areas. *See First Report* at n. 95 and at paras. 132–34. In its *Reconsideration Order, supra* n. 1, at para. 12, the Commission reexamined this exclusion in light of the enactment of the Record Carrier Competition Act of 1981 (47 U.S.C. 222) (the RCCA). Specifically, the Commission noted that under the RCCA, all of the States, Territories and possessions of the United States, and the District of Columbia, are considered domestic points. *See Puerto Rico Communications Authority,* FCC 83–28, released February 8, 1983, at paras. 22–25. Thus, as the Commission stated in the *Reconsideration Order,* there is no reason why the policies of the Competitive Carrier Rulemaking should not now also extend to carriers providing service to all domestic points outside the continential United States.[6] Accordingly, pursuant to the Commission's directive in the *Reconsideration Order,* we now seek comments from the public on this proposal, excluding however, carriers serving Alaska, which have already been included within the scope of this proceeding.

4. Authority for this proposed rulemaking is contained in Sections 1, 4(i) and (j), 201–205, 214, 303, 308, and 403 of the Communications Act of 1934, as amended. Pursuant to Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis has been prepared and appears as Attachment A.

5. All interested parties are invited to file written comments on or before July 21, 1983. Reply comments should be filed on or before August 5, 1983. All relevant and timely comments and reply comments will be considered. In reaching its decision, the Bureau may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Bureau's reliance on such information is noted in our Final Report and Order.

6. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

7. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C., at 1919 M Street, NW.

8. This notice shall be printed in the **Federal Register.**

(Secs. 1, 2, 4, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102. 47 U.S.C. 151, 152, 154, 201–205, 208, 215, 218, 313, 314, 403, 404, 410, 602).

Federal Communications Commission.

Jack D. Smith,

Deputy Chief (Operations), Common Carrier Bureau.

Attachment A—Initial Regulatory Flexibility Analysis

Reasons for action and objective: The objective of the Competitive Carrier Rulemaking is to eliminate burdensome and unnecessary regulation of carriers found to lack market power. After this proceeding was initiated, Congress enacted the Record Carrier Competition Act of 1981, 47 U.S.C. 222, which intended, among other things, to stimulate the introduction of telecommunications services between the U.S. mainland and offshore domestic points, including States, Territories, and U.S. possessions. After consideration of all the relevant factors, the Commission believes that the pro-competitive policies which have already been adopted for carriers serving the 48 contiguous States and Alaska and which are currently being considered in this proceeding, and the benefits thereof, should be extended to all domestic points, whether within or outside the continental United States.

Legal Basis. The proposed rulemaking action is authorized by Sections 1, 4 (i) and (j), 303 (f), (g) and (r), and 403 of the Communications Act of 1934, as amended, and relates to the Commission's regulatory powers over common carriers authorized under Title II of the Act and over communication by radio authorized under Title III of the Act.

Description, potential impact and number of small entities affected. The proposed rulemaking would extend the policies of Docket No. 79–252 to carriers serving Hawaii, Puerto Rico, the U.S. Virgin Islands, and all other offshore points which are considered domestic under the Communications Act. Accordingly, certain carriers would be eligible for the Commission's streamlined regulatory procedures under this proceeding. Such carriers include resellers of basic, domestic, terrestrial, common carrier services to those points, which would not be required to file tariffs under Section 203 of the Communications Act (47 U.S.C. 203) or

[3] *See* 47 U.S.C. 201–203 and 214.

[4] Of course, the complaint process of 47 U.S.C. 206–208 remains available in the event a resale carrier engages in practices contrary to the Act.

[5] Additional background on this proceeding appears in the decisions discussed above. *See also* the Commission's Further Notices of Proposed Rulemaking, 84 FCC 2d 445 (1981) and FCC 82–187, released April 21, 1982, in this proceeding.

[6] As explained, the First Report also excluded Alaska from the scope of this proceeding, pending the outcome of Phase 2 of the MTS–WATS Market Structure Inquiry, Docket No. 78–72. In its Second Report and Order in Docket No. 78–72, FCC 82–515, released November 30, 1982, the Commission adopted an open entry policy for service to Alaska. Accordingly, in the Reconsideration Order, the Commission concluded that all of the policies adopted thus far in Docket No. 79–252 shall apply immediately to carriers serving Alaska.

be subject to the requirements of Section 214 (47 U.S.C. 214). For other non-dominant carriers serving these points, tariff and facilities regulation would be streamlined in several respects. First, the tariff filings of such carriers serving these points would be presumed lawful, and a petitioner seeking suspension would be required to demonstrate generally that the injury to competition from allowing the tariff proposal to become effective is greater than the harm to the public from depriving it of the proposed service. *See* 47 CFR 61.39(c). In addition, these carriers would be permitted to file tariffs on 14 days notice (rather than ninety), and would no longer be required to submit extensive economic support data under Section 61.38 of the Commission's Rules (47 CFR 61.38). They would be granted blanket authority under Section 214 to extend lines to any domestic point, provided that they inform the Commission every six months of these additions. Finally, they could discontinue service 30 days after notice to the customer and a showing to the Commission that reasonable substitute service is available.

Because of changing market conditions, it is not feasible to estimate the number of small businesses serving these additional domestic points to which the proposed rulemaking will apply.

Reporting, record keeping and other compliance requirements. The proposed rulemaking will result in a reduction or the elimination of present filing requirements.

Federal rules which overlap, duplicate or conflict with this rule. None.

Significant alternatives minimizing impact on small entities and consistent with stated objectives. None.

[FR Doc. 83-16471 Filed 6-20-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-357; RM-4379; RM-4462]

FM Broadcast Stations in Killington, Vermont; and Lake George, New York; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving a proposed FM channel assignment to either Killington, Vermont, or Lake George, New York. Counsel for the Killington proponent states that he was recently retained as counsel, which necessitates additional time to evaluate and prepare an informed response to the counter-proposal.

DATE: Reply comments must be filed on or before June 14, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

Order Extending Time for Filing Reply Comments

Adopted: June 7, 1983.
Released: June 13, 1983.

By the Chief, Policy and Rules Division.

In the Matter of: Amendment of § 73.202(b); Table of Assignment, FM Broadcast Stations (Killington, Vermont; Lake George, New York)[1] MM Docket No. 83-357, RM-4379, RM-4462.

1. On March 23, 1983, the Commission adopted a *Notice of Proposed Rulemaking*, 48 FR 16086, published April 14, 1983, in the above-captioned proceeding. Comments have been filed and reply comments are due June 7, 1983.

2. We now have before us for consideration a motion for extension of time to and including June 14, 1983, filed by counsel for First Vermont Women's Broadcasters, the proponent herein. Counsel states that it was only recently retained as counsel for petitioner on June 3, 1983, and therefore, additional time is essential to evaluate and prepare a proper response to three separate counterproposals herein.[2]

3. Counsel states that either legal or engineering counsel for the other parties have been contacted and indicated they will interpose no objection to this requested extension.

4. Section 1.46(b) of the Commission's Rules states that extension requests must be filed seven days in advance of the deadline. Although this request was not received within the required time frame, the Commission is of the view that, under the circumstances cited, additional time is warranted in which to formulate reply comments. Therefore, we will waive the requirements of § 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision herein.

5. Accordingly, *It is ordered*, That the time for filing reply comments in the above-entitled proceeding *is extended* to and including June 14, 1983.

6. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-16478 Filed 6-20-83; 8:45 am]
BILLING CODE 6712-01-M

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[1] This community has been added to the caption.

[2] A review of our records reveals that a counterproposal has been filed by Edward F. Perry, Jr., seeking the assignment of Channel 287 to Lake George, New York (RM-4462), for which Public Notice was given June 2, 1982 (Report No. 1407). Two other petitions, although styled as counterproposals, have not been accepted as such by the Commission. One, filed by John Eddy, seeks the assignment of Channel 285 to Warren, Vermont. However, since it does not conflict with our technical requirements, it is being treated as a separate petition (RM-4479). The other petition, submitted by Rumford Communications, Inc., requested the assignment of Channel 286B1 to Killington, Vermont, in lieu of Channel 287. Rumford's proposal is premised on BC Docket No. 80-90 concerning increased FM channel availability throughout most of the country. However, its petition is not acceptable since an effective date for BC Docket No. 80-90 has not yet been established.

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47 CFR Part 73

[BC Docket No. 82-276; RM-4060]

TV Broadcast Stations in Billings, Miles City, and Lewistown, Montana; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving VHF television channel assignments at Miles City, Billings and Lewistown, Montana. KOUS-TV Incorporated seeks additional time to review the technical aspects of a revised channel substitution proposed by the proponent, which was not previously available for comments.

DATE: Reply comments must be filed on or before June 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Order Extending Time for Filing Reply Comments

In the matter of an amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Billings, Miles City, and Lewistown, Montana); BC Docket No. 82-276, RM-4060.

Adopted: June 7, 1983.

Released: June 13, 1983.

By the Chief, Policy and Rules Division.

1. On March 14, 1983, the Commission adopted a *Further Notice of Proposed Rule Making*, 48 FR 14681, published April 5, 1983, in the above-captioned proceeding in response to a petition filed by Comanche Enterprises. Comments have been filed and reply comments are due June 7, 1983.

2. In the *Further Notice*, the Commission set forth two options to accommodate petitioner's proposal, one of which would reassign VHF Channel 13 from Lewistown to Billings, Montana. These options did not take into account a recently filed application for Channel 13 at Lewistown. Due to this new circumstance, Comanche requested and was granted an extension of time to file comments in order to conduct an engineering study to determine the feasibility of assigning another channel to Billings in lieu of Channel 13.

3. Comments have been duly filed by Comanche, accompanied by an engineering analysis, in which it proposes that VHF Channel 5 be assigned to Billings in lieu of Channel 13.

4. We now have before us a motion for extension of time for filing reply comments to and including June 28, 1983, filed by counsel for KOUS–TV, Incorporated ("KOUS"), noting that the request is late pursuant to the requirements of § 1.46(b) of the Rules. Counsel states that since the proposed substitution suggested by Comanche was not previously available for comments, additional time is necessary to permit its technical consultant to review the revised engineering data and to formulate a proper response.

5. Counsel for KOUS states that counsel for the other parties have been notified and indicated they will interpose no objection to this requested extension.

6. We are of the view that, under the circumstances mentioned, additional time is warranted. Therefore, we will waive the requirements of § 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

7. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 82–276 (RM–4060) is extended to an including June 28, 1983.

8. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–16474 Filed 6–20–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[Gen. Docket No. 83–484; RM–3739; FCC 83–218]

Repeal or Modification of the Personal Attack and Political Editorial Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking proposes to repeal or modify the Commission's "personal attack" and "political editorial" rules, which afford specific individuals or groups the right to use a broadcaster's facilities to respond to matters broadcast. This action is necessary because the Commission believes the rules may no longer serve the public interest.

DATES: Comments must be submitted by August 22, 1983, and replies by September 16, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Susan Steiman, Office of General Counsel, (202) 632–6990.

List of Subjects in 47 CFR Part 73

Political candidates, Radio broadcast, Television.

Proposed Rulemaking

In the matter of repeal or modification of the personal attack and political editorial rules; Gen. Docket No. 83–484 RM–3739.

By the Commission; Commissioner Fogarty concurring in the result; Commissioner Rivera concurring and issuing a statement.

Adopted: May 12, 1983.

Released: June 14, 1983.

1. The Commission has before it a rulemaking petition by the National Association of Broadcasters (NAB) seeking repeal of the personal attack rule [1] and the political editorial rule.[2] NAB argues that the rules have failed to serve their underlying purpose of enhancing diversity of expression and instead have inhibited broadcasters from effectively informing the public about controversial issues of public importance. Comments have been filed both in support of and in opposition to the petition.[3]

2. As discussed below, we believe the petitioner and the commenters filing in support have raised important questions concerning the statutory and constitutional bases for these rules. Accordingly, we have decided to issue the requested notice of proposed rulemaking.

I. History and Purposes of the Rules

3. The personal attack rule provides that when an attack is made on the "honesty, character, integrity or like personal qualities of an individual or group" during the broadcast of a controversial issue of public importance, the licensee must notify the attacked individual or group and offer a reasonable opportunity to respond over the licensee's facilities.[4] Similarly, the political editorial rule requires that when a licensee endorses or opposes a political candidate, he must notify opponents of the candidate endorsed (or

[1] 47 CFR 73.1920.

[2] 47 CFR 73.1930.

[3] Formal comments in support of NAB's position were filed by: American Broadcasting Companies, Inc. (ABC); CBS Inc. (CBS); National Telecommunications and Information Administration (NTIA); and Radio Television News Directors Association (RTNDA). Formal comments in opposition to NAB's position were filed by the Communications Commission of the National Council of Churches of Christ in the USA (CCC); Office of Communications of the United Church of Christ (UCC); Media Access Project; Communications Media Center/Media Law Project (MLP); and Mobil Corporation. In addition, informal responses in support of NAB's position were filed by the Jefferson Pilot Broadcasting Company; Station WBEC-FM, Pittsfield, Massachusetts; and National Broadcast Editorial Association (NBEA). The League of Women Voters of the United States filed an informal response in opposition to the NAB position. NAB filed a reply. Supplemental comments were filed jointly by NAB, RTNDA and NBEA on January 10, 1983.

[4] The rule provides:

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity or like personal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than one week after the attack, transmit to the persons or groups attacked:

(1) Notification of the date, time and identification of the broadcast;

(2) A script or tape (or an accurate summary if a script or tape is not available) of the attack; and

(3) An offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this Section shall not apply to broadcast material which falls within one or more of the following categories:

(1) Personal attacks on foreign groups or foreign public figures;

(2) Personal attacks occurring during uses by legally qualified candidates;

(3) Personal attacks made during broadcasts not included in (b)(2) and made by legally qualified candidates, their authorized spokesperson, or those associated with them in the campaign, on other such candidates, their authorized spokesperson or persons associated with the candidates in the campaign; and

(4) Bona fide newscasts, bona fide news interviews, and on-the spot coverage of bona fide news events, including commentary or analysis contained in the foregoing programs.

(c) The provisions of paragraph (a) of this section shall be applicable to editorials of the licensee, except in the case of noncommercial educational stations since they are precluded from editorializing (section 399(a), Communications Act).

the candidates opposed) and offer the candidates or their spokesmen an opportunity to respond.[5]

4. Although the rules were not formally codified until 1967, they were foreshadowed by a statement in the Commission's 1949 *Report on Editorializing by Broadcast Licensees.*[6] In that *Report* the Commission reversed its previous prohibition on editorializing by broadcasters, concluding that allowing the expression of licensees' editorial viewpoints served the public interest. However, the Commission imposed upon broadcasters concomitant public interest obligations that have come to be known as the "fairness doctrine." To ensure that the listening public is exposed to opposing views on controversial issues of public importance, the Commission thus required that licensees devote reasonable time to coverage of such issues and afford reasonable opportunities for presentation of contrasting viewpoints.

5. The 1949 *Report* also emphasized that decisions concerning the manner in which fairness doctrine obligations are carried out largely should be left to the editorial discretion of licensees. It observed that

> * * * There can be no one all embracing formula which licensees can hope to apply to ensure the fair and balanced presentation of all public issues. Different issues will inevitably require different techniques of presentation and production. The licensee will in each instance be called upon to exercise his best judgment and good sense in determining what subjects should be considered, the particular format of the programs to be devoted to each subject, the different shades of opinion to be presented, and the spokesmen for each point of view.

Id. at 1251. However, the Commission went on to suggest that a speaker's personal involvement in a controversy may be a factor when selecting an appropriate responsive spokesman,

> * * * For elementary considerations of fairness may dictate that the time be allocated to a person or group which has been specifically attacked over the station, where otherwise no such obligation would exist.

Id. at 1252.

6. Over a decade later in the early 1960's the Commission considered a series of cases involving personal attacks on candidates and elected officials. Relying almost exclusively upon the language in the 1949 *Report* concerning personal attacks, the Commission concluded that licensees in such instances are required to sent the text of the attack to the party attacked and include a specific offer to use their broadcast facilities for responses.[7] Thereafter in 1967 the Commission codified the principles of these cases in the rules at issue.

7. In its *Report and Order* adopting the rules,[8] the Commission elaborated on the reasoning underlying the personal attack principle and its relation to the fairness doctrine. The Commission acknowledged that the purpose of the rule was indeed to permit a response to the personal attack. However, the Commission did not view attacks on reputation, *per se,* as controversial issues of public importance requiring invocation of the fairness doctrine. *Id.* at 725. Thus, it stated, to invoke the rule an attack must occur within the context of a discussion of a controversial issue of public importance. For although

> [T]he use of broadcast facilities for the airing of mere private disputes and attacks would raise serious public-interest issues, . . . such issues are not the focus of the *Fairness Doctrine.*

Id. Nevertheless, in acknowledging the views of commenters who had questioned whether the rule was justified in cases where the attack itself did not constitute a controversial issue, the Commission added that, in its experience thus far, "the attack made in the context of the controversial issue has been germane to the issue." *Id.* at 725 n. 6. Further, it explained,

> [T]he notification requirement is of utmost importance, since our experience indicates that otherwise the person or group attacked may be unaware of the attack, and thus the public may not have a meaningful opportunity to hear the other side.

Id. at 725.

8. As to the political editorial rule, which had not been reflected in the prior case law,[9] the *Report and Order* simply viewed that policy as analogous to the personal attack principle. Thus, the Commission concluded,

> [T]he standard of fairness similarly dictates that where a licensee editorializes for or against a candidate, the appropriate spokesman for the conflicting point of view is the opposed candidate's representative, or, if the licensee so chooses, the candidate himself.[10]

9. In *Red Lion Broadcasting Co.* v. *FCC,* 395 U.S. 367 (1969), the Supreme Court upheld the general fairness doctrine and both the personal attack and political editorial rules as within the scope of the Commission's statutory authority and not in violation of the First Amendment. With respect to the statutory basis for the rules, the Court found them to be consistent with the Commission's general fairness doctrine, which had been ratified by Congress in the 1959 amendments to the Communications Act. *See* 395 U.S. at 380–385.[11] Although the Court recognized that the rules differed from the fairness doctrine "in that the broadcaster does not have the option of presenting the attacked party's side himself or choosing a third party to represent that side," *id.* at 378, the Court believed this distinction was "not critical." *Id.* at 379. Rather, the Court concluded, the rules merely embodied a reasonable means of ensuring adequate presentation of all sides of issues.

10. As an additional statutory basis for the rules, the Court noted their similarity to the "equal opportunities" provision in Section 315(a) of the Act, which requires that broadcasters, if they grant time to political candidates, afford equal opportunities to opponents.[12] Thus, the Court found,

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[5] The political editorial rule states:

(a) Where a licensee, in an editorial, (1) endorses or (2) opposes a legally qualified candidate or candidates, the licensee shall, within 24 hours after the editorial, transmit to, respectively, (i) the otehr qualified candidate or candidates for the same office or (ii) the candidate opposed in the editorial, (A) notification of the date and the time of the editorial, (B) a script or tape of the editorial and (C) an offer of a reasonable opportunity for the candidate or a spokesman of the candidate to respond over the licensee's facilities. Where such editorials are broadcast within 72 hours piro to the day of the election, the licensee shall comply with the provisions of this paragraph sufficiently far in advance of the broadcast to enable the candidate or candidates to have a reasonable opportunity to prepare a response and to present it in a timely fashion.

(b) Inasmuch as noncommercial educational stations may not engage in editorializing or support or oppose any candidate for political office (section 399(a), Communications Act), the provisions of paragraph (a), above, do not apply to such stations.

[6] 13 FCC 1246 (1949).

[7] *See* Clayton W. Mapoles, 23 RR 586 (1962); Billings Broadcasting Co., 23 RR 51 (1962); Times-Mirror Broadcasting Co., 24 RR 404 (1962).

[8] Memorandum Opinion and Order, 8 FCC 2d 721 (1967).

[9] *See* Notice of Proposed Rulemaking: Personal Attacks; Political Editorials, 31 FR 5710, 5711 n. 4 (1966).

[10] 8 FCC 2d at 722. The Commission stated that licensees could require the appearance of a spokesman for the candidate to avoid any Section 315 "equal opportunities" cycle. However, it made clear that "[b]arring extraordinary circumstances, the choice of the spokesman is, of course, a matter for the candidate involved." *Id.* at 727 and n. 9.

[11] The Court, however, was careful not to suggest that Congress had expressly approved or required the personal attack or political editorial rules. It acknowledged that "the personal attack aspect of the fairness doctrine was not actually adjudicated until after 1959, so that Congress then did not have those rules specifically before it." *Id.* at 384.

[12] *Id.* at 385. The equal opportunities requirement of section 315(a) provides, *inter alia:*

(a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station . . .

> * * * We cannot say that when a station publishes personal attacks or endorses political candidates, it is a misconception of the public interest standard to require the station to offer time for a response rather than to leave the response entirely within the control of the station which has attacked either the candidacies or the men who wish to reply in their own defense.

367 U.S. at 385.

11. The Court also dismissed claims that the rules abridge First Amendment rights of broadcasters. The Court conceded that broadcasting "clearly is a medium affected by a First Amendment interest." *Id.* at 386. Nevertheless, because of the scarcity of radio broadcast spectrum, the Court believed that the First Amendment rights of broadcasters may be restrained by government in order to ensure the ultimate First Amendment objective of preserving an uninhibited marketplace of ideas. The Court observed that in the radio medium "[i]t is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial . . . ." *Id.* at 390.[13]

12. Finally, the Court rejected arguments that the rules would have a chilling effect on broadcasters' willingness to present coverage of controversial issues. It acknowledged that such a result, if it occurred, "would indeed be a serious matter" reflecting upon the constitutional premise for the rules. *Id.* at 393. However, it viewed these concerns as speculative, noting that

> * * * if experience with the administration of these doctrines indicates that they have the net effect of reducing rather than enhancing the volume and quality of coverage, there will be time to reconsider the constitutional implications.[14]

II. Developments in the Law Since Red Lion

13. It has been over a decade since our adoption of the personal attack and political editorial rules and the Court's decision in *Red Lion*. As the petitioner and others have pointed out, significant legal developments have occurred during that period that appeared to place in doubt the public interest justification for these rules. Therefore, the commenters urge, and we agree, the time is ripe to test the validity of the rules under the more exacting framework of current law.

[13] In further support of the rules' constitutionality, the Court again noted their similarity to the equal opportunities provision of Section 315 of the Act, which also requires broadcasters to set aside reply time under specified circumstances. *Id.* at 391. The Court asserted that the constitutionality of this aspect of Section 315 is unquestioned. *Id.*

[14] 395 U.S. at 393.

14. In particular, a series of Supreme Court decisions beginning with *Columbia Broadcasting System, Inc. v. Democratic National Committee*,[15] have now made clear that the Commission's authority to interfere with editorial judgments of broadcast licensees is carefully circumscribed by the provisions of Sections 3(h) and 326 of the Act.[16] Furthermore, as the result of a more searching analysis of the Act's legislative history, the Court's more recent decisions now accord far greater significance under the statutory scheme to the First Amendment role that Congress envisioned for broadcasters. As discussed more fully below, we believe these decisions have important implications for the rules in question.

15. The *Red Lion* Court recognized that the personal attack and political editorial rules are unlike general fairness doctrine obligations. A fundamental principle of that doctrine is that licensees retain broad discretion to determine the manner in which opposing views are presented over their facilities. Thus, these particular rules stand as a unique application of the fairness doctrine: they afford a right of access for specific individuals to a broadcaster's facilities, thereby removing from licensees almost all editorial discretion.

16. Little legal significance was attached to this distinction in *Red Lion*. However, in subsequent decisions the Court has made clear that Commission actions which impinge upon licensee discretion by according individual rights of access are expressly discouraged under the Act. Accordingly, unless such rights are explicitly authorized by Congress, they may well exceed the Commission's authority.

17. The first clear articulation of these principles came in *CBS v. DNC, supra*. Thus, a plurality of the Court stated that "in the area of discussion of public issues, Congress chose to leave broad journalistic discretion with the licensee." 412 U.S. at 105. It therefore upheld as "well within" the public interest standard the Commission's refusal to order broadcasters to accept paid editorial advertisements. The court observed that Congress had expressly rejected statutory schemes which would have permitted total Government ownership and control of the radio medium. Further, Congress had flatly refused to impose a common carrier right of access for all persons wishing to speak out on public issues. Thus, the Court stated,

> [T]he historic aversion to censorship led Congress to enact § 326 of the Act, which explicitly prohibits the Commission from interfering with the exercise of free speech over the broadcast frequencies. Congress pointedly refrained from divesting broadcasters of their control over the selection of voices; § 3(h) of the Act stands as a firm congressional statement that broadcast licensees are not to be treated as common carriers, obliged to accept whatever is tendered by members of the public. Both these provisions clearly manifest the intention of Congress to maintain a substantial measure of journalistic independence for the broadcast licensee.

Id. at 116. Accordingly, in light of Congress' clear intention to circumscribe both individual rights of access to the airwaves and governmental involvement in programming decisions, the Court announced the overriding principle that governs the Commission's regulatory oversight of broadcasters' speech: "[o]nly when the interests of the public are found to outweigh the private journalistic interests of the broadcasters will government power be asserted within the framework of the Act." *Id.* at 110.

18. Six years later, in *FCC* v. *Midwest Video Corp.*,[17] the Court re-affirmed that the fundamental policy of the Act is preserve editorial control of programming in licensees and "forecloses any discretion in the Commission to impose access requirements amounting to common carrier obligations on broadcast systems." 440 U.S. at 705. Thus, the Court struck down a Commission requirement that cable operators make available channels for access by the public. Under the Commission's rules, cable operators were "deprived of all discretion regarding who may exploit their access channels and what may be transmitted over such channels." *Id.* at 693. This, the Court found, violated Congress' express command, reflected in Sections 326 and 3(h) of the Act, that the Commission preserve values of private journalism by maintaining a substantial measure of journalistic independence for the broadcast licensee—and ignored Congress' "stern disapproval" of negation of that editorial discretion through the

[15] 412 U.S. 94 (1973) (hereinafter *CBS v. DNC*).

[16] Section 3(h) provides, *inter alia*, that "a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier." 47 U.S.C. 153(h).

Section 326 states that:

> Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated by the Commission which shall interfere with the right of free speech by means of radio communication.

[17] 440 U.S. 689 (1979).

imposition of specific rights of access. *Id.* at 708, 706.[18]

19. Finally, the Court's most recent pronouncements have continued to acknowledge the critical distinction under the Act between Commission requirements that afford personal rights of access for particular individuals and broadcasters' general obligations under the fairness doctrine. In *CBS, Inc.* v. *FCC*,[19] the Court held that, because Section 312(a)(7) of the Act expressly was intended to afford individual candidates an affirmative right of access to broadcast facilities, the Commission, by ordering such access, did not contravene the general statutory policy that no private individual or group has a right to command the use of broadcast facilities.

III. The Framework For Analysis

20. In light of the preceding discussion, it is evident that our reexamination of the public interest justification for the personal attack and political editorial rules must be especially searching. Even as a general matter the Act requires the Commission to refrain from interfering with licensees' editorial judgments unless such action clearly is required in order to further the Congressional objectives of balanced coverage of public issues. *CBS v. DNC, supra,* at 110. But where, as here, the rules go beyond general fairness doctrine obligations to impose specific rights to broadcast facilities, the statute requires us to proceed with particular caution. *Id.; Midwest Video* v. *FCC, supra.* As the Court in *Red Lion* noted, these rules are similar to the equal opportunities provision in Section 315 of the Act because they give particular persons the right to use broadcast facilities. However, the Court has subsequently recognized that the equal opportunities proviso reflected an effort by Congress to confine rights of access to the particular circumstances described in that Section.[20] Therefore, the rules must be considered in light of the general congressional policy against affording such rights. *Cf. CBS, Inc.* v. *FCC, supra.*[21]

21. Moreover, even if repeal of the rules would create some risk that broadcasters' coverage of controversial issues does not achieve a perfect balance, "the remedy does not lie in diluting licensee responsibility." *CBS v. DNC, supra,* at 131. To do so would be contrary to Congress' judgment that the allocation of journalistic priorities should be concentrated in the licensee:

> For better or worse, editing is what editors are for; and editing is selection and choice of material. That editors—newspaper or broadcast—can and do abuse this power is beyond doubt, but that is no reason to deny the discretion Congress provided. Calculated risks of abuse are taken in order to preserve higher values.

CBS v. DNC, supra, at 124–25.

Finally, in addition to our obligation to conform our actions to the explicit mandates of the Communications Act, we are cognizant that the public interest standard "necessarily invites reference to First Amendment principles." *CBS v. DNC, supra,* at 122. If any substantial possibility exists that the rules have impeded, rather than furthered, First Amendment objectives, repeal may be warranted on that ground alone.

22. Against this framework, then, we shall proceed to evaluate the rules.

A. The Personal Attack Rule

23. As noted previously, the purpose of the personal attack rule is to promote the fair presentation of controversial issues of public importance. The petitioner and many of the commenters argue, however, that the rule does not further its stated objective. We believe there is substantial merit to this contention.

24. From the rule's inception, the Commission has not required that a personal attack itself constitute a controversial public issue in order to trigger the right of reply afforded by the rule. Rather, we believed it sufficient that the attack occur during the discussion of such issues. As many commenters point out, however, it is not evident how affording a right of reply to personal attacks furthers the discussion of controversial issues. Indeed, the rule expressly contemplates that the reply time afforded may be used solely to respond to the personal attack—rather than to address the public question.[22]

25. Furthermore, even assuming that reply time is used to discuss the broader public issue, no assurance exists that persons attacked are the most qualified spokesmen to present opposing viewpoints on the controversial matters. In *Red Lion*, the Court found that the rule was "not unreasonable" because it allowed "those most closely affected to make the response. . . ." 395 U.S. at 379. It is apparent, however, that persons attacked are not necessarily better qualified than others to serve as responsive spokesman on public issues. The *Red Lion* Court suggested that such individuals might address public matters with more enthusiasm than a spokesman selected by the licensee. *See* 395 U.S. at 392 n.18. However, as some commenters have noted, experience now indicates that, in practice, a reply spokesman's energies in personal attack cases more often are focused on vindicating his or her personal reputation than on elucidating the public issue.[23]

26. Nevertheless, some commenters have suggested that the rule is justified. They assert that, particularly in smaller communities, it is common practice to attempt to discredit the views of opponents by engaging in personal attacks on spokesmen for those views. As we construe their argument, these commenters believe that, even if a licensee has already afforded programming that fairly presents all sides of controversial issues, the public will be substantially disabled from understanding and evaluating the merits of those viewpoints unless *ad hominem* attacks on spokespersons are also rebutted.

27. For several reasons, we are not persuaded that this concern justifies retention of the rule. Concededly, advocates for particular sides of public

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[18] In *dicta*, the Court observed that its construction of Section 3(h) "does not put into question the statutory authority for the fairness doctrine obligations sustained in *Red Lion* . . . [since] the fairness doctrine . . . contemplates a wide range of licensee discretion." *Id.* at 705 n. 14. As evidence for this proposition, the Court cited portions of the 1949 *Report on Editorializing by Broadcast Licensees* which provides that, under the fairness doctrine, licensees retain discretion to determine subjects to be considered, the particular format of programs, different shades of opinion, and "the spokesman for each point of view." *Report* at 251. Of course, the rules in question do not, in fact, afford licensees that broad degree of discretion permitted under the general fairness doctrine. Accordingly, we do not construe this language in the Court's opinion as expressing specific approval of the personal attack and political editorial rules.

[19] 453 U.S. 367 (1981).

[20] *See CBS* v. *DNC, supra,* at 106–07.

[21] One authority has concluded that the personal attack and political editorial rules

> . . . undoubtedly involve the most significant displacement of licensee discretion, the most economically and administratively burdensome programming obligations, and the vaguest access requirements that have been imposed on radio and television . . . Without apparent justification, the Commission has maintained a mechanistic survivor from an earlier day of untested enthusiasm for broad access guarantees . . . The . . . rules are ripe for reconsideration.

B. Schmidt, *Freedom of the Press vs. Public Access* 186 (1976).

[22] For example, referring to specific instances from the cases, one legal commenter has questioned:

> [W]hat great democratic public benefit comes from knowing that a reporter may not have used her legs to get stories or that a radio station's managers may not have defrauded an insurance company? To a large extent, the personal attack rules generate name calling exercises, allowing those parties whose personalities are criticized to rebut the charges without requiring rebuttal opportunities on the more substantive issues.

Simmons, *The FCC's Personal Attack and Political Editorial Rules Reconsidered*, 125 U. Pa. L. Rev. 990, 1016 (1977).

[23] *See, e.g.*, Simmons, *supra* note 21, at 1016.

issues may utilize *ad hominem* arguments in an attempt to advance their positions. But there is nothing unique about that type of advocacy that would justify departing from the general policy that licensees have broad discretion to select the most appropriate means of providing fair and balanced presentation of the issues. We have no evidence that personal attacks are inherently more persuasive than other arguments advanced by proponents—indeed, they may be less so. Furthermore, as CBS notes, the fairness doctrine does not demand "balance" as to every statement or assertion made during the discussion of a controversial public issue. *See National Broadcasting Co.*, 25 FCC 2d 735, 736–37. Thus, the mere fact that personal attacks may occur does not constitute a sufficient reason for applying to them regulatory policies that contravene general fairness doctrine principles.

28. We also note that the personal attack rule does not even apply to most categories of news programming.[24] Thus, if a personal attack occurs during news presentations, we have concluded that the public interest is adequately protected by adherence to general fairness doctrine obligations. Yet, despite the rule's inapplicability in such situations, it has not been observed, or even asserted, that the public is thereby substantially disabled from evaluating the merits of opposing positions on public issues.

29. Moreover, we adopted the exemptions for news programming because we believed that, otherwise, we might unnecessarily impede broadcasters' news gathering functions.[25] However, if our concerns regarding the dangers of personal attacks are insufficiently great to justify application of the rule to news, it seems equally doubtful that we are justified in applying the rule in the face of strong congressional policies against affording personal rights of access to broadcast facilities and which require us to entrust maximum journalistic discretion in licensees. As the courts have made clear, the policy of the Act is not to ensure a "perfect balance" in the presentation of controversial issues. Congress took certain "calculated risks" in order to implement a regulatory scheme that, in its view, would be most consistent with First Amendment values. *CBS* v. *DNC, supra*, at 125. Accordingly, that scheme should prevail unless, for compelling reasons, we find the public interest requires government intervention. Given that premise, and the apparent absence of harmful effects resulting from inapplicability of the rule to many other categories of programming, we question whether these commenters have advanced a sufficient reason for retaining the rule.

30. One additional issue warrants discussion. Not a single commenter has suggested that a permissible objective of the personal attack rule is to serve as a means of vindicating personal reputations. Certainly, that was not our purpose in adopting the rule, nor do we believe this in an area that warrants federal intervention. Such abuses, if they occur, are more appropriately addressed pursuant to state law and traditional defamation remedies.

31. Nevertheless, it has been noted that, in practical effect, the personal attack rule operates to protect personal reputations. For example, ABC contends that, in practice, the rule is more directed to settling private disputes than to enhancing the discussion of public issues. Similarly, NAB asserts that the rule has come to be viewed as a quasi-remedy for alleged defamation or as a substitute for a civil remedy. Likewise, CBS states that

> * * * Notwithstanding the Commission's disclaimers, it seems clear that the primary function of the personal attack rule is indeed to serve private reputational interests.

CBS Comments at 8.[26]

32. Moreover, these commenters observe, insofar as the rule operates to protect private reputations, its provisions are contrary to First Amendment standards embodied in defamation law that are applicable to all media. For example, they point out, because the rule makes no distinction between attacks on public and private figures, it allows safeguards beyond those permitted under existing libel and slander laws. *See, e.g., Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 345 (1974); *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964).

33. Finally, even if we were to conclude that a proper objective of the personal attack rule is to ensure the protection of personal reputations, it is nevertheless not apparent that the rule is justified. As a point of comparison, we note that newspapers cannot be forced to offer a right of reply to persons whose reputations are attacked on their pages.[27] The absence of such a remedy does not seem to have spurred newspapers to malign persons unfairly or to upset a proper equilibrium between First Amendment and reputational interests. We anticipate no different effects in broadcasting if the personal attack rule is discarded. Moreover, to the extent that personal attacks involve public figures, the rule appears largely unnecessary. As CBS notes, public figures generally have regular access to the broadcast media, and thus

> Will have ample opportunity to present their views on a broad range of public issues, even if the broadcaster has not found it journalistically feasible or necessary to obtain their response to the particular remarks in question.

CBS Comments at 8.

34. In light of these contentions, we also expressly request comment on the appropriateness and necessity of retaining the rule in the face of its seeming inconsistency with existing defamation law and the availability of alternative remedies for attacks on reputation generally.[28]

B. The Political Editorial Rule

35. As noted previously, it is unquestioned that the political editorial rule goes beyond general fairness doctrine requirements. When broadcasters endorse or oppose political candidates, the rule provides a "contingent" access requirement for particular candidates, or their supporters, much like the equal opportunities provision in Section 315(a) of the Act. Accordingly, we believe it is appropriate to raise at the outset whether this extension of candidates' rights of access is "not more appropriately the province of Congress." *First Fairness Report*, 36 FCC 2d 40, 47 (1972); *see CBS v. DNC, supra*. However, even if the equal opportunities requirement were to be construed as support for special treatment of political candidates under the fairness doctrine, we are led to question the public interest justification for the rule.

36. Under the general fairness doctrine, the Commission has applied

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[24] Shortly after their adoption, the rules were amended to exempt bona fide newscasts, on-the-spot coverage of bona fide news events, news interviews, and news commentary or analysis contained in any newscast, news interview, or on-the-spot news coverage. *See* 32 FR 11531 (1971); 33 FR 5362 (1968).

[25] 32 FR 11531.

[26] *See also* Comments of RTNDA, observing that

> [I]t is difficult to comprehend why a personal attack in the context of a discussion should transform a licensee's fairness obligation from that of general even-handed programming to a duty to notify and allow rebuttal, without concluding that the rule implicitly serves to protect individuals from defamatory attacks.

Id. at 45.

[27] *See* Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974).

[28] Many commenters assert that the rule also has a constitutionally impermissible "chilling effect". This issue is addressed below in conjunction with our discussion of the political editorial rule. *See* Section IV. *infra*.

particular policies to endorsements of political candidates. When the candidates themselves do not appear, such broadcasts fall outside the statutory meaning of broadcast "uses" that trigger the equal opportunities requirement in Section 315. However, under the *Zapple* doctrine, *Nicholas Zapple*, 23 FCC 2d 707 (1970), the Commission recognizes that such broadcasts are in "the political arena" and that a "quasi-equal opportunities" situation arises. Thus, supporters of opposing candidates may be entitled to buy a comparable amount of time.

37. The requirements imposed on broadcasters by the political editorial rule go beyond the principles of *Zapple*, however. Unlike the rule, *Zapple* has been limited to major political candidates, is not codified, and imposes no specific notification requirement on licensees. *See First Fairness Report*, 36 FCC 2d 40, 47–50 (1972). Many commenters have urged that this practice of imposing upon a licensees' own political endorsements requirements more onerous than those applied to the broadcasts of endorsements sponsored by others is unjustified as a matter of policy and, moreover, raises serious constitutional issues. As discussed below, we believe they make a substantial case that insufficient basis exist, either in law or in policy, to warrant this disparate treatment.

38. In its *Report on Editorializing by Broadcast Licensees, supra*, the Commission expressly found that permitting licensees to editorialize over their stations serves the public interest. The Commission recognized that broadcasters could as easily "tip the scales" in favor or representing their own views by general program selection, as by editorialization in the narrow sense of overt expression of opinions identified as those of the licensee. *Id.* at 1252. Thus, the Commission did not believe that programs in which the licensee's personal opinions are expressed are intrinsically more or less subject to abuse than any other programs devoted to public issues. *Id.* Indeed, the Commission suggested that a licensee's willingness to stand up and be counted on particular issues actually assists in maintaining a climate of fairness and equal opportunity for the expression of contrary views. "Certainly, the public has less to fear from the open partisan than from the covert propagandist." *Id.*

39. Thus, it appears that the application of more onerous requirements to broadcasts of a licensee's political endorsements, as compared to broadcasts sponsored by a candidate's supporters, is inconsistent with our own conclusion that licensee editorializing should be encouraged and is no more subject to abuse than other controversial issue programming. We continue to believe that public awareness of a licensee's position regarding political candidates beneficially serves to enhance viewers' and listeners' abilities to evaluate a broadcaster's controversial issue or news programming. Therefore, we find no basis in the fairness doctrine itself for according distinct treatment to licensee endorsements of candidates.

40. Furthermore, it is well established that endorsement of political candidates is part of the free discussion of public affairs that the First Amendment was intended to encourage. *See Mills v. Alabama*, 384 U.S. 214, 218–19 (1966); *see also Red Lion, supra*, at 393. Consequently, any Commission policy whose purpose is to penalize the expression of licensee political endorsements—or which has that effect—would be inconsistent with First Amendment objectives, as well as with the aims of the fairness doctrine.

41. We are also aware that the rule's requirements may be based, at least implicitly, upon an assumption that a broadcaster's views regarding candidates are likely to have a particularly powerful influence in his community. However, as noted by RTNDA, if a purpose of the rule is to ensure that public perceptions of candidates are not unduly influenced because a particular candidate is favored by a licensee, its premise appears to contravene fundamental First Amendment principles.

42. As RTNDA aptly points out, in *First National Bank of Boston v. Bellotti*, 98 S. Ct. 1407 (1978), the Supreme Court expressly rejected arguments that corporate advocacy, by its pervasiveness, would exert an undue influence on the electorate and thus should be controlled. The Court therefore held unconstitutional an attempt by Massachusetts to limit corporate speech, finding that:

> The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment . . . [T]he people in our democracy are entrusted with the responsibility for judging and evaluating the merits of conflicting arguments. They may consider, in making their judgment, the source and credibility of the advocate. But if there be any danger that the people cannot evaluate the information and arguments advanced by [corporations], it is a danger contemplated by the Framers of the First Amendment.[29]

43. Similarly, governmental attempts to single out a broadcaster's political endorsements would appear to be constitutionally barred if any distinctions in treatment are based exclusively upon concerns relating to the identity of the speaker. It is evident that the disparate treatment we have accorded to broadcasters' political endorsements under the political editorial rule is not grounded on differences relating to the use of the radio medium, since similar broadcasts sponsored by others have not been subjected to the same requirements. Therefore, it is apparent that the political editorial rule cannot be supported merely by assertions that the public is less able to evaluate information and arguments advanced by licensees themselves. In this circumstance, whatever danger might result from allowing all segments of society equal rein to express their political views must be deemed outweighed by the larger principle, reflected both in the First Amendment and the Communications Act, that government must not pick and choose among particular speakers in seeking a dialogue that best promotes open and vigorous debate on public issues.

44. Accordingly, since the clear effect of the political editorial rule is to apply more stringent requirements to broadcasts of a licensee's own political endorsements, without any apparent justification and contrary to settled First Amendment principles, *see Bellotti, supra*, we believe it doubtful that any permissible legal basis exists for the rule. Furthermore, we recognize that this kind of rule clearly would be constitutionally barred if imposed upon newspapers, even if a newspaper enjoyed a monopoly in its market. *See Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974). Therefore, we believe a particularly heavy burden must be shouldered to justify its application to broadcasters, who advance First Amendment values in the same way as do newspapers.

IV. The "Chilling Effect" of the Rules

45. Finally, NAB and several commenters advance arguments that both the political editorial and personal attack rules have a constitutionally impermissible "chilling effect" on broadcasters' speech, thereby causing a net reduction in the amount of controversial issue programming

[29] 98 S. Ct. at 1423–24, *quoting Buckley v. Valeo*, 424 U.S. 1, 48–49 (1976) (footnotes omitted).

available to the public. They point out that in *Red Lion* the Court acknowledged the rules might be constitutionally barred if their effect was to discourage, rather than promote, such programming. At that time, the Court regarded such claims as merely speculative, noting that if experience indicated the rules had the net effect of reducing the volume and quality of coverage, the Commission could reconsider the constitutional implications. *Red Lion, supra,* at 393.

46. CBS and RTDNA contend that, with respect to its conclusions regarding the rules' chilling effect, the *Red Lion* decision is "simply irreconcilable" with the Court's subsequent opinion in *Miami Herald Publishing Co. v. Tornillo,* 418 U.S. 241 (1974). CBS notes that in *Tornillo* the Court invalidated as unconstitutional a right of reply statute which was substantially identical to the personal attack rule, except for its application to the print media. Thus, the Court found that the statute impermissibly resticted newspapers' right to speak because it exacted penalties based on the publication of particular material:

> Faced with the penalties that would accrue to any newspaper that published news or commentary arguably within the reach of the right-of-access statute, editors might well conclude that the safe course is to avoid controversy. Therefore, under the operation of the Florida statute, political and electoral coverage would be blunted or reduced. *Government-enforced right of access inescapably "dampens the vigor and limits the variety of public debate . . . .*[30]

47. The *Tornillo* Court also recognized that the "penalties" exacted on newspapers resulting from the compelled printing of a reply were even more pressing on broadcasters because of "the finite technological limitations of time that confront a broadcaster . . . . " *Id.* At 256–57. Accordingly, CBS and RTNDA urge, although the constitutional holding of *Tornillo* may not be fully applicable to broadcasting, the decision explicitly recognizes that right of reply requirements, *per se,* operate to discourage speech. In light of that, they maintain, it no longer is subject to "speculation" that the political editorial and personal attack rules operate to decrease the amount of controversial issue programming available to the public.

48. However, as further evidence of the rules' inhibiting effect, NAB, RTNPA and NBEA have submitted a survey of commercial radio and television stations which indicates that, in fact, many stations follow policies of not endorsing political candidates but would do so if the political editorial rule were repealed. In addition, several commenters have attested to the effect of the rules on their particular editorial policies. For example, WTMJ, Inc. states that

> We do not endorse candidates for public office. We have two concrete reasons for this policy * * *
>
> First, the rules constitute a bureaucratic nightmare. The number of notices which must go to candidates can, in a multi-candidate election, become burdensome to the point of convincing a licensee not to go through the hassle . . .
>
> Second, the rules provide the candidate supported by a licensee a lesser opportunity to reach the public . . .
>
> In addition, we have avoided subjects for editorials which are closely identified with a single candidate.

49. Similarly, the President of the Jefferson Pilot Broadcasting Company states:

> * * * We have had as many as 26 candidates for three seats on the local board of education. It would have created an unimaginable nightmare to have endorsed under such circumstances. We knew this. We didn't endorse . . . The upshot of this and similar circumstances is that the public relies almost exclusively on newspaper endorsements. And, in our own town and increasingly in others, the two daily newspaper are owned by the same company.

50. We believe these commenters have raised a significant question that the effect of the rules is to impede rather than enhance the presentation of controversial issue programming. If their contentions are correct, it is evident that the rules not only are inconsistent with the aims of the fairness doctrine but are contrary to First Amendment objectives. We therefore request commenters to devote particular attention to this issue.

V. Conclusion

51. The history of the Communications Act and the activities of the Commission "reflect a continuing search for means to achieve reasonable regulation compatible with the First Amendment rights of the public and the licensees." *CBS v. DNC, supra,* at 132. In this "necessarily dynamic process," we are often required to reexamine our policies in order better to fulfill the policies of the Act and to assure consistency with First Amendment values inherent in the public interest standard.

52. We believe the petitioner and other commenters have presented a compelling case that the personal attack and political editorial rules do not serve the public interest. The rules impose individual rights of access contrary to a regulatory scheme that discourages such obligations. And, without apparent justifiction, they deprive licensees of the large measure of editorial discretion that Congress intended and which is generally favored under the fairness doctrine. Thus, the personal attack rule, rather than promoting the fair presentation of controversial issues, apparently serves largely as a means to vindicate attacks on personal reputations. The political editorial rule, contrary to Commission policy, imposes upon a licensee's own political endorsements more stringent requirements than are applied to similar broadcasts by others. Furthermore, because the rule's right of reply obligation discriminates according to the identity of the speaker, it appears contrary to First Amendment precepts. Finally, the commenters forcefully argue that the rules have an impermissible "chilling effect" on constitutionally protected speech.

53. For these reasons, we propose to repeal the rules. The public is requested to comment on this proposal, as well as to offer their views on any alternatives short of repeal.[31]

54. Authority for the rulemaking proposed herein is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

55. Pursuant to Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Commission certifies that the action proposed will not have a significant economic impact on a substantial number of small entities. Repeal of the personal attack and political editorial rules will relieve a right of reply obligation imposed on broadcasters and, if anything, may have a slight beneficial economic impact.

56. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding.

[30] 498 U.S. at 257 (emphasis added) (citation omitted).

[31] Commenters are also requested to address the possible repeal of the rules insofar as they apply to cable systems. In addition, comments should be directed to the manner in which the *Zapple* doctrine might be applied to broadcasters if the political editorial rule is repealed.

Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation that written summary must be served on the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, §§ 1.1241 and 1.1243 of the Commission's Rules and Regulations, 47 CFR 1.1241 and 1.1243.

57. Pursuant to applicable procedures set out in §§ 1.4 and 1.415 of the Commission's Rules and Regulations, 47 CFR 1.4 and 1.415, interested parties may file comments on or before August 22, 1983 and reply comments on or before September 16, 1983. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed.

58. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished by the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the hearing. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Henry M. Rivera

Re: Notice of Proposed Rulemaking Concerning Personal Attack and Political Editorializing Rules.

I am concurring in this Notice because I do not object to a fresh examination of these rules. However, I will be keenly interested in comments addressing the novel case law construction advanced. I disagree with much of it.

[FR Doc. 83-16480 Filed 6-20-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 120
Tuesday, June 21, 1983

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Change in Date of Meeting.

SUMMARY: On June 9, 1983, the Advisory Council on Historic Preservation announced that a Public Information Meeting would be held on June 21, 1983, on Interstate–210 and its effects on historic properties in Mobile, Alabama. This notice is to announce that the date of the meeting has been changed to June 22, 1983. The meeting will be at 7:00 p.m. in the Killian Room, (1st Floor), International Trade Center, 250 N. Water Street, Mobile, Alabama.

This meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed construction of the Interstate 210 Connector in Mobile, Alabama, an undertaking of the Federal Highway Administration and the Alabama Highway Department. The project as proposed would affect the Mobile City Hall, a National Historic Landmark; the G.M.&O. Railroad Station, the Church Street East Historic District, the Lower Dauphin Street Commercial Historic District, and the DeTonti Square Historic District, properties listed in the National Register of Historic Places; and the Africatown Historic District and historic archeological resources along Water Street, properties which appear to be eligible for inclusion in the National Register. Consideration will be given to the undertaking, its effects on the National Register and eligible properties, and alternate courses of action that could avoid, mitigate, or minimize adverse effects on these properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the properties by the Federal Highway Administration.

III. A statement by the Alabama State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, telephone number 202–254–3495. Attention: Amy P. Schlagel.

Dated: June 15, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-16409 Filed 6-20-83; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Burley, Virginia Sun-Cured, Maryland (Type 32), and Cigar-Filler (Type 41) Tobaccos; Referenda Results: 1983 Through 1985 Crops of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Results of Marketing Quota Referenda for 1983 Through 1985 Crops of Burley, Virginia Sun-Cured, Maryland and Cigar-Filler (Type 41) Tobaccos

SUMMARY: This notice proclaims the results of marketing quota referenda for burley, Virginia sun-cured, Maryland and cigar-filler (type 41) tobaccos which were held during the period February 28 through March 3, 1983, in accordance with Section 312(c) of the Agricultural Adjustment Act of 1938, as amended. The referenda were conducted in order to determine whether producers of these kinds of tobacco favor or oppose marketing quotas. Since burley and Virginia sun-cured tobacco producers did not disapprove national marketing quotas, such quotas will be in effect for the three marketing years 1983–1984, 1984–1985, and 1985–1986. Since Maryland and cigar-filler (type 41) tobacco producers oppose national marketing quotas, such quotas will not be in effect for the three marketing years 1983–1984, 1984–1985, and 1985–1986.

EFFECTIVE DATE: June 21, 1983

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". This notice has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

On February 1, 1983, the Secretary of Agriculture announced that national marketing quotas would be in effect for burley, Virginia sun-cured, Maryland and cigar-filler (type 41) tobaccos for the three marketing years beginning on October 1, 1983, subject to approval by producers of each of these kinds of tobaccos in separate referenda.

During the period February 28 through March 3, 1983, referenda for burley, Virginia sun-cured, Maryland and cigar-filler (type 41) tobaccos were conducted. Section 312(c) of the 1938 Act provides that if more than one-third of such producers voting in the referenda oppose national marketing quotas such results shall be proclaimed by the Secretary and national marketing quotas shall not be in effect.

Since the only purpose of this notice is to announce the results of referenda, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referenda are set forth below:

Notice

Results of the National Marketing Quota Referenda for the 1983 Through 1985 Crops Burley, Virginia Sun-Cured, Maryland, and Cigar-Filler (Type 41) Tobaccos

(1) *Referenda period.* The national marketing quota referenda for the 1983–1984, 1984–1985, and 1985–1986 marketing years for burley, Virginia sun-cured, Maryland and cigar-filler (type 41) tobaccos were held during the period February 28 through March 3, 1983, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary, by State, of the results of each referendum:

BURLEY [1]

State	Yes	No	Total
Alabama	6	1	7
Georgia	73	3	76
Indiana	6,081	212	6,293
Kansas	24	0	24
Kentucky	128,000	2,134	130,134
Missouri	680	18	698
North Carolina	8,864	239	9,103
Ohio	8,657	197	8,854
South Carolina	2	0	2
Tennessee	48,872	3,248	52,120
Virginia	11,796	555	12,351
West Virginia	2,103	58	2,161
Totals	215,158	6,665	221,823

[1] Of those voting, 215,158 producers, or 97.00 percent, favored burley tobacco marketing quotas, and 6,665 producers, or 3.00 percent, opposed quotas.

VIRGINIA SUN-CURED [2]

State	Yes	No	Total
Virginia	284	26	310
Totals	284	26	310

[2] Of those voting, 284 producers, or 91.61 percent, favored Virginia sun-cured tobacco marketing quotas and 26 producers, or 8.39 percent, opposed quotas.

MARYLAND (TYPE 32) [3]

State	Yes	No	Total
Maryland	145	1,935	2,080
Virginia	9	2	11
Totals	154	1,937	2,091

[3] Of those voting, 154 producers, or 7.36 percent, favored Maryland tobacco marketing quotas and 1,937 producers, or 92.64 percent, opposed quotas.

CIGAR-FILLER (TYPE 41) [4]

State	Yes	No	Total
Pennsylvania	167	788	955
Totals	167	788	955

[4] Of those voting, 167 producers, or 17.49 percent, favored cigar-filler (type 41) tobacco marketing quotas and 788 producers, or 82.51 percent, opposed quotas.

(3) *Marketing quotas will be in effect for the 1983 through 1985 crops of burley and Virginia sun-cured tobaccos.* Since less than one-third of the producers of burley and Virginia sun-cured tobacco voting in the referenda voted to disapprove marketing quotas and since the 1982–1983 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect, national marketing quotas shall be in effect for burley and Virginia sun-cured tobaccos for the marketing years 1983–1984, 1984–1985, and 1985–1986.

(4) *Marketing quotas will not be in effect for the 1983 through 1985 crops of Maryland and cigar-filler (type 41) tobaccos.* Since more than one-third of the producers of Maryland and cigar-filler (type 41) tobacco voting in the referenda opposed quotas, national marketing quotas shall not be in effect for Maryland and cigar-filler (type 41) tobaccos for the marketing years 1983–1984, 1984–1985, and 1985–1986.

(Secs. 312(c), 52 Stat. 46, as amended, 7 U.S.C. 1312(c))

Signed at Washington, D.C., on June 15,1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-16522 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-05-M

Fire-Cured (Types 22-23) and Dark Air-Cured (Types 35-36) Tobaccos Referenda Results: 1983 Through 1985 Crops of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Results of Marketing Quota Referenda for 1983 Through 1985 Crops of Fire-Cured (Types 22–23) and Dark Air-Cured (Types 35–36) Tobaccos.

SUMMARY: This notice proclaims the results of marketing quota referenda for fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos which were held during the period February 28 through March 3, 1983, in accordance with section 319 of the Agricultural Adjustment Act of 1938, as amended by the No Net cost tobacco Program Act of 1982 (Pub. L. 97–218, 96 Stat. 197, approved July 20, 1982). The referenda were conducted in order to determine whether producers of these kinds of tobacco favor or oppose marketing quotas on a poundage basis for the three marketing years beginning October 1, 1983, in lieu of continuing quotas on an acreage basis for the two marketing years beginning October 1, 1983. Producers of both fire-cured and dark air-cured tobacco opposed national marketing quotas on a poundage basis. Therefore, quotas will remain in effect on an acreage basis for the two marketing years 1983–1984 and 1984–1985.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". This notice has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with

respect to the subject matter of this notice.

On February 1, 1983, the Secretary of Agriculture announced that national marketing quotas would be in effect on a poundage basis for fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos for the three marketing years beginning on October 1, 1983, subject to approval by producers of these kinds of tobaccos in separate referenda. During the period February 28 through March 3, 1983, referenda for fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos were conducted. Section 319 of the 1938 Act as amended provides that if one-half or more of such producers voting in the referenda approve marketing quotas on a poundage basis, such results shall be proclaimed by the Secretary and national marketing quotas shall be in effect on a poundage basis for the three marketing years 1983–1984, 1984–1985, and 1985–1986. If marketing quotas on a poundage basis are disapproved, quotas will remain in effect on an acreage basis for the two marketing years 1983–1984 and 1984–1985. Since the only purpose of this notice is to announce the results of the referenda, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referenda are set forth below:

Notice

Results of the National Marketing Quota Referenda for the 1983 Through 1985 Crops Fire-Cured (Types 22–23) and Dark Air-Cured (Types 35–36) Tobaccos

(1) *Referenda period.* The national marketing quota referenda for the 1983–1984, 1984–1985, and 1985–1986 marketing years for fire-cured (types 22–23) and dark air-cured (types 35–36) were held during the period February 28 through March 3, 1983, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary, by State, of the results of the referenda:

FIRE-CURED (TYPES 22–23)[1]

State	Yes	No	Total
Kentucky	1,290	3,808	5,098
Tennessee	710	4,753	5,463
Totals	2,000	8,561	10,561

[1] Of those voting, 2,000 producers, or 18.94 percent, favored fire-cured tobacco marketing quotas on a poundage basis and 8,561 producers, or 81.06 percent, opposed quotas on a poundage basis.

DARK AIR-CURED (TYPES 35–36)[2]

State	Yes	No	Total
Indiana	10	7	17
Kentucky	4,307	5,322	9,629
Tennessee	720	2,060	2,780
Totals	5,037	7,389	12,426

[2] Of those voting, 5,037 producers, or 40.54 percent, favored dark air-cured tobacco marketing quotas on a poundage basis and 7,389 producers, or 59.46 percent, opposed quotas on a poundage basis.

(3) *Effect of referenda.* Since more than one-half of the producers voting in each respective referendum opposed quotas on a poundage basis, national marketing quotas shall remain in effect on an acreage basis for both fire-cured (types 22–23) and dark air-cured (types 35–36) tobaccos for the two marketing years 1983–1984 and 1984–1985.

(Secs. 312(c), 319, 52 Stat. 46, as amended 96 Stat. 211; 7 U.S.C. 1312(c), 1314e(b))

Signed at Washington, D.C. on June 15, 1983.

Everett Rank

Administrator, Agricultural Stabilization and Conservation Service.

[FR DOC. 83-16521 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

1983 Rice Program; Determinations Regarding the Proclamation of 1983-Crop Program Provisions for Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of determination of 1983-crop provisions for rice.

SUMMARY: The purpose of this notice is to affirm the following determinations which have been made with respect to the 1983 crop of rice: (1) The loan and purchase rate is $8.14 per hundredweight; (2) the established (target) price is $11.40 per hundredweight; (3) an acreage reduction program (ARP) for rice is established with a uniform reduction of 15 percent; and (4) a land diversion program (LDP) is established requiring a 5 percent reduction in addition to the 15 percent acreage reduction program with a payment of $2.70 per hundredweight. These determinations are required to be made in accordance with Section 101(i) of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Supervisory Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, Room 3742, South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–4634. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determinations is available on request from the above-named individuals.

SUPPLEMENTARY INFORMATION: These determinations have been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512–1 and have been classified as "major". These determinations have been classified as "major" because they are expected to affect the supply and price of rice during the 1983–84 marketing year, which will in turn impact upon producers, processors, exporters and consumers of rice.

The titles and numbers of the federal assistance program to which this notice applies are: Title-Rice Production Stabilization; Number 10.065; and Title-Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. *Loan and Purchase Rate.* Section 101(i)(1) of the Act provides that the Secretary shall make available to producers in the several States of the United States loans and purchases for the 1983 crop of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish loans and purchases at such level, not less than $8.00 per hundredweight, as the Secretary determines necessary to avoid such consequences.

2. *Established (Target) Price.* Section 101(i)(2)(C) of the Act provides that the established price for rice shall be not less than $11.40 per hundredweight for the 1983 crop. Such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (a) the average adjusted cost of production per acre for the two crop years (1981 and 1982) immediately preceding the year for which the determination is made from

(b) the average adjusted cost of production per acre for the two crop years (1980 and (1981) immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

3. *Acreage Reduction Program.* Section 101(i)(5)(A) of the Act provides that the Secretary shall implement a combination of an acreage reduction program and a cash land diversion for the 1983 crop of rice under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 percent, consisting of a reduction of 15 percent under the acreage limitation program and a reduction of 5 percent under the cash land diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and cash land diversion program. The acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

Prior to publication of proposed determinations for the 1983 rice program, the Secretary had received comments that the determination of rice acreage bases on a farm may result in lower crop quality in areas with red rice problems. Since acreage rotation is a common practice for the control of red rice, comments were requested on the need to make adjustments, on a case by case basis, to rice acreage bases established for farms to provide for the control of red rice.

With respect to the determination of the acreage reduction production, the following options were considered for the 1983-crop rice program: (a) A 15 percent acreage reduction program combined with a 5 percent land diversion program; and (b) a 25 percent combined acreage reduction and land diversion program.

4. *Cash Land Diversion Program.* Section 101(i)(5)(B) of the Act provides that the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 percent of the rice acreage base in addition to the 15 percent under the acreage reduction program. Such payments shall be made in an amount computed by multiplying (i) the land diversion payment rate, by (ii) the farm program yield for the crop by (iii) the additional acreage diverted under the land diversion program. The land diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

5. *The National Program Acreage (NPA).* Section 101(i)(4)(A) of the Act provides that the Secretary shall proclaim an NPA for the 1983 crop of rice not later than January 31, 1983. The NPA shall be the number of harvested acres of rice the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1983 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1983/84 marketing year. The NPA provisions do not apply if an acreage reduction program is implemented for the 1983 crop of rice.

6. *Voluntary Reduction Percentage.* Section 101(i)(4)(C) of the Act provides that the 1983 individual farm program acreage of rice eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of rice planted for harvest on the farm from the 1983-crop established rice acreage base by at least the percentage recommended by the Secretary in his proclamation of the NPA for the 1983 crop. If an acreage reduction program is implemented for the 1983 crop of rice, the voluntary reduction percentage shall not be applicable to such crop.

7. *Grazing and Haying of Designated ARP Acreage.* Section 101(i)(5)(A) of the Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if the Secretary determines such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

8. *Offsetting Compliance.* Section 101(i)(9) of the Act provides that the Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of the Act as they apply to the 1983-crop of rice. The Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to assure that all of their farms in which they have an interest are complying with program requirements which are specified with respect to the rice program in order to be eligible for rice program benefits for any farm.

9. *Advance Payments.* Section 107C(a)(1) of the Act provides that the Secretary shall make advance deficiency payments available to producers who participate in the acreage reduction program if the Secretary determines that deficiency payments will likely be made. In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary in accordance with Section 101(i)(2)(B), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency payment for the crop concerned. If the Secretary determines in accordance with Section 101(i)(2)(B) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments. Any refund required shall be due at the end of the marketing year for the crop with respect to which such payments were made. The Secretary shall make not less than 50 percent of any land diversion payments to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with the

requirements under the acreage reduction or land diversion program after obtaining an advance payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

A notice that the Secretary was preparing to make determinations with respect to the 1983 crop of rice was published in the **Federal Register** on October 26, 1982 (47 FR 47449), and provided for a 30-day comment period. A total of 248 comments were received from 6 States. Included in this total were comments from 229 individual producers, 5 producer cooperatives, 7 farm/trade organizations, 4 State or County ASC offices, and 3 of miscellaneous origin. The majority of comments were directed at four issues: (1) The extent of the ARP/LDP; (2) the loan and purchase rate; (3) movement of acreage base; and (4) offsetting compliance.

With respect to the ARP/LDP, respondents were nearly unanimous in supporting the need for a voluntary paid diversion program in addition to the 15 percent ARP/5 percent LDP minimum program. Most supported an additional 5 percent diversion program since many smaller producers could receive payment for such additional diversion without being subject to the maximum payment limitation. The four farmer-owned cooperatives also were unanimous in supporting an additional voluntary LDP.

A loan and purchase rate of $8.55 per hundredweight was supported by 161 of the respondents commenting on this provision. The higher rate was viewed by its supporters (including 3 cooperatives) as not interfering with exports. One cooperative and the Rice Millers' Association supported a rate "which keeps U.S. rice competitive" in world markets. Others suggested that the higher loan and purchase rate would be an incentive to program participation.

The comments received were nearly unanimous (196 of 202) in favor of permitting producers to move their acreage bases from farm to farm. Responses suggest widespread interest in returning to a system whereby the producer has sole authority over the location of the base. Although the USDA proposal was strictly limited to permit the movement of base to control red rice, farmers supported a farmer-base concept for a much wider range of reasons. A number of letters described personal losses or inequities which resulted from the establishment of farm bases under the Act.

One hundred ninety-four comments in opposition to offsetting compliance were received. Implementation of offsetting compliance was viewed as greatly reducing participation in the ARP/LDP program. Only 13 respondents favored the implementation of offsetting compliance.

Few comments were received with respect to the target price. Of those commenting, 26 favored the $11.40 rate as an adequate incentive for program participation. The remaining four supported a higher rate.

Of the comments received regarding the land diversion payment rate, 64 favored the $3.00 per hundredweight payment rate, suggesting that such a rate would induce greater program participation. Ten respondents argued that a $2.70 rate would be sufficient incentive while four respondents urged an LPD rate above $3.00. The point was made several times that since many producers receiving cash land diversion payments would reach the maximum payment limitation of $50,000, a $2.70 rate would be adequate for program objectives. Ten responses were received in favor of allowing haying and grazing of conservation use acreage.

World rice production in 1983/84 could range from 415–435 million tons (rough basis) depending on growing conditions. This represents an increase of about 7 percent from 1982/83 production of about 399 million metric tons. World trade in 1983 is tentatively forecast at 12.5 million tons (milled basis), and with large carryover stocks, world trade in 1983/84 could again be highly competitive.

In the absence of an acreage reduction program, 1983 planted acreage is estimated at about 3.85 million acres, resulting in production of about 177.2 million hundredweights and total supply of about 238.2 million hundredweights. Total domestic and export use under this program option is estimated at about 142.8 million hundredweights, resulting in total ending stocks of about 95.4 million hundredweights. Under this option, the season average price for rice is estimated at the loan level of $8.55 per hundredweight, resulting in total deficency payments of approximately $435 million and total government outlays of about $706 million for the crop year.

Under a 15 percent acreage reduction program combined with a 5 percent paid land diversion program and a loan and purchase rate of $8.55 per hundredweight, 1983 planted acreage is estimated at about 3.26 million acres, resulting in production of about 155.0 million hundredweights and total supply of about 216.0 million hundredweights. Total domestic and export use under this program option is estimated at about 142.8 million hundredweights. Under this option, total deficiency payments are forecast at a level of approximately $289 million, land diversion payments at $20.1 million and total goverment outlays at about $404.3 million for the crop year.

Under this acreage reduction and land diversion option with a loan and purchase rate of $8.14 per hundredweight, total domestic and export use is estimated at 144.5 million hundredweights, resulting in total ending stocks of about 73.1 million hundredweights, and a season average price estimated at $8.14 per hundredweight. Total deficiency payments are estimated at about $303.8 million, land diversion payments at about $19.5 million and total government outlays at about $413.3 million.

Under a 25 percent combined acreage reduction and paid land diversion program with a loan and purchase rate of $8.55 per hundredweight, 1983 planted acreage is estimated at about 3.19 million acres, resulting in production of about 152.1 million hundredweights and total supply of about 213.1 million hundredweights. Total domestic and expot use under this option is estimated at about 142.8 million hundredweights, resulting in total ending stocks of about 70.3 million hundredweights. Under this option, the season average price for rice is estimated at $8.55 per hundredweight, resulting in total deficiency payments of approximately $280.5 million, land diversion payments of $28.9 million and total governments outlays of about $3.78.2 million. Under this acreage reduction and land diversion option with a loan and purchase rate of $8.14 per hundredweight, total domestic and export use is estimated at about $144.5 million hundredweights, resulting in total ending stocks of about 69.4 million hundredweights and a season average price estimated at $8.14 per hundredweight. Total deficiency payments are estimated at about $291.7 million, land diversion payments at about $28.9 million and total government outlays at about $378.9 million.

The 1983 rice program determinations provide the optimal balance between the multiple objectives of providing adequate rice supplies for domestic and export utilization, maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs, and conserving natural resources.

On January 4, 1983, the Secretary announced by press release various

program determinations for the 1983 rice progam which are set forth in this notice. Since the only purpose of this notice is to affirm the previously announced program determinations, it has been determined that no further public rulemaking is required.

Determinations

1. *Loan and Purchase Level.* In accordance with Section 101(i)(1) of the Act, it has been determined that the loan and purchase rate for 1983-crop rice is $8.14 per hundredweight. Exports of rice in 1983/84 are forecast to be at about the same level as in 1982/83 with such a loan rate. It has been determined that a loan and purchase level established at a higher level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States.

2. *Established (Target) Price.* In accordance with Section 101(i)(2)(C) of the Act, it has been determined that the established (target) price for 1983-crop rice is $11.40 per hundredweight, the minimum statutory level.

3. *Acreage Reduction Program (ARP).* In accordance with Section 101(i)(5)(A) of the Act, it has been determined that a 20 percent reduction shall be applicable to the acreage planted to the crop of rice. Producers will be required to reduce their acreage bases by 15 percent for the acreage reduction program and 5 percent for the land diversion program for a total of a 20 percent reduction. Producers will be required to reduce their acreage by the combined total of the acreage reduction and the cash land diversion program in order to be eligible for loans, purchases, and payments for the 1983 crop of rice. The Secretary has determined that the total supply of rice, in the absence of such limitations, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

Land designated for conservation use must be cropland that was devoted to row crops or small grains in two of the last three years. Eligible land on which permanent conservation practices were established in 1982 or a subsequent year will be eligible for designation as conservation use acreage under any acreage reduction or cash diversion program authorized by the Act through the 1985 crops, as long as the practice is maintained. These conservation practices will be eligible for cost-share payment under the Agricultural Conservation Program.

4. *Land Diversion Program (LDP).* In accordance with Section 101(i)(5)(B) of the Act, it has been determined that land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Therefore, such payments will be made for the 1983 crop of rice at $2.70 per hundredweight times the program yield times the acreage diverted for the 5 percent cash land diversion program.

5. *National Program Acreage.* In accordance with Section 101(i)(4)(A) of the Act, it has been determined that the NPA will not be applicable for the 1983 crop of rice since an acreage reduction program has been announced.

6. *Voluntary Reduction Percentage.* In accordance with Section 101(i)(5)(C) of the Act, it has been determined that the voluntary reduction percentage will not be applicable for the 1983 crop of rice since an acreage reduction program has been announced.

7. *Grazing and Haying of Designated ARP Acreage.* In accordance with Section 101(i)(5)(A) of the Act, it has been determined that rice producers shall not be permitted to hay or plant alternate crops on the designated ARP acreage. Grazing of the conservation use acreage will be authorized during the six principal non-growing months as determined by the State ASC committees.

8. *Offsetting Compliance.* Offsetting compliance will not be required as a condition of eligibility in order for a rice producer to participate in the 1983 acreage reduction and cash land diversion programs.

9. *Advance Payments.* Producers may request, at the time they sign up for the program, an advance payment equal to 50 percent of the diversion payment and of any projected deficiency payment. A producer who accepts an advance payment, but who later does not comply with program provisions, must refund the amount of the advance payment with interest. Interest charged will be the rate in effect for commodity loans on the date of the advance payment, plus five percentage points.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101(i), 107C, and 401, 95 Stat. 1242, as amended, 96 Stat. 766, 63 Stat. 1054, as amended (9 U.S.C. 1441, 1445b–2, 1421))

Signed in Washington, D.C. June 15, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-16519 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Oxford Central School RC&D Measure, New Jersey; Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oxford Central School RC&D Measure, Warren County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone (201) 246–1205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing drainage for the athletic fields at the Oxford Central School. The planned works of improvement include the installation of a surface and subsurface drainage system to include tile drains, waterways and diversions and associated grading and revegetation.

The Notice of a Finding of No: Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse

review of Federal and federally assisted programs and projects is applicable.

Dated: June 7, 1983.

Joseph C. Branco,

State Conservationist.

[FR Doc. 83-16404 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-16-M

Shimer Manor School RC&D Measure, New Jersey; Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Shimer Manor School RC&D Measure, Warren County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone (201) 246-1205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for controlling surface water to prevent continued erosion at Shimer Manor School. The planned works of improvement include surface grading, the construction of waterways, curbing, catch basins, and underground conduits and revegetation of the site.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessments are on file amd may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.

Dated: June 10, 1983.

Joseph C. Branco,

State Conservationist

[FR Doc. 83-16403 Filed 6-20-83; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Florida 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 meeting of the Florida Advisory Committee to the Commission will convene at 9:30a and will end 12:30p, on June 29, 1983, at the Hyatt Regency Miami, Lantana Room, 400 SE Second Avenue, Miami, Florida. The purpose of the meeting is to review the concept/proposal for a followup study of the Miami report on racial isolation.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Teresa Saldise, 815 S.W. 13th Court, Miami, Florida 33135, (305) 856-1365; or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 242-4391.

The meeting will be conducted purusant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 16, 1983.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 83-16573 Filed 6-20-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan 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 meeting of the Michigan Advisory Committee to the Commission will convene at 6:00p and will end at 9:00p, on July 11, 1983, at the Isaac Joques Parish Hall, 1529 Marquette Avenue, Sault Ste. Marie, Michigan 49783. The purpose of the meeting is to discuss civil rights in the Upper Peninsula of Michigan.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson Dr. M. H. Rienstra, 1225 Thomas South East, Grand Rapids, Michigan 49506, (616) 949-4000, or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604 (312) 353-7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. June 15, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-16576 Filed 6-20-83; 8:45 am]

BILLING CODE 6335-01-M

Oregon 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 meeting of the Oregon Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:30 p.m., on July 20, 1983, at the Portland Hilton, Parlor C Room, 921 S.W. Sixth Avenue, Portland, Oregon. The purpose of this meeting is to discuss program plans and activities for the remainder of fiscal year 1983 and fiscal year 1984.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Sloan, 215 North West Orchard Drive, Portland, Oregon 97229, (503) 627-8162; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 399-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 15, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-16574 Filed 6-20-83; 8:45 am]

BILLING CODE 6335-01-M

Washington 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 meeting of the Washington Advisory Committee to the Commission will convene at 9:00a and will end at 5:00p, on July 18-19, 1983, at the Seattle Hilton, Sixth and University, Seattle, Washington. The purposes of this meeting are to develop program plans and activities for FY 84, and orientate new members.

Persons design additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Tomas Sandoval, 332 Thunderbird Court, S.E., Lacey,

Washington 98503, (206) 543-9455; or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174 (206) 399-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 15, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-16575 Filed 6-20-83; 8:45 am]

BILLING CODE 6335-01-M

West Virginia 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 meeting of the West Virginia Advisory Committee to the Commission will convene at 1:00p and will end at 3:30p, on July 18, 1983, at the Ramada Inn, Delegates Room, 1940 Harper Road, Beckley, West Virginia. The purposes of this meeting are to plan for fiscal year 84, and orientation of new members.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Donald L. Pitts, 416 South Fayette, Beckley, West Virginia 25801, (304) 252-5308; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, D.C. 20037, (202) 254-6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 15, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-16577 Filed 6-20-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Number of Employees, Payrolls, Geographic Location, Current Status, and Kind of Business for the Establishments of Multiestablishment Companies

Notice of Determination for Surveys

In conformity with Title 13, United States Code, Sections 182, 224, and 225 and due notice of consideration having been published on March 24, 1983 (48 FR 12415), I have determined that a 1983 Company Organization Survey is needed to update the multiestablishment companies in the Standard Statistical Establishment List. The survey, which has been conducted for many years, is designed to collect information on the number of employees, payrolls, geographic location, current status, and kind of business for the establishments of multiestablishment companies. These data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey, and additional copies of the form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

Dated: June 15, 1983.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 83-16544 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-351-020]

Non-Rubber Footwear From Brazil; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of Brazil, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on non-rubber footwear from Brazil would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise made on or after October 29, 1981 shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Larry Hempel, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On September 12, 1974, the Department of the Treasury published in the **Federal Register** (T.D. 74-233, 39 FR 32903) an affirmative final countervailing duty determination regarding non-rubber footwear from Brazil.

On October 29, 1981, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that the Government of Brazil had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification by the ITC, to suspend liquidation of entries of the merchandise pursuant to that section of the TAA, since previous suspensions remained in effect.

On May 24, 1983, the ITC notified the Department of its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Brazilian non-rubber footwear if the order were revoked (48 FR 24796, June 2, 1983). As a result, the Department is revoking the countervailing duty order concerning non-rubber footwear from Brazil with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

The ITC's decision and this revocation do not affect shipments of the merchandise entered on or before October 28, 1981. These shipments are subject to the administrative review procedures set forth in section 751 of the Tariff Act of 1930.

This revocation and notice are in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Dated: June 15, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-16596 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-022]

Non-Rubber Footwear From Spain; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of Spain, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on non-rubber footwear from Spain would not cause injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise made on or after May 3, 1982 shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On September 12, 1974, the Department of the Treasury published in the Federal Register (T.D. 74-235, 39 FR 32904) an affirmative final countervailing duty determination regarding non-rubber footwear from Spain.

On May 3, 1982, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that the Government of Spain had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification by the ITC, to suspend liquidation of entries of the merchandise pursuant to that section of the TAA, since previous suspensions remained in effect.

On May 24, 1983, the ITC notified the Department of its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Spanish non-rubber footwear if the order were revoked (48 FR 24796; June 2, 1983). As a result, the Department is revoking the countervailing duty order concerning non-rubber footwear from Spain with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982, the date the Department received notification of the request for an injury determination.

The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

The ITC's decision and this revocation do not affect shipments of the merchandise entered on or before May 2, 1982. These shipments are subject to the administrative review procedures set forth in section 751 of the Tariff Act of 1930.

This revocation and notice are in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Dated: June 15, 1983.

[FR Doc. 83-16598 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments

Correction

In FR Doc. 83-15923 appearing on page 27282 in the issue of Tuesday, June 14, 1983, make the following correction in the middle column: In the first complete paragraph, the fourth line should read "Instrument.[15] N Analyzer, Model NOI-5."

BILLING CODE 1505-01-M

Committee for the Implementation of Textile Agreements; Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Under a New Bilateral Agreement with Sri Lanka, effective May 1, 1983

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for cotton and man-made fiber gloves and mittens in Categories 331 and 631, men's other coats of cotton and man-made fibers in Categories 334 and 634, women's, girls' and infants' cotton and man-made fiber coats in Categories 335 and 635, woven shirts and blouses of cotton and man-made fibers in Categories 340, 341, 640 and 641, cotton trousers in Categories 347 and 348, wool and man-made fiber sweaters in Categories 445/446 and 645/646, and women's, girls', and infants' man-made fiber trousers in Category 648, produced or manufactured in Sri Lanka and exported to the United States during the thirteen-month period which began on May 1, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

SUMMARY: On May 10, 1983 the Governments of the United States and Sri Lanka exchanged diplomatic notes establishing a cotton, wool and man-made fiber textile agreement beginning on May 1, 1983 and extending for five years through May 31, 1988. The agreement establishes specific levels of restaint for Categories 331, 334, 335, 340, 341, 347, 348, 445/446, 631, 634, 635, 640, 641, 645/646, and 648 during the first agreement year which began on May 1, 1983 and extends thirteen months through May 31, 1984. The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year upon agreement between the two governments. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Sri Lanka and exported during the thirteen-month period which began on May 1, 1983 and extends through May 31, 1984, in excess of the designated levels of restraint.

EFFECTIVE DATE: June 22, 1983.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Dated: June 16, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

June 16, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka; and in accordance with the provisions

of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 22, 1983 and for the thirteen-month period which began on May 1, 1983 and extends through May 31, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 331, 334, 335, 340, 341, 347, 348, 445/446, 631, 634, 635, 640, 641, 645/646 and 648 in excess of the following levels of restraint:

Category	13-mo level of restraint [1]
331	928,991 dozen pairs.
334	181,085 dozen.
335	132,713 dozen.
340	477,519 dozen.
341	447,766 dozen.
347	357,971 dozen.
348	265,426 dozen.
445/446	97,863 dozen.
631	281,667 dozen pairs.
634	108,333 dozen.
635	178,750 dozen.
640	93,147 dozen.
641	477,766 dozen.
645/646	97,500 dozen of which not more than 65,000 dozen shall be in Cat. 646.
648	162,500

[1] The levels of restraint have not been adjusted to reflect any entries after April 30, 1983.

In carrying out this directive, entries of cotton, wool, and man-made fiber textile products in Categories 331, 334, 335, 340, 341, 347, 348, 445/446, 640, and 641, produced or manufactured in Sri Lanka, shall, to the extent of any unfilled balances, be charged to the levels of restraint established for them during the twelve-month period which began on May 1, 1982 and extended through April 30, 1983. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Man-made fiber textile products in Categories 631, 634, 635, 645/646, and 648 that have been exported before May 1, 1983 shall not be subject to this directive.

Cotton, wool, and man-made fiber textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustments in the future according to the provisions of the bilateral agreement of May 10, 1983 between the Governments of the United States and Sri Lanka, which provide, in part, that: (1) any specific limit and sublimit may be exceeded by designated percentages of the square yards equivalent total in any agreement period, provided that the amount of the increase is compensated for by an equivalent decrease in one or more other specific limits; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit, however, carryover will not be available in the agreement period during which the specific limit is first established; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Sri Lanka and with respect to imports of cotton, wool and man-made fiber textile products from Sri Lanka have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-16503 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Korea To Review Trade in Categories 314 and 317

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 3, 1983 the Government of the United States requested consultations with the Government of the Republic of Korea with respect to Categories 314 (cotton poplin and broadcloth) and 317 (cotton twill and sateen). This request was made on the basis of the agreement of December 14, 1982, between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 314 and 317, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Government of the United States reserves the right under the agreement to invoke import controls on this category, as defined in the Bilateral Cotton, Wool, and Man-made Fiber Textile Agreement with the Government of the Republic of Korea.

Any party wishing to comment or provide data or information regarding the treatment of Categories 314 and 317 under the Bilateral Cotton, Wool, and Man-made Fiber Textile Agreement with the Government of the Republic of Korea, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: June 16, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-16504 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-25-M

Soliciting Public Comment on Bilateral Textile Consultations with Taiwan to Review Trade in Categories 314 and 317

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On June 6, 1983 the American Institute in Taiwan requested consultations with the Coordination

Council for North American Affairs concerning exports from Taiwan in Categories 314 (cotton poplin and broadcloth) and 317 (cotton twill and sateen). These requests were made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 314 and 317, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right to invoke import controls on these categories, as defined in the agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Categories 314 and 317 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these Categories is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: June 16, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-16502 Filed 6-20-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting Cancellation

June 13, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee of the Potential Mililtary Utility of a Manned National Space Station meeting scheduled for June 23–24, 1983 published in the Federal Register, Vol. 48, No. 94, pg 21627, Friday, May 13, 1983 has been cancelled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-16528 Filed 6-20-83; 8:45 am]

BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, June 29, 1983, beginning at 1:30 p.m. The hearing will be a part of the Commission's regular June business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation beginning at 11:00 a.m.

The hearing, meeting and conference will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

The subject of the hearing will be as follows:

Application for Approval of the Following Project Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:

1. *Township of Voorhees (D–83–5 CP).* An interim expansion of a sewage treatment plant to serve the Township of Voorhees in Camden County, New Jersey. The existing plant will be upgraded and expanded to remove BOD and TSS from a design sewage flow of 2.0 million gallons per day (mgd). The proposed modifications are designed to reduce BOD effluent loading, which has been exceeding NPDES limits, and end the State-imposed ban on additional connections to the system until completion of the centralized Camden County MUA facilities. Treated effluent will discharge to the Cooper River in Voorhees Township, Camden County, New Jersey.

Documents relating to this project may be examined at the Commission's offices and are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

June 14, 1983.

[FR Doc. 83-16469 Filed 6-20-83; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Public Hearings and Request for Public Comment on the Reauthorization of the Higher Education Act of 1965; Correction

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: This document makes a technical change in the notice of public hearings and request for public comment on the reauthorization of the Higher Education Act of 1965.

FOR FURTHER INFORMATION CONTACT: Dr. Edward Elmendorf, Assistant Secretary for Postsecondary Education at (202) 245–9274, or Mr. Louie Mathis or Mr. Duncan Helmrick, at (202) 245–8564. Written comments should be addressed to Dr. Elmendorf c/o the Office of Legislation and Public Affairs, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3153, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: On June 8, 1983, the Secretary published, in the Federal Register, a notice of public hearings and request for public comment on the reauthorization of the Higher Education Act of 1965. (48 FR 26517–26519)

Due to a scheduling problem, the public hearing scheduled for July 7 and 8, 1983, in Indianapolis, Indiana is now scheduled to be held on July 8, 1983 only. The hearing will still be held in the Lecture Hall, Room 102, Indiana University—Purdue University at Indianapolis, 325 Agnes Street, Indianapolis, Indiana.

Dated: June 16, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-16587 Filed 6-20-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[EPA Docket No. 83-CERT-176]

American Sugar Division, Amstar Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

American Sugar Division, Amstar Corporation (Amstar), 1251 Avenue of the Americas, New York, New York 10020, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Baltimore Refinery in Baltimore, Maryland, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20858, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Amstar indicates that the volume of natural gas for which it requests certification is approximately 2,150,000 Mcf per year. This volume is estimated to displace the use of approximately 357,550 barrels of No. 6 fuel oil (1.0 percent sulfur) per year.

The eligible sellers are Yankee Resources, Inc., 1105 Schrock Road, Suite 800, Columbus, Ohio 43229; and Target Exploration, Inc., The Clark Building, Suite 301, Columbia, Maryland 21044. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325 and by Baltimore Gas and Electric Company, P.O. Box 1475, Baltimore, Maryland 21230, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against on in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Amstar and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16565 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-156]

Anheuser-Bush, Inc.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

Anheuser-Bush, Inc., One Bush Place, St. Louis, Missouri 63118, filed an application on June 1, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its brewery located at 700 E. Schrock Road, Columbus, Ohio 43229, pursuant to 10 CFR Part 595 (44 ER 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Anheuser-Bush, Inc. indicates that the volume of natural gas for which it requests certification is approximately 2,737,500 Mcf per year. This volume is estimated to displace the use of approximately 18,615,000 gallons of No. 6 fuel oil (1.37 percent sulfur) per year.

The eligible seller is POI Energy, Inc., 777 East 79th Street, Cleveland, Ohio 44103. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325 and by Columbia Gas of Ohio, 99 N. Front Street, Columbus, Ohio 43215, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Anheuser-Bush, Inc. and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16566 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-179]

CertainTeed Corp., Application for Certification of the Use of Natural Gas To Displace Fuel Oil

CertainTeed Corporation (CertainTeed), 750 Swedesford Rd., Valley Forge, Pennsylvania 19482, filed an application on June 8, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its facilities located in Milan, Ohio and York, Pennsylvania, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m.

to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, CertainTeed indicates that the volume of natural gas for which it requests certification is approximately 232,200 Mcf per year for the Milan, Ohio facility and 288,000 Mcf per year for the York, Pennsylvania facility. This volume is estimated to displace the use of approximately 37,000 barrels of No. 6 fuel oil (2 percent sulfur) per year at the Milan, Ohio facility and 45,700 barrels of No. 6 fuel oil (2.3 percent sulfur) per year at the York, Pennsylvania facility.

The eligible sellers are Castle Gas Company, Inc., 3829 Willow Avenue Pittsburgh, Pennsylvania 15234; Exxon Company, USA, P.O. Box 2180, Houston, Texas; J and J Enterprises Inc., 43 South Ninth Street, Indiana, Pennsylvania 15701; Felmont Oil, P.O. Box 590, Olean, New York 14760, and Union Drilling Inc., P.O. Drawer 40, Buckhannon, West Virginia 26201. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325 and by Columbia Gas of Ohio, Inc. for the Milan facility and Columbia Gas of Pennsylvania, Inc. for the York facility, local distribution companies.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independance Avenue, S.W., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and agruments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to CertainTeed and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on June 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16563 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-155]

Children's Hospital Medical Center; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Children's Hospital Medical Center (CHMC), 240 Bethesda, Cincinnati, Ohio 45229, filed an application on June 1, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its facility at 240 Bethesda in Cincinnati, Ohio, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, CHMC indicates that the volume of natural gas for which it requests certification is approximately 12,000 Mcf semi-annually. This volume is estimated to displace the use of approximately 90,000 gallons of No. 2 heating oil (.05 percent sulfur) semi-annually.

The eligible sellers are Exxon USA, P.O. Box 2810, Houston, Texas 77001 and Texas Gas Corporation, 3800 Federica Street, P.O. Box 1160, Owensboro, Kentucky 42302. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325 and Texas Gas Transmission Corporation, 3800 Federica Street, P.O. Box 1160, Owensboro, Kentucky 42302. The Cincinnati Gas and Electric Company, P.O. Box 960, Cincinnati, Ohio 45202 and the Union Light, Heat and Power Company, P.O. Box 32, Covington, Kentucky 41012 are the local distribution companies.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to CHMC and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16483 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-Cert-178]

General Tire and Rubber Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

General Tire and Rubber Company (General) One General Street, Akron, Ohio, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its facility in Mt Vernon, Illinois, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, General indicates that the volume of natural gas for which it requests certification is approximately 550,000 Mcf per year. This volume is estimated to displace the use of approximately 85,714 barrels of No. 6 fuel oil (1 percent sulfur) per year.

The eligible seller is Delta Resources, 2650 Fountainview, Suite 100, Houston, Texas 77057. This gas will be transported by Natural Gas Pipeline Company of America, P.O. Box 283, Houston, Texas 77001; and by Illinois Power Company, 500 S. 27th Street,

Decatur, Illinois 62525, a local distribution company

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to General and any person filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on June 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16504 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-077]

Great Lakes Carbon Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On May 7, 1983, Great Lakes Carbon Corporation (GLCC), P.O. Box 667, Niagara Falls, New York 14302, filed with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595, an application for certification of an eligible use of approximately 1,000 Mcf per day of natural gas which is expected to displace the use of approximately 7,140 gallons of No. 2 fuel oil (1.0 percent sulfur) per day at its carbon products manufacturing facility in Niagara Falls, New York.

The eligible sellers of the natural gas are: U.S. Energy Development Corporation, 610 Statler Building, Buffalo, New York 14202; Envirogas, Inc., One Grimsby Drive, Hamburg, New York 14075; Goetro, Inc., Route #1, Albion, Pennsylvania 16401; and P & S Drilling, Inc., 10305 Main Street, Clarence, New York 14031. The gas will be transported by National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301 and by National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203, a local distributory company.

Notice of that application was published in the Federal Register (48 FR 24188, May 31, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed GLCC's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that GLCC's application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16484 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-180]

Inland Products, Inc., an Ohio Corporation; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Inland Products, Inc., an Ohio corporation, (Inland), P.O. Box 926, Columbus, Ohio 43216, filed an application on June 8, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its manufacturing facility in Columbus, Ohio, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Inland indicates that the volume of natural gas for which it requests certification is approximately 126,000 Mcf per year. This volume is estimated to displace the use of approximately 812,904 gallons of No. 6 fuel oil (0.1 percent sulfur) per year.

The eligible seller is Delta Resources, Inc., 6797 North High Street, Suite 100, Worthington, Ohio 43085. This gas will be transported by Columbia Gas Transmission Corp., 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25325; and by Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43125, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Inland and any person filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on June 15, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16562 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

Hawthorne Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Hawthorne Oil & Gas Corporation as a final order of the Department.

EFFECTIVE DATE: June 21, 1983.

FOR FURTHER INFORMATION CONTACT: Herbert F. Buchanan, Deputy Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Avenue, Suite 660, Houston, Texas 77002. (713) 229–3700.

SUPPLEMENTARY INFORMATION: On March 9, 1983, Vol 48 FR 9906, the ERA published a notice in the Federal Register that it had executed a proposed Consent Order with Hawthorne Oil & Gas Corporation (Hawthorne) which would not become effective sooner than 30 days after publication of the notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order resolves Hawthorne's potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211 and 212, in connection with the firm's transactions involving the production and marketing of covered products during the period September 1, 1973 through November 30, 1976. The Consent Order requires Hawthorne to remit $520,000 to DOE, in eighteen (18) consecutive monthly payments, commencing within ninety (90) days of the effective date of this Consent Order. Hawthorne may prepay the balance at any time. Installment interest on the unpaid balance will be based upon the average prime rates.

Twelve comments were received. These comments did not contest the validity of the proposed Consent Order, but addressed the question of the ultimate disposition of the funds to be paid by Hawthorne. Comments from various states, for example, proposed that the funds by distributed to the states for transportation improvement projects, energy conservation, energy research and development or other energy-related projects.

Since these comments addressed only the disposition of the funds, the ERA has decided to make the proposed Consent Order final without modification. The ultimate disposition of the funds will depend on several factors, such as the type of alleged violations underlying the Consent Order and the ability of ERA to identify the persons who ultimately bore the burden of the alleged violations. The commenters' suggestions regarding the distribution of the funds will be considered in determining the appropriate ultimate disposition.

The proposed Consent Order with Hawthorne Oil & Gas Corporation, therefore, is made final and effective on June 21, 1983, by publication of this Notice in the Federal Register.

Issued in Dallas, Texas on the 22nd day of April, 1983.

Herbert F. Buchanan,

Deputy Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-16558 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EF81-2011-000, EF81-2021-000, and EF82-2011-001]

Bonneville Power Administration; Order Confirming and Approving Rates on a Final Basis

Issued: June 15, 1983.

Before the Commission for confirmation and approval, or disapproval, are the various wholesale power rate schedules, transmission rate schedules, and general rate schedule provisions submitted by or on behalf of the Bonneville Power Administration (BPA or Bonneville). The BPA Administrator has requested that the 1981 wholesale power rates (Docket No. EF81–2011–000) and transmission rates (EF81–2021–000) be finally confirmed and approved for the five year period beginning July 1, 1981. The Administrator subsequently requested final confirmation and approval of the 1982 wholesale power rates (EF82–2011–001), for the period October 1, 1982, through September 30, 1984. The 1981 power rates are intended to increase wholesale power revenues to Bonneville by approximately $457 million over its previous rates, while the transmission rates are projected to increase transmission revenues by $12.8 million. The 1982 wholesale power rates are designed to provide an additional increase in revenues of approximately $815 million on an annual basis. All of these rates were previously placed into effect on an interim basis. Interventions in these dockets have been granted or noted in previous orders.[1]

On April 29, 1983, the Commission issued an order in the two wholesale power rate cases presently under consideration.[2] In that order, the Commission reviewed Bonneville's proposed rates for sales to non-firm customers outside the Pacific Northwest region but within the United States. Based upon our review, the Commission found that it could not determine whether the revenue level proposed to be collected or the bases upon which the rate schedules were designed were appropriate. The Commission therefore set the non-firm export rates for hearing pursuant to Section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), 16 U.S.C. 839e(k). We left for further consideration, however, the determination as to whether Bonneville's overall rates complied with the standards set forth in Section 7(a)(2) of the Regional Act, 16 U.S.C. 839e(A)(2). These rates are addressed in this order.

Docket No. EF81-2011-000

Numerous issues have been raised by the parties in the three dockets under consideration. With respect to the 1981 power rates, certain parties claim that Bonneville's rates are too low inasmuch as the Administrator has underestimated system costs. These parties contend that Bonneville has failed to include $200 million in purchased power costs incurred and that the rates undercollect Bonneville's reserve credit costs by another $6 million.

Other parties contend that the 1981 power rates are excessive. Public Generating Pool (PGP) asserts that Bonneville has failed to reflect certain contractual commitments in its repayment study and that consideration of revenues from future sales under these contracts would reduce the test period revenue requirement by $60 million to $70 million. St. Regis Paper Company (St. Regis), PGP, and the Public Power Council (PPC) assert that Bonneville has improperly failed to synchronize the test period used in its Project Repayment Study (PRS) with the

[1] "Order Granting Interim Approval, Granting Waiver, Noting Interventions, Denying Motions, and Establishing Procedures," Docket No. EF82–2011–000, 20 FERC ¶ 61,388 (September 29, 1982); "Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Procedures," Docket Nos. EF81–2011–000 and EF81–2021–000, 20 FERC ¶ 61,292 (September 1, 1982).

[2] "Order Setting Matters For Hearing, Consolidating Dockets, And Establishing Procedures," Docket Nos. EF81–2011–000 and EF82–2011–001, 23 FERC ¶ 61,161.

proposed effective period for the rates. These parties claim that the three month mismatch between costs and revenues results in an additional inflation adjustment, thereby causing the rates to be set at excessive levels. A number of other parties claim that Bonneville's repayment schedule should have scheduled repayment of investments in a manner that would have higher interest bearing investments paid before lower interest bearing investments.

Finally, PPC, several investor-owned utilities (IOUs), International Paper Company (IP), CP National Corporation, and Idaho Power Company state that Bonneville's rates are not based on total system costs since the PRS reflects estimated costs of $1.125 billion for fiscal year 1982 while Bonneville's Wholesale Power Rate Design Study showed costs of only $1.053 billion. Bonneville has clarified the confusion on this issue in its response by noting that costs not included in the Wholesale Power Rate Design Study have been included in the Transmission Rate Design Study.

Bonneville has also responded to claims that $200 million in purchased power costs were improperly excluded, asserting that these costs were incurred outside of the effective rate period. Bonneville also states that the exclusion of reserve credit costs was an error which has since been corrected and adjusted in the effective rates.

With respect to allegations that contractual commitments are not properly reflected in the repayment study, Bonneville states that it is obligated under DOE regulations to consider only costs or revenues realized from commitments existing during the cost evaluation period. Regarding claims that Bonneville failed to syncronize costs and revenues, Bonneville states that costs did not vary significantly over the two periods. Bonneville further asserts that using a fiscal year for establishing costs is administratively convenient and increases the accuracy of its estimates. Bonneville adds, however, that the significant costs of the Washington Public Power Supply System (WPPSS) Nuclear Project No. 3 costs were excluded from its analysis because the costs, while falling within the fiscal year cost period, fell outside the proposed effective period for the rates. Bonneville responds to the highest interest first claims by stating that these problems were corrected in its Final Repayment Study and that the adjustments do not affect the final rate level.

Transmission Rates

A number of customers have challenged Bonneville's Direction of Effort Study which was used to develop the transmission rates. The customers charge that the study produces biased results in that it improperly functionalizes BPA's costs between generation, transmission, and metering and billing. Some customers also object to certain one-way restrictions in the Firm Power Transmission (FPT) rate, the failure of Bonneville to provide the customers with sufficient latitude in choosing the appropriate type of transmission service desired, and BPA's treatment of transmission losses. The parties have also challenged the 35 year period used to depreciate BPA's investment in transmission facilities and the fact that BPA failed to segment those portions of the transmission facilities above 69 kilovolts that only serve the load of Bonneville's Direct Service Industrial customers (DSIs). Some parties have also argued that Bonneville should have included in its filing the values underlying its Use-of-Facilities Transmission Rate (UFT–2).

Docket No. EF82–2011–001

Most parties intervening in this docket have alleged that Bonneville's rates are excessive. The IOUs and a number of other parties claim that Bonneville has failed to support $34.4 million of operation and maintenance expenses included in its rates. The parties have also challenged a number of other expense items such as increased contributions to the fish and wildlife and research and development programs, including contributions to EPRI, arguing that the record contains little or no support for these items. PPC objects to a revenue credit provided in the DSI rate which was given in exchange for the right to interrupt or restrict portions of the DSISs' load. While BPA claims that the acquisition of these reserves benefits the system, PPC argues that such purchases are imprudent in light of BPA's excess capacity and the lack of need for forced outage reserves.

The Public Utility Commissioner of Oregon, noting that BPA's rates include $30 million for working capital, asserts that this amount could have been obtained by borrowing at a cost of $4.5 million with a resulting savings of $25.5 million. He also argues that BPA could reduce its payments to WPPSS by considering earnings on uncommitted investment funds available to WPPSS. The DSI customers argue that the revenue requirement is at least $77 million higher than the level required to meet the statutory requirements of section 7(a)(2) since payments to the Treasury are being made at a rate faster than required by law.

The IOUs allege that Bonneville has not demonstrated in its filing that the revenues from surplus firm sales (SE–1 and SP–1 rate schedules) are reasonable. Finally, Eugene Water and Electric Board (EWEB) and the City of Seattle claim that $92 million in exchange costs should have been allocated to the DSIs, but were improperly allocated by Bonneville to all classes in contravention of the Regional Act.

Discussion

In our April 29, 1983 order we noted that there were still a number of Commission data requests to BPA outstanding in the 1982 rate case. The Commission staff's letter, which was sent to Bonneville on November 2, 1982, specifically set forth those elements of the filing that failed to comply with the Commission's filing requirements (18 CFR Part 300). The Commission's order further noted that, until these filing deficiencies were corrected the Commission would be unable to complete its review process in this case. On May 6, 1983, the Commission received Bonneville's responsive filing.

We have reviewd the issues raised by the parties in the pleadings and have also reviewed the responsive materials submitted by Bonneville. Based upon our review of the 1981 filing, we seriously question a number of Bonneville's assumptions and practices. Nevertheless, it appears that Bonneville's projected costs were in alignment with projected revenues. Bonneville's Project Repayment Study demonstrates that, based upon these projections, repayment of the Federal investment and all operating costs could have been achieved during the repayment period. While Bonneville's projected revenues failed to materialize, we find that Bonneville's filing provides a sufficient basis for confirmation and approval since the projections submitted were not unreasonable when made. We also note that the 1981 rates cover a locked-in period which would appear to preclude retroactive recovery of the shortfall in revenues that occurred over that period.

The Commission has more concern regarding Bonneville's 1982 filing. Again, Bonneville's filing indicates that the Federal Investment could have been repaid assuming the validity of the forecasted load study. However, based on the operational realities existing at the time of its filing, we believe that it

would have been reasonable for Bonneville to conclude that its forecasted loads would fail to materialize in light of significant decreases in demand for project power in 1981. It thus appears that losses of sales and revenues could have been reasonably anticipated and reflected in the Project Repayment Study. As a result of Bonneville's over-optimistic projections, Bonneville's estimates of sales were unduly excessive. As discussed below, the Commission has other substantial concerns with practices followed by BPA and an after-the-fact review of the rates at issue demonstrates that they are clearly deficient. Nonetheless, given the facts that (1) the 1982 rates will be in effect for a limited period of time; (2) there appears to be insufficient time in the 1982 case for Bonneville to redevelop its repayment study and design new rates prior to its expected October or November, 1983 rate filing; (3) certain of the major concerns expressed in this order have not been previously enunciated; and (4) we are reasonably confident that prompt correction of the objectionable practices discussed herein should enable BPA to adopt an acceptable repayment schedule, we conclude that the proposed rates conform as nearly as can be expected under the existing circumstances to the Regional Act requirement that rates be based upon costs. As the Federal Power Commission has stated in the past.

> The statutory payout requirements . . . must of course, be considered by the Commission in acting upon the Secretary's request for approval of the proposed rate schedule. Compliance with Congressional directives should, however, be determined by practical considerations.[3]

In light of the circumstances enumerated above, we shall confirm and approve Bonneville's 1981 and 1982 rates on a final basis.

The Commisson finds that it is unnecessary at this time to address the specific allegations raised by the parties given our findings below. Bonneville's cross-comments attempt to respond to the various allegations raised by the parties. The response clearly establishes, however, that given actual events, the 1981 wholesale power rates were not sufficient to repay the substantial system costs that were incurred during the effective period of the rates. As noted above, Bonneville developed its costs on a non-synchronized basis with its revenues and defends its failure to synchronize its cost period (October–September, 1982) with the proposed effective period (July, 1981–June, 1982) by stating that (1) costs were not expected to vary significantly over the two periods, and (2) using the fiscal year for developing costs significantly increases the accuracy of BPA's estimates. Despite this assertion, Bonneville intentionally omitted very significant costs incurred during the cost period for WPPSS Nuclear Project No. 3 even though BPA forecasted the first net billing for the project to occur in September, 1982.

Bonneville attempts to justify this $200 million exclusion by claiming that these costs fell outside the proposed effective period. The selective exclusion of these costs, however, directly belies Bonneville's assertion that a fiscal year cost evaluation period renders more accurate results and should therefore be used. Moreover, on May 5, 1982, BPA filed for a *five year extension* of the 1981 power rates which excluded the WPPSS costs. While the Commission could not find good cause to extend the rates for five years, the Commission on June 22, 1982, extended Bonneville's rates until January 1, 1983, because it was unclear what rates, if any, would otherwise have been applicable following the June 30, 1982 rate expiration date.[4]

Bonneville's 1982 rates were subsequently submitted and placed into effect on an interim basis on October 1, 1982.[5] Due to Bonneville's requested extension of the 1981 rates and its failure to follow its cost study, the 1981 rates have resulted in a substantial undercollection of costs. According to Bonneville, overall failure to meet its schedule repayment of the Federal investment, including the WPPSS costs, resulted in interest deferrals during the effective period of $117.8 million. Since Bonneville's policy is to repay all operating deficits prior to making any payments of principal,[6] this means that none of the $164.8 million of scheduled amortization payments to the Treasury actually took place in 1982. Thus, Bonneville's extension of the rates, its failure to synchronize costs and revenues, as well as the dramatic drop in Bonneville's system load from the levels forecasted in the repayment study has led to a substantial undercollection of net revenues relating to interest and principal payment alone over the effective period of over $282.6 million. This figure is without consideration of accumulated revenue deficiencies accruing from prior periods. Our review of Bonneville's superseding rates further reveals that Bonneville has taken no significant steps to ameliorate this problem in the 1982 power rates and, in fact, has caused this problem to be compounded.

This brings us to a repayment practice and undertaken by BPA which we are compelled to address although it has not ben expressly criticized in prior Commission orders. DOE's existing rules [7] have either demanded or allowed Bonneville to develop a practice of deferring or ignoring repayment of principal whenever it fails to recover these amounts over the effective period of its rates. Thus, when Bonneville is unable to collect suffficient revenues to meet payments to the U.S. Treasury over an effective period, Bonneville makes no attempt in the succeeding period to bring its repayment of project investments back on a reasonable schedule. Instead, Bonneville, prepares a new repayment study which assumes that the investment on the books at that time will be repaid over the remaining term left in the repayment period. This practice has the effect of continually pushing Bonneville's repayment obligation to future ratepayers. The ultimate result of this practice is to generate a "bow wave" of unpaid investment costs which are continuously deferred with an ever-increasing level of annual payments required with each succeeding rate filing.

While the methods and assumptions used by Bonneville may be arguably consistent with DOE procedures, the continuation of such policies and practices will inevitably result in the need to recover substantial sums representating deferred Federal investment during the limited period of time remaining at the conclusion of what would be considered a reasonable amortization period. This practice would logically result in the need to overprice power and energy in the future to make up major deficiencies, which practice could readily make such power economically unmarketable.

In light of Bonneville's failure to address this problem, the Commission has evaluated Bonneville's repayment practices against a number of more acceptable repayment alternatives. In its 1981 power and transmission rate fillings, Bonneville provided a listing of each investment in its generation and transmission system beginning with its

[3] *United States Department of the Interior, Bureau of Reclamation, Falcon Dam Project*, Docket No. E–6577, 48 FPC 1568 (1972).

[4] "Order Granting Extension of Interim Rates for a Limited Time," Docket Nos. EF81–2011–000 and EF81–2021–001, 19 FERC ¶61,281 (June 22, 1982).

[5] "Order Granting Interim Approval, Granting Waiver, Noting Interventions, Denying Motions, and Establishing Procedures," 20 FERC ¶61,389 (September 29, 1982).

[6] DOE Order No. RA6120.2, Section 8, c[3]—(Priority of Revenue Application).

[7] *DOE Regulations*, Order No. RA6120.2.

first project, which came on line in 1938, through the end of FY 1979. According to the information provided, the Treasury has $3,849,350,000 invested in generation facilities which were required to be paid from power revenues. Bonneville also reported that it had $1,939,642,000 in transmission investments over the same general period. To date, BPA states that it has repaid $436,063,000 of its generation investments and $214,866,000 of its transmission investments, or 11 percent of the total in each case.

Assuming a 50 year repayment schedule for Federal investments in the system and use of a liberal compound interest amortization period, [8] Bonneville's repayment of the Federal investment is substantially lagging. While Bonneville has repaid 11 percent of its generation investments to date, reasonable payments to the Treasury over this period should have been in the range of 16 to 24 percent, using a compound amorization method and a straight line method, respectively. In the case of transmission investments, while BPA has repaid 11 percent, the range should have been 27 to 35 percent. Under such an analysis, the combined repayment of both generation and transmission investments is thus over $400 million behind the lower limit of repayment requirements. Even if all other cost and revenue estimates in Bonneville's repayment study were reasonable and Bonneville's projected repayment would be accomplished according to its schedule, its revenues would still be deficient because of the lack of past payments toward the amortization of the Federal investment.

A similar study of BPA's filing in EF82-2011-000 shows an investment to be repayed by the end of FY 1981 of $4,191,749,000 in generation facilities and $2,349,298,000 in transmission facilities. Bonneville has indicated that approximately 10.5 percent of its generation investment and 9.5 percent of its transmission plant has been repaid. Again, utilizing a compound or straight line amortization method, the range of repayment for the generation investment should have been from 18 to 27 percent of total investment and, for transmission investment, from 30 to 39 percent. BPA's repayment of its generation and transmission investment, in total, appears to be more than $780 million below the repayment level required using the compound amortization method. [9]

The Regional Act requires the Commission to assure that Bonneville's overall rates "are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs." 16 U.S.C. 839e(2)(A). Given the substnatial failure of Bonneville to reschedule its deferred principal and interest payments on a reasonable basis, it appears that this problem, if not corrected, would result in a failure of Bonneville to meet its statutory obligations.

Other Issues

As noted above, we find that it is unnecessary at this time to specifically address the various issues raised by the parties inasmuch as every adjustment requested aside from the WPPSS adjustment discussed above, and the $6 million undercollection of reserve credit costs, which has been corrected by Bonneville, would result in a decrease in rates which is more than offset by the substantial revenue deficiencies that actually resulted over the effective periods. We would point out, however, that certain cost allocation issues raised by the intervenors are beyond the scope of the Commission's review authority as set forth in the Regional Act. [10] These issues include claims that exchange costs were improperly allocated, as well as PPC's objections to the DSI rate design which provides a revenue credit to the DSIs in exchange for Bonneville's right to restrict or interrupt the DSI's load. In light of the revenue deficiencies, we also see no need to resolve at this time claims that Bonneville failed to provide sufficient evidence with respect to various expense items included in its cost of service. We must insist, however, that in future cases Bonneville take the initiative to develop a sufficient record on cost items which are challenged in the underlying proceeding, so as to permit the Commission, as well as the parties, the opportunity to determine whether projected costs are in fact reasonable and whether the revenues requested properly reflect these costs.

Transmission Case

As noted above, certain rate design and cost allocation issues are not within the purview of this Commission's review authority. Accordingly, we will not address challenges to restrictions on service contained in the FPT-2 rate schedule. Challenges to Bonneville's allocation of line losses among individual rate schedules, and the design of its Use of Facilities (UFT) rate schedule are similarly beyond the scope of our jurisdiction.

Our review of Bonneville's Direction of Effort Study does not indicate that the study has produced an unreasonable assignment of costs as between the various functions (generation, transmission, and metering and billing). While there may be merit to the intervenors' claims that the instructions issued by Bonneville to its managers are imprecise and can produce biased results, [11] no party has pointed to any specific errors resulting from these instructions. Since most of the O&M expenses are, in fact, related to the transmission function, the potential errors from overassignment of costs to this function would not be expected to be significant. As a result, the method reflected in BPA's study does not appear to be administratively unreasonable. We are advised, however, that the challenged language has been eliminated for purposes of BPA's forthcoming 1983 rate filing.

We also find that Bonneville's assumption of a 35 year life on transmission facilities is an acceptable assumption, despite the fact that it is based on an outdated 1977 depreciation study. We would encourage Bonneville, however to review and update its transmission service life estimates as changes occur in the system.

We reject the intervenors' claims that lines over 69 kV serving the DSIs must be directly assigned. The record indicates that most if not all of Bonneville's lines above 69 kV presently serving only DSIs have been constructed with a higher capacity than that required by the substations they serve. According to BPA, these lines are expected to be extended to serve other substations and customers in the future. Accordingly, to assign the total cost of these lines to the delivery segment of an existing DSI would result in an inequitable overallocation of costs to the DSI service class and would distort the appropriate allocation between Federal and non-Federal transmission users. [12]

[8] The compound amortization method, unlike the straight line depreciation methodlogy, assigns a larger portion of the annual payment to interest in the early years, thereby reducing principal payments during the early years.

[9] Based on the straight line method, Bonneville's repayments are behind by $1.4 billion.

[10] For a discussion on the scope of the Commission's rate review authority see "Order Resolving Scope of Commission's Jurisdiction, Granting Intervention and Establishing Further Procedures," Docket Nos. EF81-2011-000 and EF81-2021-000, 20 FERC ¶61,292 (September 1, 1982).

[11] The instructions indicate that any costs which cannot be readily attributed to one of the three major functions should be assigned to the tranmission function.

[12] The term "Federal" transmission user refers to BPA's customers who receive BPA system power over its transmission lines while the term "non-

In a recent order,[13] the Commission noted that Bonneville does not maintain a separate accounting of costs, revenues, and deficits attributable to the Federal and non-Federal transmission users under its current accounting system. While the Commission ordered Bonneville to establish such a system, the present transmission rates were developed prior to the Commmission's order and therefore do not provide a separate accounting. Consequently, the same difficulties that precluded a comprehensive review of Bonneville's rates in that case similarly present problems in this case. Nevertheless, our review of the issues raised by the parties, as discussed above, indicates that none would warrant our rejection of Bonneville's transmission rates. In light of our review, and in light of Bonneville's assurance that a separate accounting will be forthcoming in its 1983 rate filing in accordance with our August 3, 1982 order,[14] we shall confirm and approve Bonneville's transmission rates.

Conclusion

In conclusion, we find that Bonneville's continued utilization of its present method to establish rates will ultimately result in the failure of Bonneville's rates to meet the statutory standards set forth in the Regional Act. Bonneville's practice of pushing its repayment obligations into the future has generated a "bow wave" of unpaid investment costs that are now approaching one billion dollars with no apparent end in sight. Nonetheless, Bonneville has made no discernible effort to mitigate this increasing problem. Indeed, Bonneville's "Notice of Proposed Wholesale Power Rate Adjustment" for its superseding rates estimates that the amortization schedule in fiscal year 1983 will be an additional $65 million below existing repayment schedules. It thus appears that the problem will only be exacerbated, especially in light of the significant drop in BPA's system load from the levels forecasted in the repayment study.

Moreover, Bonneville's failure to synchronize its test period with its cost study has resulted in the exclusion of significant costs of WPPSS Unit No. 3 from its 1981 rates, a situation Bonneville was fully aware of when it sought an additional five year extension of the rates. In addition, a major portion of the revenue deficiency in the 1982 rates is due to the Bonneville's questionable forecast of system load. While Bonneville claims that it was unable to upwardly adjust rates to the level necessary to offset projected decreases in sales volume, Bonneville should reasonably have been aware of the decline in load growth at the time of filing.

The significant deviations between BPA's forecasted sales and actual sales is an unacceptable situation that has greatly contributed to the inability of Bonneville to make adequate payments toward the amortization of the United States investment in the Federal Columbia River Projects System (FCRPS). Responsibility for the failure of Bonneville's sales forecast to approximate actual sales and the lack of any adjustments to these forecasts clearly rests with the Administrator who apparently failed to reassess BPA's rather glowing forecasts in light of the operational realities existing at the time of filing. We suggest that the Administrator carefully consider future load forecasts in light of market conditions existing at the time of BPA's rate filings. If the existing DOE notice and participation procedures do not permit an adjustment to the rates at the time of referral to this Commission in order to correct for over-optimistic sales projections, it would appear desirable for Bonneville to pursue a change in or exception to such procedures.

We would also observe that Bonneville's overall revenue requirement is dependent to a certain extent on the recovery of revenues from surplus firm sales (SE-1 rate schedules). BPA states that surplus firm power sales cannot be fully or accurately determined until data on BPA's loads are available. Although a recent estimate of BPA's surplus showed that 938 megawatts would be available in fiscal year 1983, the capacity of the intertie to the Pacific Southwest could limit these sales. While the Commission has no reason to question Bonneville's estimates at the present time, should these sales fail to materialize, Bonneville's overall revenues could be expected to fall below the level required to meet all financial obligations from this factor alone.

In sum, Bonneville's rates are far below what we believe to be the desirable level that would allow us to conclude with certainty that the Federal investment will be recovered within a reasonable number of years. Our review indicates, however, that by correcting the existing shortcomings in its current repayment practices, Bonneville should still be capable of meeting its repayment obligations. In particular, while we seriously question the failure of Bonneville to factor deferred principal and interest obligations into its current PRS, an appropriate rescheduling of these obligations in future Bonneville studies should enable the Commission to conclude that the Federal investment in the projects will ultimately be recovered over a reasonable number of years. However, it is becoming increasingly difficult to reach this conclusion given the "bow wave" effect on future rates noted above.

As we have stated in the past, the Commission has very limited authority over Federal rates and only has the remedial power to reject or remand rates which are found to be deficient. The Commission's remedial alternatives in the present case have been further constrained in light of the fact that the 1981 power rates under consideration cover a locked-in period and there would arguably be insufficient time in the 1982 case for Bonneville to develop and submit substitute rates prior to its expected October or November, 1983 rate filing. We note that Bonneville's six month delay in curing the deficiencies in its 1982 filing has been a major cause of delay in this proceeding. Under these circumstances, the absence of any adequate Commission remedial authority must logically place the burden on the Bonneville Administrator to remedy concerns identified by the Commission.

We would point out that, had our present review resulted in the conclusion that Bonneville would necessarily be unable to meet its Federal obligations, the Commission would be compelled to reject the rates. It is not apparent to us at this time, however, that Bonneville cannot or will not correct its current practices and adopt a more reasonable repayment schedule. We have observed a strong reluctance on the part of Bonneville in the past to adequately respond to the findings of this Commission.[15] We therefore believe it appropriate to remind Bonneville at this time that it is within the purview of this Commission to reject its subsequent 1983 rate filing, or any other future applications, should such applications fail to conform with the findings of this order or with the Commission's filing requirements, 18 CFR 300.20(b)(2)(i).

Federal" user refers to customers who use BPA's transmission lines to transmit energy from one electric system to another (i.e., wheeling).

[13] "Order Confirming And Approving Transmission Rates," Docket No. E-8563-000, 20 FERC ¶ 61,142 (August 3, 1982).

[14] *See* note 13, *supra*.

[15] *See* "Order Scheduling Informal Conference, Denying Motion, Granting Interventions, and Establishing Procedures," Docket No. EF80-2011-000 (Remand), 20 FERC ¶ 61,291 (September 1, 1982).

As a final matter, we note that, given our concerns as to the sufficiency of BPA's revenues, the nature of BPA's response to our staff's data requests, and our desire to minimize any adverse effect on the Federal Treasury, we are unwilling to confirm and approve the filed rates for the entire periods requested by Bonneville. Rather, we shall limit our approval as noted below. Furthermore, it is appropriate to add that the Commission will be most reluctant to entertain requests to extend the periods of approval.

The Commission Orders

(A) Bonneville's rates, except those for non-firm service subject to the section 7(k) hearing are hereby confirmed and approved as follows: in Docket No. EF81–2011–000, for the period July 1, 1981, through September 30, 1982; in Docket No. EF81–2021–000, for the period July 1, 1981, through December 31, 1983; and in Docket No. EF82–2011–001 for the period October 1, 1982, through December 31, 1983.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–16594 Filed 6–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–186–000]

Larry Hellhake; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 16, 1983.

On February 14, 1983, Larry Hellhake of 809 N. Liberty Road, Boise, Idaho 83074, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. Supplementary information was filed May 2, 1983 to complete application.

The facility will be located in Boise, Idaho. The primary energy source will be geothermal energy at approximately 195 degrees temperature. The electric power production capacity will be 1.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–16590 Filed 6–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–296–000]

James B. Howell; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 16, 1983.

On May 26, 1983, James B. Howell of 1984 Panama Street, Boise, Ada County, Idaho 83705, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric electric facility is located in Idaho County, Idaho 14 miles north of the city of New Meadows. The generating capacity of the facility will be 788 kW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–16588 Filed 6–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–292–000]

Kinsley's Landfill, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 16, 1983.

On May 23, 1983, Kinsley's Landfill, Inc., of P.O. Box 36, Deptford, New Jersey, 08096, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will locate in Deptford, New Jersey. The generating capacity of the facility will be 2,000 kilowatts. Primary energy source will be biomass, waste in the form of methane gas from a sanitary landfill.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–16589 Filed 6–20–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF83–284–000]

Molpus Lumber Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 16, 1983.

On May 8, 1983, Molpus Lumber Co., of P.O. Box 59, Philadelphia, Mississippi 39350, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at 221 Gum Street, Philadelphia, Neshoba County, Mississippi, 39350. The generating capacity of the facility will be 1,675

kilowatts. The primary energy source will be biomass, in the form of waste from a lumber mill (bark, sawdust).

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16591 Filed 6-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-346-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

June 16, 1983.

Take notice that on May 26, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-346-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to abandon and reclaim metering, regulating and appurtenant facilities under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set in the request which is on file with the Commission and open to public inspection.

Northwest Central states that the facilities to be abandoned are located in Finney County, Kansas and were installed pursuant to Commission authorization in Docket No. CP66-113. It is asserted that the sole customer being served by direct sale through these facilities, Smith Sand Company, Inc., Garden City, Kansas, has informed Northwest Central in a letter dated March 1, 1983 that it no longer requires gas service at this location. It is stated that the estimated cost to reclaim the facilities is $430.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16592 Filed 6-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-282-000]

TRW Electronics Systems Group; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 16, 1983.

On May 6, 1983, TRW Electronics Systems Group, of One Space Park, Redondo Beach, California 90278, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle facility is located at 15120 Camino Bancerio, San Diego, California 92128. The primary energy source will be natural gas. The electric power production capacity will be 22.5 MW. Installation will begin in July 1983.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16593 Filed 6-20-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-286-000]

Wind Energy Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 16, 1983.

On May 12, 1983, Wind Energy Co., of 286 12th Street, San Francisco, California, 94103, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind farm will be located at the Altamont Pass area of Alameda County, California. The generating capacity of the facility will be 53 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16595 Filed 6-20-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Cases Filed; Week of April 15 Through April 22, 1983

During the week of April 15 through April 22, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: June 15, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 15 Through April 22, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 18, 1983	Fuel Oil Supply & Terminating, Inc., Washington, D.C.	HRD-0126, HRH-0126	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Fuel Oil Supply & Terminating, Inc. to a Proposed Remedial Order (Case No. HRO-0044) issued to the firm.
Apr. 19, 1983	Arthur D. Little, Inc., Cambridge, Massachusetts	HFA-0139	Appeal of an Information Request Denial. If granted: The March 21, 1983, Information Request Denial issued by the Chicago Operations Office would be rescinded and Arthur D. Little, Inc. would receive access to documents relating to contract proposal RFP-XW-1-001.
Apr. 20, 1983	Reinauer Petroleum Company, Washington, D.C.	HRD-0127	Motion for Discovery. If granted: Discovery would be granted to Reinauer Petroleum Company in connection with the Statement of Objections to a Proposed Remedial Order (Case No. HRO-0105) issued to the firm.
Apr. 20, 1983	Texaco, Inc., White Plains, New York	HRZ-0145	Interlocutory Order. If granted: Texaco, Inc. would not be required to file a statement of legal objections in response to the May 1, 1979 Proposed Remedial Order issued to the firm by the Office of Special Counsel.
Apr. 21, 1983	Earle D. Hightower, Rockville, Maryland	HFA-0140	Appeal of an Information Request Denial. If granted: The March 14, 1983 Information Request Denial issued by the Office of Safeguards and Security would be rescinded, and Earle D. Hightower would receive access to information relating to his service with the U.S. Atomic Energy Commission and the U.S. Energy Research and Development Administration.

REFUND APPLICATIONS RECEIVED

[Week of April 15 Through April 22, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Apr. 18, 1983 to Apr. 22, 1983	Amoco Refund Applications	RF21-6688 through RF21-7274.

NOTICES OF OBJECTION RECEIVED

[Week of April 15 to 22, 1983]

Date	Name and location of applicant	Case No.
Apr. 21, 1983	Plateau, Inc., Washington, D.C.	BEE-1480.
Apr. 22, 1983	Young Refining Corporation, Washington, D.C.	BYX-0198.
Apr. 21, 1983	Laketon Asphalt Refining, Inc., Washington, D.C.	BYX-0196.
Apr. 22, 1983	Caribou Four Corners, Inc., Afton, WY.	BYX-0195.

[FR Doc. 83-16561 Filed 6-20-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of May 20 Through May 27, 1983

During the Week of May 20 through May 27, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Date: June 15, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 20 through May 27, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 12, 1982	Economic Regulatory Administration/Engineered Operating Company, Wichita Falls, Texas.	HRZ-0150	Interlocutory Order. If granted: Mr. J. W. Akin would be joined as a party in the proceeding involving a Proposed Remedial Order issued to Engineered Operating Company (Case No. HRO-0066).
May 5, 1983	Exxon Company, U.S.A., Washington, D.C.	HER-0060	Request for Modification/Rescission. If granted: The May 18, 1983 Decision and Order issued to Husky Oil Company (Case No. BEX-0210) would be modified regarding Husky's entitlements purchase obligations.
May 25, 1983	Sherer Oil Company/Ringer Oil Company, McLean, Virginia	HRD-0134	Motion for Discovery. If granted: Discovery would be granted to Sherer Oil Company/Ringer Oil Company in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to the firm (Case No. HRO-0128).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 20 through May 27, 1983]

Date	Name and location of applicant	Case No.	Type of submission
May 25, 1983	Systematic Management Services, Hamilton Square, New Jersey.	HFA-0151	Appeal of an Information Request Denial. If granted: The May 6, 1983 Freedom of Information Request Denial issued by the DOE Chicago Operations Office would be rescinded and Systematic Management Services would receive access to thirteen cost management reports (DOE Form 533M).
May 25, 1983	Vessels Gas Processing Company, Washington, D.C.	HRH-0135 HRD-0135.	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Vessels Gas Processing Company in response to a Proposed Remedial Order (Case No. HRO-0111).
May 26, 1983	Crown Central Petroleum Company, Baltimore, Maryland	HRR-0059	Request for Modification/Rescission. If granted: The May 5, 1983 Decision and Order (Case No. HRZ-0147) issued to Crown Central Petroleum Company by the Office of Hearings and Appeals would be modified regarding the deferment of certain issues involved in the underlying Proposed Remedial Order proceeding (Case No. DRO-0111).
May 26, 1983	Goodman Oil Company, Boise, Idaho	HEE-0071	Exception from the Reporting Requirements. If granted: Goodman Oil Company would not be required to file Form EIA-782B, "Monthly No. 2 Distillate Sales Report".
May 25, 1983	Gulf Oil Companies, Houston, Texas	HER-0058	Request for Modification/Rescission. If granted: The May 18, 1983 Decision and Order issued to Husky Oil Company (Case No. BEX-0210) would be modified regarding Husky's entitlements purchase obligations.
May 25, 1983	Texaco Inc., Washington, D.C.	HRZ-0151	Interlocutory Order. If granted: The Office of Special Counsel would be deemed to have admitted specified matters set forth in the May 25, 1983 Motion for Admissions submitted by Texaco Inc.

REFUND APPLICATIONS RECEIVED

[Week of May 20 to May 27, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
May 23, 1983 to May 27, 1983	Amoco Refund Applications	RF21-11296 through RF21-11334.

[FR Doc. 83-16580 Filed 6-20-83; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of May 16 Through May 20, 1983

During the week of May 16 through May 20, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Earle D. Hightower, 5/19/83, *HFA-0140*

The DOE issued a Decision and Order concerning an Appeal from a Freedom of Information Act (FOIA) request that was denied in part by the Director of the DOE's Office of Safeguards and Security. Appellant sought the release of a memorandum containing the names of individuals who had been contacted by the FBI regarding the appellant. On appeal, the Office of Hearings and Appeals determined that the Director had not established a basis for withholding the requested information under any of the Act's exemptions and remanded the matter to the Director for redetermination regarding the applicability of Exemption 7[D]. Accordingly, the Appeal was granted in part.

Remedial Order

Atlantic Richfield Company, 5/17/83, *BRO-1247*

The Atlantic Richfield Company (ARCO) filed a Statement of Objections to a Proposed Remedial Order that charged the firm with violating the refiner price regulations by imputing costs to fee-exempt import licenses which the firm had obtained from the government and by failing to treat as cost reductions refunds of customs duties and supplemental import fees which the firm had obtained from the government.

ARCO contended that it was entitled to treat fee-exempt licenses which it obtained at no cost from the government as having been obtained at a cost because the licenses had a value. OHA rejected that contention, noting that the regulations permitted the treatment of license fees as product costs only when they are actually paid. ARCO also argued that the refunds should not be treated as cost reductions because the customs duties refunded had not been passed through to its purchasers of covered products. OHA rejected that contention, finding that the refiner regulations allocated the cost of duties and supplemental fees volumetrically to all products produced by a refiner, including covered products. OHA determined that the refunds should be allocated likewise.

OHA therefore determined that the Proposed Remedial Order issued to ARCO should be issued as a final Remedial Order of the Department of Energy.

Motions for Discovery

Laketon Asphalt Refining, Inc., 5/17/83 *HED-0096*

Laketon Asphalt Refining, Inc. (Laketon) filed a Motion for Discovery in connection with an Application for Exception filed by the Department of the Interior (DOI) on November 17, 1982, Case No. HEE-0051. The firm's discovery request sought materials concerning DOI's sales of royalty crude oil. In considering the Motion, the DOE noted that the DOE procedural regulations do not provide the discovery prior to the objections stage of an exception proceeding and found that no special circumstances existed that would warrant early discovery in this case. Accordingly, the Motion was dismissed without prejudice to a refiling during the objections stage of the proceeding.

Petroleum Delivery Service, Inc., 5/17/83, *HRD-0054; HRH-0054*

Petroleum Delivery Service, Inc. filed Motions for Discovery and an Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order (PRO) issued to the firm on March 25, 1982. In its Discovery Motion, PDS sought numerous documents and responses to interrogatories regarding the PRO's methods for computing the firm's costs of product in inventory, for calculating its unrecovered cost banks, and for determining its classes of purchaser. PDS also sought to depose the responsible ERA auditor regarding these issues. In considering the PDS requests, the DOE found that the firm had not established that the requested discovery was necessary to supplement the factual record provided in the PRO and in subsequent ERA filings. Accordingly, the Motion for Discovery was denied.

In its Motion for Evidentiary Hearing, PDS requested an opportunity to present testimony regarding its positions on the above issues and to cross examine the ERA auditor. In considering this request, the DOE found that the firm had not established with the required specificity that is contentions raised disputed issues of fact which could best be resolved at an evidentiary hearing. Accordingly, the DOE concluded that an evidentiary hearing would not be warranted.

Supplemental Order

Husky Oil Company of Delaware, 5/18/83, *BEX-0210*

In this Decision and Order, the OHA evaluated Husky Oil Company's eligibility for exception relief from the obligation that the firm incurred under the DOE Crude Oil Entitlements Program, 10 C.F.R. § 211.67, for

the period January 1978 through January 1981. In an Order issued on August 10, 1978, the Temporary Emergency Court of Appeals directed that exception relief be fashioned for Husky "disregarding and not utilizing any negative historical profit margin, crude oil production activities or profits, or base years unrepresentative of Husky's historical financial and operating posture." *Husky Oil Co.* v. *DOE*, 582 F. 2d 644 at 653 (Temp. Emer. Ct. App. 1978). The OHA therefore used Husky's 1974 fiscal year as the base period to calculate exception relief for the firm under the *Delta* standards because that year was the only year in which Husky made a profit in its refining and marketing operation during the historical period 1968 through 1974.

In applying the *Delta* standards, the OHA made adjustments to conform the inventory accounting method that Husky used in its submissions for the period 1978 through 1981 to the method that the firm used in the base period. The OHA also found that Husky made premium payments in its purchases of price-controlled crude oil. The OHA determined that those payments were not legitimate operating expenses and excluded them for Husky's operating costs in the relief calculations. After making these adjustments, OHA determined that for the period January 1978 through December 1980, Husky should receive entitlement exception relief in the amount of $130,200,653 and should be required to purchase $23,191,716 in entitlements on the January 1981 Entitlements Notice. The OHA also determined that for January 1981, Husky should be relieved of its entitlements purchase obligation in excess of $1,351,079, subject to an exception ceiling of $11,075,205.

Refund Applications

The Charter Company/Dearybury Oil Company, et al., 5/19/83, RF23–1, et al.

The DOE issued a Decision and Order concerning applications for refund filed by six firms which purchased No. 2D-diesel fuel from The Charter Company during the consent order period, December 1, 1973 through June 20, 1975. All of these firms elected to apply for a refund based on average purchases below the 25,000 gallons per month threshold established in *Office of Speical Counsel*, 10 DOE ¶ 85,039 (1982). In considering these applications, the DOE concluded that each applicant should receive a refund based on the proportion of No. 2D-diesel fuel purchased by that applicant to the total amount of No. 2D-diesel fuel sold by Charter during the consent order period. The refunds granted in this decision total $36,977 plus accured interest.

Standard Oil Company (Indiana)/Barten Standard et al., 5/17/83, RF21–5600 et al.

The DOE issued a Decision and Order concerning 131 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 131 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $117,950.

Standard Oil Company (Indiana)/Bob Miles Oil Company, 5/17/83, RF21–9103; RF21–9104

As part of the refund proceedings involving the Standard Oil Company (Indiana) (Amoco) fund, the DOE issued two decisions granting Bob Miles Oil Company refunds of $3,832 and $842 based on the firm's purchases of 12,283,230 gallons of Amoco motor gasoline and 2,413,507 gallons of middle distillate respectively. Subsequently, Miles submitted revised volume figures for purchases of both products, stating that its qualified purchases of gasoline were 12,198,217 gallons and that its qualified middle distillate purchases were 1,889,923 gallons. The DOE therefore determined that Miles' refund should be based on those figures. Since the firm elected to apply for a refund based on the presumption of injury methodology set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982), DOE approved a total refund of $4,465, rather than the $4,674 combined refund originally granted by the earlier decisions. Miles was directed to remit the excess $209 to the Amoco escrow account.

Standard Oil Company (Indiana)/Wegand Oil Company et al., 5/19/83, RF21–2212 et al.

The DOE issued a Decision and Order concerning 70 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 70 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $65,207.

Dismissals

The following submissions were dismissed:

Name	Case No.
A. S. Berenbaum	RF21–7187
Cecelia A. Fearn	RF21–5968
City of Mapleview	RF21–7206
Decision Mgmt. Co	HFA–0134
E. Trovato	RF21–7090
Edward G. Doruff	RF21–6484
Edwin Allers	RF21–6947
George R. Drever	RF21–6808
Harvey R. Shipley & Sons, Inc	RF21–1899
Independent School District 706	RF21–6020
Independent School Dist. No. 421	RF21–6590
James F. Austin	RF21–6631
James J. Reilly	RF21–5843
John B. Kettering	RF21–7067
John S. Booth	RF21–6481
Kenneth R. Garwick	RF21–6568
Lawn Equipment Distributors of Barrington, Inc	RF21–5938
Lock City Transportation Co	RF21–5653
(Mrs.) M. Panitch	RF21–6480
Oil-Tex Pet., Inc	HRO–0132
Peter A. May	RF21–6301
Reggie Industries	RF21–5836
Robert F. Steinke	RF21–7293
Russell Abraham	RF21–6207
Sights & Sounds, Inc	RF21–5852
Smith's Transfer Corporation	RF21–5911
Stutzman, Judith A	HFA–0144
Walter J. Miller	RF21–6571
Warner C. Brunell	RF21–6210

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 15, 1983.

[FR Doc. 83–16559 Filed 6–20–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–42032 TSH–FPL 2346–4]

Formamide; Response to the Interagency Testing Committee

Correction

In FR Doc. 83–13385 beginning on page 23098 in the issue of Monday, May 23, 1983, make the following corrections:

1. On page 23098, the middle column, the next-to-last line, the word "Aktiengesellschaft" should read "Atkiengesellschaft".

2. On page 23101, the first column, the second complete paragraph, the first line, the word "acetaimide" should read "acetamide".

BILLING CODE 1505–01–M

[[PP 3G2783/T412] PH–FRL 2369–2]

PPG Industries, Inc.; Establishment of Temporary Tolerance

Correction

In FR Doc. 83–13943 appearing on page 23476 in the issue of Wednesday, May 25, 1983, make the following correction in the second column, "**SUPPLEMENTARY INFORMATION**" section. In the first paragraph, seventh line, "cholor" should read "chloro".

BILLING CODE 1505–01–M

[OPTS–53049; TSH–FRL 2369–1]

Premanufacture Notice; Monthly Status Report for April 1983

Correction

In FR Doc. 83–13858 (which was incorrectly cited as FR Doc. 83–13838) beginning on page 23477 in the issue of Wednesday, May 25, 1983, make the following corrections:

1. On page 23477 in Table I, in the entry for PMN No. 83-619, in the column headed "Identity/generic name", the character after the first bracket which reads "7" should read "μ"

2. On page 23478 in Table I, in the entry for PMN No. 83-622, in the column headed "Identity/generic name", the portion of the entry which reads "phenyl]]amino]-6-[(4-sulfophenyl]-1,3,5-" should read "phenyl]amino]-6-[(4-sulfophenyl]amino]-1,3,5-"

3. On page 23479 in Table III, in the entry for PMN No. 83-300, in the column headed "Identity/generic name", "do" should read "Generic name: Dialkyl benzene".

4. On page 23482, in the docket line at the end of the document, "FR Doc. 83-13838" should read "FR Doc. 83-13858".

BILLING CODE 1505-01-M

[A-10-FRL 2384-4]

PSD Applicability Determination Olivine Corporation

Notice is hereby given that the Environmental Protection Agency has determined that the Olivine Corporation's proposed municipal waste incinerator at Smith Island, Washington, is not subject to PSD review. The August 7, 1980 PSD regulations required that the construction or modification of a major stationary source was subject to PSD review if the resulting increase in potential emissions was greater than the PSD threshold levels. Using the August 1980 definition of potential to emit, EPA has reviewed the projected emissions from the subject facility and has concluded that potential emission increases are less than the PSD applicability threshold amounts. This finding is contingent on the Company securing a federally enforceable permit condition limiting emissions to below threshold amounts. This permit condition must be included as part of the State Implementation Plan.

The applicant was notified of this determination on June 9, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged after in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the determination are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11D, Seattle, Washington 98101.

For further information contact: Michael Johnston (206) 442-1970.

Dated: June 9, 1983.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 83-16534 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

[SWH-FRL 2385-1]

Solid Waste Disposal; Inventory of Open Dumps

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of the Inventory of Open Dumps.

SUMMARY: The Resource Conservation and Recovery Act (RCRA or the Act) provides for publication of an inventory of open dumps. The Act defines "open dumps" as facilities which do not comply with EPA's "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR Part 257).

State solid waste management agencies have been evaluating disposal facilities in an attempt to identify facilities which do not comply with the criteria and are, therefore, "open dumps". The facility evaluations leading to publication of the inventory were conducted by State agencies as part of their effort to develop and implement State solid waste management plans in accordance with the Act.

This notice indicates that the third installment of the inventory of open dumps is now available.

ADDRESSES: Copies of the inventory of open dumps are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4600, Publication Number PB 83209361. Copies may be viewed at the EPA Regional Offices listed in Appendix I or at the EPA Headquarters Library, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Martha Madison (202) 382-2228.

SUPPLEMENTARY INFORMATION:

Structure of Subtitle D Planning Program

Subtitle D of the Resource Conservation and Recovery Act (RCRA or the Act) established a voluntary program through which participating States develop and implement solid waste management plans. EPA's role in the program has included publishing guidelines for States to follow in developing their plans, providing funds for the States, and approving those adopted State plans which meet the requirements of the Act.

On July 31, 1979, EPA published "Guidelines for Development and Implementation of State Solid Waste Management Plans" (40 CFR Part 256, 44 FR 45066-45086). The Guidelines are based on Section 4003 of the Act, which lists the minimum requirements with which State plans must comply. Section 4007 of the Act provides for EPA approval of State plans meeting the requirements.

Role of the Inventory

One requirement listed in the Act and addressed in the Guidelines is that " * * * the plan shall provide for the closing or upgrading of all existing open dumps within the State * * * ." In furtherance of this planning effort, the Act requires that EPA publish an inventory of open dumps. Publication of the inventory will serve to inform the Congress and the public of those facilities which the States have found to be open dumps.

Classification Criteria

For purposes of State planning and the inventory, the Act defines the term "open dump" to mean "* * * any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under Section 4004 and which is not a facility for the disposal of hazardous waste." Thus, any facility which fails to comply with any one element of the "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR Part 257) is an open dump.

Open Dumping

In addition to establishing a mechanism whereby States, with EPA assistance, provide control over *facilities* which are found to be open dumps, RCRA prohibits the *practice* of open dumping of solid waste as a matter of Federal law.

In EPA's view, the Federal prohibition may be enforced in Federal District Court through the citizen suit provisions in Section 7002 of RCRA. The Act does not give EPA authority to take legal action against parties that may violate the open dumping prohibition. Whether specific acts of specific individuals constitute the prohibited practice is a matter for the Federal courts to determine in the context of particular cases after *de novo* review of the facts in each case. In reviewing a case *de novo*, the court is not bound by the State's determination that a facility is an open dump. Rather, the court will make its own finding of fact and rule accordingly.

The open dumping prohibition is a provision of Federal law which stands on its own, separate from the State planning program. The inventory of open dumps is a publication of State findings from State planning efforts to satisfy the requirement of Section 4003 of the Act. The inclusion of a facility on the list of open dumps is not an administrative determination by EPA that any particular parties are engaging in the prohibited act of open dumping.

A determination for purposes of the open dump inventory need not precede an open dumping suit. However, before the results of the inventory may be used to support a legal determination that open dumping has occurred, the court would have to determine that the classification was a correct application of the criteria and that the defendant was responsible for actions violating the criteria. The court would be obliged to review the sufficiency of the State's classification of a facility and not simply defer to the State's decision.

Description of the Inventory

The first installment of the inventory was published on May 29, 1981 (46 FR 29064–29149). It reflected the initial efforts of the States in evaluating a portion of the total universe of facilities and represented a fraction of the total number of open dumps likely to exist. The second publication of the inventory, published on April 29, 1982, by EPA, reflected subsequent efforts of the States in evaluating facilities during FY 1981. Those facilities found by the States to be open dumps were added to the initial list, and facilities found by the States no longer to be open dumps were deleted.

This third installment of the inventory reflects additions and deletions to the list which were provided by the States during fiscal year 1982. New Federal Subtitle D funds were not available during 1982 to supplment State funds. However, States were permitted to use Subtitle D funds carried over from fiscal year 1981. Twenty States submitted additions and deletions for this installment of the inventory: Alabama, Arizona, California, Connecticut, Florida, Guam, Louisiana, Maine, Maryland, Minnesota, Montana, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Texas, Virginia, Washington, and Wisconsin.

Actions on Facilities

Because the inventory lists facilities which the States have found to pose a reasonable probability of adverse effects on health or the environment, participating States will be planning for the closure or upgrading of these facilities pursuant to State authority. Specific actions may vary, including issuance of a State administrative order or the gathering of additional data. In some cases, States already have placed listed open dumps on compliance schedules for closure or upgrading prior to publication of this list.

All such actions are to be taken under State law and through State regulatory and administrative procedures. Interested parties may wish to contact the State solid waste management agencies (Appendix II) concerning the current status of any of these open dumps and the responsibilities the agencies have under State law.

State Approaches

EPA's Planning Guidelines require the plans of participating States to provide for an orderly time-phasing of the evaluation of disposal facilities to determine which facilities are open dumps. Thus, there is considerable flexibility for the State to set priorities for evaluating facilities. The establishment of these priorities is part of the State plans subject to the public participation provisions of 40 CFR 256.60.

The States have taken differing approaches in ranking facilities for evaluation and in conducting evaluations. For example, where States already had extensive data on hand, they could more easily rank their facilities for evaluation or make noncompliance determinations. Otherwise, resources had to be expended in locating facilities and gathering information, and fewer determinations would be likely to be made over the year.

For this third installment of the inventory, most participating States provided the Agency with brief descriptions of actions and approaches they have taken in evaluating facilities. These descriptions are included in the report. Further information may be obtained from the State agency personnel listed in Appendix II.

Dated: June 10, 1983.

Lee M. Thomas,

Acting Assistant Administrator for Solid Waste and Emergency Response.

Appendix I—EPA Regional Office Contacts for Open Dump Inventory

Region I

Conrad Desrosiers, Waste Management Branch, USEPA, John F. Kennedy Building, Boston, MA 02203 (617) 223–5630

Region II

Garrett Smith, Hazardous Waste Program Support Section, USEPA, 26 Federal Plaza, New York, NY 10278 (212) 264–3407

Region III

John Humphries, State Waste Management Section, USEPA, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–2863

Region IV

Bill Holland, Hazardous Waste Section, USEPA, 345 Courtland Street, NE., Atlanta, GA 30365 (404) 881–3016

Region V

Karl J. Klepitsch, Waste Management Branch, USEPA, 111 W. Jackson Street, 16th Floor, Chicago, IL 60604 (312) 886–7435

Region VI

Pat Hull, State Programs Branch, USEPA, 1201 Elm Street, First International Building, Dallas, TX 75270 (214) 767–2645

Region VII

Chet McLaughlin, Hazardous Waste Management Section, USEPA, 324 East 11th Street, Kansas City, MO 64106 (816) 374–6534

Region VIII

Charles Brinkman, Solid Waste Section, USEPA, 1860 Lincoln Street, Denver, CO 80295 (303) 327–2221

Region IX

Karen Schwinn, State Programs, USEPA, 215 Fremont Street, San Francisco, CA 94105 (415) 974–8156

Region X

Tobias A. Hegdahl, Solid Waste Program, USEPA, 1200 6th Avenue, Seattle, WA 98101 (206) 442–2802

Appendix II—State Contacts for Open Dump Inventory

Alabama

Alfred S. Chipley, Director Land Program, Alabama Department of Environmental Management, State Capitol, Montgomery, Alabama 36130 (205) 834–1303

Alaska

Dick Williams, Alaska Department of Environmental Conservation, Pouch O, Juneau, Alaska 99811 (907) 465–2872

Arizona

Barry Abbott, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007 (602) 255–1162

Arkansas

Randy Gresham, O.D.I. Coordinator, Arkansas Department of Pollution Control & Ecology, P.O. Box 9583, Little Rock, Arkansas 72219 (501) 562–7444

California

John Bell, Chief, Facility Evaluation and Conformance Section, Solid Waste Management Board, 1020 Ninth Street, Sacramento, California 95814 (916) 322–1769

Colorado

Barbara Bogema, Radiation & Hazardous Waste Control Division, Colorado Department of Health, 4210 East 11th

Avenue, Denver, Colorado 80220 (303) 320–8333

Connecticut

Thomas Pregman, Principal Environmental Analyst, Solid Waste Management, Connecticut Department of Environmental Protection, 165 Capitol Avenue, Hartford, Connecticut 06106 (203) 566–3672

Delaware

Kenneth Weiss, Supervisor, Solid Waste Management Branch, Department of Natural Resources and Environmental Control, Division of Environmental Control, P.O. Box 1401, Room 203, Blue Hen Mall, Dover, Delaware 19901 (302) 736–4781

Florida

John Reece, Florida Department of Environmental Regulations, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301 (904) 488–0300

Georgia

Moses N. McCall III, Chief, Land Protection Branch, Environmental Protection Division, 270 Washington Street, SW., Atlanta, Georgia 30334 (404) 656–2833

Hawaii

Melvin K. Koizumi, Deputy Director for Environmental Health, Hawaii State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801 (808) 548–4139

Idaho

Jerome Jankowski, Idaho Department of Health and Welfare, Division of Environment, Statehouse, Boise, Idaho 83720 (208) 384–4108

Illinois

Bill Child, Division of Land/Noise Pollution Control, 2200 Churchill Raod, Springfield, Illinois 62706 (217) 782–6760

Indiana

George Oliver, Solid Waste Management Section, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206 (317) 633–0176

Iowa

Darrell McAllister, Acting Director, Air and Land Quality Division, Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Street, 3rd Floor, Des Moines, Iowa 50319 (515) 281–8853

Kansas

Howard Duncan, Director, Bureau of Environmental Sanitation, Department of Health and Environment, Forbes Field, Building 321, Topeka, Kansas 66620 (913) 862–9360 Ext. 290

Kentucky

Carolyn Patrick Haight, Division of Waste Management, Department of Natural Resource and Environmental Protection, 18 Reilly Road, Frankfort, Kentucky 40601 (502) 564–6716

Louisiana

John Koury, Administrator, Solid Waste Management Division, Office of Environmental Affairs, Louisiana Department of Natural Resources, P.O. Box 44066, Baton Rouge, Louisiana 70805 (504) 342–1216

Maine

Rupe Nealy, Division of Solid Waste Management Control, Bureau of Land Quality, Department of Environmental Protection, State House, Augusta, Maine 04333 (207) 289–2111

Maryland

Arthur N. Caple, Chief, Municipal Waste Division, Waste Management Administration, Office of Environmental Programs, Department of Health and Mental Hygiene, 201 Preston Street, Room 212, Baltimore, Maryland 21201 (301) 383–6650

Massachusetts

William Cass, Department of Environmental Quality Engineering, Division of Hazardous Waste, One Winter Street, Boston, Massachusetts 02108 (617) 727–2658

Michigan

Tim Wright, Environmental Protection Bureau, Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909 (517) 373–1818

Minnesota

Tom Clark, Division of Solid Waste, Minnesota Pollution Control Agency, 1935 West County Road B–2, Roseville, Minnesota 55113 (612) 297–2710

Mississippi

Johnny Biggert, Division of Solid and Hazardous Waste Management, Bureau of Pollution Control, Department of Natural Resources, P.O. Box 10385, Jackson, Mississippi 39209 (601) 961–5171

Missouri

Dave Bedan, Ph. D., Director, Solid Waste Management Program, Department of Natural Resources, State Office Building, P.O. Box 1368, 1915 Southridge, Jefferson City, Missouri 65102 (314) 751–3241

Montana

John Geach, Montana Solid Waste Management Bureau, Cogswell Building, Room A201, Helena, Montana 59620 (406) 449–2821

Nebraska

Jay Ringenberg, Chief, Permit and Enforcement Division, Department of Environmental Control, P.O. Box 94877, Lincoln, Nebraska 68509 (402) 471–2186

Nevada

H. LaVerne Rosse, P.E., Program Director, Waste Management, Division of Environmental Protection, 201 S. Fall Street, Capitol Complex, Room 120, Carson City, Nevada 89710 (702) 885–4670

New Hampshire

Tom Sweeney, Bureau of Solid Waste, Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301 (603) 271–4610

New Jersey

Lino F. Pereira, Director, Solid Waste Administration, New Jersey Department of Environmental Protection, P.O. Box 1390, Trenton, New Jersey 08625 (609) 292–9120

New York

Norman H. Nosenchuck, P.E., Director, Division of Solid Waste Management, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233 (518) 457–6603

North Carolina

O. W. Strickland, Head, Solid and Hazardous Waste Management Branch, Department of Human Resources, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602 (919) 733–2178

North Dakota

Jay Crawford, Director, Division of Environmental Waste Management and Research, North Dakota State Department of Health, 1200 Missouri Avenue, Bismarck, North Dakota 58505 (701) 224–2366

Ohio

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Oklahoma

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Oregon

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Pennsylvania

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Rhode Island

Frank Stevenson, Solid Waste Management Program, Department of Environmental Management, 204 Cannon Building, 75 Davis Street, Providence, Rhode Island 02908 (401) 277–2802

South Carolina

Earl Williams, Jr., P.E., Director, Division of Compliance and Evaluation, Bureau of Solid and Hazardous Waste Management, Department of Health Environmental Control, J. Marion Sims Building, 2600 Bull Street, Columbia, South Carolina 29201 (803) 758–5681

South Dakota

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Tennessee

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Texas

Wiley Osbourne, Chief, Hazardous Waste and Resource Recovery Program Management Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7271

Jay Snow, Chief, Solid Waste Section, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711 (512) 475-2041

Utah

Dr. Dale Parker, Director, Bureau of Solid Waste Management, P.O. Box 2500, Salt Lake City, Utah 84110 (801) 533-4145

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Virginia

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Washington

Jon Pace, Washington State Department of Ecology, Solid Waste Division, PY-11, Olympia, Washington 98504 (206) 459-6295

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Timothy T. Laraway, Supervisor, Solid Waste Office, Division of Water Resources, West Virginia Department of Natural Resources, 1201 Greenbrier Street, East Charleston, West Virginia 25311 (304) 348-3506

Wisconsin

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Charles A. Porter, Supervisor, Solid Waste Management Program, Equality State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002 (307) 777-7752

American Samoa

Pati Faiai, Executive Secretary, Environmental Quality Commission, Office of the Governor, Pago Pago, American Samoa 96799, Overseas Operator: 633-4116

Commonwealth of the Northern Mariana Islands

Carol Goldstein, Environmental Engineer, Division of Environmental Quality, Commonwealth of the Northern Marianna Islands, P.O. Box 1115, Overseas Operator: 6984

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Kenneth Laden, Department of Environmental Services, 5000 Overlook Ave., SW., Room 410, Washington, D.C. 20032 (202) 767-8181

Guam

James Branch, Deputy Administrator, Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910, Overseas Operator: 646-8863

Puerto Rico

Lois De La Cruz, Director, Solid, Toxic and Hazardous Waste Program, Environmental Quality Board, Box 11785, Santurce, Puerto Rico 00910 (809) 725-8992

Virgin Islands

Morris Nicholson, Solid Waste Planner, Solid Waste Planning Office, Department of Public Works, Government of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands 00801 (809) 774-7880

[FR Doc. 83-16541 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

RCRA Permit Advisory Committee; Open Meeting

Notice is hereby given of meetings of the RCRA Permit Advisory Committee Task Forces. The Committee was established in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. [Appendix I], *et seq.* Establishment of the Committee was announced in the **Federal Register** on September 23, 1982, [SWH-FRL-2212-2].

The Committee Task Forces will be meeting on July 13 and July 14, 1983, at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Meetings are scheduled as follows:

July 13, 10:00 a.m., Task Force A—Work Groups, Room 2117 and 2123; Task Force B—Work Groups, Room 2409 and 2126

July 14, 9:30 a.m., Task Force A, Room 2126; Task Force B, Room 2409

The purpose of these meetings is to prepare reports from the Task Forces regarding their on-going review of current documents relating to the implementation of Land Disposal, Storage and Treatment, and Incinerator programs. Recommendations from Task Forces regarding major and minor permit modifications, variances, class permits and permits for mobile treatment units may be considered at this time.

The Task Force meetings are open to the public. Any members of the public wishing to submit a written statement to the Committee should submit copies to the Executive Secretary at the meeting.

For further information contact: Susan Mann, Executive Secretary, Office of Solid Waste, (202) 382-4498.

Dated: June 14, 1983.

John H. Skinner,

Acting Assistant Administrator.

[FR Doc. 83-16540 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-548; File No. BPH-810903AG et al.] Edward M. Johnson et al; Hearings

In re Applications of EDWARD M. JOHNSON, Casper, Wyoming; MM Docket No. 83-548, File No. BPH-810903AG; Req: 106.9 Mhz, Channel 295C 100 kW (H&V), 183 feet; EAGLE BROADCASTING COMPANY, INC., Casper, Wyoming; MM Docket No. 83-549, File No. BPH-811125AE; Req: 106.9 MHz, Channel 295C, 100 kW (H&V), 2000 feet; CASPER FM BROADCASTERS, Casper, Wyoming; MM Docket No. 83-550, File No. BPH-820322AX; Req: 108.9 MHz, Channel 295C, 100 kW (H&V), 1850 feet; WYOMING FAMILY BROADCASTING, INC., Casper Wyoming; MM Docket No. 83-551, File No. BPH-820521AP; Req: 106.9 Mhz, Channel 295C, 100 kW (H&V), 1854 feet; CELESTINO MONTOYA, Casper, Wyoming; MM Docket No. 83-552, File No. BPH-820524AF; Req: 106.9 MHz, Channel 295C, 57.7 kW, 1929 feet; BURTON BROADCASTING, INC. Casper, Wyoming; MM Docket No. 83-553, File No. BPH-820524BG; Req: 106.9 MHz, Channel 295C, 100kW (H&V), 1854 feet; For Construction Permits for a New FM station; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: May 27, 1983.
Released: June 10, 1983.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.

2. *Johnson.* The material submitted by Edward M. Johnson (Johnson) in his application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Johnson's certification has not been executed and the certification does not substantially meet the certification set out in revised Section III, Form 301. Accordingly, Johnson will be given the opportunity to submit to the presiding Administrative Law Judge the certification required by the Form or to advise the Administrative Law Judge, within 30 days of the release of this Order, that he cannot make the required certification. In the latter event, the Administrative Law Judge shall specify an appropriate issue.

3. Applicants for new broadcast stations are required by § 73.3580(f) of

the Commission's Rules to give local notice of the filing of their applications. Johnson has published the required notice, but the notice is deficient. Johnson has failed to list the power, antenna height, studio location and public file address in the text of the notice. To remedy this deficiency, Johnson must publish an amended local notice and so inform the presiding Administrative Law Judge.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.[1]

5. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, *it is ordered*, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered*, That Johnson shall submit within 30 days of release of this Order, a financial certification in the form required by Section III, F.C.C. Form 301, or advise the presiding Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. *It is further ordered*, That Johnson shall within 30 days of release of this Order, inform the presiding Administrative Law Judge as to whether he has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

[1] Celestino Montoya (Montoya) failed to provide such data as required by Section V-B, Item 10(d). Accordingly, Montoya will be required to file the necessary data pertaining to its area and population.

9. *It is further ordered*, That Montoya shall file with the presiding Administrative Law Judge within 30 days of the release of this Order the necessary data pertaining to its area and population as required by Item 10(d), Section V-B of FCC Form 301.

10. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-16475 Filed 6-20-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-561; File No. BPCT-820714KH et al.]

Lion Country Television et al.; Hearing Designation Order

Adopted: May 27, 1983
Release: June 13, 1983.

In re Applications of Lion Country Television, State College, Pennsylvania; MM Docket No. 83-561, File No. BPCT-820714KH; George Kimble P. Rydell et al d.b.a., Hazleton TV Associates, State College, Pennsylvania; MM Docket No. 83-562, File No. BPCT-820909KW; For Construction Permit; Designating applications for consolidated hearing on states issues.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Lion Country Television (Lion) and Hazleton TV Associates (Hazleton) for authority to construct a new commercial television broadcast station on Channel 29, State College, Pennsylvania.

2. No determination has been reached that the tower height and location proposed by each of the applicants[1] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

[1] The Commission is not in receipt of FAA's determination for the tower proposed by Lion.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in consolidated proceeding*, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. *It is further ordered*, That, the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 1.

6. *Is is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 fo the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-16472 Filed 6-20-83 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-563; File No. BPCT-830218KF et al.]

Virginia Beach Family Television, Ltd., et al.; Hearing Designation Order

Adopted: May 31, 1983.
Released: June 14, 1983.

In re applications of: Wilbur E. Williams, J.D. Moore, et. al., d/b/a Virginia Beach Family Television, Ltd., Virginia Beach, Virginia; MM Docket No. 83-563, File No. BPCT-830218KF; Tidewater Broadcasting Company, Inc., Virginia Beach, Virginia; MM Docket No. 83-564, File No. BPCT-830222KF; Virginia Beach Television, Inc., Virginia Beach, Virginia; MM Docket No. 83-565, File No. BPCT-830223KI; Ocean Broadcasting Corporation, Virginia Beach, Virginia; MM Docket No. 83-566, File No. BPCT-830223KO; Atlantic Telecasting Limited Partnership, Virginia Beach, Virginia; MM Docket No. 83-567, File No. BPCT-830223KS; Brian J. Friedman, Virginia Beach, Virginia; MM Docket No. 83-568, File No. BPCT-830223KT; Tidewater Christian Communications Corporation, Virginia Beach, Virginia; MM Docket No. 83-569, File No. BPCT-830223KU; Summit Communications, Inc., Virginia Beach, Virginia; MM Docket No. 83-570, File No. BPCT-830223KV; For Construction Permit; Designating application for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 43, Virginia Beach, Virginia.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations that the respective applicants propose to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availablity of other television services of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accure to either of the applicants.

3. It has not been determined that the tower heights and locations proposed by Virginia Beach Family Television, Ltd., Tidewater Broadcasting Company, Inc., Virginia Beach Television, Inc., Ocean Broadcasting Corporation, Atlantic Telecasting Limited Partnership, Tidewater Christian Communications Corporation and Summit Communications, Inc., would not constitute a hazard to air navigation.[1] Accordingly, an appropriate issue will be specified.

4. Section 73.685(a) of the Commission's Rules requires that transmitter locations be selected so that, on the basis of the effective radiated power and antenna height above average terrain employed, an 80 dBu contour (city grade contour) will cover the entire principal community. Virginia Beach Television, Inc., notes that it is not in compliance with the rule and requests a waiver of § 73.685(a). Brian J. Friedman states that his proposal complies with § 73.685(a), but our review of his technical data shows that the city grade contour will not encompass all of Virginia Beach. All of the other applicants certify compliance with § 73.685(a). Accordingly, an issue will be specified, to determine whether circumstances exist to warrant waivers of § 73.685(a) of the Rules.

Ocean Broadcasting Corporation (Ocean)

5. Section 76.501(a)(2) of the Commission's Rules prohibits direct or indirect ownership of both a cable television system and a television broadcast station if the station would place a Grade B contour over any part of the service area of the cable television system. Edward Garcia, Sr., owns stock in Cox Cable Virginia Beach (Cox) which operates a cable television system in Virginia Beach. Ocean has represented to the Commission that Edward Garcia, Sr. will divest his interest in Cox in Ocean is granted a construction permit. Accordingly, any grant of a construction permit to the applicant will be conditioned upon Mr. Garcia's divestiture of all interest in, and connection with, Cox Cable Virginia Beach, Virginia Beach, Virginia.

Tidewater Christian Communications Corporation (TCCC)

6. Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission certification of compliance with the requirements as described in § 73.3580(h). We have no evidence that TCCC has published the required local notice. To remedy this, TCCC be required to file with the presiding Administrative Law Judge certification of compliance with § 73.3580 within 20 days after this Order is released.

7. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. TCCC states that certification will be supplied; however, certification has not yet been received. Accordingly, the applicant will be given 20 days from the release date of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify and appropriate issue.

8. Section 73.2080(c) of the Commission's Rules requires that applicants employing at least five persons full-time shall file with the Commission programs designed to provide equal employment opportunities. TCCC has not submitted an EEO program, nor has it indicated that it will employ less than five full-time employees. If TCCC will employ at least five full-time employees, it will be required to either submit a copy of its EEO program to the presiding Administrative Law Judge, within 20 days after this Order is released, or advise the Administrative Law Judge that it will employ fewer than five persons.

Conclusion

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding*, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Virginia Beach Family Television, Ltd.,

[1] The Commission is not in receipt of the Federal Aviation Administration's determination for Virginia Beach Television, Inc.

Tidewater Broadcasting Company, Inc., Virginia Beach Television, Inc., Ocean Broadcast Corporation, Atlantic Telecasting Limited Partnership, Tidewater Christian Communications Corporations and Summit Communications, Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Virginia Beach Televisinn, Inc. and Brian J. Friedman, whether circumstances exist in either case to warrant a waiver of § 73.685(a) of the Commission's Rules.

3. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. *It is further ordered,* That, in the event of a grant of Ocean Broadcasting's application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that Edward Garcia, Sr. has divested himself of all interest in, and connection with, Cox Cable Virginia Beach, Virginia Beach, Virginia.

12. *It is further ordered,* That Tidewater Christian Communications Corporation shall submit certification, that it has or will comply with § 73.3580 of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after this Order is released.

13. *It is further ordered,* That Tidewater Christian Communications Corporation shall submit a financial certification in the form required by Section III, F.C.C. Form 301, within 20 days after this Order is released, or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

14. *It is further ordered,* That Tidewater Christian Communications Corporation shall file, either a copy of its Equal Opportunity Program or a statement attesting to its plan to employ less than five persons full-time, with the presiding Administrative Law Judge within 20 days after this Order is released.

15. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with respect to issue 1.

16. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

17. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(e)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-16470 Filed 6-20-83 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1409]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 14, 1983.

The following listings of petitions for reconsiderations filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Subject: An Inquiry relating to preparations for the 1983 Region 2 Administrative Radio Conference of the International Telecommunication Union for the Planning of the Broadcasting-Satellite Service in the 12 GHz Band and the Associated Uplinks. (Gen. Docket No. 80-398).

Filed By: John D. Lane & Ramsey L. Woodworth, Attorneys for Los Angeles County Sheriff's Department on 5-31-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-16481 Filed 6-20-83 8:45 am]

BILLING CODE 6712-01-M

[FCC 83-265; BC Docket No. 82-731; File No. BPH-810427AJ et al.]

South Florida Broadcasting Co. Inc. et al.; Hearing

In re Application of: South Florida Broadcasting Company Inc., North Miami, Florida; BC Docket No. 82-731, File No. BPH-810427AJ; Unity Broadcasting Network-Florida Inc., Miami, Florida; BC Docket No. 82-732, File No. BPH-810427AL; Radiocentro Broadcasting Company, Miami, Florida; BC Docket No. 82-733, File No. BPH-810630AJ; First Black Broadcasters of Miami, Inc., Miami, Florida; BC Docket No. 82-734, File No. BPH-810630AK; Constance J. Wodlinger, Miramar, Florida; BC Docket No. 82-736, File No. BPH-810630AT; Onyx Broadcasting of Miami, Inc., Miami, Florida; BC Docket No. 82-738, File No. BPH-810701AC; Rana Broadcasting Company, Inc., Liberty City, Florida; BC Docket No. 82-737, File No. BPH-810701AE; William H. Hernstadt, North Miami Beach, Florida; BC Docket No. 82-741, File No. BPH-810701AK; Southwest Radio Enterprises, Inc., North Miami Beach, Florida; BC Docket No. 82-742, File No. BPH-810701AN; for construction permit for a new FM station (11-9-82; 47 FR 50751) Memorandum Opinion and Order.

Adopted: May 26, 1983.

Released: June 2, 1983.

By the Commission: Commissioner Fogarty not participating; Commissioner Sharp absent.

1. In our *Revision of Form 301,*[1] we simplified FCC Form 301 for applicants seeking authority to construct and operate new broadcast stations. The new form became effective on December 2, 1981. Prior to that date, applicants for new broadcast stations utilized the 1977 version of the form. The old form required a broadcast applicant to give a detailed itemization of projected expenditures and sources of funds and to provide various documents demonstrating the availability of funds, so that the staff could determine whether the applicant was financially qualified. The new form contains two questions in Section III of the form which are to be answered by filling in "yes" or "no" blocks. Essentially, the form allows the applicant to certify as to whether it has available sufficient funds to construct and operate its proposed station. Thus, an applicant can now certify to its financial qualifications without filing supporting documentation, even though the form states that the applicant must be prepared to make

[1] 50 RR 2d 381 (1981).

such documentation available to the Commission upon request.

2. *In Minority Broadcasters of East St. Louis, Inc. et al. (East St. Louis),*[2] the Chief, Broadcast Bureau, issued a Hearing Designation Order in which he noted that the financial certification process was adopted to expedite application processing and that, in the interest of fairness, all applicants should be held to the same standard. Thus, the Bureau concluded that applicants filing on the "old" form should be allowed to certify their financial qualifications within 30 days of being designated for hearing if they had not demonstrated their financial qualifications on the old form. The *East St. Louis* Order also provided that, if an applicant cannot certify to its financial qualifications within the stated 30-day period, the Administrative Law Judge must specify an appropriate financial issue against the applicant.

3. We now have before us: (a) an Application for Review of the Hearing Designation Order [3] in this proceeding filed November 12, 1982, by South Florida Broadcasting Company, Inc. (South Florida); and (b) oppositions to that Application for Review filed by Constance J. Wodlinger, Unity Broadcasting Network-Florida, Inc. and the Chief, Broadcast Bureau. Since we shall grant most of the basic relief sought by South Florida, we shall not recite all of its arguments or the counter arguments of its opponents. Basically, South Florida alleges that the Bureau, in following its *East St. Louis* policy, exceeded its delegated authority and improperly changed the Commission's financial qualifications standards for broadcast applicants. South Florida contends that several competing applicants in this proceeding who did not comply with the financial standards of the "old" form should not be permitted to amend their applications by certification and thereby avoid any effective examination of their financial qualifications.

4. Further, South Florida observes that the Commission's opinion in *Mid-Ohio Communications, Inc. (Mid-Ohio)* [4] is in direct conflict with the *East St. Louis* policy. In designating two competing applications for hearing in *Mid-Ohio*, the Commission noted that the original financial showing provided by Metro Broadcasting, Inc. (Metro) had failed to establish its financial qualifications. Although Metro amended its application prior to being placed in hearing to certify its financial qualifications, it did not submit any supporting documentation or specify any changes in its financial proposal. We determined that the certification did not obviate the need to specify a financial issue against Metro, stating:

> Because the only information on file indicates that Metro is not financially qualified, and because it has not stated that its financial plan has been amended, we cannot credit its certification.[5]

5. The Broadcast Bureau and two of the applicants in this proceeding who were afforded the opportunity of certifying their financial qualifications after being designated for hearing pursuant to the *East St. Louis* policy oppose the foregoing Application for Review. They allege that the *East St. Louis* policy has not changed the requirement that broadcast applicants be financially qualified, does not amount to an improper revision of the Commission's financial qualifications standards, and does not favor one applicant over any other applicant because the policy's benefits are available to all applicants.

6. We have determined that the *East St. Louis* policy misapplies the certification procedure in a manner inconsistent with its intent. The *Report and Order* instituting the certification procedure makes it clear that the Commission's substantive financial standards have not been changed in that all applicant must be capable of constructing and operating their proposed stations for three months.[6] Thus, when an applicant submits insufficent information to demonstrate its financial qualifications, a substantive and material question of fact arises. The subsequent submission of a certification by the applicant is not sufficient to resolve the factual issue the applicant itself has raised by its prior submission of specific and inconsistent information. Under these circumstances, the certification underlines the question rather than erases it. *See* 47 U.S.C. 309(e).

7. For these reasons, we grant review and overturn the *East St. Louis* policy. Further, we hereby require all broadcast applicants who are currently prosecuting their applications in hearing proceedings and who initially utilized the 1977 version of Form 301 but subsequently established their financial qualifications pursuant to the new certification procedure, to make the full documentary showing specified in the "old" form within 30 days of the release of this Memorandum Opinion and Order.[7] Although we realize that this requirement will affect not only those applicants who were allowed to certify to their financial qualifications after being designated for hearing pursuant to the *East St. Louis* policy, but also applicants who took advantage of the certification procedure prior to being designated for hearing, it would be unfair and inappropriate to treat these two categories of broadcast applicants in different ways.[8] If an applicant affected by this ruling fails to demonstrate its financial qualifications in accordance with the former requirements within 30 days,[9] the presiding officer shall specify an appropriate financial issue or issues against the applicant.[10]

8. *Accordingly, it is ordered,* That the Application for Review of the Hearing Designation Order [11] in this proceeding filed November 12, 1982, by South Florida Broadcasting Company, Inc. *is granted* to the extent indicated in this Memorandum Opinion and Order and *is denied* in all other respects.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment A.—Issues for Regional Hearings

Jurisdictional separations is the process through which local exchange plant and expenses are allocated between the interstate and intrastate jurisdictions. This allocation between the two jurisdictions is made because local exchange facilities are used in the origination and termination of interstate services.

At present non-traffic sensitive local exchange plant is allocated between the interstate and intrastate jurisdictions on the basis of the subscriber plant factor (SPF). SPF is equal to approximately 3.3 times relative use or subscriber line usage (SLU). This means that if interstate relative use of SLU is 7 percent of all calling, 3.3 times 7 or 23.1 percent of non-traffic sensitive local exchange plant and expenses are allocated to the interstate jurisdiction. These costs are then recovered through the charges for interstate services. The remaining local exchange expenses are recovered through charges for local exchange service and other intrastate services.

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[2] Mimeo No. BC 5092, released July 15, 1982.

[3] Mimeo BC 572, released November 3, 1982.

[4] 90 FCC 2d 114, 121, released June 1, 1982.

[5] *Id.*, at 121 n. 9.

[6] 50 RR 2d 381, 382 (1981).

[7] *See Mid-Ohio Communications, Inc. Supra.*

[8] Although our decision in this case involves only applications filed on Form 301, the determination reached here would apply equally to hearing proceedings involving applications filed on any other form, *e.g.*, Form 340 for noncommercial educational broadcast stations, where a question concerning an applicant's financial qualifications has arisen under similar circumstances.

[9] We hereby grant presiding officers authority to grant extensions of the 30-day period, as appropriate, for good cause shown.

[10] Although South Florida requests immediate specification of such issues, we believe the better procedure is to allow a reasonable period for submission of necessary information. In light of the fact that many applicants have previously relied upon the *East St. Louis* policy in good faith.

[11] Mimeo BC 572, released November 3, 1982.

The Federal-State Joint Board convened by the Commission to prepare recommended changes in the jurisdictional separations process is presently studying alternatives to the use of SPF for allocating non-traffic sensitive local exchange plant.* At present the Joint Board is focusing on the development of an allocation formula based on some form of relative use measure plus an additive factor for high cost areas. A number of different measures for calculating relative use have been proposed in this proceeding, including among others, SLU, a revised SLU measurement, Total Call Minutes of Use which is another measure of relative minutes of use and the Calling Capability Factor which allocates plant on the basis of the types of services accessed by subscribers. Questions concerning the correlation between exchange characteristics such as total number of subscribers, subscriber density and cost per subacriber are also being studied by the Joint Board staff.

[FR Doc. 83-16479 Filed 6-20-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's Auditing and Regulatory Subcommittee. The meeting is scheduled for Monday, July 11, 1983, and Tuesday, July 12, 1983, at the offices of Arthur Andersen & Co., 25 Park Place, N.E., Atlanta, Georgia, on the 16th Floor in the Conference Room beginning at 9:30 a.m. The meetings will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Continued Analysis of GAAP as it applies to USOA
III. Analysis of Revenue Requirement Impact
IV. Further Assignment of Tasks
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-16478 Filed 6-20-83; 8:45 am]

BILLING CODE 6712-01-M

*On November 18, 1981, the Joint Board voted to freeze SPF as an interim measure pending adoption of final changes. The SPF freeze was approved by the Commission on February 24, 1982.

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T-3516-5.

Title: Port of Seattle/Japanese Six Lines Terminal Lease Agreement Amendment.

Parties: Port of Seattle (Port), Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd. and Yamashita-Shinnihon Steamship Co., Ltd. (Japanese Six Lines).

Synopsis: Agreement No. T-3516-5 amends the basic agreement by providing for enlargement of the CY leased premises, for Lessee to pay a flat annual fee per acre per year for acreage utilized, for preferential use of apron area, an increase in Lessee's indemnity/liability insurance coverage, for the Port to provide an additional twenty-eight (28) refrigeration outlets, an addition of a most favored tenant provision to the lease, and a rate of payment by Lessee for general and structural maintenance. Additionally, the term of the agreement is extended through November 30, 1987.

Filing party: Frank H. Clark, Association Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-3788-4.

Title: Port of Seattle and the Japanese Six Lines Terminal Lease Agreement Amendment.

Parties: Port of Seattle (Port), Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd. and Yamashita-Shinnihon Steamship Co., Ltd. (Japanese Six Lines).

Synopsis: Agreement No. T-3788-4 amends the parties' basic agreement by providing for an increased rental, increased limits of Lessee's liability insurance, and for the enlargement of the leased premises provided that the Port construct at its expense certain necessary renovations and improvements on the new areas to be included in the premises. The term of the agreement is also extended through November 30, 1987.

Filing party: Frank H. Clark, Association Director of Real Estate, Facilities, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-4129.

Title: Port of Tacoma/Tacoma Terminals Lease Agreement.

Parties: Port of Tacoma (Port)/ Tacoma Terminals, Inc. (TTI).

Synopsis: Agreement No. T-4129 provides for the lease by Port to TTI of certain terminal facilities, as well as non-exclusive preferential use of wharf and berthing area. The term of the agreement is for 30 years, with two five-year renewal options.

Filing party: Richard Dale Smith, Executive Director, Port of Tacoma, P.O. Box 1837, Tacoma, Washington 94801.

Agreement No. 7593-8.

Title: Hoegh Lines (J/S)

Parties: Leif Hoegh & Co A/S, Skibsaktieselskapet ABACO, A/S ALLIANCE, A/S ARCADIA, A/S ATLANTICA.

Synopsis: The agreement proposes to add A/S Alliance, A/S Arcadia and A/S Atlantica to the signature of the joint service and to reword existing language permitting the joint service to file independent tariffs in trades where it is not a member of an approved conference. These could include intermodal, land-bridge and mini-bridge tariffs.

Filing party: Joseph A. Klausner, Esq., 1800 Massachusetts Avenue, N.W., Washington, D.C. 20036.

Agreement No. 10105-7.

Title: South Atlantic & Gulf-El Salvador/Guatemala/Honduras Rate Agreement.

Parties: Coordinated Caribbean Transport, Inc., Pan American Mail Line, Inc., d/b/a Pan Atlantic Lines, Sea-Land Service.

Synopsis: The amendment proposes to change the telephone polling procedure to expand the time for consideration from forty eight hours to three agreement business days and would incorporate a previously approved extension of the agreement until July 30, 1985.

Filing party: Donald J. Brunner, Esq., Bogle & Gates, One Thomas Circle, N.W., Suite 900, Washington, D.C. 20005.

Agreement No. 10475.

Title: ABC/Davies Freight Forwarder Agreement.

Parties: ABC International, Inc. (ABC)/Davies Turner & Co. Inc. (Davies).

Synopsis: Agreement No. 10475 provides that Davies will perform all the functions and business activities of ABC's Marine Export and Air and Marine Import business. As compensation, Davies will pay ABC 15 percent of gross revenues collected.

Filing party: Jack E. Cook, Vice President, ABC International, Inc., One World Trade Center, Suite 1729, New York, New York 10048.Q04

By Order of the Federal Maritime Commission.Q02

Francis C. Hurney,

Secretary.

Dated: June 16, 1983.

[FR Doc. 83-16523 Filed 6-20-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; ABCO Freight Forwarders et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Esther Donn d.b.a. ABCO Freight Forwarders, 7515 NW. 79th Terrace, Miami, FL 33166

Aloyd Forwarding Company, 175-57 148th Road, Jamaica, NY 11434. Officers: Albert Reinstein, President, Florence Palazzolo, Vice President

By the Federal Maritime Commission.

Dated: June 15, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-16467 Filed 6-20-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2088]

Strategic Transportation Company, Inc.; Order of Revocation

On June 8, 1983, Strategic Transportation Company, Inc., P.O. Box 52800, Houston, TX 77052 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2088.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2088 issued to Strategic Transportation Company, Inc., be revoked effective June 8, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Strategic Transportation Company, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-16466 Filed 6-20-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; First Bancorporation of Ohio, et al.

The companies listed in this notice have 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 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 the 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 Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bancorporation of Ohio*, Akron, Ohio; to acquire 100 percent of the voting shares or assets of Elyria Savings & Trust National Bank, Elyria, Ohio. Comments on this application must be received not later than July 6, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Old Second Bancorp, Inc.*, Aurora, Illinois; to acquire 100 percent of the voting shares or assets of First Security Bank of Aurora, Aurora, Illinois. Comments on this application must be received not later than July 13, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *I & B, Inc.*, Cherryvale Kansas; to acquire 24.9 percent of the voting shares or assets of City Bancshares, Inc., Fort Scott, Kansas. Comments on this application must be received not later than July 12, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16491 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Villa Grove Bancshares, Inc., et al

The companies listed in this notice have 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 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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Villa Grove Bancshares, Inc.*, Villa Grove, Illinois; to acquire 19.9 percent of the voting shares or assets of First Villa Grove Bancorp, Villa Grove, Illinois and thereby indirectly acquire 19.9 percent of the First National Bank of Villa Grove, Villa Grove, Illinois. Comments on this application must be received not later than July 14, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Republic Bancshares of Missouri, Inc.*, Kansas City, Missouri; to acquire at least 90 percent of the voting shares or assets of St. James Bank, St. James, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than July 14, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16485 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Barclay Bank PLC, et al.

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 interests, 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 that 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 hearing 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.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its subsidiary, *Barclays Bank International Limited*, each a bank holding company whose principal office is in London, England (consumer finance and insurance activities; Murray/Salt Lake City, Utah): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., ("BAF"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by the insurance underwriting subsidiaries of BarclaysAmericanCorporation ("BAC"). BAF and BAC were engaged in these insurance activities or had received approval to engage in such activities in Utah before May 1, 1982. This activity would be conducted from an office of BAF located in Murray, Utah, serving customers in Murray/Salt Lake City and surrounding areas in Utah. This notification is for the relocation of an existing office located in Salt Lake City, Utah. Comments on this application must be received not later than July 15, 1983.

2. *Citicorp*, New York, New York (consumer finance, credit card, insurance, and mortgage banking acitivities offering financial management courses; Maryland, Virginia, Delaware, Pennsylvania, District of Columbia): To engage, through its subsidiaries, Citicorp Financial, Inc., and Citicorp Homeowners, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. In addition, the *de novo* office of Citicorp Financial, Inc., proposes to engage in the soliciting of merchants to participate in the Choice credit card program so that merchants will accept the choice card from customers. These activities would be conducted from a new office to be shared by Citicorp Financial, Inc. and Citicorp Homeowners, Inc., located in Rockville, Maryland, serving Maryland, Virginia, Delaware, Pennsylvania, and the District of Columbia. Comments on this application must be received not later than July 12, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30302:

1. *First Lafayette Bancorp, Inc.*, Lafayette, Louisiana (data processing activities): To engage through its subsidiary MSDI Co., in certain financial, banking, or economic data-processing activities, limited to those authorized by 12 CFR 225.4(a)(8)(ii). These activities would be conducted from an office in Lafayette, Louisiana, serving the surrounding geographic area served by the First National Bank of Lafayette, Lafayette, Louisiana. Comments on this application must be received not later than July 13, 1983.

2. *First National Bancorp of the South, Inc.*, Opp, Alabama (lending, loan servicing, leasing and insurance activities; Alabama and Florida): To engage, through its subsidiary, Finance South, Inc., Florala, Alabama, in consumer and commercial lending activities, leasing personal property, and acting as agent in the sale of credit life, accident and health insurance directly related to extensions of credit. These activities will be conducted in the states of Alabama and Florida. Comments on this application must be received not later than July 15, 1983.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Comprehensive Investment Company*, Coon Rapids, Iowa (insurance activities; western Iowa): To engage in the sale of general insurance in a town with a population not exceeding 5,000. These activities would be conducted

from an office in Manilla, Iowa, serving the city of Manilla, Iowa, and its surrounding rural area within a ten mile radius of Manilla, Iowa. Comments on this application must be received not later than July 7, 1983.

D. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Intrawest Financial Corporation*, Denver, Colorado (mortgage banking activities): To engage, through its subsidiary, Intra West Mortgage Company, in originating VA, FHA, and conventional mortgage loans for sale to institutional investors, with possible expansion into the field of commercial mortgage loans and real estate construction loans activities as performed by a mortgage banker. These activities would be conducted from a new office located in Westminster, Colorado, serving the northwest quartrant of the Denver, Colorado metropolitan area and Boulder County, Colorado. Comments on this application must be received not later than July 7, 1983.

E. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First Interstate Bancorp*, Los Angeles, California (mortgage company activities, Colorado and Wyoming): To engage, through its subsidiary, First Interstate Real Estate Services Company, Inc. in mortgage company activities to the extent of making or acquiring real estate or construction loans for its own account or for the account of others; selling or servicing real estate or construction loans for its own account or for the account of others; performing appraisals of real estate; conducting such related activities as are incidental to the mortgage banking business; and acting as insurance agent or broker, as permitted by subsection (A) of Section 601 of the Garn-St Germain Depository Institutions Act of 1982, with respect to credit life and credit accident and health insurance, and mortgage disability and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by First Interstate Bancorp or its subsidiary. These activities would be conducted from offices in Boulder, Wheatridge, and Aurora, Colorado, serving Colorado; and Cheyenne, Wyoming, serving Wyoming. This application is to establish new offices of a previously approved activity conducted through a wholly-owned subsidiary. Comments on this application must be received not later than July 6, 1983.

2. *United Bancorp of Arizona*, Phoenix, Arizona (financing activities; Arizona): To engage, through its subsidiary, H. S. Pickrell Company, in origination, making, acquiring, purchasing, arranging for, holding warehousing and selling, for its own account and for the account of others, loans of all types, and other extensions of credit, secured by mortgages or deeds of trust on real property such as would be made by a mortgage company; and servicing loans and other extensions of credit for any person. These activities will be conducted at an office in Flagstaff, Arizona and an office located in Scottsdale, Arizona. These offices will service the entire State of Arizona. More specifically, northern and central Arizona. Comments on this application must be received not later than July 13, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16490 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Bank of Boston Corp., et al

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 interests, 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 that 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 hearing 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.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation*, Boston, Massachusetts, (real estate appraisals; United States): To engage, through its indirect subsidiary, First of Boston Mortgage Corporation, Boston, Massachusetts, in the following activities performing real estate appraisals and all such other services or activities as are incidental thereto. These activities would be conducted from offices in Boston, Massachusetts; Boca Raton, Florida; and Dallas, Texas serving the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont and Virginia. Comments on this application must be received not later than July 14, 1983.

2. *Bank of Boston Corporation*, Boston, Massachusetts (finance, servicing and investment advisor activities; Georgia, Alabama, North Carolina, South Carolina and Tennessee): To engage *de novo* through its indirect subsidiary, First of Boston Mortgage Corporation, Boston, Massachusetts, in the following activities: making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts); servicing loans and other extensions of credit for any person; acting as an investment or financial adviser for a mortgage or a real estate investment trust; leasing real property or acting as agent, broker or adviser in leasing such property; performing appraisals of real estate; and all such other services or activities as are incidental thereto. These activities would be conducted at a *de novo* office in Perimeter Center, Atlanta, Georgia, serving the States of Georgia, Alabama, North Carolina, South Carolina and Tennessee. Comments on this application must be received not later than July 12, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance activities; Virginia): To establish a *de novo* office of Citicorp Financial, Inc., located in Richmond, Virginia. The activities in which the *de novo* office of Citicorp Financial, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. The proposed service area for the *de novo* office of Citicorp Financial, Inc. shall be comprised of the entire State of Virginia. In addition, with respect to, a previously approved Citicorp proposal to establish a *de novo* office of Citicorp Financial, Inc. in Virginia Beach, Virginia, notification for which was submitted to the Federal Reserve Bank of New York on April 18, 1983, Citicorp requests approval for the *de novo* office to engage in the sale of credit related life and accident and health insurance by licensed agents or brokers, as required. The proposed service area for the activity is the State of Virginia. Comments on this application must be received not later than July 12, 1983.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; New Jersey): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* office of Citicorp Person-to-Person Financial Center, Inc., at a shared location in Whippany, New Jersey. The activities in which the *de novo* offices of Citicorp Homeowners, Inc. and Citicorp Person-to-Person Financial Center, Inc. each propose to engage at the shared office location are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. and the *de novo* office of Citicorp Person-to-Person Financial Corp., Inc. shall be comprised of the entire State of New Jersey for all the aforementioned proposed activities. Comments on this application must be received not later than July 14, 1983.

3. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Colorado): To expand the activities and service area of an existing office of Citicorp Person-to-Person Financial Center, Inc., located in Grand Junction, Colorado. The new activities in which Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office of Citicorp Person-to-Person Financial Center, Inc. shall be the entire State of Colorado for the aforementioned proposed activities and a portion of Citicorp Person-to-Person Financial Center Inc.'s previously approved activities, specifically: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person, Inc., and to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than July 14, 1983.

C. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *American Bancorp, Inc.*, Reading, Pennsylvania (financing and servicing activities; entire United States): To engage, through its subsidiary, Meridian Mortgage Corporation, in making or acquiring loans such as would be made by a mortgage company, and servicing such loans for others. Initial activities would be concentrated in the states of Pennsylvania, New Jersey, and Delaware. Comments on this application must be received not later than July 14, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *San Jose Banco, Inc.*, Fremont, Indiana (insurance activities; San Jose, Illinois): To engage, through its subsidiary San Jose Insurance Agency, Inc., in the sale of general insurance in San Jose, Illinois, a town with a population not exceeding 5,000. These activities would be performed in the town of San Jose, Illinois, and the surrounding rural area. Comments on this application must be received not later than July 7, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Holding Company*, Oxford, Mississippi (data processing services; Mississippi): To engage in operating an on-line computer service in Lafayette County, Mississippi. These activities would be conducted from an office in Oxford, Mississippi, serving the City of Oxford, Mississippi and the surrounding rural area within Lafayette County. Comments on this application must be received not later than July 5, 1983.

2. *MidAmerica BancSystem, Inc.*, Fairview Heights, Illinois (trust company activities; Illinois): To engage, through its subsidiary, MidAmerica Trust Company, in performing or carrying on any of the functions or activities that may be performed or carried on by an Illinois trust company, including accepting and executing trusts and providing certain additional trust-related services, both as trustee and as agent for other trustees. These activities would be conducted from an office located in Fairview Heights, Illinois, serving the State of Illinois. Comments on this application must be received not later than July 13, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Sunrise Bancorp*, Citrus Heights, California (leasing activities; northern California): To engage, through its proposed subsidiary, Sunrise Leasing, Inc., in making leases of personal property, initially, medical equipment and luxury automobiles, in accordance with the Board's Regulation Y. These activities would be conducted from offices in Citrus Heights, California, and would be performed in Placer and Sacramento Counties, California. Comments on this application must be received not later than July 14, 1983.

2. *Sunrise Bancorp*, Citrus Heights, California (data processing and

transmission services *de novo;* northern California): To engage, through its proposed subsidiary, Sunrise Datacorp, in providing data processing and transmission services, facilities, data bases or access to such services, facilities or data bases for the internal operations of Sunrise Bancorp and its subsidiaries and others in accordance with the Board's Regulation Y. These activities would be conducted from offices in Citrus Heights, California, and would be perfomed in Placer and Sacramento Counties, California. Comments on this application must be received not later than July 14, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16486 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Dakota Bankshares, Inc.; To Establishment of Branch Office

Dakota Bankshares, Inc., Fargo, North Dakota, 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 establish a branch office of Dakota Financial Services, Inc., Fargo, North Dakota.

Applicant states that the proposed subsidiary would engage in consumer finance and related credit life, accident and health insurance activities. These activities would be performed from offices of Applicant's subsidiary in Minot, North Dakota, and the geographic areas to be served are Minot, Ward County, and adjacent counties thereto. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than July 6, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16490 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; LBT Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares 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 St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *LBT Bancshares, Inc.*, Litchfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Litchfield Bank and Trust Company, Litchfield, Illinois. Comments on this application must be received not later than July 15, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Gage Bancorporation, Inc.*, Gage, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The First State Bank of Gage, Gage, Oklahoma. Comments on this application must be received not later than July 13, 1983.

2. *City Bancshares, Inc.*, Fort Scott, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of City State Bank, Fort Scott, Kansas. Comments on this application must be received not later than July 12, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Deport Financial Company*, Deport, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Deport Bancshares, Inc., Deport, Texas, thereby acquiring indirectly The First National Bank of Deport, Deport, Texas. Comments on this application must be received not later than July 15, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16492 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Northern Lehigh Bancorp, Inc., et al

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 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 Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Northern Lehigh Bancorp, Inc.*, Slatington, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Slatington, Slatington,

Pennsylvania. Comments on this application must be received not later than July 14, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *City Holding Company*, Charleston, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares of The City National Bank of Charleston, Charleston, West Virginia. Comments on this application must be received not later than July 14, 1983.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *New Iberia National Bancorp, Inc.*, New Iberia, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of New Iberia National Bank, New Iberia, Louisiana. Comments on this application must be received not later than July 14, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Sallisaw Bancshares, Inc.*, Sallisaw, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank, Sallisaw, Oklahoma. Comments on this application must be received not later than July 14, 1983.

2. *First Seminole Bancorporation, Inc.*, Seminole, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Seminole, Seminole, Oklahoma. Comments on this application must be received not later than July 14, 1983.

3. *Stromsburg Financial Services, Inc.*, Stromsburg, Nebraska; to become a bank holding company by acquiring 81 percent of the voting shares of Stromsburg Bank, Stromsburg, Nebraska. Comments on this application must be received not later than July 14, 1983.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *University Bancshares, Inc.* Milwaukee, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of University National Bank, Milwaukee, Wisconsin. Comments on this application must be received not later than July 14, 1983.

Board of Governors of the Federal Reserve System, June 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16466 Filed 6-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Orthopedic and Rehabilitation Device Section of the Surgical and Rehabilitation Devices Panel scheduled for July 11, 1983. The meeting was announced by notice in the Federal Register of June 10, 1983 (48 FR 26887).

FOR FURTHER INFORMATION CONTACT: Robert E. Mansell, National Center for Devices and Radiological Health (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

Dated: June 15, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-16487 Filed 6-6-83; 10:37 am]

BILLING CODE 4160-01-M

Elanco Products Co.'s Cerabon ™ Tablets and Boluses; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) sponsored by Elanco Products Co., providing for use of Cerabon ™ (dihydrostreptomycin sulfate) Tablets for treating dogs and cats for enteritis and Cerabon ™ Boluses for treating calves and swine for infectious enteritis (scours). The sponsor requested the withdrawal of approvals.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, is the sponsor of NADA 65-022, which provides for use of Cerabon ™ (dihydrostreptomycin sulfate) Tablets for treating bacterial enteritis in dogs and cats (originally approved March 30, 1964) and NADA 65-024, which provides for use of Cerabon ™ Boluses for treating calves for infectious scours and swine for infectious enteritis (originally approved April 8, 1964).

Approval of these NADA's has not been codified in the Code of Federal Regulations. In its submission of August 19, 1982, to the Bureau of Veterinary Medicine, the sponsor requested withdrawal of approval of the NADA's under 21 CFR 514.115(d).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 65-022 and 65-024 and all supplements for Elanco's Cerabon ™ Tables and Boluses is hereby withdrawn, effective July 1, 1983.

Dated: June 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-16376 Filed 6-20-83; 8:45 am]

BILLING CODE 4160-01-M

Furazolidone (NF-180) Poultry Feed Mix; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Ralston Purina Co., providing for use of Furazolidone (NF-180) Poultry Feed Mix in making complete feeds. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63199, is the sponsor of NADA 9-332 which provides for use of a furazolidone poultry feed mix for chickens. The NADA was originally approved March 26, 1954. By letter of

February 7, 1983, the sponsor requested withdrawal of approval of the NADA because the product is no longer being marketed. This request is construed as waiver of opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 9–332 and all supplements for Furazolidone (NF–180) Poultry Feed Mix is hereby withdrawn, effective *July 1, 1983.*

Dated: June 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-16377 Filed 6-20-83; 8:45 am]

BILLING CODE 4160-01-M

Pfizer's Terramycin Potentiated Pet Tablets; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Pfizer, Inc., providing for use of a tablet containing oxytetracycline and oxa-acid in dogs and cats for treating pneumonia, bacterial enteritis, and upper respiratory infections. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Pfizer, Inc. 235 East 42d St., New York, NY 10017, is the sponsor of NADA 15–345, which provides for use of Terramycin Potentiated Pet Tablets (200 milligrams (mg) of oxytetracycline HCl and 200 mg of oxa-acid per tablet) for treating dogs and cats for pneumonia, bacterial enterities, and upper respitatory infections. The NADA was originally approved on June 27, 1966.

In its submission of August 12, 1982, to the Bureau of Veterinary Medicine, Pfizer requested withdrawal of aproval of the NADA because the product is no longer being marketed. Approval of this NADA had not been codified in the Code of Federal Regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 15–345 and all supplements for Pfizer's Terramycin Potentiated Pet Tablets is hereby withdrawn, effective July 1, 1983.

Dated: June 14,1983.

Lester M. Crawford

Director Bureau of Veterinary Medicine.

[FR Doc. 83-16378 Filed 6-20-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting of the Biotechnology Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, July 21 and 22, 1983, Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

This meeting will be open to the public July 21 from 8:30 a.m. to approximately 12:00 p.m. for presentations and discussion on the current and future needs for support in areas of spectroscopy and electron microscopy and for discussion of possible fellowship programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 12:30 p.m. to recess on July 21 and from 8:30 a.m. to adjournment on July 22 for the review, discussion, and evaluation of individual research prospectuses submitted by organizations seeking access to PROPHET System services and for review of applications to the Small Grants for Pilot Projects Program. These prospectuses and grants and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the prospectuses or applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Chief, Office of Science and Health Reports, Division of Research Resources, Bldg. 31, Rm. 5B–13, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5545, will provide summaries of meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health)

[FR Doc. 83-16528 Filed 6-20-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–9106–C]

Alaska Native Claims Selection; Natives of Kodiak, Inc.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Natives of Kodiak, Incorporated for approximately 55 acres. The lands involved are within U.S. Survey No. 5696 situated at Spruce Cape, Kodiak Island, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror, upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision consitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal it taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office,

Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal musts be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unkown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until July 21, 1983 to file an appeal.

Any party known or uknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Natives of Kodiak, Incorporated, P.O. Box 164, Kodiak, Alaska 99615
Koniag, Inc., Regional Native Corporation, Harbor View Complex, P.O. Box 746, Kodiak, Alaska 99615
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-16557 Filed 6-20-83; 8:45]
BILLING CODE 4310-84-M

[C-0124534]

Colorado; Proposed Withdrawal and Reservation of Public Minerals, Fort Carson Military Reservation

June 13, 1983.

The U.S. Army Corps of Engineers has filed an application to withdraw the Federally owned minerals which underlie the Fort Carson Military Reservation. This would withdraw these minerals from exploration and disposition under the United States mining laws (30 U.S.C., Ch. 2) but not from leasing under the mineral leasing laws, subject to any valid existing rights, and would affect the following described lands:

Sixth Principal Meridian

T. 17 S., R. 66 W.,
- Sec. 31, E½NE¼;
- Sec. 32, NW¼;
- Sec. 33, W½NW¼;
- Sec. 34, SW¼NE¼ and SW¼SW¼.

T. 18 S., R. 66 W.,
- Sec. 2, SE¼;
- Sec. 6, lot 5;
- Sec. 11, NE¼;
- Sec. 19, S½SE¼;
- Sec. 20, SW¼SW¼;
- Sec. 22, S½SE¼;
- Sec. 23, E½SE¼;
- Sec. 27, N½NE¼, SW¼NW¼, and SW¼;
- Sec. 29, NW¼NW¼, SE¼NW¼, W½SE¼, and SW¼;
- Sec. 30, lot 4, SE¼NW¼, E½SW¼, and SE¼SE¼;
- Sec. 31, lots 1 and 2, NE¼NE¼, S½NE¼, and SE¼NW¼;
- Sec. 32, N½N½, SE¼NE¼, and E½SE¼;
- Sec. 34, E½W½ and NE¼SE¼;
- Sec. 35, NW¼, SE¼, N½SW¼, and SW¼SW¼.

T. 19 S., R. 66 W.,
- Sec. 5, lot 3 and SE¼NW¼.

T. 17 S., R. 67 W.,
- Sec. 14, S½ and W½NW¼;
- Sec. 15, E½ and SW¼;
- Sec. 17, N½SE¼.

T. 18 S., R. 67 W.,
- Sec. 2, lots 1 and 2, SE¼NE¼, NE¼SE¼, and SW¼;
- Sec. 7, lots 3 and 4, E½SW¼, N½SE¼, and SW¼SE¼;
- Sec. 8, NW¼SW¼ and SE¼SW¼;
- Sec. 10, S½ and S½N½;
- Sec. 11, E½ and NW¼;
- Sec. 12, NE¼NE¼, W½NE¼, NW¼, N½SW¼, SW¼SW¼, and W½SE¼;
- Sec. 13, W½W½;
- Sec. 14, E½;
- Sec. 15, W½ and SE¼;
- Sec. 19, SE¼ and S½NE¼;
- Sec. 20, W½W½ and NE¼NW¼;
- Sec. 22;
- Sec. 23, NE¼, E½NW¼, SW¼NW¼, E½SW¼, NW¼SW¼, and N½SE¼;
- Sec. 24, W½ andW½E½;
- Sec. 25, W½NE¼, E½NW¼, and SE¼NW¼SE¼;
- Sec. 26, E½NW¼, SW¼NW¼, and W½SW¼;
- Sec. 27;
- Sec. 29, NW¼ and NW¼NE¼;
- Sec. 31, E½E½;
- Sec. 32, W½W½;
- Sec. 34, NE¼;
- Sec. 35, SW¼ and SW¼SE¼.

T. 18 S., R. 68 W.,
- Sec. 11, SE¼SE¼SE¼ lying Easterly of the Easterly right-of-way line of State Highway 115;
- Sec. 12, E½SE¼, NW¼SE¼, NE¼SW¼, and W½SW¼ lying Easterly of the Easterly right-of-way line of State Highway 115;
- Sec. 13, W½NW¼;
- Sec. 14, NE¼NE¼ lying Easterly of the Easterly right-of-way line of State Highway 115.

The areas described aggregate approximately 11,415.16 acres of Federally owned minerals in El Paso, Pueblo and Fremont Counties.

The Department of the Army requests that exploration for, and disposition of, these Federally owned minerals shall only be made when the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such exploration or disposition is consistent with the mission of the Fort Carson Military Reservation.

Effective on the date of publication of this notice, the Federal minerals contained in the lands described by this order shall be segregated from operation of the U.S. mining laws to prevent any form of disposal or appropriaton under such laws. This segregation shall continue until May 25, 1985, unless terminated sooner by administrative action and publication in the **Federal Register**. Administrative juriadiction over these minerals will not be affected by this temporary segregation.

Department of the Interior regulations provide that an authorized officer of the Bureau of Land Management will undertake the necessary investigations to determine the existing and potential demands for the mineral resources in this area. The Bureau will also determine that the area requested is the absolute minimum essential to meet the needs of the applicant agency and reach an agreement on management of these resources. If this application is approved, the withdrawal will be made for a minimum of 20 years.

This withdrawal will be authorized under the Act of February 28, 1958 (43 U.S.C. 155–158) and requires legislative action by Congress.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. Any persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, at the address shown below, within 90 days of publication date. If a hearing is scheduled, notice of public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be

scheduled and conducted in accordance with BLM Manual, Section 2351.16B.

All communications in connection with this proposed withdrawal should be addressed to the State Director, Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations

[FR Doc. 83-16496 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

[I-17847]

Idaho; Order Providing for Opening of Public Land

June 13, 1980.

1.The U.S. Forest Service, Department of Agriculture, On July 20, 1981, filed application, serial No. I-17847, for withdrawal of the following-described lands from location under the mining laws, subject to valid existing rights:

Boise Meridian

Salmon National Forest

T. 20 N., R. 18 E.,
Sec. 35, beginning at the confluence of Panther Creek and Moyer Creek said point being particularly located in the unsurveyed NE¼NW¼. From point of beginning, North 19°27', West 430 feet, to corner No. 1, thence South 18°04' West, 3,055 feet, to corner No. 2, thence North 80°38' East, 2,640 feet, to corner No. 3, thence North 33°49' West, 2,978 feet, corner No. 1, the ture point of beginning.

The area described aggregates 82 acres in Lemhi County.

2. The lands were segregated from entry and location under the general mining laws for a period of two years from August 7, 1981, when published in the **Federal Register.** The U.S. Forest Service failed to complete their application within this two year period pursuant to 43 CFR 2310.2-1(d). Accordingly, the segregation will expire August 7, 1983.

3. The land described in paragraph 1 will be opened to such forms of disposition as may by law be made of national forest lands at 9:00 a.m. on August 7, 1983.

4. Inquiries concerning the lands should be addressed to the Regional Forester, U.S. Forest Service, 324 25th Street, Ogden, Utah 84401.

William E. Ireland,

Chief, Lands Section

[FR Doc. 83-16498 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-012996]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

June 13, 1983.

Notice of an application, serial number I-012996, for the withdrawal and reservation of lands was published as **Federal Register** Document No. 62-1193 on page 1076 of the issue for February 6, 1962. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 10:00 a.m. on July 18, 1983, relieved of the segregative effect on the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 1 S., R. 36 E.,
Sec. 24, lots 7, 8, 12;
Sec. 25, lots 6, 7;
Sec. 27, lot 6;
Sec. 34, lots 8, 15.
T. 1 S., R. 37 E.
Sec. 7, lots 11, 14;
Sec. 18, lots 9, 12, 13, 14, 17;
Sec. 19, lots 8, 9, 12.
T. 2 S., R. 36 E.,
Sec. 4 lot 8,
Sec. 5, lot 13;
Sec. 6, lot 10;
Sec. 7, lots 2, 4, 7, 8;
Sec. 8, lots 7, 8, and north 12 acres of lot 10;
Sec. 9, lots 4, 5, 6, and north 20 acres of lot 8.

The area described aggregates approximately 340 acres in Bingham County.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-16497 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

Buffalo Resource Area, Casper District, Wyoming; Availability of Draft Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Notice that the public comment period for the Resource Management Plan and Environmental Impact Statement for the Buffalo Resource Area, Casper District, Wyoming is extended.

SUMMARY: A notice filed in the **Federal Register** (Vol. 48, No. 88) on May 5, 1983, established a public comment period from May 13th to August 15, 1983. The comment period is hereby extended to August 18, 1983.

FOR FURTHER INFORMATION CONTACT: Additional information on the RMP or requests to be placed on the mailing list should be addressed to: Glenn Bessinger, Area Manager, Buffalo Resource Area, 300 Spruce Street, P.O. Box 670, Buffalo, Wyoming 82834 (307) 684-5586.

Dated: June 13, 1983.

Les Olver,

Acting District Manager.

[FR Doc. 83-16495 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-FES 83-31]

Yellowstone Diversion Project; Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on Intake Water Company's proposed Yellowstone Diversion Project.

The final environmental statement describes the potential effects of the Bureau's proposal to permit Intake Water Company to construct facilities to divert water from the Yellowstone River near Intake, Montana, for storage in an offstream reservoir. Intake Water Company has an existing right from the State of Montana to appropriate 80,560 acre-feet of water per year. Although no firm end use of the water has been identified, Intake Water Company plans to make it available for industrial, municipal and agricultural users in portions of Dawson and Wibaux Counties in Montana and portions of Golden Valley County, North Dakota.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343-4991

Division of Management Support, General Services, Library Section, Code D-950, Engineering and Research Center, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234-3019

Regional Director, Bureau of Reclamation, Federal Building, 316 N. 26th Street, Billings, Montana 59103, Telephone: (406) 657-6605

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation or the Regional Director, at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: June 15, 1983.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 83-16578 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:30 a.m. on Thursday, July 21, 1983, at The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, NE., Atlanta, Georgia 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr. National Historic Site. The purpose of this meeting will be to: (1) review the scope of work for the Development Study by the City of Atlanta; and (2) discuss the public input into the General Management Plan Alternatives.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex-Officio Members
Director, National Park Service, Ex-Officio Member

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 Janet C. Wolf, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, NE., Atlanta, Georgia 30312; Telephone 404/221-5190. Minutes of the meeting will be available approximately 4 weeks after the meetings.

Dated: June 10, 1983.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 83-16465 Filed 6-20-83 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations; Florida et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 10, 1983. 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 July 5, 1983.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Hamilton County

Jasper, *Old Hamilton County Jail*, 501 NE 1st Ave.

Jackson County

Marianna, *Russ, Joseph W., Jr., House*, 310 W. Lafayette St.

Orange County

Orlando, *Rogers Building*, 37-39 S. Magnolia Ave.

Volusia County

Daytona Beach, *Kress, S.H., and Co. Building*, 140 S. Beach St.

IOWA

Allamakee County

Waterville vicinity, *Old East Paint Creek Lutheran Church*, N of Waterville

Benton County

Vinton vicinity, *Upper Stone Schoolhouse*, E of Vinton

Black Hawk County

Waterloo, *YMCA Building*, 154 W. 4th St.

Dubuque County

Dubuque, *Garland House*, 1090 Langworthy Ave.

Fremont County

Imogene, *St. Patrick Church*, 3rd St.

Hamilton County

Stratford, *State Bank of Stratford*, 801 Shakespeare St.

Linn County

Lisbon vicinity, *Torrance House*, S of Lisbon

Montgomery County

Sciola, *Sciola Missionary Baptist Church*, US 71

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Longwood*, 10417 River Rd.

Jackson Parish

Chatham, *Wilder House*, Shell and Pine Sts.
Clay vicinity, *Simms-Ellis House*, LA 148

Lafayette Parish

Lafayette, *Vermilion Inn*, 1304 Pinhook Rd.

Plaquemines Parish

Braithwaite vicinity, *Mary Plantation House*, LA 39

MASSACHUSETTS

Bristol County

New Bedford, *Times and Olympia Buildings*, 908-912 and 880-898 Purchase St.

Essex County

Ipswich, *Caldwell Block (Central Village, Ipswich, Massachusetts MRA)*, S. Main St.

Hampden County

Westfield, *State Normal Training School*, Washington St.

Suffolk County

Boston, *Baker, Sarah J., School*, 33 Perrin St.
Boston, *Newspaper Row*, 322-328 Washington St., 5-23 Milk St., and 11 Hawley St.

MISSISSIPPI

Adams County

Natchez vicinity, *Buie House*, NE of Natchez

Jackson County

Moss Point, *Griffin House*, 100 Griffin St.

Pike County

Summit, *Bank of Summit*, 811 Robb St.

Washington County

Marietta, *Mississippi III*, 237 Front St.

MISSOURI

St. Louis (Independent City),

Crittenden Historic District, 3401 Arsenal, 3400 and 3500 blocks of Crittenden

MONTANA

Flathead County

Flathead National Forest vicinity, *Hornet Lookout (24FH 25), Hornet Mountain*

Gallatin County

Bozeman, *Blackmore Apartments*, 120 S. Black St.

Missoula County

Missoula, *Keith, John M., House*, 1110 Gerald Ave.
Missoula, *Sterling, Fred T., House*, 1310 Gerald Ave.

NEW YORK

Warren County

Boston Landing vicinity, *Sagamore Hotel Complex*, Green Island and Federal Hill

OHIO

Cuyahoga County

Lakewood, *Hackenberg, Harvey, House*, 1508 Grace Ave.
South Euclid, *Notre Dame College of Ohio*, 4545 College Rd.

Darke County

Ansonia, *Brown Township Building*, Main and Weller Sts.

Hamilton County

Cincinnati, *Lillybanks*, 2386 Grandin Rd.

Miami County

Tipp City, *Old Tippecanoe Main Street Historic District*, 5–439 W. Main St. and 3–225 E. Main St.
Troy, *Dye, John Miner, Stone House*, 9 South Children's Home Rd.

Trumbell County

Southington Township, *Harshman, Charles, House*, 3932 Pinesville-Warren State Rd., NW

PENNSYLVANIA

Lancaster County

Lancaster, *Kirk Johnson Building*, 16–18 W. King St.

Westmoreland County

Vandergrift, *St. Gertrude Roman Catholic Church*, 311 Franklin Ave.

SOUTH DAKOTA

Minnehaha County

Sioux Falls, *Orpheum Theatre*, 315 N. Phillips Ave.

TENNESSEE

Williamson County

Brentwood vicinity, *Ravenwood*, Wilson Pike

TEXAS

Bexar County

San Antonio, *Garcia-Garza House*, 214 W. Salinas St.

Bosque County

Clifton vicinity, *Bekken, J.H., House (Norwegian Settlement of Bosque County TR)*, NW of Clifton
Clifton vicinity, *Brandhagen Houses (Norwegian Settlement of Bosque County TR)*, W of Clifton on FM 182
Clifton vicinity, *Brogdon Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Bronstad House (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Colwick, John and Mary, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Dahl, Peder, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Ellingson Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Erickson, Even and Petrine, Farm (Norwegian Settlement of Bosque County TR)*, NW of Clifton
Clifton vicinity, *Finstad, Ole and Elizabeth, Homesite (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Godager, Adolf and Christine, Homesite (Norwegian Settlement of Bosque County TR)*, NW of Clifton
Clifton vicinity, *Grimland, Gunstein and Lofise, House (Norwegian Settlement of Bosque County TR)*, S W of Clifton on FM 219
Clifton vicinity, *Grimland, Keddel and Liv, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Hanson, Hans, Farm (Norwegian Settlement of Bosque County TR)*, NW of Clifton
Clifton vicinity, *Hoff-Ulland Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Holen Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Jenson, James Jens and Martha, House (Norwegian Settlement of Bosque County TR)*, NW of Clifton on FM 2136
Clifton vicinity, *Knudson, Christen and Johonne, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Lahlum, A. H., House (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Larson, Martin House (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Linberg, Eric and Martha, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Norway Mill (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182
Clifton vicinity, *Olson, Joseph and Anna, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182
Clifton vicinity, *Olson-Hanson Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Olson-Nelson Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Our Savior's Lutheran Church (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Pederson, John, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Pierson, Ole and Ann, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Questad, Carl and Sedsel, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Reeder-Omenson Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 182
Clifton vicinity, *Reierson, Hans and Berthe, House (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Ringness, Jens and Kari, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton on FM 219
Clifton vicinity, *Rogstad, Tom and Martha, Farm (Norwegian Settlement of Bosque County TR)*, W of Clifton
Clifton vicinity, *Schultz, Tobias and Wilhelmine, Farm (Norwegian Settlement of Bosque County TR)*, SW of Clifton
Clifton vicinity, *Shefstad, Gunarus and Ingerborg, House (Norwegian Settlement of Bosque County TR)*, N of Clifton
Clifton vicinity, *Wilson Homesite (Norwegian Settlement of Bosque County TR)*, W of Clifton
Granfills Gap vicinity, *Upper Settlement Rural Historic District (Norwegian Settlement of Bosque County TR)*, E of Granfills Gap off TX 22

Harrison County

Marshall, *Weisman-Hirsch House*, 313 S. Washington St.

Williamson County

Round Rock, *Round Rock Post Office and William M. Owen House*, Chisholm Trail and Emanuel St.

UTAH

Salt Lake County

Salt Lake City, *Beattie, Jeremiah, House*, 655 E. 200 South
Salt Lake City, *Cannon, George M., House*, 720 E. Ashton Ave.
Salt Lake City, *Kelly, Albert H., House*, 418 S. 200 West
Salt Lake City, *Kelly, John B., House*, 422 S. 400 East
Salt Lake City, *Malin, Millard F., House*, 233 S. 400 East
Salt Lake City, *Meyer, Frederick A. E., House*, 929 E. 200 South
Salt Lake City, *Rumel, Eliza Gray, House*, 358 S. 500 East
Salt Lake City, *Smith, Albert, House*, 349 S. 200 West

Summit County

Peoa, *Lyons, Oscar F., House*, Woodenshoe Rd.

VIRGINIA

Lynchburg (Independent City)

Rosedale, VA 128

Clarke County

Berryville, *Clarke County Courthouse (Old)*, 104 N. Church St.

Scott County

Flanary Archaeological Site (44SC13)

Tazewell County

Richlands, *Williams House*, 102 Suffolk Ave.

WASHINGTON

King County

Issaquah, *Pickering Farm*, 21809 SE 56th St.

WISCONSIN

Milwaukee County

Milwaukee, *Germania Building*, 135 W. Wells St.

Rock County

Janesville, *Myers, Peter, Pork Packing Plant and Willard Coleman Building*, 117–123 N. Main St.

Janesville, *North Main Street Historic District (Boundary Reduction)*, *11–23 and 18–22 N. Main St., and Wall St. between N. Main and N. Parker Dr.*

WYOMING

Tenton County

Tenton National Forest vicinity, *Huckleberry Mountain Fire Lookout*, Off US 89/287

[FR Doc. 83-16494 Filed 6-20-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: June 16, 1983.

The following notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt interstate transportation must file the Notice, Form BOp–102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) American Southern Growers Association, Inc.

(2) Rt. 1, Box 680D, Natchitoches, Louisiana 71457.

(3) Rt. 1, Box 680D, Natchitoches, LA 71457.

(4) Mr. F. E. Barnhart, Rt. 1, Box 680D, Natchitoches, LA 71457.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16511 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 ICC 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on July 22, 1983. Petitions for reconsideration must be filed by July 11, 1983. Petitions for stay must be filed by July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289–4357 in the DC metropolitan area; or (800) 424–5403 Toll-free outside the DC area.

Agatha L. Mergenovich,

Secretary.

[No. MC–F–15185]

Silver Eagle Industries—Continuance in Control Exemption—Silver Eagle Company and NPE, Inc., D.B.A. Nickle Plate Express

ADDRESSES:

Send pleadings to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's representative: Larry B. Draper, 700 N. Hayden Island Drive, Portland, OR 97217.

Pleadings should refer to No. MC–F–15185.

Decided: June 13, 1983.

Under 49 U.S.C 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C 11343(a), the continuance in control by Silver Eagle Industries of Silver Eagle Company (No. MC–32779), and NPE, Inc. d.b.a. Nickle Plate Express (No. MC–166669).

By the Commission, Division 1. Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC–F–15202]

Schmidt Trucking Co., Inc.—Purchase Exemption—Spector Red Ball, Inc. (Debtor-in-Possession)

ADDRESSES:

Send pleadings to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's representatives: J. Raymond Chesney, 3177 Irving Blvd., P.O. Box 47407, Dallas, TX 75247
and

Charles Schmidt, Jr., 101 West Sanger, P.O. Box 547, Salem, IL 62881

Pleadings should refer to No. MC–F–15202.

Decided: June 10, 1983.

Under 49 U.S.C 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C 11343(a), the purchase by C. Schmidt Trucking Co., Inc. of the operating rights of Spector Red Ball, Inc. (debtor in possession) contained in Certificates No. MC–2229 (Sub–No. 143) and Sub-Nos. 144, 146, 166, 170, 172, 174, 178, 183, 184, 188, 191, 193, 198, 199, 215, 272X, 132, and 212F, and portions of Nos. MC–2229 (Sub–No. 119) and Sub–Nos. 169, 182, 186, 203, 250, 251, 252, 254, 255, 257, 259, 260, and 264.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor concurred. He would have required consummation of the transaction within a one year period.

[No. MC–F–15206]

Thomas F. Newcomer—Control Exemption—Payne Transportation, Inc.

ADDRESSES:

Send pleadings to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211.

Pleadings should refer to No. MC–F–15206.

Decided: June 13, 1983.

Under 49 U.S.C 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C 11343(e), the acquisition of control through ownership of stock of Payne Transportation, Inc. a motor common carrier operating under No. MC-129387 and Sub-Nos. 8, 9, 10, 11, 12, 14, 15, 16, 18, 21, 107, 114, 119X, 120X, 121X, and 122. Newcomer is now a director and President of Bell Transport

Company, a motor contract carrier under No. MC-133154.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-151213]

Walter Riley—Continuance in Control Exemption—Seigles' Express, Inc., and G.O.D., Inc.

ADDRESSES:

Send pleadings to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representatives: Ronald N. Cobert, Joseph Michael Roberts, 1730 M Street, NW., Suite 501, Washington, D.C. 20036.

Pleadings should refer to No. MC-F-15213.

Decided: June 10, 1983.

Under 49 U.S.C 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.G 11343 (a) (4), the continuance in control by Walter Riley, a non-carrier, of Seigles' Express, Inc. (MC-54200) and G.O.D., Inc., which presently has an application pending in No. MC-166962, upon the latter becoming a motor carrier subject to the jurisdiction of the Commission.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[FR Doc. 83-16509 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued thereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-FC-270

By the Commission, Review Board Members Fortier, Carleton, and Dowell.

MC-FC-81285. By decision of June 14, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board approved the transfer to O.C.C., INC., Seattle, WA, of Permit No. MC-124735 (Sub-Nos. 1 and 24), issued February 5, 1979 and March 9, 1982, to R. C. KERCHEVAL, JR, Seattle, WA, authorizing the transportation of *parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage,* from points in IL, IN, IA, MI, MO, OH, and WI, to Billings, Butte, and Great Falls, MT, and Seattle and Spokane, WA. Restriction: The operations authorized therein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Motor Wheel and Parts, Inc., of Seattle, WA, and Trailer Equipmnent Distributors, Inc., of Seattle, WA. From points in IL, IN, IA, MI, MO, OH, and WI, to ports of entry on the United States-Canada Boundary line at or near Blaine, WA, Eastport, ID, Sweetgrass, MT, and Portal, ND. RESTRICTION: The operations authorized immediately above are subject to the following conditions: The transportation service specified immediately above shall be in foreign commerce only. Said operations are restricted to the transportation of shipments destined to Vancouver, British Columbia, and Calgary and Edmonton, Alberta, Canada. Said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Wheels & Equipment, Limited, of Vancouver, British Columbia, Canada, and *general commodities* (except classes A and B explosives), between points in the United States, under continuing contract(s) with Onan Consolidation, Inc., Wesco Distributors, Inc., R. A. Barnes, Inc., Motor Wheel & Parts, Inc., Futura Energy Products Trailer Equipment Distributors, Inc., of Seattle, WA, Star Trailer of Sunnyside, WA, Canadian Wheel Industries Ltd., Edmonton, Alberta, Canada, Henderson Wheel & Warehouse Supply, Salt Lake City, UT, and Wholesale Truck Parts, Inc., of Ellensberg, WA. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228-3807.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-361

By the Commission, Review Board Members Parker, Williams, and Dowell.

MC-FC-81494, filed May 23, 1983. By decision of June 8, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board approved the transfer to HARMONY TRANSPORT, INC., of Yakima, WA, of Certificate Nos. MC-154416 issued August 6, 1981, (Sub-No. 2), issued November 17, 1981, (Sub-No. 3), issued April 28, 1982, (Sub-No. 4), issued February 8, 1982, (Sub-No. 5), issued August 24, 1982, and (Sub-No. 6), issued November 1, 1982, to J & S LINES, INC., of Mukwanago, WI, authorizing the transportation of *chemicals and related products* and *abrasives*, between the facilities of Metal Finishing Co., Inc., in the U.S., on the one hand, and, on the other, points in the U.S., *general commodities*, between the facilities of Troy International, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S., *abrasives* (except in bulk), betwen points in the U.S. (except AK and HI), *printed matter*, and *such commodities* as are dealt in by hardware stores, between points in NY, NJ, CT, FL, PA, IL, WI, OR, WA, ID, CA,

and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), and *food and related products*, between points in WI, IL, IN, OH, PA, NJ, NY, CA, WA, OR, AZ, CT, MO, and MA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Transferee holds authority from the Commission under MC-163288. An application for temporary authority has been filed. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312.

Volume No. OP4-FC-367

By the Commission, Review Board Members Fortier, Krock, and Joyce.

MC-FC-81210. By decision of June 14, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, the Review Board approved the transfer to KLINK TRUCKING, INC., of Pleasant Lake, IN, of Certificate No. MC-136477 (Sub-No. 2), issued March 14, 1973, to MAX V. MOUNSEY, d.b.a. MOUNSEY TRUCK SERVICE, Huntington, IN, authorizing the transportation of *liquid fertilizers*, in bulk, in tank vehicles, from Harrod, OH, to points in IN. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802. (219) 423-3595, for both transferee and transferor.

[FR Doc. 83-16507 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49563, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 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.

Agatha L. Mergenovich,

Secretary.

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 calls to Team 1 at 202-275-7992.

Volume No. OP1-224

Decided: June 13, 1983.

By the Commission, Review Board Members Fortier, Dowell, and Williams.

MC 136711 (Sub-44(A)), filed June 2, 1983. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036 (405) 262-1322. Transporting *commodities in bulk and chemicals and related products*, between points in the U.S. (except AK and HI).

Note.—Applicant has also filed for authority under the fitness procedures docketed MC-136711 Sub 44(B), published in this same **Federal Register** issue.

MC 168410, filed June 2, 1983. Applicant: ADAN J. DOMINGUEZ, d.b.a. DOMINGUEZ BROS. TRUCK BROKERAGE COMPANY, 1500 S. Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 1600 W. 38th St., Suite 410, Austin, TX 78731, (512) 451-7409. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-267

Decided: June 9, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 123473 (Sub-9), filed May 9, 1983. Applicant: WEST HUNTERDON TRANSIT CO., INC., Routes 202 and 69, Flemington, NJ 08822. Representative: Edward F. Bowes, P.O. Box Y, Becker Farm Rd., Roseland, NJ 07068, 201-992-2200. Transporting *passengers*, (I) in charter and special operations, between points in the U.S. (except HI), and (II) over regular routes, (1) between Upper Black Eddy, PA and Flemington, NJ: (a) from Upper Black Eddy over PA Hwy 32 to Tinicum Township, PA, then across the bridge over the Delaware River to Frenchtown, NJ, then over NJ Hwy 12 to Flemington, and (b) from Upper Black Eddy across the bridge over the

Delaware River to Milford, NJ, then over unnumbered highway to Frenchtown, then over NJ 122 to Flemington, (2) between Doylestown, PA and Flemington, NJ: from Doylestown over PA Hwy 611 to junction PA Hwy 313, then over PA Hwy 313 to junction U.S. Hwy 202, then over U.S. Hwy 202 to Flemington, (3) between Flemington, NJ and New York, NY: from Flemington over U.S. Hwy 202 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction New Jersey Turnpike, then over New Jersey Turnpike to junction Interstate Hwy 495, then over Interstate Hwy 495 to New York, NY, and (4) between Bridgewater Township and Newark, NJ: from junction U.S. Hwy 22 and Interstate Hwy 287 in Bridgewater Township (a) over interstate Hwy 287 to junction New Jersey Turnpike, then over New Jersey Turnpike to Newark, and (b) over Interstate Hwy 287 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction U.S. Hwy 9, then over U.S. Hwy 9 to New Jersey Turnpike, then over New Jersey Turnpike to Newark, (5) return over the same routes, and serving all intermediate points in (1) thru (4) above. Notes: (1) In part (I) applicant seeks to provide privately-funded charter and special transportation, (2) In Part (II) applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same routes; and (3) Part (II) is published in the Federal Register, this issue under the preface with "regular applications".

Volume OP2-269

Decided: June 13, 1983.

Review Board Members Krack, Joyce, and Fortier.

MC 156942 (Sub-3), filed May 18, 1983. Applicant: RAYMOND M. CHENOWETH, d.b.a. BEST EXPRESS, 1900 S. Industrial, Las Vegas, NV 89102. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3070. Transporting (I) over regular routes, *passengers*, between Las Vegas, NV, and Hoover Dam Site, AZ, over U.S. Hwy 93, serving all intermediate points; (II) over irregular routes, (1) *passengers*, in charter and special operations, between points in the U.S.; and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.; and (III) as a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.—(1) Under part (I) above applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route; (2) under part (II)(1) above applicant seeks to provide privately-funded charter and special transportation; and (3) part (I) is published in the FR, this issue, under the preface with the "regular" applications.

MC 168253, filed May 23, 1983. Applicant: WILLIAM P. HOGUE d.b.a. HOGUE TRUCKING, 201 E. Cherry, Nixa, MD 65714. Representative: William P. Hogue (same address as applicant) 417-725-2659. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 166253, filed May. 27, 1983. Applicant: DIAMOND CAB COMPANY OF ARLINGTON, INC., P.O. Box 2271, Arlington, VA 22202. Representative: Mel P. Booker, 9900 Main St., Suite 400, Fairfax, VA 22031, 703-691-4000. Transporting (1) *passengers*, in charter and special operations, between points in the U.S. (except HI), and (2) *passengers and their baggage and accessorial equipment*, between points in the U.S. (except HI), under continuing contract(s) with Consolidated Rail Corporation, of Philadelphia, PA.

Note.— Applicant seeks in (1) above to provide privately funded charter special transportation.

MC 168233, filed May 23, 1983. Applicant: TRADEWINDS TRANSPORTATION, INC., 3000 Igloo, P.O. Box 60964, Houston, TX 77205. Representative: Robert J. Gallagher, 1435 G St., N.W., Suite 848, Washington, DC 20005, 202-628-1642. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168242, filed May 23, 1983. Applicant: TLC CORPORATION, 3701 Twin Lakes Court, Suite 108, Baltimore, MD 21207. Representative: Edward Astri, (Same address as applicant), 301-922-3003. Transporting *passengers*, in special operations, between points in MD, VA, NJ, DE, and DC.

Note.— Applicant seeks to provide privately-funded special transportation.

MC 168262, filed May 25, 1983. Applicant: THOMAS KARL SCHAFFER d.b.a. SH TRANSPORTATION BROKERS, 17323 S. Steiner Rd., Beavercreek, OR 97004. Representative: Thomas Karl Schaffer (same address as applicant), 503-632-4062. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168263, filed May 23, 1983. Applicant: CHARTER BUS UNLIMITED, INC. 1255 Washington Blvd., Detroit, MI 48226. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212-239-4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 168322, filed May 25, 1983. Applicant: SATELLITE INDUSTRIES, INC., 1700 South Willow St., Manchester, NH 03108. Representative: Joseph M. Klements, 89 State St., Boston, MA 02109, 617-523-0800. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-264

Decided: June 13, 1983.

By the Commission, Review Board Members Krock, Fortier, and Joyce.

MC 167195, filed June 1, 1983. Applicant: SOLEDAD D. FLORO, d.b.a., P&S ENTERPRISES, 3157 Yakima Circle, San Jose, CA 95121. Representative: Soledad D. Floro (Same address as applicant), (408) 972-9577. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168265, filed May 25, 1983. Applicant: INGRID M. SIEVERT, P.O. Box 153, Reno, NV 89504. Representative: Ingrid M. Sievert (Same address as applicant), (702) 849-2373. 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.

MC 168295, filed May 26, 1983. Applicant: NUMBER ONE CASINO LIMOUSINE SERVICE, INC., 51 Sunrise Terrace, Randolph Township, NJ 07869. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239-4610. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.–Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP3-267

Decided: June 14, 1983.

By the Commission, Review Board Members Williams, Fortier, and Joyce.

MC 134484 (Sub-36A), filed May 27, 1983. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. As a *broker of general commodities* (except household goods), between points in the U.S.

For the following, please direct status calls to Team 4 at 202-275-7669.

Vol. No. OP4-363

Decided: June 14, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 168536, filed June 8, 1983. Applicant: S & N TRANSPORT SERVICE, 6035 Northwest Highway, Chicago, IL 60631. Representative: James O'Grady, 8550 W Golf Rd., Niles, IL 60648, (312) 827-6191. As a *broker of general commodities* (except household good), between points in the U.S. (except AK and HI).

Vol. No. OP4-365

Decided: June 14, 1983.

By the Commission, Review Board Members Williams, Carleton, and Parker. (Member Parker not participating.)

MC 168446, filed June 2, 1983. Applicant: COMMON MARKET FORWARDERS INTERNATIONAL, INC., 17 Battery Place, Suite 1115, New York, NY 10004. Representative: Robert W. Kavanaugh (same address as applicant), (212) 943-0970. As a *broker of general commodities* (except household goods), between points in the U.S.

Vol. No. OP4-369

Decided: June 14, 1983.

By the Commission, Review Board Members Fortier, Williams, and Dowell.

MC 11207, (Sub-576), filed June 8, 1983. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1301, 1600 Wilson Blvd. Arlington, VA 22209, (703) 522-0900. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168497, filed June 3, 1983. Applicant: THOMPSON C. THOMAS AND CAROL McKNIGHT, d.b.a. KNIGHT TOURS, 3902 14th St., NW., Suite 217, Washington, DC 20011. Representative: Thompson C. Thomas (same address as applicant), (202) 723-7278. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168526, filed June 8, 1983. Applicant: SHEILA GARTNER, d.b.a. CRAZY HORSE TRANSPORT SERVICES, 1648 Cleveland Ave., SW, Canton, OH 44708. Representative: Paul Carrano, 4414 Tucson Dr., Greensboro, NC 27406, (919) 294-6115. As a *broker of general commodities* (except household goods), between points in the U.S.

Vol. No. OP4-371

Decided: June 15, 1983.

By the Commission, Review Board Members Carleton, Dowell, and Fortier.

MC 168507, filed June 7, 1983. Applicant: MICHAEL CHARLES ROBOTTI, d.b.a., OTTER EXPRESS, 13902 Eilers Rd., Austin, TX 78743. Representative: Michael Charles Robotti (same address as applicant), (512) 243-3496. 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.

MC 168556, filed June 8, 1983. Applicant: FAUSTINO SAN EMETERIO, 65 East 8th Ave., Suite 2, Hialeah, FL 33012. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592-0036. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); and (2) *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).

[FR Doc. 83-16512 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982, at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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 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.

Agatha L. Mergenovich,

Secretary.

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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 1 at 202-275-7992.

Volume No. OP1-223

Decided: June 13, 1983.

By the Commission, Review Board Members Fortier, Dowell, and Williams.

MC 65491 (Sub-22), filed June 2, 1983. Applicant: GEORGE W. BROWN, INC., Route 33 East Box 1208, Hightstown, NJ 08520. Representative: Lawrence Caruso (same address as applicant), (609) 448-7900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between 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 western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 136711 (Sub-44(B)), filed June 2, 1983. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Note.—Applicant has also filed for authority under the non-fitness procedures docketed MC-136711 Sub-44(A), published in this same Federal Register issue.

MC 138730 (Sub-17), filed May 26, 1983. Applicant: CARAVAN COACH LINES, INC., RD 3 Box 451, Wharton, NJ 07885. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Over regular routes, transporting *passengers*, (1) between McAfee, NJ, and junction Interstate Hwys 80 and 287, at or near Parsippany, NJ, from McAfee over NJ Hwy 517 to junction NJ Hwy 94, then over NJ Hwy 94 to junction NJ Hwy 23, at or near Hamburg, NJ, then over NJ Hwy 23 to junction NJ Hwy 517 at or near Franklin, NJ, then over NJ Hwy 517 to junction NJ Hwy 181, at or near Sparta, NJ, then over NJ Hwy 181 to junction NJ Hwy 15, then over access route to junction NJ Hwy 15, then over NJ Hwy 15 to junction unnumbered access road to Picatinny Arsenal, then over access road to junction NJ Hwy 15, then over NJ Hwy 15 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction NJ Hwy 513, then over NJ Hwy 513 to Howard Johnson Motor Lodge in Rockaway Township, NJ, then over NJ Hwy 513 to junction Interstate hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 46 via Denville Exit, then over U.S. Hwy 46 to junction with Broadway Street, then over Broadway Street to junction NJ Hwy 53, then over NJ Hwy 53 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 287, at or near Parsippany, NJ, and return over the same route, serving all intermediate points, (2) between Franklin, NJ, and junction NJ Hwy 23 and Interstate Hwy 80, north of Singac, NJ, over NJ Hwy 23, serving all intermediate points, (3) between Bernardsville, NJ, and Kennedy International Airport, New York, NY, from Bernardsville over NJ Hwy 202 to junction South Maple Street, then over South Maple Street to A.T. & T. Corporate Headquarters and plant, at or near Basking Ridge, then over South Maple Street to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Beverwyck Road, then over Beverwyck Road to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 87, then over Interstate Hwy 87 to junction Interstate Hwy 278, then over Interstate Hwy 278 to the Grand Central Parkway, then over the Grand Central Parkway to the Van Wyck Expressway, then over the Van Wyck Expressway to Kennedy International Airport, New York, NY, and return over the same route, serving all intermediate points, (4) between Bernardsville, NJ, and junction U.S. Hwy 46 and Interstate Hwy 80, at or near Ft. Lee, NJ, from Bernardsville over NJ Hwy 202 to junction U.S. Hwys 202 and 206, then over U.S. Hwys 202 and 206 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction NJ Turnpike (Interstate Hwy 95), then over NJ Turnpike (Interstate Hwy 95) to Exit 14, then over Airport Expressway to Newark Airport, then over Airport Expressway to junction NJ Turnpike (Interstate Hwy 95), then over NJ Turnpike (Interstate Hwy 95), to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction Interstate Hwy 80, at or near Ft. Lee, NJ, and return over the same route, serving all intermediate points, (5) between Morristown, NJ and Newark Airport, Newark, NJ, from Morristown over NJ Hwy 24 to junction Interstate Hwy 78, then over Interstate Hwy 78 to the Newark Airport, Newark, NJ, and return over the same route, serving all intermediate points, (6) between Parsippany, NJ, and Newark Airport, Newark, NJ, from Parsippany over U.S. Hwy 46 to junction New Road, then over New Road to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction Harrison Avenue, then over Harrison Avenue to junction NJ Hwy 21, then over NJ Hwy 21 to junction U.S. Hwy 1-9, then over U.S. Hwy 1-9 to junction access road, then over access road to Newark Airport, Newark, NJ, and return over the same route, serving all intermediate points, and (7) between junction Garden State Parkway and Interstate Hwy 80 and Newark Airport, Newark, NJ, from junction Garden State Parkway and Interstate Hwy 80, at or near Saddlebrook, NJ, then over Garden

State Parkway to NJ Hwy S–3, then over NJ Hwy S–3 to junction NJ Hwy 21, then over NJ Hwy 21 to junction U.S. Hwy 1–9, then over U.S. Hwy 1–9 to junction access road, then over access road to Newark Airport, Newark, NJ, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 148151 (Sub-11), filed May 20, 1983. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Road, Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *building materials, lumber, plumbing equipment, electrical machinery, equipment or supplies, restaurant equipment and supplies, lawn and garden products, fire department equipment and supplies, prestressed concrete, and fencing materials,* between points in the U.S. (except AK and HI).

MC 148591 (Sub-3), filed June 2, 1983. Applicant: KILE TRANSFER CORP., 4600 78th St., Des Moines, IA 50324. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309 (515) 245–4300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Polk, Dallas, Madison, Warren, Marion, Montgomery, Adams, Union, Clarke, Lucas, Monroe, Page, Taylor, Ringgold, Decatur, Wayne and Appanoose Counties, IA.

MC 159191, filed June 1, 1983. Applicant: KING TRUCKING, INC., Drawer K, Amelia, LA 70340. Representative: Earl P. King, Jr. (same address as applicant), (504) 631–0525. Transporting *machinery, equipment, material and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, between points in LA, TX, AL, FL, MS and OK.

MC 164500 (Sub-2), filed June 1, 1983. Applicant: ACTION DELIVERY INC., 1201 Cantrell Sansom Road, Ft. Worth, TX 76131. Representative: Ralph W. Pulley, Jr., 102 Metropolitan Saving Tower, 5944 Luther Lane, Dallas, TX 75225 (214) 696–0055. Transporting *such commodities* as are dealth in or used by wholesale, retail, discount and variety stores, between points in the U.S., under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR.

For the following, please direct status calls to Team 2 at 202–275–7293.

Volume No. OP2–266

Decided: June 9, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 123473 (Sub-9), filed May 9, 1983. Applicant: WEST HUNTERDON TRANSIT CO., INC., Routes 202 and 69, Flemington, NJ 08822. Representative: Edward F. Bowes, P.O. Box Y—7 Becker Farm Rd., Roseland, NJ 07068, 201–992–2200. Transporting *passengers,* (I) in charter and special operations, between points in the U.S. (except HI), and (II) over regular routes, (1) between Upper Black Eddy, PA and Flemington, NJ: (a) from Upper Black Eddy over PA Hwy 32 to Tinicum Township, PA, then across the bridge over the Delaware River to Frenchtown, NJ, then over NJ Hwy 12 to Flemington, and (b) from Upper Black Eddy across the bridge over the Delaware River to Milford, NJ, then over unnumbered highway to Frenchtown, then over NJ Hwy 12 to Flemington, (2) between Doylestown, PA and Flemington, NJ: from Doylestown over PA Hwy 611 to junction PA Hwy 313, then over PA Hwy 313 to junction U.S. Hwy 202, then over U.S. Hwy 202 to Flemington, (3) between Flemington, NJ and New York, NY: from Flemington over U.S. Hwy 202 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction New Jersey Turnpike, then over New Jersey Turnpike to junction Interstate Hwy 495, then over Interstate Hwy 495 to New York, NY, and (4) between Bridgewater Township and Newark, NJ: from junction U.S. Hwy 22 and Interstate Hwy 287 in Bridgewater Township (a) over Interstate Hwy 287 to junction New Jersey Turnpike, then over New Jersey Turnpike to Newark, and (b) over Interstate. Hwy 287 to junction U.S. Hwy 1, then over U.S. Hwy 1 to junction U.S. Hwy 9, then over U.S. Hwy 9 to New Jersey Turnpike, then over New Jersey Turnpike to Newark, and (5) return over the same route, and serving all intermediate points in (1) thru (4) above. Notes: (1) In Part (I) applicant seeks to provide privately-funded charter and special transportation, (2) In Part (II) applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2) (B) over the same routes; and (3) Part (I) is published in the Federal Register, this issue under the preface with "fitness applications".

MC 153392 (Sub-4), filed May 27, 1983. Applicant: CENTRAL TRACTOR FARM & FAMILY CENTER, INC., 1515 East Euclid Ave., Des Moines, IA 50313. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, 515–288–6041. 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 Worksaver, Inc., of Litchfield, IL, and Frye Copy Systems, Inc., Kennedy & Co., Hockenberg Fixture & Supply Company, and National Commercial Services Co., Inc., all of Des Moines, IA.

MC 154953 (Sub-1), filed May 31, 1983. Applicant: DOKE TRANSPORT CO., INC., P.O. Box 109, Clarks Hill, IN 47930. Representative: Andrew K. Light, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., in and east of MN, IA, NE, KS, OK, and TX.

MC 158733 (Sub-8), filed May 27, 1983. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Ave. SW, Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *popcorn,* between points in Marshall County, IA, on the one hand, and, on the other, those points in the U.S., in and west of MT, ID, UT, and AZ (except AK and HI).

MC 161173 (Sub-3), filed May 31, 1983. Applicant: BESTWAY SYSTEMS, INC., P.O. Box 365, Conley, GA 30027. Representative: A. J. Katrinchak, P.O. Box 6931, Cleveland, OH 44101, 800–554–2738. 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 The May Department Stores Company, of St. Louis, MO.

MC 161462 (Sub-8), filed May 31, 1983. Applicant: ILLINI 48 INC., 5501 West 109th St., Oak Lawn, IL 60454. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60606, 312–782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IN, OH, and MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163712, filed May 27, 1983. Applicant: WILBUR W. LOOMIS, d.b.a. WILBUR W. LOOMIS TRUCKING, 32 Mountain St., Haydenville, MA 01039. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, 413–781–8205. Transporting (1)

metal products, backpacks and tents, between points in MA, on the one hand, and, on the other, points in the U.S. (except AK and HI) (2) *petroleum and petroleum products*, between points in CT, MA, NJ, NY, PA, and RI (3) *coal*, between points in PA, on the one hand, and, on the other, points in CT, ME, MA, NH, RI, and VT (4) *fertilizer and related products*, between points in CT, ME, MA, NH, NY, RI, and VT (5) *lumber*, between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, WV, VA, VT and DC (6) *building materials*, between points in CT, ME, MA, NJ, NH, NY, PA, RI, and VT, and (7) *chlorides*, between points in CT, MA, NY, and VT.

MC 164263 (Sub-1), filed May 27, 1983. Applicant: ACME, INC., P.O. Box 2698, Gastonia, NC 28052. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004, 202-737-1030. Transporting *petroleum products and transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Acme of South Carolina, Inc., of Gaffney, SC.

MC 165213, filed May 27, 1983. Applicant: BILL PURDY, d.b.a. SERVICE EXPRESS COMPANY, 2204 South Tyler, Amarillo, TX 79109. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062 (214) 255-6279. Transporting *general commodities* (except classes A and B explosives, houshold goods, and commodities in bulk), between points in AR, LA, OK, NM, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168312, filed May 26, 1983. Applicant: GEORGE R. McCLYMONDS, R.D. #1, Portersville, PA 16051. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, 412-471-1800. Transporting *coal*, between points in Allegheny, Beaver, Butler, Lawrence, and Venango Counties, PA, on the one hand, and, on the other, points in OH, WV, MD, NY, VA, and DC.

Volume No. OP2-268

Decided: June 13, 1983.

Review Board Members Fortier, Williams, and Krock.

MC 5623 (Sub-65), filed May 23, 1983. Applicant: ARROW TRUCKING CO., 4230 South Elwood, P.O. Box 7280, Tulsa, OK 74170. Transporting *Mercer commodities and machinery*, between points in the U.S. (except HI), under continuing contract(s) with Husky Oil Company, of Englewood, CO.

MC 161462 (Sub-7) filed May 23, 1983. Applicant: ILLINI 48 INC., 5501 West 109th St., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312-782-8880. 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 Roundy's Inc., of Wauwatosa, WI.

MC 163722 (Sub-1) filed May 23, 1983. Applicant: C.M.R., INC., 5865 Burgis S.E., Kentwood, MI 49508. Representative: Richard W. Stiles (same address as applicant), 616-455-0573. 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 Country Roads, Inc., of Belding, MI.

MC 168192, filed May 23, 1983. Applicant: QUALITY TRANSPORT OF IOWA, INC., 1301 Grand Ave., Des Moines, IA 50309. Representative: William L. Fairbank, 1300 United Central Bank Bldg., Des Moines, IA 50309, 515-288-6041. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2-270

Decided: June 13, 1983.

By the Commission, Review Board Members Krock, Joyce, and Fortier.

MC 52022 (Sub-21) filed May 24, 1983. Applicant: SANTINI BROS., INC., d.b.a. THE SEVEN BROTHERS AND THE SEVEN SANTINI BROTHERS, Seven Brothers Square, Bronx, NY 10452. Representative: Robert J. Gallagher, 1435 G St. NW, Suite 848, Washington, DC 20005, 202-628-1642. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The 7 Brothers International, Inc., of Bronx, NY.

MC 115242 (Sub-22) filed May 25, 1983. Applicant: DONALD MOORE, 403 South State St., Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703, 608-255-8891. 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 ITOFCA, Inc., of Golden Valley, MN.

MC 149133 (Sub-17), filed April 19, 1983. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Charles L. Garrison (same address as applicant), 704-588-2109. 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 prior or coincidental cancellation of carrier's contract-carrier permits under MC-144082 and MC-149133, and its common-carrier certificate under MC-149133 Sub 3X, and the underlying authorities thereunder.

Note.— By this application applicant seeks to convert all of its contract-carrier permits under MC-144082 and MC-149133 into that of a certificate for public convenience and necessity. It also seeks to consolidate its common-carrier certificate No. MC-149133 Sub 3X with this authority.

MC 151123 (Sub-2), filed May 10, 1983. Applicant: TAT AIRFREIGHT, INC., 4401 N.W. 74th Ave., Miami, FL 33152. Representative: Dominick Antinoro (same address as applicant), 305-592-5492. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, TX, FL, CA, those in Fairfield and New Haven Counties, CT, and New York, Kings, Queens, Bronx, Richmond, Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, NY.

MC 156942 (Sub-3), filed May 18, 1983. Applicant: RAYMOND M. CHENOWETH, d.b.a. BEST WEST EXPRESS, 1900 S. Industrial, Las Vegas, NV 89102. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208-343-3070. Transporting (I) over regular routes, *passengers*, between Las Vagas, NV, and Hoover Dam Site, AZ, over U.S. Hwy 93, serving all intermediate points; (II) over irregular routes, (1) *passengers*, in charter and special operations, between points in the U.S.; and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.; and (III) as a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.— (1) Under part (I) above applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route; (2) under part (II)(1) above applicant seeks to provide privately-funded charter and special transportation; and (3) parts (II) and (III) are published in the FR. this issue, under the preface with the "fitness" applications.

MC 163962, filed May 19, 1983. Applicant: DWP TRUCKING, INC., Bldg. 18 Spokane Industrial Park, Spokane,

WA 99216. Representative: James E. Wallingford, P.O. Box 11841, Spokane, WA 99214, 509–534–6236. Transporting *building materials and lumber and wood products*, between points in AZ, CA, ID, MT, NV, OR, UT, and WA, on the one hand, and, on the other, points in AR, AL, AZ, CA, CO, GA, IA, ID, IL, IN, KS, KY, LA, MI, MN, MS, MT, MO, ND, NE, NV, NM, OH, OK, OR, PA, SD, TX, TN, UT, WA, WI, WV, and WY.

MC 168243, filed May 24, 1983. Applicant: NEIL HENSON d.b.a. NEIL HENSON TRUCKING CO., Rte. 1, Pittsburg, TX 75686. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116, 817–731–8431. Transporting (1) *Mercer Commodities*, (2) *iron and steel articles*, (3) *machinery*, (4) *building and construction materials*, and (5) *clay, concrete, glass or stone products*, between points in AL, AR, CO, FL, IN, IL, KS, KY, LA, MO, MS, MT, NE, ND, NM, OH, OK, PA, SD, TN, TX, UT, and WY.

MC 168252, filed May 23, 1983. Applicant: WHITE TRANSPORTATION, DIVISION OF WHITE POLE & TIMBER COMPANY P.O. Box 13, Kennedy, AL 35574. Representative: Joe White (same address as applicant), 205–596–3529. Transporting *lumber and wood products*, between points in Lamar County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202–275–5223.

Vol. No. OP3–260

Decided: June 14, 1983.

By the Commission, Review Board Members Williams, Fortier, and Joyce.

MC 1745 (Sub-20), filed May 27, 1983. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Rd., West Springfield, VA. 22152. Representative: Marshall Kragen, 1919 Pennsylvania Ave., N.W., Washington, DC 20006, (202) 466–3778. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with MCI Telecommunications Corporation, of Washington, DC.

MC 2934 (Sub-154), filed May 27, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd. Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods, electronic equipment, aircraft parts*, and *display materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Lockheed Corporation, of Burbank, CA.

MC 31024 (Sub-44), filed May 25, 1983. Applicant: NEPTUNE WORLD WIDE MOVING, INC., 55 Weyman Ave., New Rochelle, NY 10802. Representative: Luz Maria Moreno (same address as applicant), (914) 632–1300. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Babcock and Wilcox Co., of Barberton, OH.

MC 107515 (Sub-1430), filed May 23, 1983. Applicant: RTC TRANSPORTATION, INC., P.O. Box 308, Forest Park, GA 30051. Representative: Alan E. Serby, 127 Peachtree St., N.E., Suite 1400, Atlanta, GA 30043 (404) 658–8200. 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 Burger King Corporation, Distron Division, of Miami, FL.

MC 110325 (Sub-190), filed May 24, 1983. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same address as applicant) (213) 640–1800. 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 Emerson Electric Co., of St. Louis, MO.

MC 134484 (Sub-36), filed May 27, 1983. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701 (208) 343–3071. 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 Fleming Companies, Inc., of Salt Lake City, UT.

MC 142754 (Sub-3), filed May 26, 1983. Applicant: PIROLLO TRANSPORT CO., INC., 6312 Hooker St., Pittsburgh, PA 15206. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. 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 Coast to Coast Shippers' Association, of Cheswick, PA.

MC 144514 (Sub-5), filed May 26, 1983. Applicant: J & M ENTERPRISES, LTD., 5300 Hubbell Ave., P.O. Box 3145, Des Moines, IA 50316. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and related products*, between points in Minnehaha and Lincoln Counties, SD, and points in IA, MN, and NE, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA.

MC 149524 (Sub-3), filed May 25, 1983. Applicant: CHAR-LO, INC., 101 Zeigler Circle, West, Mobile, AL 36608. Representative: Robert S. Richards, 57 Adams Ave., Montgomery, AL 36104, (205) 262–1671. 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 150884, (Sub-1), filed May 26, 1983. Applicant: FROZEN TRANSPORTATION, INC., P.O. Box 384, 11 Taft Rd., Totowa, NJ 07511. Representative: James W. Babcock (same address as applicant) (201) 785–888. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Swift & Co., of Chicago, IL, Nabisco Brands, Inc., of East Hanover, NJ, and Specialty Brands, Inc., of San Francisco, CA.

Volume No. OP3–263

Decided: June 13, 1983.

By the Commission, Review Board Members Joyce, Williams, and Dowell.

MC 8535, (Sub-130), filed May 25, 1983. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500 Parkton, MD 21120. Representative: John Guandolo, Suite, 200, 1090 Vermont Ave., N.W., Washington, DC 20005, (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 Ingersoll-Rand Company, of Piscataway, NJ.

MC 17764, (Sub-6), filed May 23, 1983. Applicant: BOLDUC-GOULET EXPRESS, INC., Old Worcester Rd., Webster, MA 01570. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities, in bulk), between points in CT, MA, and RI, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC.

MC 120184, (Sub-18), filed May 24, 1983. Applicant: PEP LINES TRUCKING

CO., a corporation, 32600 Dequindre Rd. Warren, MI 48092. Representative: J. A. Kundtz 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mid-west Paper Products Company, of Warren, MI.

MC 123765, (Sub-19) filed March 15, 1983, previously published in the Federal Register issue of March 31, 1983. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 52304. Representative: William P. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *containers*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of containers.

Note: This republication corrects the supporting shippers.

MC 130925, (Sub-2), filed May 27, 1983. Applicant: LANGLEY TRAFFIC SERVICES, INC., 2771 U.S. Route 1, Trevose, PA 19047. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. 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 168205, filed May 23, 1983. Applicant: NATIONWIDE EXPRESS SYSTEMS, INC. 1426 E. Fourth St., Los Angeles, CA 90033. Representative: David P. Christianson 515 So. Figueroa, Ste 1240, Los Angeles, CA 90071, (213) 627–8471. Transporting *general commodities* (except commodities in bulk and household goods), between points in the U.S. (except AK and HI).

Note: To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 168294, filed May 23, 1983. Applicant: L. M. MARTIN TRANSPORT LTD., Box 24, Wallenstein, Ontario, Canada N0B 2S0. Representative: L. Martin (same address as applicant) (519) 669–3790. Transporting, in foreign commerce only, *lumber and wood products*, between ports of entry on the international boundary line between the United States and Canada in MI, NY, NH, and VT, on the one hand, and, on the other, points in MI, NY, NH, VT, ME, MA, CT, AL, DE, GA, IL, IN, KY, MD, MN, MS, NJ, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC.

MC 168314, filed May 27, 1983. Applicant: CCC EXPRESS, INC., 2905 N. 32nd St. Fort Smith, AR 72903, (501) 785–2491. Representative: Don A. Smith 510 N. Greenwood, P.O. Box 43, Fort Smith, AR 72902, (501) 782–1001. 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).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–362

Decided: June 14, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 149276, (Sub-1), filed June 7, 1983. Applicant: SIMPSON & LANE SCHOOL BUS LTD., P.O. Box 1180, Battleford, Saskatchewan, Canada S0M 0E0. Representative: William N. Lane, Jr., 472—25th St., Battleford, Saskatchewan, Canada S0M 0E0, (306) 937–2452. Transporting *passengers*, in charter and special operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada, and extending to points in the U.S. (except HI).

Note:— Applicant seeks to provide privately-funded charter and special transportation.

MC 161366 (Sub-1), filed June 8, 1983. Applicant: CAROL LINES, INC., 5011 Miriam Rd., Philadelphia, PA 19124. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036 (202) 466–3892. Over regular routes, in interstate, foreign and intrastate commerce, transporting *passengers*, between Philadelphia and Bedford, PA, over U.S. Hwy 30, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

MC 163367, filed June 8, 1983. Applicant: STONE BRIDGE FARMS, INC., R.D. 2, Hudson, NY 12534. Representative: Fred Mazzacano (same address as applicant) (518) 828–0261. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Reading and Pittsburgh, PA, New York, NY, Miami, FL, Cleveland, OH, Indianapolis, IN, Dallas, TX, Toledo, OH, and Chicago, IL., under continuing contract(s) with ACME National Sales, Inc., of Hudson, NY.

MC 168487, filed June 6, 1983. Applicant: FREIDHEIM TRUCKING COMPANY, 3601 Park Center Blvd., St. Louis Park, MN. 55416. Representative: John C. Hohanneson, 332 Hamm Bldg., St. Paul, MN 55102 (612) 224–7300. Transporting *commodities in bulk* and *cement*, between points in the U.S., under continuing contract(s) with Chas. M. Freidheim Company, of St. Louis Park, MN.

MC 168496 filed June 6, 1983. Applicant: MET TRUCKING, INC., 525 2nd St., West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA (515) 244–2329. Transporting *food and related products*, between points in Polk County, IA, on the one hand, and, on the other, points in IL, IA, MN, MO, NE, KS, SD, AR, WI, and IN.

MC 168516, filed June 3, 1983. Applicant: AIR FREIGHT ENTERPRISES CORP., 7910 NE. Airport Way, Portland, OR 97218. Representative: John A. Anderson, 1515 SW. 5th Ave., Ste. 801, Portland, OR 97201 (503) 227–4586. 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 all American Airfreight Corp., of Portland, OR.

MC 168527, filed June 8, 1983. Applicant: STERLING BOX COMPANY, P.O. Box 768, Jeannette, PA 15644. Representative: Carl D. Citron, 1900 Lawyers Bldg., Pittsburgh, PA 15219, (412) 351–1935. 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 Genco Transportation Services, Inc. of West Mifflin, PA.

Volume No. OP4–364

Decided: June 14, 1983.

By the Commission, Review Board Members Williams and Carleton.

MC 147446 (Sub-3), filed June 3, 1983. Applicant: TOWN TRUCKING CO., 1500 S. Roslyn Rd., Roselle, IL 60172. Representative: Albert A. Andrin, 180 N. La Salle St., Chicago, IL 60601, (312) 332–5106. Transporting *building, construction* and *roofing materials*, between points in the U.S. (except AK and HI).

MC 151137 (Sub-2), filed June 3, 1983. Applicant: RAPIDO FREIGHT LINES, INC., 200 Sixth St., P.O. Box 12435, San Diego, CA 92112. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163566, filed June 2, 1983. Applicant: CLINGERMAN TRUCKING

CO., Star Route 4, Everett, PA 15537. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *concrete products*, between points in OH, IL, KS, NJ, MD and FL.

MC 165528 (Sub-1), filed June 2, 1983. Applicant: BAMBRICK ENTERPRISES, INC., P.O. Box 216, Douglasville, PA 19518. Representative: Joseph T. Bambrick, Jr. (same address as applicant), (215) 385-6086. 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 Koffman Products, Inc. of Haverhill, MA, and Nature Food Centres, Inc. of Wilmington, MA.

MC 168447, filed June 3, 1983. Applicant: MARATHON CARTAGE COMPANY, INC., 1205 West St., Wausau, WI 54401. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WI.

MC 168456, filed June 6, 1983. Applicant: SUNBELT AGRIBUSINESS INDUSTRIES, INC., Route 1, Box 26, Pattison, MS 39144. Representative: C. Jack Pearce, 1000 Connecticut Ave, NW., Suite 1200, Washington, DC 20036, (202) 785-0048. 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 168457, filed June 2, 1983. Applicant: WILLIAMS TRUCKING & LEASING, INC., d.b.a. WILLIAMS TRUCKING, P.O. Box 450, Lodi, NJ 07644. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, (202) 223-5900. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Fairfield County, CT, Orange, Los Angeles, Ventura, and Riverside Counties, CA, Cobb, Douglas, Fulton, Clayton, Henry, and DeKalb Counties, GA, Lake, Cook, and DuPage Counties, IL, Lake County, IN, Cuyahoga County, OH, Passaic, Bergen, Union, Essex, Morris, and Middlesex Counties, NJ, Queens, Richmond, Bronx, Westchester, Nassau, Suffolk, Kings, and Manhattan Counties, NY, Bristol and Providence Counties, RI, and Dallas and Tarrant Counties, TX, on the one hand, and, on the other, those points in the U.S. in and east of GA, NC, VA, WV, and OH.

MC 168467, filed June 3, 1983. Applicant: DELBERT L. MARTIN, d.b.a. SO-CAL TRANSPORT, 3272 Easter Circle, Huntington Beach, CA 92649. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8107. Transporting *chemical and related products*, between points in CA, AZ, and NV.

MC 168476, filed June 6, 1983. Applicant: CUSTOM CARRIERS, INC., 8205 F. St., Omaha, NE 68127. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501, (402) 475-4414. 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 Nashua Corporation, of Omaha, NE. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption from Commission action. Such a petition should include the notice required by Section 11343(e)(2). See Ex Parte 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 42947. In order to expedite issuance of any authority, please submit a copy of the affidavit, or proof of filing the petition or application(s) concerning common control to Team 4, Room 2410.

MC 168477, filed June 6, 1983. Applicant: LOCKRIDGE LEASING, INC., 188 Woodland Valley Rd., Lawrenceville, GA 30245. Representative: Virgil H. Smith, 74 Hwy 245 N., Tyrone, GA 30290, (404) 969-1980. Transporting *plastic articles*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-284

Decided: June 13, 1983.

By the Commission, Review Board Members Parker, Williams, and Carleton. (Member Parker not participating.)

MC 155118 (Sub-16), filed June 1, 1983. Applicant: T.D.S. TRANSPORTATION, INC., 1700 S. Wolf Road, Des Plaines, IL 60018. Representative: R. T. Krubeck (same address as applicant) (312) 298-8800. 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 Carnation Country Stores, a Division of Carnation Company, of Kansas City, KS, Whitaker Cable Corporation, of North Kansas City, MO, Fiesta Foods, Inc., of Dallas, TX, Quaker Supreme Chemical Corporation, of Montgomery, AL, Husky Industries, of Atlanta, GA, Arizona Transportation Group, Inc., of Phoenix, AZ, Great West Moulding, of San Antonio, TX, Schaper Manufacturing, a Division of Kusan, Inc., of Edina, MN, and Bostrum-Warren, Inc., of Seattle, WA.

MC 158179 (Sub-2), filed May 31, 1983. Applicant: C & J TRUCKING, INC., R.R. 1, Box 71, Dunkirk, IN 47336. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 635-2339. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Clevepak Corp., Mill Division, of Eaton, IN, J. Solotken Waste Paper Co., a division of Clevepak Corp., of Indianapolis, IN, and The Weston Paper & Manufacturing Co., of Terre Haute, IN.

MC 168298, filed May 23, 1983. Applicant: SAFECORP, INC., 7020 Portwest Dr., #180, Houston, TX 77024. Representative: P.A. Weatherred III (same address as applicant) (713) 520-7233. Transporting *antiques, objects of art, archaeological artifacts, antiquities, museum pieces, collectors' items and similar articles* which because of their rarity, value, or fragility require the use of special handling or equipment, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5-283

Decided: June 13, 1983.

By the Commission, Review Board Members Joyce, Krock, and Williams.

MC 2729 (Sub-7), filed June 6, 1983. Applicant: GLENWOOD TRANSIT LINE, INC., 403 N. Chestnut St., Glenwood, IA 51534. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and related products* between points in Douglas, Sarpy, Otoe, and Cass Counties, NE, and Mills, Montgomery, Page, Fremont, and Pottawattamie Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 105159 (Sub-54), filed June 6, 1983. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Robert D. Gisvold, 121 So. 8th St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333-1341. Transporting *general commodities*

(except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 126039 (Sub-20), filed April 22, 1983. Applicant: MORGAN TRANSPORTATION SYSTEM, INC., INT'L. U.S. 6 and 15, New Paris, IN 46553. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives) between points in the U.S. (except HI). This application is republished to include household goods.

MC 126118 (Sub-261), filed May 31, 1983. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, (same address as applicant), (402) 475–4414. 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 General Foods Corporation, of White Plains, NY, and its subsidiaries.

MC 140768 (Sub-52), filed May 27, 1983. Applicant: AMERICAN TRANS FREIGHT, INC., 1801 S. Pennsylvania Ave., Morrisville, PA 19067. Representative: Stephen R. Tranovich, (same address as above), (215) 736–0233. Transporting *metal products* between New York, NY, and points in PA, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 146329 (Sub-16), filed June 2, 1983. Applicant: W–H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 149079 (Sub-2), filed May 31, 1983. Applicant: WILLIAM MILLICAN, d.b.a. MILLICAN TRANSFER, 2121 Main St., Victoria, VA 23974. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *such commodities* as are dealt in by food business houses, between points in PA, VA, NC, SC, and MD.

MC 152318 (Sub-9), filed June 2, 1983. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Lane Rd., P.O. Box 696, Kings Park, NY 11754. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. 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).

Note.—Applicant seeks to convert its contract authority to common authority under the provisions of 49 U.S.C. 10925(e)(1).

MC 154359 (Sub-1), filed May 27, 1983. Applicant: LOWELL WILKENS, Rural Route 1, Highway 41 South, Princeton, IN 47670. Representative: John T. Wirth, 717—17th St., Suite 2600, Denver, CO 80202-3357, (303) 892–6700. 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 154419 (Sub-4), filed May 31, 1983. Applicant: ENID TRANSPORT, INC., 1303 S. 66th St., P.O. Box 3706, Enid, OK 73702. Representative: C. L. Phillips, Classen Terrace Bldg., Rm. 248, 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3884. Transporting (1) *nonalcoholic beverages*, between points in Garfield County, OK, on the one hand, and, on the other, points in KS, (2) *high pressure cylinders*, between points in Garfield County, OK, on the one hand, and, on the other, points in AZ, AR, CO, IA, IL, KS, NM, MO, LA, TX, and WY, and (3) *drilling mud and additives*, between points in OK, on the one hand, and, on the other, points in SD and WY.

MC 168088, filed May 16, 1983. Applicant: CUSTOMER FIRST, INC., 23845 Encorse Rd., Taylor, MI 48180. Representative: Thomas M. Hummer, 300 Jones Ave., Monroe, MI 48161, 313–241–4120. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI). Condition: Issuance of this authority is conditioned upon prior approval of MC–F–15278.

MC 168239, filed May 24, 1983. Applicant: SEMINOLE INTERMODAL TRANSPORT, INC. 85 East Gay Street, Columbus, OH 43215. Representative: Earl N. Merwin (same address as applicant) (614) 224–7293. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, KY, OH, PA and WV. Condition: Issuance of this authority is conditioned upon prior approval of MC–F–15301.

Volume No. OP5–286

Decided: June 14, 1983.

By the Commission, Review Board Members Krock, Dowell, and Carleton.

MC 168239, filed May 27, 1983. Applicant: CHEMPRO OF OREGON, INC. Suite 200, 2416 N. Marine Dr., Portland, OR 97217. Representative: John A. Anderson, Suite 801—The 1515 Bldg. 1515 SW. Fifth Ave., Portland, OR 97201, (503) 227–4586. Transporting *general commodities* (except classes A and B explosives and household goods), between points in WA, OR, CA, NV, ID, and MT.

MC 168369, filed May 31, 1983. Applicant: ASBRIDGE & SON, Route 2, Kenton, TN 38233. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting (1) *plastic articles*, (2) *boots and shoes*, and (3) *boot and shoe factory supplies, equipment*, used in the manufacture of boots and shoes, between points in KY, TN, AR, IL, MS, and MO, on the one hand, and, on the other, points in AL, IN, KS, MO, OH, NC, NE, and PA.

MC 168378, filed May 27, 1983. Applicant: J. M. GERMANO, INC., 19 B Chestnut St., Danbury, CT 06810. Representative: William J. Meuser, 86 Cherry St., Milford, CT 06460, 203–878–1747. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, on the one hand, and, on the other, points in RI, MA, NH, NY, NJ, and PA.

MC 168408, filed May 31, 1983. Applicant: BLUM'S TRUCKING, INC., 8374 U.S. 1 North, Jacksonville, FL 32219. Representative: Bradley P. Blum (same address as applicant), 904–764–1506. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–288

Decided: June 14, 1983.

By the Commission, Review Board Members Dowell, Fortier, and Joyce.

MC 79658 (Sub-80), filed May 31, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant). 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with MCI Communications Corporation of Arlington, VA and its subsidiaries.

MC 79658 (Sub-82), filed May 31, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant), (812) 424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with GCC Beverages, Inc., of Chestnut Hill, MA.

MC 148198 (Sub-6), filed May 31, 1983. Applicant: A. MATTEO TRUCKING, INC., 1607 Imperial Way, P.O. Box 245,

Thorofare, NJ 08086. Representative: James W. Patterson, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106, (215) 925–8300. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI).

MC 151639, (Sub-4), filed May 27, 1983. Applicant: COMMAND TRANSPORTATION, INC., 28 Fitchburg Street, P.O. Box 529, Somerville, MA 02143. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 157049, (Sub-4), filed May 31, 1983. Applicant: AMATO MOTORS, INC., 977 West Cermak Road, Chicago, IL 60680. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. (312) 782–8880. 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 S & W Management, Inc., and Imperial Freight Association, both of Chicago, IL, and Greenville Shippers Co-op., of Greenville, MS.

MC 156069, (Sub-7), filed May 31, 1983. Applicant: TRANSITALL SERVICES, INC., Two North Riverside Plaza, Suite 1402, Chicago IL 60606. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60630, (312) 782–8880. 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 Morton Salt, Division of Morton Thiokol, Inc., of Chicago, IL; Spartan Stores, Inc., of Grand Rapids, MI, and Jack & Bill Wicksall Distributors, Inc., of Traverse City, MI.

MC 160039, (Sub-2), filed May 27, 1983. Applicant: WEX ENTERPRISES, INC., 118 Hall Street, P.O. Box 2009, Concord, NH 03301. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

[FR Doc. 83-16513 Filed 6-20-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP2–276]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

Decided: June 15, 1983.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice 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.

MC 143225 (Sub-2) (republication), filed December 12, 1979, previously published in the **Federal Register** issue of May 1, 1980. Applicant: LOUISIANA MIDLAND RAILWAY COMPANY, Highway 8 and Railroad Avenue, Jena, LA 71342. Representative: Craig E. Burroughs, Suite 1507, 80 E. Jackson Blvd., Chicago, IL 60604. A decision of the Commission, Review Board 3, decided May 11, 1983, and served May 23, 1983, finds that the performance by applicant of the service described herein to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Winn, LaSalle, Catahoula, and Concordia Parishes, LA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority and to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be prejudiced by the lack of proper notice.

By the Commission.

Agatha L. Mergenovich

Secretary.

[FR Doc. 83-16505 Filed 6-20-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1–225]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: June 15, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary.

[No. MC–F–15277]

Ohio Fast Freight, Inc.—Purchase Exemption—Sun Express, Inc.

Ohio Fast Freight, Inc. (Ohio), a regulated carrier (No. MC–14702), and, in turn, Orin S. Nieman, who controls Ohio, seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of a portion of the operating rights of Sun Express, Inc., (Sun), a regulated motor carrier (No. MC–119531), through purchase of Sun's Sub-No. 186 certificate.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Paul F. Berry, Berry & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215.

Comments should refer to No. MC–F–15277.

[No. MC–F–15287]

Pierceton Truckline, Inc.—Purchase Exemption—Pierceton Trucking Company, Inc.

Pierceton Truckline, Inc. (PTI), and, in turn, Robert H. Liefer, who controls PTI, seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of a portion of the operating rights of Pierceton Trucking Company, Inc. (Pierceton), a regulated motor carrier (No. MC–111941), through purchase of Pierceton's Sub-Numbers 9, 36, 37, 38, 40,

43, 44, and 46 certificates and portions of Pierceton's Sub-No. 41X certificate and its underlying authorities thereto. The portions of the Sub-No. 41X certificate and corresponding underlying authorities (in parentheses) are listed as follows: paragraph 2a (Sub-No. 11, part 1, and Sub-No. 34, part 6), 2b (base certificate, part 2), 2c (Sub-No. 34, part 13), 2d (Sub-No. 11, part 2, Sub-No. 12, part 2, and Sub-No. 34, part 1, 3, and 7), 2e (Sub-No. 34, part 9), 3a (Sub-No. 12, part 1, Sub-No. 19, Sub-No. 34, part 2, 4, and 10), 3b (Sub-Nos. 31 and 32), 3c (Sub-No. 34, part 12, and Sub-No. 35), 5 (Sub-No. 34, part 11), and 6 (Sub-No. 18, Sub-No. 34, part 5).

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Mr. Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204.

Comments should refer to No. MC-F-15287.

[No. MC-F-15291]

ARA Services, Inc.,—Control Exemption—Cooper Motor Lines, Inc.

ARA Services Inc. ("ARA"), a non-carrier, seeks an exemption under 49 U.S.C. 11343(e) from the need for regulatory approval under 49 U.S.C. 11343, of its acquisition of all the capital stock of Cooper Motor Lines, Inc. ("Cooper"). Cooper holds authority under Docket No. MC-47171 and various sub-numbers thereof to transport general commodities, with exceptions, between all points in the U.S., except Alaska and Hawaii. Cooper also controls GSP, Inc., an inactive contract carrier that holds authority under Docket No. MC-153606. ARA controls Smith's Transfer Corporation ("STC"), which holds authority under MC-110683 and various sub-numbers to transport general commodities, with exceptions, over a system of regular routes basically in the eastern half of the country and over irregular routes nationwide. STC in turn controls MR&R Trucking Company, Inc., another general commodity motor carrier operating in the southeast. MR&R holds authority, under Docket No. MC-105881 and sub-numbers thereof. All carrier control has been approved by the Commission in Docket Nos. MC-F-13303 and MC-F-14549.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Harry J. Jordan, Esq., 1090 Vermont Avenue, NW., Suite 200, Washington, DC 20005.

Comments should refer to: No. MC-F-15291.

[No. MC-F-15293]

C. T. Transport, Inc.—Control Exemption—General Highway Express, Inc.

C. T. Transport, Inc., of Ohio, (C. T.) seeks an exemption from the requirement under 49 U.S.C. 11343 of prior regulatory approval for its acquisition of control of general Highway Express, Inc. (General), (MC-97841). C. T. is a non-carrier which controls Superior Forwarding Company, Inc., (MC-75406), and Port Side Transport, Inc. (MC-161151), and is controlled by C. T. Transport, Inc., of Ontario (MC-141609), which is, in turn, controlled by CenTra, Inc. (CenTra), a non-carrier, which controls Central Transport, Inc. (MC-19311), and McKinley Transport Limited (MC-123282). A. A. Moroun, an officer, shareholder, and director of Centra owns the stock of U.S. Truck Company, Inc. (MC-59336). C. T. also seeks temporary authority to control General.

Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Leonard R. Kofkin, Esq., Suite 1515, 140 South Dearborn Street, Chicago, IL 60603.

Comments should refer to: No. MC-F-15293.

[FR Doc. 83-16508 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

[Order No. P-56]

Rail Carriers; Passenger Train Operation

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana, and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation (SP). A portion of the SP tracks between Colton, California, and Indio, California, are temporarily out of service because of a washout. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company between Colton, California, and Phoenix, Arizona.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c)), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a Colton connection with Southern Pacific Transportation Company at Colton, California, and Phoenix, Arizona.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:10 p.m. (EDT), June 5, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), June 8, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon the Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the **Federal Register.**

Issued at Washington, D.C., June 5, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-16510 Filed 6-20-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Periods in the States of Michigan and North Dakota

This notice announces the ending of the Extended Benefit Periods in the States of Michigan and North Dakota, effective on June 11, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

Extended Benefit Periods commenced in the State of Michigan on February 28, 1982 and in the State of North Dakota on March 6, 1983, and have now triggered off.

Determination of "off" Indicator

The heads of employment security agencies of the States named above have determined that the rate of insured unemployment in each State for the period consisting of the week ending on May 21, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in each State.

Therefore, the Extended Benefit Periods in these States terminated with the week ending on June 11, 1983.

Information for Claimants

Each State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the States named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on June 14, 1983.

Albert Angrisan,

Assistant Secretary of Labor.

[FR Doc. 83-16601 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Periods in the States of Minnesota and Wisconsin

This notice announces the ending of the Extended Benefit Periods in the States of Minnesota and Wisconsin, effective on June 18, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not lees than 13 weeks after the benefit period began.

Extended Benefit Periods commenced in the State of Minnesota on March 20, 1983 and in the State of Wisconsin on March 13, 1983, and have now triggered off.

Determination of "off" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State for the period consisting of the week ending on May 28, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in each State.

Therefore, the Extended Benefit Periods in these States terminated with the week ending on June 18, 1983.

Information for Claimants

Each State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the States named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on June 13, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-16600 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,506]

Hecla Mining Co., Star Mine, Wallace, Idaho, Notice of Revised Determination on Reconsideration

On April 28, 1983, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers at Hecla Mining Company's Star Mine at Wallace Idaho. This determination was

published in the **Federal Register** on May 6, 1983 (48 FR 20524).

The company's application for reconsideration claims that Bunker Hill Company, its major customer, and Hecla Mining jointly own the Star Mine. Bunker Hill closed its zinc refinery in September 1981 and the workers were certified for trade adjustment assistance subsequent to the Department's denial of trade adjustment assistance of workers at Hecla's Star Mine.

The Department's review showed that the Star Mine was jointly owned by the Hecla Mining Company and the Bunker Hill Company in Kellogg, Idaho. The review also showed that Bunker Hill's electroytic refinery closed down in September 1981 and all workers at the Bunker Hill Company engaged in employment related to the production of zinc who became totally or partially separated from employment on or after August 1, 1981 were certified as eligible to apply for adjustment assistance, TA-W-12,987.

On reconsideration, the Department found that all the ore and concentrate produced at the Star Mine and mill up to the time of the closing of the Bunker Hill zinc refinery were shipped to Bunker Hill in Kellogg, Idaho.

Hecla's Star Mine and mill produced primarily zinc concentrates with lesser amounts of lead and silver concentrates. Workers were not separately idenifiable by product line. The Star Mine and mill closed in June 1982 because of the loss of its sole customer in September 1981.

U.S. imports of zinc concentate increased absolutely and relative to domestic production in 1981 compared to 1980.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with zinc concentrate produced at Hecla Mining Company's Star Mine and mill at Burke, Idaho contributed importantly to the decline in sales or production and to the total or partial separation of former workers at the above mentioned facilities. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers of Hecla Mining Company's Star Mine and mill at Wallace and Burke, Idaho who became totally or partially separated from employment on or after December 1, 1981 and before September 1, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 14th day of June 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-16602 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 1, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 1, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of June 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Mines Corp., Mine #131 and Mine #132 Boone Div. (UMWA).	Boone County WV	6/07/83	6/01/83	TA-W-14,710	Coal mining, metallurgical.
Don's Outerwear Inc. (ILGWU)	Elizabeth, NJ	5/25/83	5/18/83	TA-W-14,711	Ladies' rainwear.
International Mill Service (Intern'l Union of Operating Engineers #9).	Pueblo, CO	6/17/83	5/12/83	TA-W-14,712	Rental of equipment, metal processing, pit digging and scrap recycling.
Johnson Controls, Inc., Dallas facility (workers)	Carrollton, TX	6/06/83	5/25/83	TA-W-14,713	Assemble air conditioning control systems.
Ohio Ferro Alloys Corp., Philo plant (USWA)	Philo, Ohio	6/06/83	6/02/83	TA-W-14,714	Ferro silicon.
Philadelphia, Bethlehem & New England Railroad (UTU)	Bethlehem, PA	6/06/83	5/27/83	TA-W-14,715	Transporting steel and steel products for Bethlehem.
Sand's Manufacturing Corp. (workers)	Brooklyn, NY	6/07/83	5/31/83	TA-W-14,716	Ladies' and children's apparel.
U.S. Steel Corp., fabrication plant (Boilermakers-blacksmith).	So. San Francisco, CA	5/27/83	5/21/83	TA-W-14,717	Steel fabrication.
Union Railroad Co. (USWA)	Monroeville, PA	5/31/83	5/26/83	TA-W-14,718	Transportation service to steel plants.
Aetna Standard Engineering Co. (USWA)	Ellwood City, PA	6/02/83	5/31/83	TA-W-14,719	Equipment for steel industry.
Delta Associated Industries (UAW)	Ferndale, MI	6/07/83	6/03/83	TA-W-14,720	Drill heads, slide units, lead screw units, mill heads, standard welding presses, special welding presses, transfer machines, resistance welding tools automatic arc welding systems.
Fab Tec (UAW)	Warren MI	6/07/83	6/03/83	TA-W-14,721	Drill heads, slide units, lead screw units, mill heads, standard welding presses, special welding presses, transfer machines, resistance welding tools automatic arc welding systems.
Lamb Technicon Corp. (UAW)	Warren MI	6/07/83	6/03/83	TA-W-14,722	Drill heads, slide units, lead screw units, mill heads, standard welding presses, special welding presses, transfer machines, resistance welding tools automatic arc welding systems.
Saucony Shoe Manufacturing Co., Inc. (workers)	Macungie, PA	6/06/83	6/03/83	TA-W-14,723	Athletic running shoes.
Saucony Shoe Warehouse (workers)	Emmaus, PA	6/06/83	6/03/83	TA-W-14,724	Storing and distribution of athletic running shoes.
Saucony Shoe Sole Dept. (workers)	Alburtis, PA	6/06/83	6/03/83	TA-W-14,725	Soles for athletic running shoes.
Ward Leonard Electric Co. (workers)	Mount Vernon, NY	6/07/83	6/02/83	TA-W-14,726	Electrical electronic controls (resistors).

APPENDIX—Continued

Petitioner Union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Mines Corp., #105 Mine (UMWA)	Century, WV	5/31/83	5/27/83	TA-W-14,727	Metallurgical coal—mining.
Eagle of Alabama (ACTWU)	Thomasville, Alabama	6/06/83	5/24/83	TA-W-14,728	Shirts.
Jones & Laughlin Steel, Brier Hill Works (USWA)	Youngstown, OH	5/31/83	5/27/83	TA-W-14,729	Carbon and alloy cold finished steel bars and grinding operation on tube rounds.
Kaiser Steel Corp. (USWA)	Fontana, CA	6/02/83	5/31/83	TA-W-14,730	Basic steel and steel products.

[FR Doc. 83-16385 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act (Pub. L. 97-300); Final Allotment Methodology for Distribution of Fiscal Year 1984 Funds for Programs Under Title II, Parts A and B, Section 201 (b); Training Services for the Disadvantaged; Youth Programs

AGENCY: Employment and Training Administration, Labor.

SUMMARY: This notice announces the final methodology for the allotment of funds to States for programs under Title II Parts A and B, of the Job Training Partnership Act (JTPA).

FOR FURTHER INFORMATION CONTACT: Robert Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street, NW., Room 6402, Washington, D.C., 20213, telephone number : (202) 376-6093.

SUPPLEMENTARY INFORMATION: In the Tuesday, April 26, 1983 and the Friday, April 29, 1983, **Federal Registers**, the Department proposed that funds under Titles II A and B be distributed based on the President's January budget request for JTPA, the statutory formula contained in the Act, and as cited in Section 162(a) of JTPA "all allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary". The proposed allotments would be subject to change as a result of any differences between the final Fiscal Year 1984 JTPA appropriation and the President's budget request for Fiscal Year 1984.

It was suggested that the allotments might also be updated based on the most recent unemployment data available at the time the final allotments are issued. The Department, therefore, solicited comments on whether the final allotments should be based on the most recent data available at the time of release, or whether they should be based on the data used for the proposed allotments.

Comments were received from eight (8) jurisdictions. The responses were evenly split with four in favor of retaining the proposed allotments as final, and four in favor of updating. Those in favor of retaining the proposed allotments suggested that there is a need for stabilizing the planning environment, and a change would cause planning and implementation errors and delays. Those in favor of updating point to the constant change in the data, and several felt that it was Congress' intent that allotments be based on the latest data available at the time of distribution.

The Department also held discussions with other interested parties including public officials and Congressional staff. Based on all these discussions, the consensus of opinion was to use the most recent data available at the time of distribution.

After full consideration of all comments, the Department has determined that Fiscal Year 1984 allotments will be formulated on the basis of the statutory formula contained in the act, the final Fiscal Year 1984 JTPA appropriation and the latest unemployment data and estimates available at the time of distribution.

Signed this 15th day of June 1983.

Joyce Kaiser

Associate Assistant Secretary for Employment and Training

[FR Doc. 83-16603 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-13-C]

Crockett Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Crockett Coal Company, P.O. Box 1063, Norton, Virginia 24273 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 5-A Mine (I.D. No. 44-05920) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height ranges from 36 to 60 inches, with a rolling coal bed.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could rub the top and break anchorage of the roof support system. In addition, the equipment operator's visibility is hampered, as well as his or her seating position, increasing the chances of an accident.

4. For these reasons, petitioner seeks a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 21, 1983. Copies of the petition are available for inspection at that address.

Dated: June 14, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-16605 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-27-C]

Donaldson Creek Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Donaldson Creek Mining Company, Inc., P.O. Box 22, Greenville, Kentucky 42345 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its No. 1 Mine (I.D. No. 15-13514) located in Hopkins County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height is 41 inches, with crossovers and roof support.

3. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the equipment could strike the roof support system and cables. The cabs and canopies also obstruct the equipment operator's visibility and cause operator discomfort, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 21, 1983. Copies of the petition are available for inspection at that address.

Dated: June 13, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-16606 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-32-C]

Jones Branch Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Jones Branch Coal Corporation, Box 246, Hi Hat, KY 41646 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its 1-U Mine (I.D. No. 15-13719) located in Floyd County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the working place where self-propelled mining equipment is used be illuminated.

2. The coal seam ranges from 32 to 39 inches in height.

3. Petitioner states that the installation of luminaires on the self-propelled mining equipment would result in a diminution of safety for the miners affected because the luminaires could be caught on the ribs and roof of the mine, exposing miners to hazardous conditions.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 21, 1983. Copies of the petition are available for inspection at that address.

Dated: June 13, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-16604 Filed 6-20-83; 8:45 a.m.]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

Grant of Individual Exemptions; Neurological Associates, et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

Notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Exemption Application No. D-3856; Prohibited Transaction Exemption 83-103]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash purchase of certain real property from Dr. Gaylord W. Bennett (Dr. Bennett), a party in interest with respect to the Plan, by Dr. Bennett's individual directed account under the Plan, provided that the purchase price does not exceed the fair market value of such property on the date of purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 10, 1983 at 48 FR 21023.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Flagel, Huber, Flagel and Company Profit Sharing Plan (the Plan) Located in Dayton, Ohio; Exemption

[Exemption Application No. D-3881; Prohibited Transaction Exemption 83-104]

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed loan (the Loan) of $40,000 by the Plan to Flagel, Huber,

Flagel and Company (the Employer), the sponsor of the Plan, for the purchase of certain office equipment, provided that the terms of the Loan are no less favorable to the Plan than those obtainable by the Plan in an arm's length transaction with an unrelated third party; and (2) the proposed personal guarantees of the Loan by the shareholders of the Employer.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 19, 1983 at 48 FR 16786.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 15th day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-16622 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-4003, D-4004, D-4005, and D-4006]

Withdrawal of Proposed Exemption; American Can Co. Retirement Plan for Salaried Employees, et al.

In the matter of withdrawal of the proposed exemption involving the American Can Company Retirement Plan for Salaried Employees; the Pension Plan for Canco USW Employees; the General Pension Plan for Hourly Employees at Tampa, Florida, Chandler, Arizona and Deming, New Mexico; and the Pension Plan for Hourly Employees at the Seattle Plant located in Greenwich, Connecticut.

In the **Federal Register** dated May 10, 1983 (48 FR 21023), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974. The notice of pendency concerned an application filed on behalf of American Can Company.

In a letter dated May 24, 1983, the applicant's representative notified the Department that an exemption for the transaction described in the above cited notice was no longer sought. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

The notice of pendency is hereby withdrawn.

Signed at Washington, D.C., this 10th day of June 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-16620 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application Nos. D-3634 and D-3635]

Withdrawal of Proposed Exemptions; Chas. H. Johnston's Sons Co. et al.

In the matter of withdrawal of proposed exemption involving the Chas. H. Johnston's Sons Co., Inc. Pension Plan for Employees Represented by Local 135, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and the Chas. H. Johnston's Sons Co., Inc., Non-Bargaining Unit Employees' Pension Plan (collectively, the Plans), located in Greensburg, Indiana.

In the **Federal Register**, dated January 28, 1983, (48 FR 4071) the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and the sanctions resulting from the application of the Internal Revenue Code of 1954. The notice of pendency concerned an application filed on behalf of the Plans by Mr. Charles H. Johnston (Mr. Johnston), the president of Chas. H. Johnston's Sons Co., Inc., (the Employer), the sponsor of the Plans. The transactions involved proposed loans by the Plans to the Employer.

In response to the notice of pendency, the Department received letters from 14 commentators concerning the proposed transactions. Each of the commentators requested that the Department deny the applicant's exemption request. The commentators disclosed to the Department that on December 10, 1982, the Union Bank and Trust Co., Inc. had filed a complaint on notes and for replevin against the Employer. In addition, the commentators disclosed that in December 1982, Mr. Johnston acting on behalf of the Employer filed under Chapter 11 for bankruptcy in federal court in Indianapolis, Indiana. Such information had not been previously disclosed to the Department by the applicant. The applicant's representative did not refute the accuracy of the representations of the commentators and requested that the application be withdrawn.

ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) requires at section 4.06 (17) a certification by the applicant that, to the best of the applicant's knowledge, the application is accurate and complete. Furthermore, section 8.01 of that Procedure provides "if any material fact contained in the application or any documents or testimony adduced by the applicant in support thereof is discovered by the applicant to be inaccurate, or if any such fact substantially changes, the applicant shall promptly notify the Secretary in writing and, in the case of an inaccuracy, shall include a statement of the reasons for such inaccuracy."

In view of the above, the subject proposed exemption is hereby withdrawn by the Department and

further appropriate action is being considered.

Signed at Washington, D.C., this 15th day of June 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-16621 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3597, et al.]

Proposed Exemptions; Stanley S. Moles, M.D., P.A. Profit Sharing Plan

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

[Application No. D-3597]

Stanley S. Moles, M.D., P.A. Profit Sharing Plan (the Plan) Located in Largo, Florida; Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of $460,000 (the Loan) by the Plan to Med Bay West (the Partnership), a partnership comprised of stockholders of Stanley S. Moles, M.D., P.A. (the Plan Sponsor), for a period of five years, and the guarantee of the repayment of the loan by the Partnership and the Plan Sponsor, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of the consummation of the transaction.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 130 participants. The trustee of the Plan is Southeast Bank, N.A. (the Trustee). Willoughby, Pond & Davidson, Inc. (Willoughby) is the Plan's independent investment advisor. Willoughby is a registered investment advisor under the Investment Advisors Act of 1940.

2. The Plan Sponsor is a Florida professional corporation engaged in the practice of medicine.

3. The Partnership is a general partnership which was formed primarily for the ownership of the land and the building in which the Plan Sponsor maintains its offices. Substantially all the partners in the Partnership are stockholders in the Plan Sponsor. All but one of the 33 partners in the Partnership is a practicing physician who practices his or her particular medical specialty in the offices of the Plan Sponsor.

4. The Plan proposes to make the Loan to the Partnership for the purchase of a Whole Body CT Scanning X-Ray System (the Cat Scanner) which the Partnership has purchased. The Cat Scanner will be leased to the Plan Sponsor. The Loan represents approximately 9% of the total assets of the Plan.

5. The Loan represents 80% of the $575,000 purchase price of the Cat Scanner. The partnership will finance the additional 20% of the purchase price of the Cat Scanner through its line of credit at the Rutland Bank of St. Petersburg, Flordia (Rutland). The Partnership has already taken delivery of the Cat Scanner and is currently financing the purchase price through its regular bank credit line with Rutland.

6. The Loan will bear interest at the rate of 17% and would be for a period of five years with equal monthly payments of $11,432. The Loan would be subject to repayment at any time, in part or in full, without prepayment penalty.

7. The Loan will be secured by a perfected first security interest in the Cat Scanner and all related equipment, properly filed with the Secretary of State of Florida under the uniform Commercial Code. The Cat Scanner is currently priced at $603,000 according to Toshiba Medical Systems, the manufacturer of the Cat Scanner.

8. The Partnership's lease of the Cat Scanner to the Plan Sponsor (the Lease) will be assigned to the Plan as collateral for the Loan. The Lease provides for lease payments of $18,333 per month by the Plan Sponsor to the Partnership for 53 months.

9. The Plan Sponsor and the Partnership will guarantee repayment of the Loan. The Plan Sponsor had total net assets of $1,138,169 as of January 31, 1982 and the Partnership had total assets of $825,935 as of December 31, 1981.

10. The Trustee has represented that it would make the Loan under the same

terms as now proposed for the Loan between the Plan and the Partnership. The Trustee will monitor repayment of the Loan. The trustee will establish a procedure whereby its data processing equipment will provide the Plan's account administrator with a written notice indicating the payment dates for the Loan as they come due. The Trustee will utilize a security agreement that will require the Partnership to make the collateral available to the Plan and will permit the Trustee to place a lien on the collateral and offer it for sale. The Trustee further represents that the collateral the Partnership will post for the Loan is adequate.

11. Willoughby will serve as the independent fiduciary for the Loan. Willoughby represents that its officers and its employees have no present nor prior relationship to the Plan Sponsor or the Partnership other than serving as the Plan's investment manager. Willoughby has discretionary investment authority for the assests of the Plan which are not held in earmarked accounts As of January 31, 1983, the total assets of the Plan were $5,890,424. Of this amount, the general fund had $4,127,534 and the earmarked accounts were $1,762,889. The funds for the Loan will be taken from the general fund for which Willoughby has investment authority.

12. Willoughby represents that it has reviewed the Plan's overall investment portfolio and had determined that the Loan, with its high rate of return, is a good investment and in proper balance with the other investments in the Plan's portfolio. Willoughby has reviewed the terms of the Loan and has represented that: (1) The interest rate represents fair market value; (2) the repayment of the Loan, and interest is a sound expectation; (3) the collateral, including the Cat Scanner, the Lease and the guarantee by the Plan Sponsor and the Partnership, are adequate collateral for the Loan; and (4) the Loan is in the interests of the Plan and its participants and beneficiaries and protective of their rights. Willoughby further represents that all things considered, it is confident that in the event of foreclosure the Plan will recover all principal and interest due the Plan.

13. In summary, the applicant represents that the proposed Loan meets the statutory criteria of section 408(a) of the Act because:

(a) There will be a procedure in place to monitor repayment of the Loan;

(b) the Plan's independent trustee will monitor repayment of the Loan and have authority to call in the collateral if necessy; and

(c) the Plan's independent investment advisor will serve as the independent trustee for the Loan and has determined that it is in the interests of and protective of the Plan and its participants and beneficiaries.

For further information contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Application No. D–4021]

Bozell and Jacobs, Inc. Profit Sharing Retirement Plan (the Plan); Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective June 23, 1983, to (1) the proposed purchase of a certain sublease from Bozell and Jacobs, Inc. (the Employer), the Plan sponsor, by a partnership in which the Plan will be a partner, provided that the terms of the purchase are no less favorable to the Plan than those obtainable by the Plan in an arm's length transaction with an unrelated party; and (2) the proposed guarantee by the Employer of all of the sublessee's monetary obligations under such sublease.

Effective date: If the proposed exemption is granted, it will be effective June 23, 1983.

Summary of Facts and Representations

1. The Employer is a national general advertising agency with its main office in Omaha, Nebraska, with assets of approximately $70,533,384 as of June 30, 1982. The Plan is a defined contribution profit sharing employee benefit plan with assets of $3,719,000 and approximately 892 participants as of March 31, 1983. In 1979 the Employer leased (the Master Lease) seven floors, including the entire sixth floor of a commercial office building (the Building), from the 805 Third Avenue Company of New York. The Building is located at 10250 Regency Circle, Omaha, Nebraska. By agreement dated April 28, 1981 the Employer sublet (the Champion Sublease) the entire sixth floor of the Building to Champion International Corporation (Champion). By agreement dated July 30, 1981 the Employer assigned all its rights and obligations under the Master Lease to Cobro Real Estate Company (Cobro). Simultaneously, Cobro sublet (the Cobro Sublease) to the Employer the entire sixth floor which was subject to the Champion Sublease. Champion and Cobro are each unrelated to the Employer. Both the Champion Sublease and Cobro Sublease will expire on August 31, 1991. The Employer is to receive under the Champion Sublease a base annual rental of $728,448, subject to certain adjustments, and is to pay under the Cobro Sublease a base annual rental of $468,483, subject to certain adjustments. As a result, the Employer is to receive a net profit of $259,965 per year.

2. The Employer is requesting an exemption to permit (1) the sale by the Employer of the Champion Sublease to the First Bozell Company (the Partnership), a partnership in which the Plan is a Partner, and (2) the guarantee by the Employer of all monetary obligations of Champion under the Champion Sublease. The Plan's sole partner in the Partnership is the First National Bank (FNB) of Omaha, Nebraska. The Plan will own a 71.66 percent interest in the Partnership as Managing Partner and FNB will own the remaining 28.34 percent interest. The Employer represents that FNB and the Employer are unrelated. Simultaneously with the Partnership's purchase of the Champion Sublease the Employer will assign to the Partnership all the Employer's rights and obligations under the Cobro Sublease. The Employer will guarantee to the Partnership the performance by Champion of all of Champion's monetary obligations under and pursuant to the Champion Sublease. If Champion defaults in the payment of rent or any other monetary obligation under the Champion Sublease, the Employer will perform the defaulted obligation of Champion prior to the expiration of the earlier of (1) the cure period for such obligation under the Champion Sublease, or (2) the cure period for the related obligations of the Partnership under the Cobro Sublease. The Partnership will pay the Employer $1,270,191 in cash for the Champion Sublease, of which 71.66 percent will be contributed by the Plan and 28.34 percent of which will be contributed by FNB. The Employer represents that the percentage of the Plan's investment in the Partnership's proposed purchase of the Champion Sublease was calculated to insure that the Plan's investment would not constitute more than 25 percent of the total assets of the Plan. The Employer further represents that the Plan's investment of $910,191 in the purchase price to be paid by the Partnership for the Champion Sublease constitutes an investment of 24.47

percent of the Plan's assets as of March 31, 1983.

3. The Northwestern Capital Management and Trust Company of Omaha, Nebraska (the Bank), which is independent of the Employer, was retained by the trustees of the Plan to evaluate the proposed transactions on behalf of the Plan. The Bank has determined that the subject lease agreements are valid and assignable and that Champion will be a substantial and favorable tenant under the Champion Sublease. The Bank represents that the proposed transactions constitute an arm's-length transaction and an appropriate and prudent investment for the Plan. Specifically, the Bank represents that the Plan's investment of $910,191 in the Champion Sublease will enable the Plan to realize an annual rate of return of at least 14 percent on its investment, which the Bank has determined to be a fair and equitable rate of return. Further, the Bank has obtained an independent opinion as to the fair market value of the Champion Sublease from the commercial real estate management firm of Cushman and Wakefield, Inc. (C & W), located in New York City. Two officers of C & W, both members of the American Institute of Real Estate Appraisers, have expressed to the Bank their opinion that as of May 1, 1983 the Champion Sublease has a fair market value of $1,300,000. The total purchase price to be paid by the Partnership for the Champion Sublease will be $1,270,191. The Bank agrees to continue serving in the capacity of independent fiduciary on behalf of the Plan for the duration of the proposed transactions. Specifically, the Bank will act as agent for the collection of the rents from Champion International and deposit such funds into the bank account of the Partnership. Additionally the Bank will represent the Partnership in the enforcement of the Employer's guarantee, if necessary.

4. In summary, the applicant represents that the statutory criteria of section 408(a) of the Act will be satisfied because (1) the Plan will acquire an interest in a profitable sublease at a price which is below its appraised fair market value; (2) the Plan will realize a favorable annual rate of return of at least 14 percent on its investment; (3) the tenant under the Champion Sublease has been found by the Bank to be a substantial and favorable tenant under the Champion Sublease; (4) on behalf of the Plan the Bank has examined the proposed investment in the Champion Sublease, and has determined that it will be an appropriate and prudent investment for the Plan; (5) the Employer will guarantee the payment of all of Champion's monetary obligations under the Champion Sublease; and (6) the Bank will enforce the Employer's guarantee on behalf of the Partnership, if necessary.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

[Application No. D-4161]

Sandy Valley Professionals, Inc. Money Purchase Pension Plan (the Plan) Located in East Sparta, Ohio; Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale for $180,000, of certain real property (the Real Property) by the Plan to Francesco Nicoletti, M.D. (Dr. Nicoletti), provided the amount paid for the Real Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. Sandy Valley Professionals, Inc. (the Employer) is an Ohio professional association organized in 1977 to render professional medical services. The Employer is engaged in the family practice of medicine and it has an office located at 10025 Cleveland Avenue South, East Sparta, Ohio. The staff of the Employer association presently includes Dr. Nicoletti and a family health nurse practitioner.

2. The Plan is a money purchase pension plan with eight participants and net assets of $167,421 as of February 28, 1983. The trustee of the Plan and decision-maker with respect to the Plan's investments is Dr. Nicoletti.

3. Among the assets of the Plan is the Real Property located at 6935 Sherman Church Road, S.W., Canton, Ohio. The Real Property contains approximately 74 acres of agricultural land, a two story farmhouse, various outbuildings and related site improvements. The Real Property is unleased and nonincome producing. The Plan purchased the Real Property for investment purposes from Mrs. Mildred E. Whorton (Mrs. Whorton), Administratrix of the Estate of Wayne H. Whorton. Mrs. Whorton is an unrelated party. The purchase price for the Real Property was $180,000.[1] The Plan paid approximately $90,000 down by redeeming interest-producing certificates of deposits at their respective maturity dates. The remainder of the purchase price was financed by a note secured by a mortgage made to Mrs. Whorton. The note provides for monthly payments of $4,000 and it carries interest at the rate of 12½ percent per annum. As of February 28, 1983, the Plan had made $41,000 in principal payments to Mrs. Whorton, incurred $3,091 in legal fees in connection with the negotiation of the purchase agreement and represented by legal counsel at closing, paid $1,530 in real estate taxes and expended $12,401 in the operation and upkeep of the farm including the insurance, building repairs and maintenance.

4. At the time the Plan purchased the Real Property, Dr. Nicoletti and another physician, Dr. Houneine Gashash (Dr. Gashash), were employed by the Employer. At that time also, the Employer operated another office located in Magnolia, Ohio. On September 9, 1982, the doctors decided to terminate their professional relationship. The termination resulted in the transfer of the Magnolia, Ohio office to Dr. Gashash's professional association as well as an obligation by the Employer to transfer Dr. Gashash's interest in the Plan of approximately $26,954 to the pension plan of the professional association the doctor has formed.

5. The termination of the doctor's professional relationship has also resulted in the loss of a nurse, who is presently employed by Dr. Gashash's professional association. In addition, two other employees of the Employer have recently retired. Because all three employees have vested interests in the

[1] In this proposed exemption the Department expresses no opinion as to whether the Plan's acquisition and holding of the Real Property violated any provision of Part 4 of Title I of the Act.

plan, they are entitled to receive a lump sum distribution totaling $17,203. Since the Plan does not have the liquidity to make the required distributions to Dr. Gashash and the former employees of the Employer, an exemption is requested to allow the Plan to sell the Real Property to Dr. Nicoletti for the cash price of $180,000. Dr. Nicoletti will not assume the outstanding mortgage of the Plan. The mortgage will be paid off with the proceeds of the sale. In addition, Dr. Nicoletti will pay all expenses incurred by the Plan in the proposed sale including the cost of appraisals, fees for the preparation of the deed and all costs associated with the closing.

6. The Real Property was appraised on March 21, 1983 by Mr. Willian J. Lemmon (Mr. Lemmon), an independent M.A.I. appraiser and consultant from Canton, Ohio. Mr. Lemmon placed the fair market value of the Real Property at $172,000. Thus, Dr. Nicoletti will purchase the Real Property for $180,000 which is $8,000 higher than its appraised value.

7. In summary, it is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) the sale will be a one-time transaction for cash; (b) the Plan will receive at least fair market value for its assets; and (c) the proceeds from the sale of the Real Property will allow the Plan to make the required distributions to some of the participants.

Tax Consequences of Transaction

The Department of Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

For further information contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 15th day of June 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-16450 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 12, 1982, 9:30 p.m., Rm. N3437 A & B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, D.C. this 16th day of June 1983

Robert W. Searby,

Deputy Under Secretary International Affairs

[FR Doc. 83-16607 Filed 6-20-83; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 25, 1983 (48 FR 23498). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of

the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Committee Activities,* June 22, 1983, Scottsdale, AZ. The Subcommittee will discuss the future scope and direction of ACRS activities.

**Anticipated Transients Without Scram (ATWS),* June 29, 1983, Washington, D.C. The Subcommittee will continue discussion of the NRC Staff's proposed ATWS Rule.

**AC/DE Power Systems Reliability,* June 29, 1983, Washington, D.C. The Subcommittee will discuss the current status of the work on station blackout, interim diesel generator requirements, and the proposed changes in the NRC requirement for DC power systems.

**Human Factors,* June 30, 1983, Washington, D.C. The Subcommittee will review draft versions of proposed rules and regulatory guides related to Pub. L. 97-425 Section 306, "Nuclear Regulatory Commission Training Authorization."

**Metal Components,* Date to be determined (June-July, Tentative), Washington, DC. The Subcommittee will review the NRC position on generic recommendations for steam generator tube integrity. Multiple steam generator tube ruptures will also be discussed.

**Regulatory Activities,* July 6, 1983, Washington, D.C.—Cancelled.

**Joint Indian Point and Reliability and Probabilistic Asssessment,* July 6, 1983, Washington, D.C. The Subcommittees will discuss the status of the Indian Point 2 and 3 hearings, the status of the NRC's work on systems interaction and the status of the NRC Staff Safety Goal Evaluation Plan.

**Joint Reactor Radiological Effects (RE)/Site Evaluation (SE),* July 18, 19 and 20, 1983, Washington, D.C. The Subcommittees will review emergency plans for Maine Yankee, Seabrook and Indian Point; EPA's proposed 40 CFR 61; proposed revisions to 10 CFR 71; draft NRC Policy on Responding to Transportation Accidents and Incidents; proposed revisions to 10 CFR 50 Appendix E; and NRC positions on Waste Form and Classification.

**Emergency Core Cooling System (ECCS),* July 19, 1983 (Tentative), Alliance, OH. The Subcommittee will review NRC B&W and EPRI integral test program regarding the scaling problems.

**Quality Assurance During Construction,* Date to be determined (July), Washington DC. The Subcommittee will be briefed by the NRC Staff on its quality assurance initiatives, including those related to the "Ford Amendment" of P.L. 97-415.

**Systematic Evaluation Program,* August 17 and 18, 1983, Traverse City, MI. The Subcommittee will discuss with Consumers Power Company the systematic evaluation program for the Big Rock Point Plant and visit the plant site.

**Decay Heat Removal Systems,* August 24, 1983, Washington, D.C. The Subcommittee will discuss the Combustion Engineering Owners Group and NRC Staff recommendations concerning the installation of Power Operated Relief Valves on the Combustion Engineering power reactor systems.

**Human Factors,* Date to be determined (early August, Tentative), Washington DC. The Subcommittee will will review the status of Emergency Procedure Guidelines and Emergency Operating Procedures and review the final rule on Fitness for Duty.

Westinghouse Water Reactors, Date to be determined (August, Tentative), Monroeville, PA. The Subcommittee will discuss the pre PDA review of Westinghouse advanced PWR design. This meeting will be closed to the public to protect Westinghouse proprietary information.

**Qualification Program for Safety-Related Equipment,* Date to be determined (August, Tentative), Washington DC. The Subcommittee will discuss Regulatory Guide 1.89, "Qualification of Electrical Equipment Important to Safety in Nuclear Power Plants."

**Metal Components,* Date to be determined (August, Tentative), Washington, D.C. The subcommittee will review the NRC position on integrity of steel bolts.

**Human Factors,* Date to be determined (August/September, Tentative), Washington, DC. The Subcommittee will review the rules and regulatory guides related to Pub. L. 97-425 Section 306, "Nuclear Regulatory Commission Training Authorization."

**Human Factors,* Date to be determined (September, Tentative), Washington, DC. The Subcommittee will review the question of what qualifications would be desirable for members of a nuclear power plant operating staff.

**Midland Plant Units 1 and 2,* Date to be determined (October, Tentative), Washington, D.C. The Subcommittee will review Consumers Power Company's (CPCo) plan for an audit of plant quality at Midland Plant Units 1 and 2. In addition, representatives of CPC will report on design and construction problems at Midland, their disposition, and the overall effectiveness of the effort to assure appropriate plant quality. The Committee will be briefed on CPCo's Construction Completion Plan.

**Human Factors,* Date to be determined (late November, Tentative), Washington, DC. The Subcommittee will review the final rules related to Pub. L. 97-425 Section 306, "Nuclear Regulatory Commission Training Authorization."

ACRS Full Committee Meeting

July 7-9, 1983: Items are *tentatively* scheduled.

*A. *Anticipated Transients Without Scram*—ACRS comments regarding proposed NRC ATWS Rule.

*B. *Systematic Evaluation Program Phase III and National Reliability Evaluation Program (NREP)*—Discussed proposed NRC plans for continuation of the SEP program and NREP.

*C. *Station Blackout (Unresolved Safety Issue A-44*—ACRS comments regarding proposed NRC action for resolution of USI A-44.

*D. *Sizewell Technical Exchange Briefing*—Briefing regarding evaluation of proposed changes in PWR design features for service in the United Kingdom.

*E. *Seismic Qualification of Equipment for Nuclear Power Plant Service*—Briefing regarding activities of the industry seismic qualification group and alternate methods of equipment qualification.

*F. *Evaluation Plan for Proposed NRC Quantitative Safety Goals*—Discuss proposed activities regarding review of the proposed NRC evaluation plan for quantitative safety goals.

*G. *NRC Severe Accident Policy Statement*—Discussion regarding proposed NRC severe accident policy.

*H. *Prioritization of Unresolved Generic Issues*—ACRS comments regarding proposed NRC prioritization of unresolved generic issues.

*I. *ACRS Subcommittee Activities*—Discuss activities of designated ACRS subcommittees with respect to safety-related matters including the NRC systems interaction program, and probabilistic risk assessment of the Indian Point Nuclear Power Plant.

*J. *Meeting with Director, Office of Inspection and Enforcement*—Briefing regarding activities of the NRC Office of Inspection and Enforcement.

*K. *Future ACRS Activities*—Discuss proposed ACRS Subcommittee activities and anticipated full Committee activities.

*L. *Proposed NRC Requirements Regarding Circuit Breaker Performance in Nuclear Power Plants*—Briefing by NRC Staff regarding proposed NRC requirements resulting from review of

the generic implications of the Salem Nuclear Plant circuit breaker failures.

August 4–6, 1983—Agenda to be announced.

August 31—September 2, 1983—Agenda to be announced.

Dated: June 15, 1983.

John C. Hoyle,

Advisory Committee Management Office.

[FR Doc. 83-16585 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

[License No. 43-12757-02 EA 83-47]

American Testing Laboratories, Inc.; Order To Show Cause and Order Temporarily Suspending License

I

American Testing Laboratories, Inc., 2580 South West Temple, Salt Lake City, Utah 84115 (the "Licensee") 2580 South West Temple, Salt Lake City, Utah, 84115, is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission") pursuant to 10 CFR Part 30. The license, issued on May 24, 1982, and due to expire on May 31, 1987, authorizes the use, storage, and transfer of byproduct material as stated in the Licensee's application dated March 30, 1982. American Testing Laboratories, Inc., is also the holder of a specific license (No. IDA–166) issued by the State of Idaho, an Agreement State, pursuant to the provisions of an agreement entered into with the Commission under section 274 of the Atomic Energy Act of 1954 as amended. Under the provisions of 10 CFR 150.20, the licensee is authorized to conduct the same activities authorized by its Agreement State license in non-Agreement States under certain conditions and for not more than 180 days in any calendar year.

II

In 1981, an investigation by the NRC of American Testing Laboratories, Inc. revealed that it had operated illegally in areas under NRC jurisdiction from 1979 to 1981 with an Idaho Agreement State license. This violated the reciprocity agreement (180 days) authorized by 10 CFR 150.20 for firms maintaining a state license in an Agreement State. After notification from the NRC that an NRC license was necessary to continue its operations in Utah, the Licensee applied for and was granted a specific NRC license on May 24, 1982. Included as conditions of this license were requirements for a film dosimetry program for personnel using licensed material, and for proper packaging and transport of radioactive material. Verification of adherence to these requirements was included in a routine safety inspection conducted on January 17, 1983.

During the January 17, 1983 inspection, the NRC inspector was informed by the Laboratory Manager that a film badge dosimetry program was not yet in place since moisture density gauges which would necessitate this program were in storage and not in use. An inspection of the Licensee's records revealed one gauge missing. The NRC inspector was informed by the Laboratory Manager that this gauge was out for repair. As a result of this inspection, the Licensee was issued a Notice of Violation for failure to maintain physical inventory records. Because the inspector was told orally at that time by the Laboratory Manager, first, that all gauges were in storage and not being used and, second, when the inspector discovered that the inventory of stored gauges was one short, that the missing gauge was out for repairs, the inspector did not inspect for the Licensee's compliance with license conditions governing use of materials.

III

Following the January 17, 1983 inspection, the NRC Region IV office received allegations that, at the time of the inspection, the Licensee was using three moisture density gauges without a film badge program and that a gauge had not been removed for repair as represented to the NRC inspector. As a consequence of these allegations, an investigation of the Licensee's facilities at Salt Lake City, Utah, was conducted May 23–25, 1983, by representatives of the NRC Office of Investigations Field Office in Region IV.

The results of this investigation indicated that at the time of the January inspection one of the gauges was in use and, in fact, from the time the NRC license was issued, the gauges had been used repeatedly in conducting licensed activities. Based on an initial review of the investigation, the following violations have been identified:

1. License Condition 14 requires, in part, that sealed sources shall be tested for leakage or contamination at intervals not to exceed six months and that leak test records shall be maintained.

Contrary to this requirement, the sealed sources in the Troxler gauges were not leak tested at six month intervals from May 24, 1982, to January 17, 1983.

2. License Condition 16 requires, in part, that the Licensee shall transport licensed material in accordance with Title 10, Code of Federal Regulations, Part 71, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material under Certain Conditions."

10 CFR 71.5(a) requires, in part, that no licensee shall transport any licensed material outside the confines of his plant or other place of use, or deliver any licensed material to a carrier for transport, unless the licensee complies with applicable requirements of the regulations appropriate to the mode of transport, of the Department of Transportation in 49 CFR Parts 170–189.

a. 49 CFR 173.394(a) requires, in part, that Type A quantities of special form radioactive material be packaged and transported in DOT specification 7A containers.

Contrary to this requirement, the Licensee transported a Troxler Model 3401 surface moisture/density gauge containing special form radioactive material without packaging it in a specification 7A container on public highways in the state of Utah from May 24, 1982 until March 1983.

b. 49 CFR 177.842(d) requires that packages must be so blocked and braced that they cannot change position during conditions normally incident to transportation.

Contrary to this requirement, appropriate blocking and bracing to prevent movement during transportation was not provided by the Licensee for a Troxler Model 3401 surface moisture/density gauge which was transported on public highways in the state of Utah between May 24, 1982 and January 17, 1983.

3. License Condition 17 requires, in part, that film badges shall be issued monthly to all personnel using the licensed material.

Contrary to this requirement, film badges were not issued by the Licensee to personnel from May 24, 1982 through March 1983. Although a film badge program was subsequently instituted, it was not properly implemented in that part time employees were not issued badges and at least one technician was allowed to store his badge in the Laboratory Manager's desk while using a gauge containing licensed material.

The investigation also found that: (1) From the time its NRC license was issued in May 1982, American Testing Laboratory, Inc. had willfully conducted its activities in violation of license conditions 16 and 17; and (2) on January 17, 1983 inaccurate information regarding the use of licensed material was willfully given by the Laboratory Manager to an NRC inspector during the course of a routine safety inspection.

IV

Under Section 186 of the Atomic Energy Act of 1954, as amended, a license may be suspended or revoked for a material false statement or a finding which would warrant the Commission to refuse to grant a license on initial application. As stated above, false statements were willfully made to an NRC inspector. Had the inspector been provided with correct information, he would have discovered the violations described above and enforcement action requiring, at a minimum, correction of the license condition violations would have been taken. Therefore, the statements made concerning the use of the licensed gauges constitute material false statements within the meaning of section 186 of the Atomic Energy Act of 1954, as amended. Moreover, had the Commission known at the time the license was applied for that the Licensee would not implement its license conditions and would impede the Commission's ability to inspect for compliance with Commission requirements by providing inaccurate and misleading information to its inspectors, no license would have been issued. The Commission can no longer rely on this Licensee to comply with Commission requirements including the requirements for use of material in areas under its jurisdiction in accordance with 10 CFR 150.20, *i.e.*, any operation in Utah under an Idaho license.

In sum, the Licensee's actions interfered with NRC inspections and demonstrated that it was unable and unwilling to comply with Commission requirements including those associated with basic radiation safety requirements. Accordingly, the public health and safety requires issuance of an Order to Show Cause why the licensee's specific license and its authorization to use byproduct material under an agreement state license in areas subject to NRC's jurisdiction should not be revoked. NRC Enforcement Policy, 10 CFR Part 2, Appendix C, IV.C.

In view of the Licensee's willful noncompliance with the Commission's requirements and willful false statements I have determined that no prior notice is required and, pursuant to 10 CFR 2.202(f), License No. 43-12757-02 and the authorization under 10 CFR 150.20 should be suspended effective immediately pending further order.

V

Accordingly, pursuant to sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 30 and 150, it hs hereby ordered that:

A. Effective immediately, the Licensee's authorization under License No. 43-12757-02 and the provisions of 10 CFR 150.20, "Recognition of Agreement State Licensees," to receive or use byproduct material in areas under NRC jurisdiction is suspended, except as permitted in Condition B below;

B. Effective immediately, the Licensee shall place all byproduct material in its possession in locked storage or transfer such material to a person authorized to receive the material; and

C. The Licensee shall show cause, in the manner hereinafter provided, why License No. 43-12757-02 and the Licensee's authorization to conduct activities in a non-agreement state under the provisions of 10 CFR 150.20 should not be revoked.

VI

The Licensee may show cause, within 25 days after issuance of this Order, as required by section V.C., above, by filing a written answer under oath or affirmation setting forth the matters of fact and law on which Licensee relies. The Licensee may answer, as provided in 10 CFR 2.202(d), by consenting to the entry of an order in substantially the form proposed in this Order to Show Cause. Upon failure of the Licensee to file an answer within the specified time, the Director, Office of Inspection and Enforcement may issue without further notice an order revoking the license and authorization as described in item V.C. above.

VII

The Licensee may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Copies shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator. A request for hearing shall not stay the immediate effectiveness of Section V. of this order.

If a hearing is requested by the Licensee the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in this Order, License No. 43-12757-02 and this Licensee's authorization under 10 CFR 150.20 should be revoked.

Dated at Bethesda, Maryland this 10th day of June 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-16575 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-111]

North Carolina State University; Order Terminating Facility License

By application dated June 5, 1980 as revised by letters dated February 19 and March 27, 1981, and March 29, 1983, North Carolina State University (the licensee) requested authorization to dismantle the 10 Kw, North Carolina State University Training and Research Reactor (the facility), located on the University's campus in Raleigh, North Carolina to dispose of the component parts in accordance with the plan submitted as part of the application, and to terminate Facility License No. R-63. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Components Parts, and Termination of Facility License" was published in the **Federal Register** on April 3, 1981 (46 FR 20338). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has found that the facility has been dismantled and decontaminated, and that satisfactory disposition has been made of the components parts and fuel in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common defense and security or to the health and safety of the public. The facility was dismantled pursuant to the Commission's Order dated June 1, 1981.

The facility area has been inspected by the Commission's, Region II inspector and radiation surveys confirm that radiation levels are acceptable for termination of the reactor license and that the facility is available for unrestricted access.

Therefore, pursuant to the application by the North Carolina State University, the Amended Facility License No. R-63 is hereby terminated as of the date of this Order.

For further details with respect to this action see: (1) The application for authorization to dismantle facility and dispose of components parts and for termination of facility license dated June 5, 1980 as revised by letters dated February 19 and March 27, 1981 and

March 29, 1983, (2) the Commission's Order Authorizing Dismantling of Facility and Disposition of Component Parts dated June 1, 1981, and (3) the Commission's Safety Evaluation related to license termination issued with this Order. Each of these items is available for public inspection at the Commission Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13 day of June 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing.

[FR Doc. 83-16580 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulation and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability—ASME Section XI, Division 1," lists those code cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants. This guide is revised periodically to update the listing of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information of the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 14th day of June 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director Office of Nuclear Regulatory Research.

[FR Doc. 83-16582 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.18, "Standard Format and Content of Environmental Reports for Near-Surface Disposal of Radioactive Waste," has been prepared to provide specific and detailed guidance for the preparation of environmental reports for land disposal facilities.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Steet NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 13th day of June 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-16583 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-301]

Wisconsin Electric Power Co.; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Wisconsin Electric Power Company (the licensee). The relief relates to the Inservice Inspection Program for the Point Beach Nuclear Plant, Unit No. 2 (the facility) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The releif is effective as of the date of issuance.

The relief relates to certain inservice inspection requirements pursuant to 10 CFR 50.55a(g)(6)(i) of the Commission's regulations, involving volumetric and visual examinations of the reactor coolant pump casing welds and internal casing surface. The relief is granted provided alternative examinations are conducted.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the related Safety Evaluation.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see: (1) The request for relief dated January 13, 1983, (2) the

Commission's letter to the licensee dated June 1, 1983 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington D.C. 20555, and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 1st day of June, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-16581 Filed 6-20-83; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Approval of Special Withdrawal Liability Rules; Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of approval.

SUMMARY: The Pension Benefit Guaranty Corporation has granted the request of the Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan for approval of a plan amendment providing for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended. A notice of pendency of the request for approval was published on January 3, 1983 (48 FR 104). The effect of this notice is to advise the public of the decision approving the request.

ADDRESS: The request for approval, the comments received and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obained 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, N.W., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(f) of Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1383(f), the Pension Benefit Guaranty Corporation ("PBGC") may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those in section 4203 (b) and (c) for the construction and entertainment industries. ERISA section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of the PBGC's regulation on procedures for extension of special withdrawal liability rules (29 CFR Part 2645), PBGC will approve a plan amendment establishing special withdrawal rules if the PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

In order for the PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not typically have ad adverse affect on the plan's contribution base. (These characteristics include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.)

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

Decision

On January 3, 1983 (48 FR 104), PBGC published a notice soliciting public comment on a request from the Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. Five comments were received in response to the notice. One comment favored, while the remaining four comments opposed, approval of the special rules in this request. Two of the comments opposing the rule were identical in content.

The Plan is a multiemployer plan, with approximately 84 contributing employers, that is maintained pursuant to collective bargaining agreements between Division 1181-1061 Amalgamated Transit Union, AFL-CIO (the "Union"), and employers operating school buses under contract with the Board of Education of the City of New York (the "Board of Education"). The Plan covers drivers, maintenance employees and martron-attendant escorts on buses used to transport school children to and from the New York City public schools. The Plan also covers employees who transport handicapped and emotionally disturbed children to and from public and nonpublic schools in New York City. Virtually all of the employees covered by the Plan work in the school transportation industry in New York City. As of August 31, 1982, the Plan covered 4,259 active workers and 519 retired and terminated vested participants. With minor exceptions, all of the current contributing employers are school bus operators. The only non-school bus contributors are the Union and three organizations connected to it, and those organizations account for only 39 of the total participants in the Plan.

The school bus transportation contracts under which employers operate are subject to competitive bidding and are normally for a three-year period. Pursuant to a 1979 court-ordered agreement between the Board of Education and the Union (the "Mollen Agreement"), school bus contracts involving an employer with more than five vehicles must contain certain employee protection provisions regarding hiring preference and pension fund participation. Under the Mollen Agreement, a successful bidder is required to give priority in employment to any employee who was employed prior to June 1, 1982 under a school bus contract, and who is on furlough or is

unemployed as a result of a loss of contract or a reduction in service ordered by the Board of Education ("Master Seniority List Employees"). In addition, a successful bidder who is not a signatory to the Plan, is required to sign an agreement with the Plan to contribute on behalf of Master Seniority List Employees. Though in theory new employees could be hired if the Master Seniority List were exhausted, the actual experience to date indicates that there have always been available employees on the list who must be given priority in employment.

The Mollen Agreement authorized the Board of Education to cancel any transportation contract if an employer willfully fails to comply with the employee protection provisions. The Mollen Agreement was originally due to expire in 1983. However, by action effective July 27, 1982, the New York State legislature amended the New York Education Law § 305 to authorize the Board of Education to extend all existing pupil transportation contracts, which include the exployee protection provisions of the Mollen Agreement, for a period of ten years. The Board of Education is now implementing this authorization.

As part of its request, the Plan submitted copies of its two most recent actuarial valuation reports. These reports were for the plan years ended August 31, 1977 and August 31, 1981. (The valuations were as of August 31, 1977 and August 31, 1980.) Plan costs for funding purposes are determined on the Frozen Initial Liability Method. In addition to the actuarial reports, the Plan submitted its Forms 5500 (including Schedule B) and audited financial statements for all plan years commencing in 1976 through 1980.

The information submitted shows that from August 31, 1977 to August 31, 1981 the Plan experienced growth in its population base. The number of active participants increased 36.0 percent, representing an average annual compound growth rate of 8.0 percent. The number of retirees, as a percentage of the number of actives, went from 7.0 percent to 11.3 percent.

Employers contribute a certain dollar amount per week on behalf of each covered employee. During the period under discussion, total annual contributions to the Plan went from $3,741,159 to $5,437,254. The contribution rate for employers increased, while that for employees remained constant. Annual benefits plus expenses increased from $889,132 to $2,182,807. The excess of contributions over benefits and expenses, per year went from $2,852,030 to $3,254,447. Assets have almost doubled ($17,445,817 to $34,687,944) and, for the plan year beginning in 1980, were 16 times greater than total disbursements.

There was a benefit increase effective January 1, 1981, which increased the Plan's unfunded accrued liability as of August 31, 1980 by approximately $5.5 million. This benefit increase consisted of raising the minimum benefits payable under the Plan. An increase in the assumed interest rate from 5½ to 7 percent lowered unfunded accrued liability as of September 1, 1979 by approximately $4.4 million. Overall, the Plan's unfunded accrued liability decreased from $23,292,422 as of August 31, 1977, to $21,168,484 as of August 31, 1980. As of September 1, 1980, approximately 50 percent of the active participants were under age 42.5; approximately 82 percent were under age 52.4; and only about one percent were age 62.5 or older.

A summary of the actuarial information is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS

	Aug. 31, 1981	Aug. 31, 1980	Aug. 31, 1979	Aug. 31, 1978	Aug. 31, 1977
A. Participants and benefits :					
1. Number of participants and beneficiaries:					
a. Active	4,259	[1]4,251	3,143	3,113	[2]3,132
b. Retired	483	[1]389	317	240	[2]221
c. Terminated vested and beneficiaries in pay status	58	[1]35	19	33	[2]9
2. Benefit formula: [Percentage of pay, depending upon years of service, with specified minimum benefit.]					
B. Income and Expenses (in dollars):					
1. Annual Contributions:					
a. Employer	4,042,997	3,938,503	2,479,024	2,965,091	2,567,886
b. Employee	1,394,257	1,425,309	922,848	1,192,207	1,173,273
c. Total	5,437,254	5,363,812	3,401,872	4,157,298	3,741,159
2. Benefits and Expenses:					
a. Annual Benefit payout including refunds of employee contributions	1,729,630	1,508,269	1,166,045	886,515	706,205
b. Expenses	453,177	234,789	177,345	162,765	182,924
c. Total	2,182,807	1,743,058	1,345,390	1,049,280	889,129
C. Plan Assets and Liabilities (in dollars):					
1. Frozen Initial Liability Normal Cost For Plan Year Ending	1,902,156	2,137,418	1,101,015	1,088,462	1,016,621
2. Net Charge to Funding Standard Account (without regard to Prior Year Credit Balance) For Plan Year Ending	3,517,688	3,341,623	2,405,175	2,390,622	2,410,781
3. Unfunded Value of:					
a. Accrued Liability-FIL	(NA)	[1]21,168,484	(NA)	(NA)	[2]23,292,422
b. Liability for Vested Benefits	(NA)	[3]3,974,918	[4]6,416,439	(NA)	(NA)
4. Market Value of Assets	34,687,944	31,266,626	25,865,105	22,070,753	17,445,817
D. Interest Rate used to Value Liabilities	(NA)	7%	7%	(NA)	5½%

[1]From 1981 Actuarial Report.
[2]From 1977 Actuarial Report.
[3]From 1980 Schedule B—September 1, 1980 figure.
[4]From 1979 Schedule B—September 1, 1979 figure.
(NA)=Not available from information submitted.
Source: Forms 5500 and attached financial statements except where otherwise noted.

On April 28, 1982, the Plan adopted an amendment prescribing special complete and partial withdrawal rules to take effect as of January 1, 1981. The amendment was modified by the Plan on November 10, 1982 and on March 10, 1983. As modified and as submitted for approval, the Plan amendment reads as follows:

Article XI—Withdrawal Liability for Employers Engaged in Pupil Transportation

"Section 1.

"(A) Complete withdrawal from this Plan shall occur, if

"(1) An Employer, engaged in pupil transportation pursuant to contract between that Employer and the Board of Education of the City of New York, ceases to have an obligation to contribute under the Plan, and

"(2) Such Employer—

"(a) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(b) resumes such work within five years after the date on which the obligation to contribute under the Plan ceases, and does not renew the obligation at the time of resumption.

"(3) In the event the Plan is terminated by mass withdrawal as defined in section 4041A(a)(2) of ERISA, paragraph (2)(b) above shall be applied by substituting 'three years' for 'five years'.

"(B) Partial withdrawal from the Plan shall occur if, on the last day of the plan year, for such year—

"(1) there is a 70-percent contribution decline in any such Employer's

contribution to the Plan, which shall be defined in accordance with the appropriate provisions of ERISA section 4205, or

"(2) there is a partial cessation of such Employer's contribution obligation which shall be defined in accordance with the appropriate provisions of ERISA section 4205, and

"(3) in addition to (1) or (2) above, such Employer is performing work of the type for which contributions were required in the jurisdiction of the collective bargaining agreement of a non-covered basis.

"Section 2.

"(A) The special withdrawal rules for Employers engaged in pupil transportation set forth in Section 1 above, shall not apply to the year in which termination of the Plan, as defined in section 4041A(a)(2) of ERISA, occurs and for cessation of any Employer's obligations to contribute occurring during any of the three Plan years immediately preceding the year in which such termination occurs.

"(B) The special withdrawal rules set forth in Section 1 above, apply to an Employer only if substantially all of the employees with respect to whom the Employer has an obligation to contribute under the Plan, are engaged in pupil transportation pursuant to contract between the Employer and the Board of Education of the City of New York."

Therefore, the Plan proposes to modify the general statutory rules for complete and partial withdrawal by adding the condition that for a withdrawal to occur, the employer must, after the cessation, continue to perform previously covered work in the jurisdiction of the collective bargaining agreement or resume such work within five years of the cessation, without being obligated to contribute to the Plan for the work. (However, PBGC notes that, if the cessation of the obligation to contribute occurs as a result of a sale of assets that complies with ERISA section 4204, the seller is protected by operation of law from withdrawal liability, even if the seller continues to perform previously covered work.) Thus, employers who go out of business, or otherwise cease to operate in the jurisdiction of the collective bargaining agreement, will not incur withdrawal liability.

The special rules quoted above contain two substantive changes which the Plan made after the notice of pendency was published. First, the Plan limited the application of the special rules to only those contributing employers who have substantially all of their covered employees engaged in pupil transportation pursuant to a contract with the Board of Education. Second, the Plan modified the special rules, so that they will not apply to complete or partial cessations that occur in years in which the Plan terminates by mass withdrawal, pursuant to ERISA section 4041A(a)(2), or in any of the three Plan years preceding the year in which the mass withdrawal termination occurs.

In determining whether an industry has the characteristics that would make use of special rules appropriate, an important, although not necessarily dispositive, line of inquiry is the extent to which the particular industry possesses those characteristics that led Congress to adopt special rules for the construction and entertainment industries. An industry that is similar to construction or entertainment in terms of those characteristics is generally appropriate for rules similar to the construction and entertainment rules.

The particular industry in this request is the school bus transportation industry in New York City. Employers are obligated to contribute to the Plan under private competitive contracts with the Board of Education. The contracts are normally for a three-year term. Thus, as in the case of the construction industry, an employer's level of work is dependent on its ability to successfully obtain contracts. If an employer does not obtain contracts, it will no longer be in the industry, and its place will be taken by successful bidders. Therefore, the coming and goings of individual employers do not normally affect the Plan's contribution base. That base is dependent on the demand for private school bus transportation services in New York City and not on the existence of individual employers. A second major similarity between this industry and the construction industry is the local nature of the work. Work in the New York City school bus industry can only be performed in the jurisdiction of the Plan; the work cannot be performed elsewhere. Thus, if an employer leaves the Plan's jurisdiction, it can no longer compete with remaining employers for work in the industry. A further factor indicating that the Plan's contribution base is not harmed by the normal attrition of employers is the requirement under the Mollen Agreement that successful bidders hire workers who are on the Master Seniority List, and that the new employer participate in the Plan on behalf of those workers.

On the basis of all of the above factors, PBGC believes that the industry which is the subject of this request possesses characteristics that would make use of the proposed special withdrawal rules appropriate.

To determine whether the use of the special rules present a significant risk to the insurance system, PBGC has reviewed the financial and actuarial information submitted by the Plan. That information suggests that the Plan is in healthy financial condition: Vested liabilities are almost fully funded, the ratio of active participants to retirees is high, the income to disbursements ratio is likewise favorable, and participation is increasing. These are indications of a plan in which use of the special rule will not pose a significant risk to the insurance system.

PBGC has reviewed the five comments received from the public on the notice of pendency. As previously mentioned, one comment urged PBGC to approve the Plan's request. Two comments opposed the request for reasons unrelated to this specific application. For example, one of those comments stated that, rather than proceeding on a case-by-case basis, PBGC should "re-evaluate the total program and . . . act realistically at this time rather than waiting for [all businesses] to appeal one by one for exclusions." However, Congress has directed PBGC to consider, on a plan-by-plan basis, special withdrawal rules submitted under ERISA section 4203(f). Section 4203(f) does not give PBGC authority to approve special withdrawal rules on a class basis, but only on a case-by-case basis in the context of a specific request.

The remaining two comments received, both of which opposed the request, were identical in content. The comment first argued that PBGC lacked the statutory authority to approve special rules for a "single plan" in a "limited geographic area", and that instead PBGC could only proceed by providing an exemption from the general withdrawal rules for an entire industry on a nationwide basis. As previously mentioned, PBGC's authority under ERISA section 4203(f) to consider special withdrawal liability rules is limited to actual plan amendments adopted by individual plans. The plan in question may cover an entire industry "or portions thereof". Where Congress thought it was appropriate to establish special withdrawal rules applicable to an entire industry, it did so in the statute, *i.e.* the constructions and entertainment industry rules. With respect to other industries, Congress determined that authority to adopt special withdrawal rules should be granted solely on a plan-by-plan basis.

The same comment also stated that the special rule "leaves unanswered the question of what would happen to the

[Plan] if the employees of some or all of the participating employers should decertify the [Union] of choose another union to represent them." PBGC disagrees with that statement. If an employer ceases to have an obligation to contribute to the Plan, whether as a result of a change in union representation or for any other reason, and continues to perform previously covered work in the jurisdiction of the collective bargaining agreement, then under the Plan's special rules a withdrawal would occur.

The comment further objected to the possibility of a withdrawal occurring in the event of a change in union representation by employees, and seemed to urge that the special rules should provide relief from that perceived inequity. PBGC points out that in such an event, a withdrawal would result under the general statutory rules. It would be incorrect for PBGC to deny approval of this request on the grounds that the special rules provide the same result as the general statutory rules.

This comment concluded by stating that PBGC must "provide relief to the trustees" if PBGC determined that it had the legal authority to consider the application. The conclusion was based on the comment's concern that, due to their fiduciary obligations, Plan trustees would each be placed "in financial jeopardy" should the request "prove capricious and result in substantial underfunding of the [Plan] due to the trustees' failure to collect and enforce withdrawal liability in all cases consonant with [the Multiemployer Act]." In response to this comment, PBGC points out that adoption of a special rule by a plan is a discretionary act. ERISA does not require that the rule be adopted. Therefore, in deciding whether to request approval of special withdrawal rules, as in any other decision they make, Plan trustees must carefully weigh various factors to determine whether that action is in the Plan's best interests. Further, PBGC notes that it has no statutory authority to "provide relief to the trustees," as suggested by the comment, and that PBGC's decision on approval of a special rule must be made solely on the basis of the standards prescribed in ERISA section 4203(f).

Based on the facts of this case and the representations and statements made in connection with the request for approval, PBGC has determined that the Plan amendment will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate, and will not pose a significant risk to the insurance system. PBGC also finds that the proposed partial withdrawal rule is consistent with the rule the Plan proposes for complete withdrawals. Therefore, PBGC hereby grants the Plan's request for approval of the special withdrawal liability rules as set forth herein. Should the Plan wish to amend these rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, D.C. on this 15th day of June, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-16529 Filed 6-20-83; 8:45 am]

BILLING CODE 7700-01-M

POSTAL SERVICE

Compilation of Directory of Firms Offering ZIP + 4 Code Address Conversion Services

AGENCY: Postal Service.

ACTION: Notice of plan to publish directory and invitation to firms to apply for inclusion.

SUMMARY: The Postal Service intends to publish a directory of firms offering ZIP + 4 code address conversion assistance to business mailers whose address lists are maintained on computers. The directory will be similar in content and function to the Directory of Presorting Service Bureaus, which currently provides the Postal Service's Customer Service Representatives with a reference document for answering customer inquiries about the services of these unique firms. Firms providing the address list conversion services described below are invited to notify the Postal Service if they are interested in being included in the ZIP + 4 code directory.

DATE: While the Postal Service welcomes information on the availability of services at any time, firms wishing to appear in the directory should submit the information requested by July 21, 1983.

ADDRESS: Responses to this notice should be addressed to the General Manager, Regular Mail Services Division, Room 5637, Customer Services Department, U.S. Postal Service, 475 L'Enfant Plaza West, S.W., Washington, DC 20260-6336.

FOR FURTHER INFORMATION CONTACT: Thomas Dewey, (202) 245-5757, or Ralph Hopkins, (202) 245-4456.

SUPPLEMENTARY INFORMATION: The ZIP + 4 program represents an important element in the Postal Service's move to automate mail processing operations. To enable the Postal Service to gain the maximum benefits from automation, business mailers will be asked to help by voluntarily converting their address files to include ZIP + 4 Codes.

In the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, Congress specifically allowed the Postal Service to prepare for automation by purchasing and deploying automated equipment and by providing information about the ZIP + 4 program. Congress also delayed implementation of the ZIP + 4 program until October 1, 1983, on which date mail may be processed on the automated equipment by the ZIP + 4 code and may be eligible for reduced rates of postage.

Each business mailer will have to decide individually whether the potential savings the business can derive from the ZIP + 4 program justify the address list conversion costs. No mailer will be required to use ZIP + 4 codes.

Through the use of ZIP + 4 National/State Directory Computer Tapes, furnished without charge by the Postal Service, computerized business mailers can develop their own software conversion capabilities to convert from 5-digit ZIP Codes to ZIP + 4 codes. However, the Postal Service recognizes that, for many mailers, it may be more cost-effective to procure conversion software, or list conversion itself, from service firms. There are business firms nationwide which can provide two types of ZIP + 4 address conversion assistance to computerized business mailers:

- Computer software firms—companies that can provide matching software which enables mailers to perform their own ZIP + 4 code address conversion, and
- Service bureau firms—companies that receive 5-digit ZIP Code computer tapes from business mailers and provide an address matching service which gives the appropriate four-digit add-on codes for addresses on the tapes.

The Postal Service is compiling a directory of firms in each category in order to enable its Customer Service Representatives to respond to mailer inquiries with as complete a list as possible of firms offering either type of service. Inclusion of firms in the directory will not constitute the Postal Service's endorsement. All known firms providing this service will be included in the directory, and postal personnel will be instructed to mention each available bureau in an inquiring customer's area.

Business firms which wish to be included in the directory should notify the Postal Service, by the date shown above, of their interest, and should

provide a description of the services offered.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel.

[FR Doc. 83-16572 Filed 6-20-83; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purpose of this document is to give notice of three proposed routine uses (one each for three systems of records).

DATES: The three systems of records for which new routine uses are proposed shall be amended as proposed without further notice 30 calendar days from the date of this publication (July 21, 1983) unless comments are received before this date which would result in a contrary determination.

ADDRESS: Send comments to James T. Brown, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4548.

SUPPLEMENTARY INFORMATION:

Part I: Proposed Routine Uses—General

The three proposed routine uses would permit disclosure of information maintained by the Railroad Retirement Board to states operating unemployment and/or sickness insurance programs for the purpose of enabling the states or the RRB to take legal, administrative, or corrective action to improve the integrity of the programs each operates.

Proposed routine use "o" to system of records RRB-5, Master File of Railroad Employees' Creditable Compensation, would permit the RRB to furnish railroad service and compensation and last railroad employer information on identified individuals, upon request, to states for the purpose of enabling them to more effectively administer their unemployment and sickness programs, including taking action to recover benefits paid for periods during which the individual was employed in the railroad industry.

Proposed routine use "o" to system of records RRB-6, Unemployment Insurance Record File, would permit the RRB to furnish beneficiary identifying and claim period information, at its initiative, for the purpose of enabling state agencies to notify the RRB whether RRB claimants were paid state unemployment or sickness benefits and also whether wages were reported for them. This same routine use would permit the RRB to disclose benefit information to the state for those claimants that a state identifies as having received state unemployment or sickness benefits.

System of records, RRB-6, Unemployment Insurance Record File, is a paper-only system consisting of development files maintained by the RRB's district office staff. It is intended that this routine use would allow the district office staff to periodically furnish state agencies operating unemployment insurance programs with lists consisting of the names and SSA numbers of individuals who have received unemployment benefits under the Railroad Unemployment Insurance Act during a given period of time. The purpose of this disclosure would be to enable the state agency to check its unemployment and wage records and notify the RRB staff whether any of the RRB claimants had received unemployment benefits from the state or had wages reported for them through the state wage reporting system.

A few states administer a sickness insurance program in addition to an unemployment insurance program. For those that do, the disclosure would serve the additional purpose of enabling the state to check its sickness benefit records and notify the RRB whether any of its claimants had received sickness benefits from the state.

In the event that the state reports duplicate unemployment payments, either the state or the RRB would take subsequent action to effect recovery of the duplicate payment, depending on arrangements made between the two agencies. (An individual having both railroad and non-railroad earnings in a given period of time may qualify for unemployment benefits under both the Railroad Unemployment Insurance Act and the Laws governing payment of such benefits of the state in which he had non-railroad earnings; however, such individuals would not be entitled to receive unemployment benefits from both jurisdictions simultaneously, for the same calendar period. One of the payments would be recoverable. Informal arrangements between the two jurisdictions usually follow the rule that the application for benefits filed first is the "valid" one.)

In the event that the state reports sickness payments, the RRB would attempt to recover the unemployment benefits it paid for the same days. Such recovery is permitted by the Railroad Unemployment Insurance Act. If the state laws permit, alternative arrangements could be made for recovery by the state of the payments it made.

In the event that the state advises that wages had been reported for the individual during the reporting period, the state will furnish the RRB the name and address of each reporting employer. The RRB will then write each employer to verify the non-railroad employment. If verified, the RRB will take action to recover the unemployment benefits it paid for days the individual was employed.

Proposed routines, use "y" to system of record RRB-21, Railroad Unemployment and Sickness Insurance Benefit System, would permit the same disclosure from this system as routine use "o" would permit from system of records RRB-6, Unemployment Insurance Record File, discussed above, except that it would also permit disclosure of information regarding recipients of sickness insurance benefits. Both routine uses are worded the same. Whereas system of records RRB-6 is a paper-only system, system of records RRB-21 include paper, microfiche, and computer tape and disk storage media. It is intended that this routine use will allow for disclosure pursuant to computer matching programs between participating states and the RRB. (For a description of the matching programs intended, see Part II, below.)

Congress has historically recognized the strong nexus that exists between the unemployment and sickness programs administered by the states and the unemployment and sickness programs administered by the Railroad Retirement Board. Section 12(f) of the Railroad Unemployment Insurance Act (45 U.S.C. Sec. 362) provides that "the Board may cooperate with or enter into agreement with the appropriate agencies charged with the administration of State, Territorial, Federal, or foreign unemployment-compensation or sickness laws or employment offices, with respect to investigations, the exchange of information and services, the establishment, maintenance, and use of free employment service facilities, and such other matters as the Board deems expedient in connection with the administration of this Act * * *" It is the position of the RRB that the use of benefit data from one social insurance system to determine eligibility for benefits under another social insurance

is compatible with the original use of the information.

Part II Routine Use To Permit Computer Matching Programs

As was stated above, proposed routines use "y" in system of records RRB–21, Railroad Unemployment and Sickness Insurance Benefits System, is intended to allow disclosures pursuant to computer matching programs. Presently, the RRB is negotiating an agreement with the State of Illinois that would permit the RRB to serve as the "source" agency and the State of Illinois the "matching" agency as those terms are defined in the revised OMB Guidelines on the Conduct of Computer Matching Programs (47 FR 21656; May 19, 1982). The operation of the match would be similar to that described above for disclosures that would be made by the RRB district office staff from the paper development files. However, instead of submitting paper listings to the state agency, a tape file would be furnished. The data elements would consist of beneficiary indentifying information, such as name and SSA number, as well as the period during which the individual received either unemployment or sickness benefits under the Railroad Unemployment Insurance Act. The state agency would match on the identifying information.

If the match operation revealed that the individual who had received either unemployment or sickness benefits under the Railroad Unemployment Insurance Act also received either unemployment or sickness insurance benefits from the state for any days in the period, it would notify the RRB. Depending on arrangements made between the two jurisdictions, and, in the case of state sickness benefits on applicable state law, either the RRB or the state agency would attempt to recover the amount of the duplicate payments.

If the match operation revealed that wages had been reported for the individual during the requested period, the state would notify the RRB of this fact and furnish the name and address of each employer who reported earnings for the individual. The RRB would then write each employer to verify the reported wages for the given period. Only if the employment were verified would the RRB take action to recover the payments made for those days which the individual was gainfully employed.

If an agreement is reached with the State of Illinois and if the first match proves cost-effective, it is expected that the RRB will seek to perform matching programs with the State of Illinois on a periodic basis as well as seek agreements with other states for the performance of computer matching programs along the same lines.

Important limitations to the RRB's supplying data to the states are that the states must: (1) Agree to follow the requirements of the OMB's "Guidelines for Conducting Computerized Matching Programs;" (2) not retain the data the RRB furnished beyond 6 months with the tapes either being destroyed by the states or returned to the RRB; (3) not utilize the information for matching purposes other than those specifically agreed upon; (4) not use the file to extract information concerning "non-matching" individuals for *any* purpose; and (5) neither duplicate the RRB's file nor derivatively use the file or information contained therein without the RRB's specific permission.

Part III: Previous Federal Register Publications

System of records RRB–5, Master File of Railroad Employees' Creditable Compensation, was last published in its entirety on September 26, 1978, at 43 FR 43642–43; system of records RRB–6, Unemployment Insurance Record File, was last published in its entirety on September 26, 1978, at 43 FR 43644–45; system of records RRB 21, Railroad Unemployment and Sickness Insurance Benefit System, was last published in its entirety on March 13, 1980, at 45 FR 16375–77.

Part IV: New or Altered System Report

The proposed action is not within the purview of the provisions of 5 U.S.C. 552(o) which require the submission of a new or altered system report.

Dated: June 13, 1983.

By authority of the Board.

James T. Brown,

Chief Executive Officer.

New paragraphs o. are added to RRB–5 and RRB–6 and new paragraph y. is added to RRB–21 to read as follows:

RRB–5

SYSTEM NAME:

Master File of Railroad Employees' Creditable Compensation—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

o. Service and compensation and last employer information may be furnished, upon request, to state agencies operating unemployment or sickness insurance programs for the purposes of their administering such programs.

* * * * *

RRB–6

SYSTEM NAME:

Unemployment Insurance Record File-RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

o. Beneficiary identifying and claim period information may be furnished to states for the purpose of their notifying the RRB whether claimants were paid state unemployment or sickness benefits and also whether wages were reported for them. For claimants that a state identifies as having received state unemployment or sickness benefits, RRB benefit information may be furnished the state for the purpose of recovery of the amount of the duplicate payments which is made.

RRB–21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System—RRB.

* * * * *

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

y. Beneficiary identifying and claim period information may be furnished to states for the purpose of their notifying the RRB whether claimants were paid state unemployment or sickness benefits and also whether wages were reported for them. For claimants that a state identifies as having received state unemployment or sickness benefits, RRB benefit information may be furnished the state for the purpose of recovery of the amount of the duplicate payments which is made.

* * * * *

[FR Doc. 83–16615 Filed 6–20–83; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19874; SR-CBOE-83-10]

Chicago Board Options Exchange, Incorporated, Order Granting Accelerated Approval of Proposed Rule Change

The Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle At Jackson, Chicago, Illinois 60604, submitted on May 10, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to move from 2:00 p.m. to 3:00 p.m. the time for commencement of the closing rotation for index options on the last business day prior to expiration. The proposed rule change would also establish the index options exercise cut-off time for that day at 5:30 p.m. (Chicago time).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 19793, May 20, 1983) and by publication in the **Federal Register** (48 FR 24502, June 1, 1983). No written comments have been received with respect to the proposed rule change.

The Commisssion finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, in that the first expiration date for an index option series will be June 18, 1983, which is prior to thirty days from publication of the notice of filing. Without accelerated approval of the proposed change, index options would cease trading an hour before the stocks composing the index, needlessly subjecting options traders with open positions to the risk of adverse market movement in the final hour of stock trading. Because index options are settled in cash, persons with open positions "at the money" would be required to make a determination whether or not to close a position without knowing whether their position would close in or out of the money. Under the proposed change, the closing rotation for index options will commence at 3:00 p.m. (Chicago time), the same time at which the stock exchanges end the trading day, allowing persons to make better informed decisions whether to close out open positions. Moreover, since the value of index options cannot be affected by events following the close of stock trading on the last business day (Friday) before expiration, the exercise cut-off time for that day may be moved back to 5:30, thereby providing option holders with additional time to decide whether to exercise, without creating a disadvantage to option writers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16531 Filed 6-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13322; 812-5524]

Hartford Advisors Fund, Inc.; Filing of Application

June 14, 1983.

Notice is hereby given that Hartford Advisers Fund, Inc. (the "Fund"), Hartford Plaza, Hartford, Connecticut 06115, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, filed an application on April 15, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Fund from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the Fund to offer and sell its shares subject to a contingent deferred sales load. 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, and to the Act for the text of the provisions from which an exemption is being sought.

The Fund states that no sales charge is imposed at the time of the purchase of its shares but a contingent deferred sales charge will be applied. It is further stated that the contingent deferred sales charge will not exceed 8½% of the gross purchase payments made by the shareholder. The fund represents that when an original purchase of Fund shares is made, the date of such purchase is used to establish an "account year". The Fund further represents that all payments made during the year following such original payment are considered to be made in that account year and that all payment made in any subsequent account year are considered to be made in such subsequent account year. According to the application, the contingent deferred sales charge applied to any redemption shall be determined as follows: 6% during the first account year applicable to such purchase payments, declining by 1% each account year thereafter.

The Fund indicates that for purposes of assessing this charge, purchase payments will be considered to be redeemed in the order in which they were made and all redemptions will be deemed to be from such purchase payments (and not from reinvestments thereon). The Fund represents, however, that the maximum amount to which any such charges may be applied on a cumulative basis will not exceed the purchase payments actually made by a shareholder.

According to the Application, Section 2(a)(32) of the Act contemplates that any deduction of a "sales load" will be made from the security purchaser's investment at the time the security is purchased. Section 2(a)(35) of the Act defines a redeemable security as one which entitles the shareholder to his proportionate share of the issuer's current net assets. Section 22(c) of the Act and Rule 22c–1 thereunder prohibit a registered investment company issuing redeemable securities from selling, redeeming or repurchasing any such security unless at a price based upon the current net asset value of such security.

The Fund states that the deferred sales charge that would be made upon a redemption of Fund shares would be applied to pay previously incurred sales expenses. The Fund states that sales expenses are the costs which are properly chargeable to sales and promotional activities previously incurred in connection with the offer and sale of Fund shares. The Fund submits that deduction of a sales charge from the redemption proceeds rather than from the purchase payment initially made to acquire Fund shares does not change the essential character of the charge. The Fund states further that it may be said that a shareholder does not receive an amount equal to the current net asset value of his shares because the deferred sales charge is deducted from the amount that the shareholder receives upon redemption. However, when a redemption of the Fund's shares is effected, the price of the shares on redemption will be based on their current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption in arriving at the shareholder's

proportionate redemption proceeds. Therefore, the Fund believes that imposition of a sales charge when shares are tendered for redemption does not preclude investors from receiving the current net asset value of their shares upon redemption.

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.

The Fund states that the Act allows the imposition of a sales charge and that the Act contemplates deduction of the sales charge from the purchase payment made by the purchaser of the security, when such purchase payment is made. The Fund states that it is beneficial for the shareholder to have the entire amount of his purchase payment invested for his benefit and working over the term of years of his investment. The Fund states that, if its shares are held for a specific period of time, then the investor may redeem such shares in whole or in part, at any time without the imposition of a sales charge. The Fund submits that the requested exemptions are 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.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 11, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Fund at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-16530 Filed 6-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13320; 812-5530]

Horace Mann Life Insurance Co. et al.; Filing of Application

June 14, 1983.

Notice is hereby given that Horace Mann Life Insurance Company ("Company"), Horace Mann Life Insurance Company Separate Account ("Account"), and Horace Mann Investors, Inc. ("Investors") One Horace Mann Plaza, Springfield, Illinois 62715, (hereinafter collectively referred to as "Applicants") filed an application on April 20, 1983 and an amendment thereto on May 16, 1983 for an order amending prior orders of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptions to the extent requested from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and rule 22c-1 thereunder and for an order pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant statutory provisions.

The Account, a separate account of the Company, is registered under the Act as a unit investment trust. The Company is the sponsor-depositor for the Account. The Account was established for the purpose of funding deferred variable annuity contracts. Prior to January 31, 1983, the Account invested solely in the shares of Horace Mann Fund, Inc.

The Account proposes to issue new group and individual single premium and flexible premium combination fixed and variable annuity contracts ("Contracts"). Applicants state that the purpose of the application is to amend several prior orders of the Account to the extent necessary to permit Applicants to offer the Contracts (*see* Investment Company Act Rel. No. 8811, June 6, 1975 and Rel. No. 4559, April 1, 1966). Effective January 31, 1983, the Account was divided into four Divisions ("Divisions"), with each Division investing in the shares of a specified registered open-end diversified management investment company: Horace Mann Fund, Inc., Horace Mann Balanced Fund, Inc., Horace Mann Income Fund, Inc., and Horace Mann Short-Term Investment Fund, Inc. (collectively, the "Funds"). Under the Contracts, payments will be allocated to one or more of the four Divisions. Applicants state that all assets of the Account will be held in custody for safekeeping by the Account. The assets of each Division will be kept physically segregated and held separate and apart from assets of other Divisions. Shares of the Funds in each Division will be held in open account in lieu of actual share certificates. The Account will maintain a record of all purchases and redemptions of shares of the Funds held in each Division.

The Company does not impose an initial sales charge on purchase payments. If a Contract is totally or partially surrendered during certain years, however, a contingent deferred sales load ("sales load") is deducted as a means for the Company to recover its sales expenses. Applicants state that it is expected that such sales load will cover all costs associated with distribution of the Contracts.

Applicants also state that premium taxes will be deducted either from payments or from the Contract value upon annuitization, as determined by applicable state law. Applicants further state that the Company will deduct an administrative charge of $25, plus $5 for each Division in which account values are funded, from the Contract value as of each Contract anniversary date and that no such charge will be made in the case of a partial or complete redemption. Applicants also propose to deduct a transfer fee of $5 in connection with exchanges described below. Finally, Applicants state that for assuming mortality and expense risks, including a death proceeds risk, the Company will make a daily charge of 1.3 percent on an annual basis against the assets of each Division. Of this charge, .45 percent will be for the mortality risks, 15 percent will be for expense risks, and .75 percent will be for distribution expense risks.

Requested Relief

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request exemptions pursuant to Section

6(c) from certain provisions of the Act as summarized below.

Applicants propose that they be granted exemptions from Sections 27(c)(2) and 26(a) to allow: (1) The deduction of the mortality and expense risk charge; (2) the deduction of the annual administrative charge; (3) the deduction for premium taxes; (4) the deduction of the transfer charge; and (5) the deduction of the sales load.

With respect to (1) above, Applicants assert that the mortality and expense risk charge meets the standard set forth in Section 6(c) because it is reasonable as determined by industry practice with respect to comparable annuity products and reasonable in relation to the risks assumed. The Company represents that it has reviewed publicly available information about similar industry products to arrive at this conclusion, taking into consideration factors such as the following: (i) anticipated Company mortality experience and maintenance and distribution expense levels as well as the risks of deviation from these; (ii) anticipated rates of persistency of premium income and the lapse rates for cash withdrawals; (iii) anticipated inflation; (iv) continued competitiveness of the product; (v) Company's lack of historical experience with a contingent deferred sales load; and (vi) the section 403(b) teacher retirement annuity market in which the Company competes. The Company further represents that the data supporting and setting forth this conclusion will be maintained at the home office of the Company and available to the Commission.

The Company also represents that it has determined that the use of the asset charge for distribution expenses has a reasonable likelihood of benefiting the Separate Account and the Contract owners and participants and that a memorandum setting forth the basis for this representation will be maintained at the Company's home office and available to the Commission. The Applicants further respect that as a condition of this relief, the Account will invest only in funds which undertake to have a board of directors with a disinterested majority formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

With respect to (2), (3) and (4) above, Applicants assert that these charges have been set at levels no higher than the estimated actual costs of administering the Contracts and without expectation of profit. With respect to (5) above, Applicants assert that the Contracts limit the total sales load which may be assessed against any Contract to 9% or less of purchase payments made. Applicants also request exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1) and 27(d) to the extent necessary to permit deduction of the sales load.

Applicants further request exemption from section 26(a) to the extent necessary to permit the Account to hold its assets without an independent trustee or custodian and to hold the securities of the Funds in open account in lieu of stock certificates. Applicants represent that the assets of each of the Divisions will be protected by the safeguards and conditions described in the application and that requiring the issuance of fund certificates would impose an unnecessary administrative burden.

Applicants also propose that Contract owners be permitted to transfer, prior to annuitization, all or part of their investment in any Division to another Division and to and from the fixed portion of the Contracts subject to certain minimum amount limitations. Each such transfer will be effected at net asset value per unit next determined following receipt of a duly executed request for transfer. A $5 transfer change will be deducted upon each transfer. Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to the extent necessary to permit the proposed offer of exchange rights described in the Contracts, where permitted under applicable law and the retirement plan under which a given Contract is issued.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[Fr Doc. 83–16532 Filed 6–20–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19864; File No. SR–MSTC–83–5]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Securities Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 31, 1983, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will establish service fees for Special Data Tape Processing. These fees will only be charged to Participants who request the special services. Attached as Exhibit A to the filing is the schedule of proposed charges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed service charges have been established to recoup the costs of

computer time and personnel necessary to provide special data processing services. These fees will only be charged to Participants who request the special services.

The proposed rule change is consistent with Section 17A(b)(3)(D) of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16448 Filed 6-20-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2084; Amendment No. 1]

California; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 22404) is amended in accordance with the President's declaration of May 5, 1983, to include Fresno County and the adjacent County of Kings within the State of California. All other information remains the same, i.e., the termination date for filing application for physical damage is the close of business on July 5, 1983, and for economic injury until the close of business on February 6, 1984.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

James C. Sanders,

Administrator.

[FR Doc. 83-16613 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License Application No. 03/03-0160]

First Valley Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to§ 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of First Valley Capital Corporation, One Bethlehem Plaza, Bethlehem, Pennsylvania 18018, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Carl B. Bear, 1702 Clair Martin Place, Ambler, PA 19002—President, Director, Member of Investment Committee

Frederick P. Banyard, North Drive, R.D. 7, Bethlehem, PA 18015—Vice President, Treasurer, Director

Leonard S. Donchez, 2117 Montgomery Street, Bethlehem, PA 18017—Secretary

Dale R. Sassaman, 904 Delaware Avenue, Bethlehem, PA 18015—Assistant Secretary

Thomas D. McCormick, Jr., 527 Maple Street, Bethlehem, PA 18018—Assistant Treasurer

John R. Howell, 2235 Main Street, Bethlehem, PA 18017—Director, Member of Investment Committee

Timothy J. McDonald, 570 Wedgewood Road, Bethlehem, PA 18018—Director, Member of Investment Committee

Alfred E. Roberts, Jr., Flint Hill Rd., R.D. 1, Coopersburg, PA 18036—Member of Investment Committee

First Valley Bank, One Bethlehem Plaza, Bethlehem, PA 18018—58.8 percent shareholder

First Valley Corporation, One Bethlehem Plaza, Bethlehem, PA 18018—41.2 percent shareholder

First Valley Corporation is a bank holding company whose principal subsidiary is First Valley Bank. As of March 31, 1983, First Valley Corporation had approximately 3,700 shareholders, none of whom owned 10 percent or more, of record.

First Valley Capital Corporation (Applicant), a Pennsylvania corporation, will begin operations with $510,000 of private capital, derived from the sale of 1,200 shares of its common stock, the only class of stock authorized.

The Applicant will conduct its operations principally in eastern Pennsylvania and adjacent areas of New Jersey.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management; and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to Deputy Associate Administrator for Investment, Small Business Administration, 1441, "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Bethlehem, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-16619 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2092; Amdt. No. 1]

Mississippi; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 27172) is amended in accordance with the President's declaration of June 1, 1983, to include Warren County, Mississippi, as a result of damage caused by severe storms, tornadoes and flooding beginning on or about May 18, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on August 1, 1983, and for economic injury until the close of business on March 1, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 8, 1983.

James C. Sanders,

Administration.

[FR Doc. 83-16617 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2094]

Nevada; Declaration of Disaster Loan Area

The Ophir Creek Area in Washoe County, in the State of Nevada constitutes a disaster area as a result of damage caused by a landslide on May 30, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 15, 1983, and for economic injury until the close of business on March 15, 1984, at the address listed below: U.S. Small Business Administration, 301 East Stewart, Las Vegas, Nevada 89101; or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere	11.125
Homeowners without credit available elsewhere	5.625
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	6.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (nonprofit organizations including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: June 15, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-16616 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2093]

New York; Declaration of Disaster Loan Area

The area of 377 North Broadway between Lake Avenue and Hudson View Terrace in the City of Yonkers, Westchester County, New York, constitutes a disaster area because of damage resulting from a fire which occurred on April 10, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 8, 1983, and for economic injury until the close of business on March 9, 1984, at the address listed below: U.S. Small Business Administration, 26 Federal Plaza, Room 3100, New York, New York 10278;

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere	11.500
Homeowners without credit available elsewhere	5.750
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (nonprofit organizations including charitable, and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 9, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-16615 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 03/03-0166]

Thompson Venture Group, Inc., Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1983)) by Thompson Venture Group, Inc., 1725 K Street, N.W., Suite 200, Washington, D.C. 20036 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and sole shareholder are:

Name and Address, Title, and Percent of Ownership

Richard E. Thompson, 3102 Cathedral Ave., N.W., Washington, D.C. 20008, President, Treasurer and Director—100

Cynthia A. Thompson, 3102 Cathedral Ave., N.W., Washington, D.C. 20008, Secretary and Director

Allen T. Joseph, 15057 Butterchurn Lane, Silver Spring, MD 20904, Director

The Applicant will begin operations with a capitalization of $505,000 and will be a source of equity capital and long term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources. The Applicant intends to finance small concerns engaged in the on-going preparation and publication of books, periodicals, newsletters, loose-leaf services, and other publications.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-16618 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2083; Amendment No. 2]

Utah; Declaration of Disaster Loan Area

The above numbered Declaration (48 FR 21699) and Amendment #1 (48 FR 23740) are amended in accordance with the President's Declaration of April 30, 1983, to include Davis County, Utah as a result of damage caused by severe storms, landslides, and flooding beginning on or about April 12, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on June 29, 1983, and for economic injury until the close of businesses on January 29, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 7, 1983.

James G. Sanders,

Administrator.

[FR Doc. 83-16614 Filed 6-20-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Firearms; Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Granting of Relief from disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Firearms, Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

ACEVEDO, Manuel F., 230 East 94th Street, Brooklyn, New York, convicted on May 20, 1970, in the Supreme Court of New York City, New York.

ADAMS, Walter, 280 South Woodlawn, Lebanon, Kentucky, convicted on October 31, 1972, in the Circuit court of Springfield, Kentucky.

ALBARO, Gary Austin, 207 Wellington Crescent, Mt. Clemens, Michigan, convicted on September 7, 1978, in the United States District Court, Eastern District of Michigan.

ALBRECHT, Richard Elmer, Rural Route #1, Box 20, Rolla, North Dakota, convicted on July 12, 1967, in the 2nd District Court of Rolette County, North Dakota.

ALBRITTON, Melvin, 418 Somerset Drive, Monroe, Louisiana, convicted on February 20, 1975, in the United States District Court, Western District of Louisiana.

ALLEN, James D., 650 North Elizabeth, Lima, Ohio, convicted on August 1, 1967, in the Common Pleas Court of Wapakoneta, Ohio; and on August 21, 1967, in the Common Pleas Court of Lima, Ohio, and on November 8, 1967, in the Common Pleas Court of Kenton, Ohio.

ALVAREZ, Pablo Labron, 2109 Barton Avenue, #3, West Bend, Wisconsin, convicted on September 11, 1962, in the Circuit Court of Milwaukee County, Wisconsin.

AMUNDSON, Randy Joe, 4165 West 7th Street, Winona, Minnesota, convicted on October 24, 1980, in the 3rd Judicial District Court of Minnesota.

ANCIRA, Robert, 1227 Webster Street, New Orleans, Louisiana, convicted on October 14, 1970, in the United States District Court of Eastern Louisiana.

ANDERSON, John T., 112 1/2 Madison Street, Waupon, Wisconsin, convicted on April 16, 1963, in the County Court of Fond du Lac, Wisconsin; and on September 26, 1978, in the Superior Court of Tucson, Arizona

ANDERSON, Stan C., 585 Loan Oak, Apartment 3, Eugene, Oregon, convicted on August 10, 1979, in the Superior Court of Lane County, Oregon.

ARCHIBEQUE, Joe Leon, 10918 Park Oak, Dallas, Texas, convicted on January 10, 1967, in the 84th District Court of Hutchinson County, Texas; and on December 20, 1974, in the 195th District Court of Dallas County, Texas; and on June 16, 1978, in the 3rd District Court of Dallas County, Texas; and on August 25, 1978, in the 3rd District Court of Dallas County, Texas.

BAHR, Larry David, Barney, North Dakota, convicted on January 21, 1980, in the 8th District Court of Wilken County, Minnesota.

BAKER, Mary C., 2302 West Diamond Street, Philadelphia, Pennsylvania, convicted on January 29, 1970, in the Municipal Court of Philadelphia, Pennsylvania.

BARNETT, Eugene P., 5526 Willys Avenue, Baltimore, Maryland, convicted on June 27, 1952, in the Criminal Court of Baltimore City, Maryland.

BARTRAND, Eric L., Post Office Box A-1, Beverly, Washington, convicted on June 9, 1980, in the Superior Court of Kittitas, Washington.

BAYSEN, Walter S., 744 Maralon Drive, Virginia Beach, Virginia, convicted on November 8, 1972, in the Circuit Court of Virginia Beach, Virginia; and on April 26, 1977, in the Circuit Court of Norfolk, Virginia.

BELANGER, Roy Folden, 403 Central Avenue, Nashwauk, Minnesota, convicted on January 5, 1969, in the 9th Judicial District Court of Itasea County, Minnesota; and on September 5, 1974, in the 6th Judicial District Court of St. Louis County, Minnesota.

BLACKBURN, Vaughn, Route 1, Box 340, Roaring River, North Carolina, convicted on July 6, 1939; May 23, 1940; February 24, 1945; November 21, 1946; November 23, 1949; November 8, 1950; November 18, 1954; January 31, 1959; December 6, 1969; August 26, 1970; in the United States District Court of Wilkesboro, North Carolina.

BLAIR, Robert J., 24 Pershing Street, Norwalk, Connecticut, convicted on May 2, 1980, in the Superior Court of Island County, Washington.

BOYD, Thomas Henry, 6126 Locust Street, Philadelphia, Pennsylvania, convicted on October 2, 1972, in the Municipal Court of Philadelphia, Pennsylvania.

BOYD, William F., 1819 G Street, Apartment J, Sacramento, California, convicted on July 7, 1960, in the Supreme Court of Sacramento, California; and on November 14, 1967, in the Superior Court of Sacramento, California.

BRADLEY, Donald Michael, 10 Goddard Avenue, Seneca, South Carolina, convicted on January 9, 1980, in the United States Army Western Command of Fort Shafter, Hawaii.

BRAUNSTEIN, Steven Benjamin, 22485 Nancy, Southfield, Michigan, convicted on August 14, 1976, in the United States District Court of Detroit, Michigan.

BREWER, Luther D., 235 Curry Court, Talladega, Alabama, convicted on April 12, 1973, in the Circuit Court of Talladega County, Alabama.

BREWER, Thomas Michael, 2480 Smith Road, Gainesville, Georgia, convicted on March 17, 1973, in the District Court of Hall County, Georgia; and on March 20, 1975, in the District Court of Hall County, Georgia.

BRISSON, Richard G., 206 Boyd Street, Portsmouth, Virginia, convicted in 1973, in the Circuit Court of Portsmouth, Virginia.

BROWN, John Robert, Route 3, Box 218, Berry, Alabama, convicted on August 27, 1975, in the Circuit Court of Fayette County, Alabama.

BUCK, Emerald E., Route 1, Box 112, Juliaetta, Idaho, convicted on September 2, 1964, in the Superior Court of San Francisco County, California.

CALHOUN, Ralph Alfred, Jr., 523 East Main Street, Grantsville, Utah, convicted on November 17, 1969, in the 147th Judicial District Court of Travis County, Texas.

CARLILE, Richard D., SR 5117, Eagle River, Alaska, convicted on March 24, 1975, in the United States District Court, Eastern District of Washington.

CARON, David Lee, 714 10th Avenue North, Fargo, North Dakota, convicted on September 27, 1972, in the 7th Judicial Court of Berker County, Minnesota.

CAYWOOD, Jerry A., 137 Leonard Road, Onalaska, Washington, convicted on March 18, 1980, in the Superior Court of Lewis County, Washington.

CHAMBERS, Joseph Vinson, Route 4, Box 202–C, Cairo, Georgia, convicted on September 8, 1972, in the Superior Court of Grady County, Georgia.

CLARK, Charles Harold, 2503 South Park, Dothan, Alabama, convicted on June 13, 1978, in the United States District Court, of Middle, Tennessee.

CLARK, Earl L., 1776 Court Street #4, Longview, Washington, convicted on January 29, 1976, in the Superior Court of Cowlitz County, Washington.

CLAUSMAN, Steven, Post Office Box 395, Foresthill, California, convicted on April 16, 1969, in the Superior Court of Santa Clara County, California.

CHRISTY, Richard S., Star Route Box 62, Canton, New York, convicted on May 15, 1961, in the St. Lawrence County Court, Canton, New York.

COIT, Thomas J., Post Office Box 156, Taylor Road, Merrill, Oregon, convicted on October 14, 1946, in the United States District Court, Western District of Texas.

COLE, Gary Harland, Route 5, 4051, St. Francisville, Louisiana, convicted on September 21, 1965, in the Circuit Court of Pensacola, Florida; and on September 28, 1965, in the Court of Record, Crestview, Florida.

COOPER, James G., 1600 East Rochelle, Apartment 141, Las Vegas, Nevada, convicted on January 25, 1963, in the Superior Court of Santa Clara, California.

COOTS, John Douglas, 1213 Charlotte Avenue, Yuba City, California, convicted on March 9, 1973, in the Superior Court of Butte County, California.

COUGHLIN, Lyle J., 3507 Northeast 53rd, Vancouver, Washington, convicted on October 7, 1966, and on July 17, 1971 in the Superior Court of Clark County, Washington.

CRISMORE, Rodney, 4509 Reimche Drive, Antioch, California, convicted on August 7, 1961, in the Superior Court of Contra Costa County, California.

CROCKETT, Henry L., III, Post Office Box 1263, Parksley, Virginia, convicted on July 27, 1972, in the Circuit Court of Northhampton, Virginia; and on May 6, 1975, in the Circuit Court of Allomack County, Virginia.

CROOK, Richard Lee, Route 1, Box 3350, Coquille, Oregon, convicted on September 17, 1975, in the Superior Court of Coos County, Oregon.

CUNNINGHAM, Wayne R., 204 West 62nd Street, Apartment 203, Minneapolis, Minnesota, convicted on November 2, 1956, in the District Court of LaCrosse, Wisconsin; and on April 27, 1965, in the District Court of Hennepin County, Minneapolis, Minnesota.

CURTIS, David M., 24687 Powerline Road, Harrisburg, Oregon, convicted on January 1, 1980, in the Superior Court of Linn County, Oregon.

CURRERI, John Saverio, 1720 Ryewood Road, Baltimore, Maryland, convicted on January 9, 1969, in the Circuit Court of Baltimore County, Maryland

DARSEY, Charles E., Route 2, Hawkinsville, Georgia, convicted on April 23, 1945, in the United States District Court, Macon, Georgia; and on October 21, 1947, in the United States District Court, Macon, Georgia.

DAVIS, Edward Thomas, Route 1, Box 251, Berry, Alabama, convicted on November 18, 1972, in the United States District Court, Western Division, North District, Alabama.

D'AURORA, John, 143 Lincoln Place, Follansbee, West Virginia convicted on May 20, 1980, in the United States District Court, Parkersburg, West Virginia.

DIEZ, Joe R., 4951 Puritan Road, Tampa, Florida, convicted on May 24, 1974, in the United States District Court, Middle District of Florida.

DILLMAN, Dock R., Star Route Box 12, Hunters, Washington, convicted on February 8, 1980, in the Superior Court of Whitman County, Washington.

DONAWHO, James Lears, 1809 Merrick, Fort Worth, Texas, convicted on June 29, 1979, in the United States District Court, Northern Division, Fort Worth, Texas.

DUNBAR, Jerry Lynn, 424 East 10th Street, Hutchinson, Kansas, convicted on June 13, 1975, in the District Court of Reno County, Kansas; and on November 18, 1977, in the District Court of McPherson County, Kansas.

DUNN, Terry G., 1424 Albany, Bend, Oregon, convicted on March 15, 1979, in the Circuit Court of Deschute County, Oregon.

EGGLESTON, Josiah Carr, #6 Winstead Court, Franklin, Tennessee, convicted on April 18, 1979, in the United States District Court of Nashville, Tennessee.

ELDER, Robert H., 566 North Day, Powell, Wyoming, convicted on April 21, 1981, in the 5th Judicial District of Park County, Wyoming.

ENGER, Allen Henry, 2001 Oakwood Avenue, Grand Forks, North Dakota, convicted on July 12, 1978, in the 1st District Court of Grand Forks County, North Dakota.

EVENSEN, Sanden Eldou, 330 3rd Street, Northeast, Surrey, North Dakota, convicted on April 28, 1968, in the 5th District Court of Ward County, North Dakota; and on March 17, 1971, in the 5th District Court of Ward County, North Dakota.

EZZOLO, Daniel Wesley, Route 2, West Eldred Road, Eldred, Pennsylvania, convicted on December 9, 1971, in the McKean County Court, Pennsylvania.

FAIR, Hollie William, 212–A North Holly, Cleveland, Texas, convicted on February 21, 1977, in the 75th District Court of Liberty County, Texas.

FINLEY, LaRae G., 8012 Cataldo, Apartment 58, Spokane, Washington, convicted on July 27, 1977, in the Superior Court of Spokane County, Washington.

FISHER, Gordon M., Post Office Box 437, Gumsville, Oregon, convicted on January 21, 1974, in the Circuit Court of Union County, Oregon.

FLEMING, Thomas Edward, 2311 5th Avenue, Flatwoods, Kentucky, convicted on March 20, 1973, in the Greenup Circuit Court, Kentucky.

FRANK, John Charles, Route 10, Box 15, Brainard, Minnesota, convicted on December 13, 1979, in the District Court of Crow Wing County, Brainard, Minnesota.

FRITZ Martin Louis, Sr., Post Office Box 122, Glenoma, Washington, convicted on May 24, 1971, in the Superior Court of Kitsap County, Washington.

GAGNOR, John Andrew, Jr., Route 3, Box 106–A, Hope Mills, North Carolina, convicted on June 26, 1972, in the County Court of Riverhead, New York.

GALLOWAY, William B., 6615 Second Street, Alexandria, Louisiana, convicted on April 1, 1977, in the Rapids Parish Court, Alexandria, Louisiana.

GALLEGOS, Gerry J., 626 Oriental Avenue, Burtey, Idaho, convicted on November 6, 1970, in the 3rd Judicial District Court of Canyon County, Idaho; and on April 17, 1972, in the United States District Court of Idaho.

GARRETT, Keith A., 1220 Bryant Street, Alexandria, Minnesota, convicted on August 3, 1981, in the 7th District Court of Douglas County, Minnesota.

GASCOIGNE, Pierre James, 4224–6 Ela Street, San Diego, California, convicted on July 27, 1974, in the Superior Court, San Diego, California.

GILMOR, Leonard, 10 Garrison Farms Court, Baltimore, Maryland, convicted on December 11, 1975, in the United States District Court, Baltimore, Maryland.

GOOCH, Joel Young, 4991 West Street, Forrest Park, Georgia, convicted on August 28, 1978, in the United States District Court, Southern District, Ohio.

GRAHAM, Charles E., 4808 Broken Bow Pass, Austin, Texas, convicted in December 1977, in the United States District Court, El Paso, Texas.

GREEN, Carl Phillip, 2512 Lewis Drive, Sebastopol, California, convicted on May 22, 1972, in the United States District Court, San Diego, California.

GREGORY, James V., 417 Manhatten Avenue, New York, New York, convicted on October 12, 1972, in the Supreme Court of Manhatten County, New York.

GRIFFIN, Kenneth W., 14040 15th Northeast #1222E, Seattle, Washington, convicted on February 5, 1980, in the Superior Court of King County, Washington.

GRIGSBY, Gordon, 12626 Southeast 42nd, #B–4, Bellevue, Washington, convicted on June 20, 1977, in the Superior Court of King County, Washington.

GRISSOM, David Nelson, 7812 Tacoma Drive, White Settlement, Texas, convicted on November 30, 1959, in the Criminal District Court of Tarrant County, Texas; and on September 14, 1961, in the Criminal District Court of Tarrant County, Texas.

GROARK, John J., 890 Northwest 34th Street, Oakland Park, Texas convicted on July 13, 1981, in the Circuit Court, 17th District of Broward County, Florida.

GROSS, Thomas Allen, 720 East Preston, Baltimore, Maryland, convicted on September 7, 1976, in the Criminal Court, Baltimore, Maryland.

GUFFEY, William G., 10109 204th Avenue East, Sumner, Washington, convicted on April 9, 1974, in the Superior Court of Licking County, Ohio.

GWINDON, Theodore E., East 1845 Horsehaven Avenue, Post Falls, Idaho, convicted on January 26, 1978, in the 1st Judicial District of Shoshone County, Idaho.

HANSON, Donald R., 31467 State Highway 3, Northeast, Poulsbo, Washington, convicted on June 20, 1978, in the Superior Court of Kitsay County, Washington.

HARTWIG, Steven Glenn, 125 Northeast 6th Avenue, Pine City, Minnesota, convicted on January 3, 1978, in the District Court of Burnett County, Grantsburg, Washington.

HAYDEN, Robert Carl, 34 Noble Avenue, Westfield, Massachusetts, convicted on August 23, 1969, in the District Court of Western Hampton County, Westfield, Massachusetts.

HAYES, Lloyd, 2437 West Sharwood Street, Philadelphia, Pennsylvania, convicted on May 26, 1973, in the Municipal Court, Philadelphia, Pennsylvania.

HARRISON, James A., Route 3, Box 36 C, Stacomb, Alabama, convicted on June 10, 1968, in the Circuit Court of Lake County, Florida.

HARWELL, Joseph Phillip, 519 Abelson Drive, Carmi, Illinois, convicted on May 13, 1975, in the United States District Court, Memphis, Tennessee; and on July 6, 1976, in the United States District Court, Memphis, Tennessee.

HECKENBERG, Wallace J., 11289 North Kendall Drive, Apartment L-115, Miami, Florida, convicted on October 2, 1970, in the 6th Judicial Circuit Court of Pinellas County, Florida.

HEMLING, Robert A., 517 Poplar Street, Denver, Pennsylvania, convicted on April 3, 1979, in the Court of Common Pleas, Reading, Pennsylvania.

HENDERSON, Ronald W., 700 Fairview Road, Coquille, Oregon, convicted on December 21, 1978, in the Superior Court of Coos County, Oregon.

HERJING, Jerry, A., 481 8th Street, New York, New York, convicted on May 20, 1975, in the Superior Court of Placer County, Auburn, California.

HILLOCK, Anita L., Post Office Box 104, Goldendale, Washington, convicted on January 5, 1981, in the Superior Court of Klickitat County, Washington.

HOOCK, Brian W., 5341 Blow Street, St., Louis, Missouri, convicted on January 26, 1979, in the Circuit Court, Clayton, Missouri.

HUGHES, Lewis Vincent, 910 Fifth Avenue, St. Albans, West Virginia, convicted on March 3, 1967, in the District Court of Lincoln Parish, Ruston, Louisiana.

HUGHES, Steven E., 155 Grace Boulevard, Altomonte Springs, Florida, convicted on January 6, 1978, in the Circuit Court of Orange County, Florida.

HUTCHERSON, Eldridge K., 6927 Avenue P, Houston, Texas, convicted on November 22, 1976, in the 174th District Court of Harris County, Texas.

HYSER, Richard B., Jr., Post Office Box 161, Newville, Pennsylvania, convicted on April 26, 1976, in the Court of Common Pleas, Carlisle, Pennsylvania.

JEFFERSON, Lurey, 3285 Whitney, Detroit, Michigan, convicted on March 6, 1956, in the Recorders Court of Detroit, Wayne, County, Michigan.

JENKINS, William Jerry, 2507 Nottingham Way, Apartment 310, Albany, Georgia, convicted on January 10, 1973, in the District Court of Houston County, Alabama.

JOHNSON, Ricky Gene, Route 5, Box 340, McKinney, Texas, convicted on December 4, 1977, in the 204th Judicial Court, Dallas, Texas.

JOHNSON, Robert N., 5451 9th Avenue, Ft. Myers, Florida, convicted on December 10, 1980, in the Superior Court of Maricopa County, Arizona.

JONES, Gregory Lee, 7400 Plum Creek, Houston, Texas, convicted on May 4, 1976, in the 179 District Court, Houston, Texas.

JONES, Ollie, 1602 East Broadway, Phoenix, Arizona, convicted on December 14, 1978, in the Superior Court of Maricopa, County, Arizona.

JONES, Willie, 3906 West 64th Street, Inglewood, California, convicted on September 23, 1974, in Brevard County, Florida.

KAPLOW, Jack N., 900 South Karrow, Whitefish, Montana, convicted on February 24, 1969, in the U.S. District Court, Tucson, Arizona; and on September 27, 1971, in the Superior Court of Alameda County, California.

KIESCHUICK, Philip Elmo, 6919 Pine Vista, Houston, Texas, convicted on April 23, 1976, in the 174th District Court of Harris County, Texas.

KIRSCHNER, Robert John, Post Office Box 2008, Seal Beach, California, convicted on September 21, 1973, in the Superior Court, Los Angeles, California.

KONTALONIS, Perry, Apartment B-2, Parkland Place, Greenwood, South Caolina, convicted on July 6, 1979, in the General Sessions, Greenwood, South Carolina.

KUHNERT, Earl Milton, Lot 202, Paines Trailer Park, 4813 Naylor Road, Vicksburg, Mississippi, convicted on April 3, 1980, in the Circuit Court of Warren County, Vicksburg, Mississippi.

LANDERS, Charles, Allen Hill Road, Oxford, Maine, convicted in December 1971, in the Franklin County Court, of Farmington, Maine.

LAPHAM, Douglas D., 1205 9th Street, Longville, Washington, convicted on June 21, 1978, in the Superior Court of Cowlitz County, Washington; and on November 7, 1978, in the Superior Court of Cowlitz County, Washington.

LEICHTFUSS, Vicki M., Route 1, Box 330Y, Van Dyne, Wisconsin, convicted on December 12, 1977, in the U.S. District Court, Milwaukee, Wisconsin.

LEONELLI, Marco A., 1 Balint Drive, Yonkers, New York, convicted on January 22, 1977 in the Westchester County Court, White PLains, New York.

LEWIS, James L., Route 1, Box 25C, Marshall, Virginia, convicted on March 26, 1975, in the Circuit Court of Fauquier County, Virginia.

LIDDIARD, Lloyd Raymond, Jr., Post Office Box 377, Beverly Shores, Indiana, convicted on December 21, 1962, in the U.S. District Court, Southern District, Cincinnati, Ohio.

LINDSEY, Lori, 1175 Southwest 17th Street, Apartment B-4, Hermiston, Oregon, convicted on January 28, 1976, in the Circuit Court of Umatilla County, Oregon.

LOEHRER, Charles David, Route 7, Box 204, Bel Claire Acres, St. Cloud, Minnesota, convicted on March 17, 1981, in the 7th District Court, St. Cloud, Minnesota.

LONDON, Stanley Karl, 2824 South Jasper Street, Aurora, Colorado, convicted on November 19, 1979, United States Air Force, Travis Air Force Base, California.

LORE, Keith C., 1645 Carol Sue, Apartment 131, Gretna, Louisiana, convicted on October 29, 1980, in the Judicial District of Jefferson Parish, Louisiana.

MADDOX, Benjamin H., Route 1, Box 138, Prattville, Alabama, convicted on August 22, 1975, in the Circuit Court of Montgomery County, Alabama.

MADURA, William Edwin, 226 Eddy Street, Warren, Pennsylvania, convicted on August 6, 1982, in the Court of Common Pleas of Warren County, Pennsylvania.

MAGEE, Reagan H., 2502 Shenandoah, College Station, Texas, convicted on June 18, 1979, in the 85th District Court of Brazos County, Texas.

MALONE, Christopher Louis, 6723 McHenry, Houston, Texas, convicted on February 11, 1976, in the District Court of Harns County, Texas.

MARKTAHLER, Stanley E., 6525 South Gessner, Apartment 1076, Houston, Texas, convicted on December 8, 1976, in the 208th District Court of Harris County, Texas.

MARTH, Allen A., 805 South Eastman, North Platte, Nebraska, convicted on June 17, 1963, in the District Court, Chappell, Nebraska.

McMILLEN, Donald, Jr., 9838 American Avenue, Southwest, #2, Tacoma, Washington, convicted on April 24, 1979, in the Superior Court of Kitsap County, Washington.

MASON, Mitchell, 403 Robertsville Road, Oak Ridge, Tennessee, convicted on May 31, 1961, in the Criminal Court of Andersen County, Tennessee.

MASON, Reginald R., 503 Pell Avenue, Rocky Mount, Virginia, convicted on May 25, 1951, in Hastings Court, Roanoke.

MATTSON, Gregory A., 204 West Victory, Newberry, Michigan, convicted on April 21, 1978, in State Court, Newberry, Michigan; and on February 22, 1979, in State Court, Newberry, Michigan.

MEEDER, James Carlton, 601 Erie Street, Girard, Pennsylvania, convicted on June 11, 1979, in the United States District Court, Erie, Pennsylvania.

MIKEL, Tilden Riter, Route 3, Box 324P, Waco, Texas, convicted on July 15, 1977, in the 42nd District Court of Taylor County, Texas.

MILLER, Bobby Ross, Route 1, Box 322, Zionville, North Carolina, convicted on August 12, 1977, in the Superior Court of Watsuga County, North Carolina.

MILLER, Bruce Quinn, 1005 South Main, Greensburg, Kansas, convicted on September 8, 1976, in the District Court of Kiowa County, Kansas.

MONGAN, David Leroy, 10137 Chadwick, Houston, Texas, convicted on November 11, 1974, in the 9th Judicial District Court of Cass County, Minnesota.

MONTGOMERY, J. K., 927 Russell Street, Bristol, Virginia, convicted in 1932 and 1941, in the Court of Bristol, Virginia, and in the United States District Court, Virginia.

MOREAU, Maureen A., 411 North 4th Street, Yakima, Washington, convicted on November 24, 1972, in the District Court of Yakima County, Washington; and also on

November 7, 1979, in the Superior Court of Yakima County, Washington.

MURRAY, Michael, Post Office Box 1161, Walsenburg, Colorado, convicted on April 17, 1981, in the Superior Court of Stevens County, Washington.

MURRAY, Patrick, Post Office Box 1161, Walsenburg, Colorado, convicted on April 17, 1981, in the Superior Court of Stevens County, Washington.

NEIDIGH, Samuel Eugene, Sr., R.D. #3, Box 353–1, Newville, Pennsylvania, convicted on May 1, 196, in the Court of Quarter Sessions of Cumberland County, Pennsylvania.

NELSON, James A., 323 Fremont Street, Kiel, Wisconsin, convicted on May 9, 1962, in the County Court, Fond du Lac, Wisconsin; and on June 7, 1965, in the County Court, Fond du Lac, Wisconsin; and on June 6, 1966, in the County Court, Fond du Lac, Wisconsin.

NELSON, Ralph Norman, 3504 125th Avenue, Allegan, Michigan, convicted on June 5, 1980, in the United States District Court, Northern Division of Illinois.

NICHOLSON, Dudley R., 1712 Evans, #2, Cheyenne, Wyoming, convicted on November 19, 1976, in the 1st Judicial District of Laramie County, Wyoming.

O'LEARY, Benard M., 122 North 53rd Avenue, West, Duluth, Minnesota, convicted on December 14, 1961, in the Circuit Court of St. Louis County, Minnesota.

ORCUTT, Stephen R., 275 Hazelwood Drive, St. Paul, Minnesota, convicted on March 3, 1970, in the District Court of Hennepin County, Minnesota.

OUSE, Duane Edward, 617 South Hunt Road, Newman, California, convicted on January 15, 1961, in the Superior Court, Modesto, California.

OZANNE, Gayleen A., 321 East Oakmont, Apartment 15, Mitchell, South Dakota, convicted on November 11, 1980, in the Circuit Court of Darison County, South Dakota.

PACITTI, Joseph, 5154 Mebus Street, Philadelphia, Pennsylvania, convicted on April 28, 1972, in the Philadelphia Municipal Court, Pennsylvania.

PERDIEU, Roy Alvin, 1501 Pierce Street, Lynchburg, Virginia, convicted on September 9, 1976, in the Lynchburg Circuit Court, Virginia.

PETERS, Timothy Kurt, 7946 Longridge Avenue, Houston, Texas, convicted on February 22, 1974, in the 178th District Court of Harris County, Texas.

PETTERSON, Michael Rennie, 2321 Dupont Avenue South, Apartment #4, Minneapolis, Minnesota, convicted on November 20, 1969, in the District Court of Hennepin County, Minnesota; and on October 28, 1973, in the District Court of Hennepin County, Minnesota.

PHILLIPS, Richard, 1636–B, West Lake Court, Atlanta, Georgia, convicted on February 10, 1964, in the Superior Court of Fulton County, Georgia.

POKORSKI, Lavern, 6030 South 38th Street, Omaha, Nebraska, convicted on August 2, 1960, in the Criminal Court, Hillsborough, Florida.

PRESTEGARD, Warren Patrick, 1315 North State Street, Aberdeen, South Dakota, convicted on April 10, 1978, in the Circuit Court, Aberdeen, South Dakota; and on May 29, 1971, in the Circuit Court, Aberdeen, South Dakota.

PRYOR, William E., 7334 Glen Manor, Houston, Texas, convicted on September 21, 1978, in the 179th District Court of Harris County, Texas.

RICE, Budd L., Route 2, Box 99, Seneca, Pennsylvania, convicted on September 25, 1978, in the United States District Court, Erie, Pennsylvania.

ROPER, John Kenneth, 22 Amber Place, Alamo, California, convicted on May 2, 1980, in the United States District Court, San Francisco, California.

ROUQIER, Michael W., R.D. 2, Box 36, Bristol, Vermont, convicted on April 11, 1979, in the United States District Court, Burlington, Vermont.

RUBIN, David Richard, 495 Piney Fork Lane, College Park, Georgia, convicted on February 6, 1951, in the United States District Court, Wichita, Kansas.

RUFF, Harvey Collins, 1912 Forest Road, Lot #5, Bedford, Virginia, convicted on December 15, 1975, in the Circuit Court of Benford County, Virginia.

RUSSELL, Douglas J., 1231 East 168th Place, South Holland, Illinois, convicted on January 23, 1970, in the United States District Court, Northern District of Chicago, Illinois.

SANTMYERS, Ralph L., Route 1, Box 192 A–1, Bentonville, Virginia, convicted on March 5, 1973, in the Circuit Court of Warren County, Virginia.

SCHINGING, Louie W., III, 1819 East 27th Street, Vancouver, Washington, convicted on February 16, 1979, in the Superior Court of Clark County, Washington.

SCHOLTEN, Kent W., 7424 East Speedway Boulevard, Tucson, Arizona, convicted on June 19, 1967, in District Court of Waukesha County, Wisconsin.

SCHUMAN, Charles George, 2515 Avalon, Troy, Michigan, convicted on January 24, 1955, in the Circuit Court of Oakland County, Michigan.

SERNA, James Lewis, 2344 Porter Way, Stockton, California, convicted on July 3, 1959, in the Superior Court of Santa Clara County, California.

SHAPIRO, Michael B., 470 Northeast 160 Street, North Miami, Florida, convicted on October 19, 1973, in the 11th Circuit Court of Dade County, Florida.

SHOOP, Lyle J., 53 Lake Point Drive, Harrisburg, Pennsylvania, convicted on November 8, 1978, in the Criminal Court of Franklin County, Pennsylvania.

SHUMATE, Ronald Howard, Route 1, Box 70–A, North Wilkesboro, North Carolina, convicted on April 20, 1977, in the Superior Court of Wilkesboro, North Carolina.

SILVER, Herbert, 2967 Avenue "S", Brooklyn, New York, convicted on July 13, 1972, in the District Court, Eastern District of New York.

SLOAN, Joseph Garrett, 3026 Sunset Forest Road, Anderson, South Carolina, convicted on June 21, 1978, in the United States District Court, Northern District, Pensacola, Florida.

SLYSZ, Ronald E., 2717 Brown Street, Philadelphia, Pennsylvania, convicted in 1969, in the Municipal Court, Philadelphia, Pennsylvania.

SMITH, John J., 218 Salaignac Street, Philadelphia, Pennsylvania, convicted on February 23, 1951, in the Court of Common Pleas, Philadelphia, Pennsylvania.

SMITH, Kevin W., 947 3rd Avenue, Longview, Washington, convicted on March 17, 1980, in the Superior Court of Cowlitz County, Washington.

SMITH, Richard A., 2809 Howard Street, Cocur d'Alene, Idaho, convicted on January 17, 1978, in the 1st District Court of Kootenai County, Idaho.

SPURGEON D. Keith, Sr., Route 4, Box 4038, Wapato, Washington, convicted on June 16, 1981, in the United States District Court, Eastern District of Washington.

STANG, Joseph A., Route 2, Box 152A, #3, Prineville, Oregon, convicted on March 31, 1976, in the Circuit Court of Crook County, Oregon.

STAUB, Stephen G., West 537 Euclid, Spokane, Washington, convicted on January 22, 1971, in the Superior Court of San Joaquin County, California.

STEARNS, Robert S., 7515 East Washington Street, Apartment B, Indianapolis, Indiana, convicted on January 13, 1955, in the Criminal Court of Marion County, Indiana.

STEPHAN, William Junior, 100 South Ridge Road, Wichita, Kansas, convicted on May 18, 1967, in the District Court of Shawnee County, Kansas; and on May 28, 1967, in the District Court of Shawnee County, Kansas.

STEWART, Rocky Glen, 2620 Bamberry, Fort Worth, Texas, convicted on June 22, 1978, in the County Court of Comanche, Texas.

STOLDESTAD, Jay A., Route 9, Box 268, Bemiddi, Minnesota, convicted on February 1, 1982, in the Circuit Court of Beltram County, Minnesota.

STROH, Hugh W., 3457 72nd Southeast, Mercer Island, Washington, convicted on April 30, 1979, in the Superior Court of King County, Washington.

STRONG, Blaine Werner, 539 West Dana, Mesa, Arizona, convicted on September 27, 1979, in the Superior Court of Maricopa County, Arizona.

STROYEK, Steven D., 2029 Nebraska, Blair, Nebraska, convicted on November 5, 1979, in the District Court of Washington County, Nebraska.

STRUB, Terrence Joseph, 3033 Rosebriar Drive, Durham, North Carolina, convicted on May 16, 1978, in the Superior Court, Durham, North Carolina.

SWAFFORD, Kenneth Lionel, 500 South Sparkman Street, Hartselle, Alabama, convicted on July 9, 1979 in the United States District Court, Norther District of Alabama.

SWINSON, David Wayne, Post Office Box 17, Dundas, Illinois, convicted on September 12, 1977, in the 2nd District Circuit Court, Olney, Florida.

TATE, John Dennis, 5868 Sixteen Mile Road, Cedar Springs, Michigan, convicted on July 28, 1960, in the 2nd Judicial District, Rawlins, Wyoming.

TAYLOR, James, 482 Decatur Street, Brooklyn, New York, convicted on November 17, 1976, in the United States District Court, Southern District of New York.

THOMAS, James Lee, 3375 Wylie Drive, #13, Henlena, Montana, convicted on

December 3, 1976, in the 2nd District Court of Silverbow County, Montana.

THOMPSON, Dick Johnson, 1226 Dixie Trail, Raleigh, North Carolina, convicted, on March 5, 1979, in the United States District Court, Raleigh, North Carolina.

THURMAN, Morris Wayne, Route 3, Green Mill Road, Columbia, Tennessee, convicted in November 1961, in the Circuit Court, Columbia, Tennessee.

THURMOND, Allan George, 2323 Central Avenue, Augusta, Georgia, convicted on July 14, 1978, in the United States District Court, Alken, South Carolina.

TOMBLIN, Earl, Box 116, Chapmanville, West Virginia, convicted on January 27, 1971, in the United States District Court, Charleston, West Virginia.

TOWNSEND, Lisa M., 590 Lewis Lane, #61, Casper, Wyoming, convicted on January 22, 1981, in the District Court of Natrona County, Wyoming.

TRICE, William H., 1015 Hayes Street, Hopkinsville, Kentucky, convicted on March 24, 1978, in the Circuit Court of Christian County, Kentucky.

TROUPE, Robert Ray, 710 Ashland Road, Lot 37, Mansfield, Ohio, convicted on September 7, 1977, in the United States District Court, Eastern Division, Akron, Ohio.

TURNER, Luis Alvin, 1414 West 2nd Street, Eveleth, Minnesota, convicted on January 4, 1960, in the District Court of St. Louis County, Minnesota.

TWIFORD, Craig L., 2814 Neff Street, Elkhart, Indiana, convicted on July 10, 1975, in the Circuit Court of Cass County, Michigan.

VASSER, Gary Tilman, 1025 Nottingham, Angleton, Texas, convicted on January 23, 1978, in the District Court of Brazoria County, Texas.

WALKER, Jack N., Route 2, Box 474, Cottondale, Alabama, convicted in October 1970, in the United States District Court, Western Division, Northern District of Alabama.

WESTMORELAND COAL COMPANY, 2500 Fidelity Building, 1235 South Broad Street, Philadelphia, Pennsylvania, convicted on November 14, 1982, in the United States District Court, Charleston, West Virginia.

WHITE, Frederick, 5822 LaFaye Street, New Orleans, Louisiana, convicted on February 12, 1953, in District Court, New Orleans, Louisiana.

WIESEN, Dale Robert, 203 Park Avenue, Waupon, Wisconsin, convicted on December 26, 1963, in the District Court of Goodbus County, Nevada; and on March 5, 1970, in the District Court of Hennepin County, Minnesota; and on August 25, 1975, in the County Court Eau Claire, Wisconsin.

WILKINS, Danny Lyle, Post Office Box 2944, Globe, Arizona, convicted on June 19, 1969, United States Army court martial, Ft. Ord, California.

WILLIAMSON, Mark Weldon, 3400 Robinson Drive, Apartment 122, Waco, Texas, convicted on June 5, 1978, in the 54th District Court of McLennan County, Texas.

WINSTON, Berle, 3232 Sarah Street, Bossier City, Louisiana, convicted on March 31, 1978, in the United States District Court, Western District of Louisiana.

WOOD, John Merrell, 15 Miller Street, Rome, Georgia, convicted on January 19, 1961, in the Superior Court of Gordon County, Georgia.

WOODLEY, Jeffrey, D., 1116 High Street, Rawlins, Wyoming, convicted on September 26, 1980, in the 2nd District Court, Rawlins, Wyoming.

WOODRUFF, Donald Glen, 806 Frisco Street, Houston, Texas, convicted on October 20, 1975, in the 179th Criminal District Court of Harris County, Texas.

WYATT, Douglas Leon, 306 Cottonwood Lane, Prince George, Virginia, convicted on September 8, 1978, in the Circuit Court, Richmond, Virginia.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, 46FR13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: June 13, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-16517 Filed 6-20-83; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 120
Tuesday, June 21, 1983

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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CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Friday, June 24, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Kerosene Heaters: Staff Report

The staff will brief the Commission about the staff's efforts to assess potential hazards to consumers from the use of portable kerosene heaters and present recommendations for further actions.

For a recorded message containing the latest agenda information: call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[S-890-83 Filed 6-17-83; 3:42 pm]

BILLING CODE 6355-01-M

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DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 10 a.m., June 30, 1983.

PLACE: Cash Room, Department of the Treasury (use Pennsylvania Avenue Entrance) Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Accelerating the Deregulation of Rate Ceilings and Rationalizing the Regulations on Current Account Categories.

2. Interest-Bearing Transactions Accounts for Businesses.

Note.—The meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC Offices at the Department of the Treasury, and copies may be purchased for $5.00 a cassette by calling (505) 566-5152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1060 MT, Washington, D.C. 20220.

For further information about the DIDC and the June 10, 1983, meeting please call (202) 566-3734.

June 17, 1983.

Mark G. Bender,

Executive Secretary.

[S-882-83 Filed 6-17-83; 2:40 pm]

BILLING CODE 6210-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, June 23, 1983

June 16, 1983

The Federal Communication Commissions will hold an Open Meeting on the subjects listed below on Thursday, June 23, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* American Telephone and Telegraph Company Petition for Waiver of §§ 69.1(b), 69.3(e), 69.4(b) (7) and (8), 69.101, 69.111 and 69.112 of the Commission's Rules and Regulations. *Summary:* The Commission will consider whether to grant AT&T's petition for waiver of the Commission's rules prescribing the rate structure for the transport elements of the Bell Operating Companies' access service tariffs.

Common Carriers—2—*Title:* American Telephone and Telegraph Company; Interim Settlement Proposal in Docket No. CC 81-351 investigating revisions to AT&T's tariffs for Series 7000 Terrestrial Television Transmission Services. *Summary:* The Commission will consider the Interim Settlement Proposal filed by the User Parties in this proceeding, and the comments on the proposal, concerning AT&T's rate structure for Series 7000 service.

Common Carrier—3—*Title:* MTS Optional Calling Plans. *Summary:* The Commission will consider whether to permit AT&T to conduct an experiment with its MTS rates in certain exchange areas in the trial states of New York, California, and Iowa to terminate on December 31, 1983.

Audio—1—*Title:* Application for review filed by Millard Orick, Jr., challenging the grant, by delegated authority, of the application of Rim-Co., Inc., for a new AM station at Payson, Arizona. *Summary:* The Commission considers an application for review filed by Millard Orick, Jr., challenging the grant, by delegated authority, of the above application

Video—1—*Title:* Request of Broadcast Corporation of Georgia (WVEU(TV)), Channel 69, Atlanta, Georgia, for authority to resume full power operation. *Summary:* The Commission will consider what measures may be utilized by WVEU(TV), to eliminate interference to land mobile licensees in Atlanta, Georgia, thereby, allowing WVEU(TV) to resume full power operations.

Enforcement—1—*Title:* Application for Review of a Bureau ruling denying a Fairness Doctrine complaint, filed by the American Security Council. *Summary:* The Mass Media Bureau found that the American Security Council failed to establish the CBS did not present contrasting viewpoints in its overall programming on the issue of "National Defense: do we need less or do we need more?" The Commission will consider whether this finding is correct.

Enforcement—2—*Title:* Application for Review of a Bureau ruling dismissing a Petition for Reconsideration of a Fairness Doctrine complaint filed by Accuracy in Media, as untimely filed. *Summary:* The Mass Media Bureau found that Accuracy in Media had failed to file its Petition for Reconsideration within the statutory time frame. The Commission will consider whether the Bureau's action was appropriate.

Enforcement—3—*Title:* Application for Review of a Bureau ruling denying a Fairness Doctrine complaint, filed by the Joint Council of Allergy and Immunology. *Summary:* The Mass Media Bureau found that ABC was not unreasonable in its determination that the treatment of allergy sufferers was not a controversial issue of public importance. The Commission will consider whether this finding is correct.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 16, 1930.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-883-83 Filed 6-17-83; 2:42 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, June 23, 1983

June 16, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, June 23, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Application for Review of a Hearing Designation Order in the Athens, Tennessee, comparative DPLMRS proceeding (Docket Nos. 83–8 and 83–9)

Hearing—2—Application for Review of a Review Board Decision in the Wickenburg, Arizona, comparative FM proceeding (BC Docket Nos. 81–357, 81–358).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603(j)).

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission June 13, 1983: Commissioners Fowler, Chairman; Quello, Fogarty, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning his meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 16, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-884-83 Filed 6-17-83; 2:44 pm]

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 27642, Thursday, June 16, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled to start at 10 a.m., has been changed to 10:30 a.m., Thursday, June 23, 1983.

June 17, 1983.

[S-888-83 Filed 6-17-83; 2:48 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 27642, June 16, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., June 22, 1983.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. Volume Incentive Program of Agreements Nos. 10107 and 10108.

[S-889-83 Filed 6-17-83; 3:42 pm]

BILLING CODE 6730-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 15, 1983.

TIME AND DATE: 10 a.m., Wednesday, June 22, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Local Union 1889, District 17, UMWA v. Westmoreland Coal Company, Docket No. WEVA 81–256–C. (Issues include whether the judge erred in refusing to retain jurisdiction over the UMWA's compensation claim filed under section 111 of the Act.)

2. United States Steel Mining Co., Inc., Docket No. PENN 82–328; Petition for Discretionary Review. (Issues include whether the judge properly assessed a civil penalty.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-887-83 Filed 6-17-83; 2:47 pm]

BILLING CODE 6735-01-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-13]

TIME AND DATE: 9 a.m., Tuesday, June 28, 1983.

PLACE: NTSB Board room, Eighth floor, 800 Independence Ave. SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Midair Collision of Aero Commander Model 560E, N3627C, and Cessna 182Q, N96402, Livingston, New Jersey, November 20, 1982, and Recommendations.

2. *Letter* to Air Line Pilots Association in response to Petition for Reconsideration of Probable Cause of Aircraft Accident, Trans World Airlines, Inc., Boeing 727–31, N840TW, near Saginaw, Michigan, April 4, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

June 17, 1983.

[S-885-83 Filed 6-17-83; 2:44 pm]

BILLING CODE 4910-58-M

9

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-14]

TIME AND DATE: 9 a.m., Thursday, June 30, 1983.

PLACE: NTSB Board room, Eighth floor, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first two items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Safety Studies Program.*
2. *Safety Objectives Plan.*
3. *Opinion and Order*—Petition of Meade, Dkt. SM–2898; disposition of the Administrator's appeal.
4. *Opinion and Order*—Administrator v. Smith, Dkt. SE–5569; disposition of respondent's interlocutory appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

June 17, 1983.

[S-886-83 Filed 6-17-83; 2:45 pm]

BILLING CODE 4910-58-M

federal register

Tuesday
June 21, 1983

Part II

Environmental Protection Agency

General NPDES Permit for Offshore Oil and Gas Facilities Off Southern California; Notice of Draft and Public Hearing for Modification and Reissuance

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2377-5]

Draft General NPDES Permit for Offshore Oil and Gas Facilities Off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of Draft General NPDES Permit: Reissuance.

SUMMARY: The Regional Administrator of Region 9 is proposing to issue a general NPDES permit for facilities in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. When issued, this permit will allow permitted facilities operating in Federal waters off Southern California to maintain compliance with effluent limitations, standards, prohibitions and other conditions established in the general NPDES permit issued on February 18, 1982 (47 FR 7312) for an additional 6 months. The area covered by the general permit includes lease parcels in Federal Lease Sales Nos. 35, 48, and 53. On January 3, 1983 EPA proposed to modify the current general permit to also include additional tracts leased in Sale No. 68 and Reoffering Sale No. 2. (For further information see 48 FR 76). Both proposals, modification of the general permit and reissuance of the general permit will be the subject of a public hearing on August 11, 1983 in Santa Barbara, CA. For further information see the notice of Public Hearing for Modification and Reissuance of General NPDES Permit No. CA0110516 Covering Oil and Gas Operations Offshore Southern California published elsewhere in today's issue.

The draft general permit proposed today contains the same effluent limitations and operating conditions as the current general NPDES permit. The porposed permit has an effective date of January 1, 1984 and an expiration date of June 30, 1984. The proposed general permit will in effect reissue the existing permit to provide an effective general permit for an additional 6 months.

This proposed permit does not authorize discharges into the territorial seas of the State of California or discharges into any body of water landward of the inner boundary of the territorial seas or any wetlands adjacent to such waters (facilities in the "Onshore" and "Coastal" subcategories defined in 40 CFR Part 435), which is consistent with the current general permit. Also, the permit will not authorize discharges from facilities defined in 40 CFR § 122.2 as "new sources"

Copies of the fact sheet and draft permit may be obtained from the address below.

DATES: *Comment Period*—Interested persons may submit comments on the draft general permit and administrative record to the Regional Administrator at the address below no later than August 25, 1983.

ADDRESS: Comments should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California. (Telephone No. (415) 454–8330).

FOR FURTHER INFORMATION AND COPIES OF DRAFT PERMITS CONTACT: Eugene Bromley, Region 9, U.S. Environmental Protection Agency 215 Fremont Street, San Francisco, California. (Telephone No. (415) 454–8330).

SUPPLEMENTARY INFORMATION:

I. Background

The general NPDES permit authorizes discharges from offshore oil and gas facilities operating in Federal water offshore Southern California on active lease parcels from Lease Sales Nos. 35, 48, and 53, and the 1966 and 1968 Federal lease sales. Twenty-nine additional tracts were leased by the Minerals Management Sevice (MMS) in the recent Lease Sale No. 68. These tracts are (by OCS parcel number): P–0456, P–0457, P–0459, P–0460, P–0461, P–0462, P–0463, P–0464, P–0465, P–0467, P–0468, P–0469, P–0472, P–0473, P–0474, P–0475, P–0478, P–0479, P–0480, P–0481, P–0482, P–0483, P–0484, P–0485, P–0486, P–0487, P–0488, P–0489, P–0490. Ten additional tracts were also leased in Reoffering Sale No. 2, Southern California Area. The numbers of these parcels are (by OCS lease parcel number): P–0491 through P–0500 inclusive. EPA proposed to modify the geographic area covered by the general permit to include authorization to discharge on the tracts awarded in these two lease sales on January 3, 1983 (48 FR 76).

The fact sheet accompanying the issuance of the general permit (February 18, 1982, 47 FR 7312) set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the permit. As discussed below, EPA believes that these terms and conditions are also appropriate for discharges occurring during the 6 month period of January 1, 1984 through June 30, 1984.

Although NPDES permits may be issued for 5 year terms, the Regional Administrator decided, for several reasons, that the original general permit should be issued with an expiration date of December 31, 1983. First, Section 301(b)(2) of the Act requires that all permits effective or issued after July 1, 1984 contain effluent limitations representing best available technology economically achievable (BAT) for all categories and classes of point sources. The December 31, 1983 date was included in the permit to allow a reasonable time for the permittees to achieve BAT limitations no later than July 1, 1984. Second, the Regional Administrator concluded that the discharges from facilities operating within the scope of the permits would not cause unreasonable degradation of the marine environment. This conclusion was based on a consideration of the Ocean Discharge Criteria guidelines (45 FR 65942) and an extensive analysis of the available information on the fate and effects of drilling mud discharges. At the time the permits were issued, the available scientific information did not warrant the same conclusions for operations over a 5 year period, the normal term of a NPDES permit.

The Agency is developing a more comprehensive evaluation of the effects of oil and gas discharges on the marine environment pursuant to the Ocean Discharge Criteria, including information on impacts associated with multiple wells at fixed sites, impacts on benthic communities, and bioaccumulation studies. However, the Agency has determined that an additional 6 months under the proposed reissuance does not change the original finding of no unreasoable degradation under 403(c).

The Agency is now developing BAT effluent guidelines for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These regulations will specify technology-based limitations to be imposed in NPDES permits. At the time the current permit was issued the Agency expected a BAT determination to be completed by December 31, 1983. It is now apparent that the BAT determination will not be completed until sometime after that date. In order to ensure a permit consistent with the BAT guideline determination, the Agency is proposing to reissue the current permit for 6 months. The development of these guidelines combined with the additional information on the effects of the discharges will enable the Agency to propose and issue 5 year term general permits on or before June 30, 1984.

II. Conditions in the General NPDES Permit

A brief summary of the terms and conditions of the draft general NPDES permit is presented below.

A more thorough explanation can be found in the original publication of the current general permit at 47 FR 7312.

A. Notification. Permittees will be required to notify the Agency of the commencement and termination of operations in the general permit area. Mobile drilling rigs will also be required to notify the Agency of relocation within the permit area.

B. Technology Based Effluent Limitations. The draft permit contains effluent limitations based on the technological capacity of the dischargers to control the discharge of their pollutants or "Best Practicable Control Technology Currently Available" (Section 301(b)(1)(A) of the Clean Water Act and 40 CFR Part 435).

C. Other discharge Limitations. The proposed permit contains a list of approved drilling muds. Variation from the list requires the owner or operator to conduct bioassay tests and submit the analyses to the Regional Adminstrator. The permit also prohibits the discharge of drilling mud in a volume and/or concentration which, after allowance for initial dilution, would result in exceedences of the limiting permissible concentration (LPC) for a particular drilling mud (40 CFR 227.27(a)). The discharge of oil-based drilling muds is prohibited.

The permit includes effluent limitations for heavy metals in produced waters based on the daily maximum concentration in the California Ocean Plan.

The facility owner or operator is required to minimize the discharge of dispersants, surfactants, and detergents. The discharge of halogenated phenols is prohibited.

D. Monitoring and Enforcement. The permit requires dischargers to monitor monthly the concentrations of oil and grease in produced water discharges and chlorine in sanitary wastes. Monthly monitoring or estimates of produced water flow rate is required, as well as annual sampling for heavy metals. Monthly volume estimates are required for drilling muds, drill cuttings, deck drainage, produced sand, and well treatment fluids. A chemical inventory of materials actually added down the well must also be maintained. Discharge Monitoring Reports must be submitted annually.

III. Other Legal Requirements

(1) *Consistency with California Coastal Zone Management Program.* The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally-licensed activity affected the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. The original general permit did not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. Also the original permit requires that operations under the general permit may not be conducted within 1,000 meters of the territorial seas of the State of California until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with the CZMP and has been concurred upon by that Commission. The reissued permit proposes to include the modification of the general permit area. The modification of the general permit area includes some new lease parcels located within 1,000 meters of the territorial seas of the State of California. Therefore this same provision requiring consistency certification will apply to these parcels in the reissuance of the permit. Since the requirement for certification is the same, the proposal to reissue the general permit complies with the requirements of the CZMP.

(2) *Endangered Species Consultations.* The Endangered Species Act requires that each Federal Agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. The MMS has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior's Fish and Wildlife Service, with respect to all oil and gas leasing in the general permit area. Prior to issuance of the general permit EPA concluded that the discharges authorized by the general permit would neither jeopardize the continue existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service concurred with this conclusion. The reissuance proposal extends the authorization to discharge for 6 additional months in the same locations where discharges are currently authorized and includes new areas described in the proposed modification. This action does not contain any previously unidentified listed species or any newly identified habitats which will be jeopardized or adversely affected by an authorization to discharge under the general permit. Therefore EPA believes that the previous conclusion regarding effects on endangered species is applicable to the proposal to reissue the general permit.

(3) *Public Comment Period.* The purpose of this notice is to receive comments from interested persons. Copies of the draft general permit and fact sheet may be obtained from the address above. The administrative record (with the exception of material readily available at Region 9 or published material that is generally available) is on file in the Regional Office of EPA, at the above address and may be inspected and copies at $0.20 per page at any time between 8:30 a.m. and 4:30 p.m., Monday through Friday. Interested persons may submit comments on the draft permit to the Regional Administrator at the above address no later than August 25, 1983. All persons who believe that any of the conditions of the draft general permit are not appropriate, or that the tentative decision to reissue the general permit is not appropriate, have an obligation to raise all reasonable ascertainable issues and submit all arguments and factual grounds supporting their position, including all supporting material, by the close of the comment period. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already a part of the administrative record or consist of State or Federal regulations, EPA documents of general applicability, or other generally available reference materials.

EPA will consider the issuance of a final general permit following the public hearing and after close of the public comment period. All comments timely submitted by interested persons in response to this notice and statements and other evidence properly submitted will be considered by the Regional Administrator in the formulation of her final decision.

Any persons who submit timely written comments will receive notice of the Regional Administrator's final decision.

Further information concerning EPA's

permitting procedures may be found in 40 CFR Part 124.

(4) *Economic Impact: E.O. 12291.* EPA has reviewed the effect of Executive Order 12291 on the proposed reissuance and has determined that it is not a major rule under that order. The original general NPDES permit was submitted to the Office of Management and Budget for review under the Executive Order 12291. Any comments submitted to the Agency by OMB are included in the Administrative Record. Any changes in general permit resulting from the proposal to reissue the permit will require OMB review prior to promulgation.

(5) *Paperwork Reduction Act.* EPA has reviewed the requirements imposed on regulated facilities by the proposed permit reissuance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements in the proposed permit have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general permit will explain how its information collection requirements respond to any OMB or public comments.

(6) *Regulatory Flexibility Act.* After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that the proposed permit reissuance will not have a significant impact on a substantial number of small entities. Moreover, they reduce a significant administrative burden on regulated sources.

Dated: June 6, 1983.

John Wise,

Acting Regional Administrator, Region 9.

[FR Doc. 83-16548 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2377-6]

Public Hearing for Modification and Reissuance of General NPDES Permit No. CA0110516 Covering Oil and Gas Operations Offshore Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of Public Hearing.

SUMMARY: The U.S. Environmental Protection Agency (EPA) will conduct a public hearing on a proposed modification and a proposed reissuance of the National Pollutant Discharge Elimination System (NPDES) general permit identified above. The modification would add to the general permit, as authorized discharge sites, the 39 tracts which were leased by the Minerals Management Service in 1982 from Lease Sale #68 and Reoffering Sale #2 (Southern California area). EPA also proposes to reissue this permit (unchanged) for the 6 month period beginning January 1, 1984 and ending June 30, 1984. For more information concerning the proposed modification see 48 FR 76, and for additional information concerning the proposed reissuance see Draft General NPDES Permit for Offshore Oil and Gas Facilities Off Southern California published elsewhere in today's issue.

The hearing will be held as follows:

Date: Thursday, August 11, 1983.

Time:

1:30 P.M. Session

7:30 P.M. Session*

Place: Board of Supervisors Hearing Room, Fourth Floor, County Administration Building, 105 E. Anapamu Street, Santa Barbara, CA 93101.

The public hearing will be conducted pusuant to 40 CFR 124.12 and is for the purpose of receiving comments from the public on the proposed modification and the proposed reissuance of the general permit. All interested persons are invited to submit their views.

Oral statements at the hearing will be received and considered, but for accuracy of record all important testimony should be submitted in writing so that there will be time for all interested persons to be heard. A record of the proceedings will be made for consideration by EPA before final action is taken. It will contain all written and oral comments and be available for public inspection. Any evidence or comment that any person wishes to rely upon to contest any determination that EPA may make, must be submitted at the public hearing or during the comment period unless good cause is shown for not doing so.

DATES: Persons wishing to comment on this proposed modification and proposed reissuance may submit either oral or written comments at the hearing, or may submit written comments to be received by EPA before the close of business August 25, 1983 at the address shown below.

ADDRESS: Comments should be sent to the Environmental Protection Agency, Region 9, Water Management Division (W-1), 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105 (Telephone Number (415) 974-8330).

Dated: June 13, 1983.

Frank M. Covington,

Director, Water Management Division.

[FR Doc. 83-16549 Filed 6-20-83; 8:45 am]

BILLING CODE 6560-50-M

* For the evening session, please enter the Building from the County Administration Parking Area.

federal register

Tuesday
June 21, 1983

Part III

Department of Health and Human Services

Social Security Administration

Aid to Families With Dependent Children; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Parts 206, 232, 233, 234, 238 and 240

Aid to Families With Dependent Children

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations implement changes made in the Aid to Families with Dependent Children (AFDC) program by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). The major statutory changes reflected in these regulations:

(1) Strengthen work requirements by permitting employment search activities for applicants and recipients;

(2) Target assistance to the most needy by:

—Permitting proration of amounts for shelter, utilities and similar needs when AFDC families live with other individuals in the same household; and

—Prohibiting payments when absence of a parent is due solely to active duty in a uniformed service of the United States of America;

(3) Improve program administration by:

—Providing that assistance payments are not made for any period prior to the date of application; and

—Rounding both the standard of need and the benefit amount, when not a whole dollar, to the next lower whole dollar.

Changes made by these regulations are limited to the AFDC program.

EFFECTIVE DATE: These final regulations interpret the statutory changes required by Pub. L. 97–248 and are effective on publication.

FOR FURTHER INFORMATION CONTACT: Mr. David Siegel, Office of Family Assistance, SSA, Transport Building, 2100 Second Street, S.W., Washington, D.C. 20201, (202) 245–2637.

SUPPLEMENTARY INFORMATION:

Timing and Form of Regulations

On September 17, 1982, we published interim final regulations for the Aid to Families with Dependent Children Program. (See Volume 47 of the **Federal Register**, pages 41108–41116.) In accordance with section 161 of Pub. L. 97–248, the interim final regulations were effective on October 1, 1982, except where the Secretary determined that State legislation was required to conform the State plan to these requirements. In such case, the Secretary could waive the effective date for one or more provisions which required State legislation until the end of the first session (whether regular, special, budget or other session) of the State legislature which began after October 1, 1982 or which began prior to October 1, 1982 and remained in session until at least October 26, 1982. These final regulations are effective on publication except where the Secretary has granted a waiver under section 161 of Pub. L. 97–248.

Regulatory Burden

Regulatory Impact Analysis

The legislation and regulations, viewed together, may have an annual effect on the economy of more than $100 million. However, the discretionary latitude exercised by the Secretary under these regulations does not exceed $100 million, and therefore these regulations do not constitute a "major rule" as defined in Executive Order 12291. Thus, a regulatory impact analysis, describing potential benefits of the regulations and alternative approaches and their costs and benefits, is not required. Nevertheless, where appropriate to a particular provision, we have voluntarily prepared such an analysis and included it in the discussion of the provision.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. For each particular regulation with a "significant impact on a substantial number of small entities" (e.g., small businesses) we must publish an initial analysis describing the regulation's impact on them. This analysis is to indicate the purpose and reason for the regulation and the number of small businesses to which it would apply, to anticipate reporting and recordkeeping requirements, to identify possible overlap and conflict with other Federal regulations, and to describe possible alternative means of accomplishing the stated objectives which would minimize the impact on small businesses.

The primary impact of these regulations are on State governments and individuals. We do not believe that any provision will have direct impact on small businesses or other small entities within the intent of the Regulatory Flexibility Act and therefore, a regulatory flexibility analysis is not required.

Recordkeeping/Reporting Burden

Information collection requirements contained in this final regulation have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The reporting or recordkeeping provisions for Employment Search have been assigned OMB No. 0960–0319, and the State plan requirements OMB No. 0960–0252.

Discussion of Major Provisions and Responses to Comments

A discussion follows of the AFDC provisions contained in Pub. L. 97–248 and the options considered in developing the implementing regulations. For ease of reference, we are including, where appropriate, the discussion of each provision and options which were published in the interim final. We have highlighted the areas where there are any substantive changes followed by a comment and response section based on comments received in response to the interim final.

Although the official comment period closed on November 16, 1982, the Department accepted and considered all comments on the interim final regulations received by December 1, 1982. In all, thirty-six letters were received from States, agencies, organizations and private citizens. Responses to these comments are included in the preamble as well as the significant changes from the interim final regulations. In the preamble discussion of the specific provisions, issues raised at the State implementation conferences in Boston and San Francisco in August 1982 are also addressed. Some of the suggestions received, such as removing the limit on the length of the employment search period or making the absence due to uniformed service provision optional, conflict with the statute. We do not provide any rebuttal to criticisms of the statute itself, but do address any comments on regulatory areas of concern.

We have also made minor and technical changes as a result of our own review of the interim final regulations and we have clarified regulatory language as necessary to aid implementation of the provisions.

Proration of Initial Assistance Payment (Section 206.10 of Final Regulations)

Prior to enactment of the new provision, States could make an initial AFDC payment effective as of the first day of the month in which an application was received. States could receive Federal financial participation

FFP) for these payments provided the State plan specified this as the method of determining the initial payment.

The new statutory provision does not allow payment to be made for any period prior to the date of application. Therefore, States may not claim FFP for any assistance provided prior to the date of application. However, the new provision does not preclude FFP for any of the other effective date options available to States (under § 206.10(a)(6)) which begin on or are later than the date of application. For example, States may continue the practice of making assistance payments beginning with the first day of the month in which payment is authorized (provided it is not the month of application) or the date of authorization.

When payment is made for the month in which the application was filed, the payment for that month is (1) the amount that would be payable if payment including special needs were made for the entire month, in accordance with § 233.34, multiplied by (2) the ratio of the number of days in the month including and following the date of application (or, the date of authorization of payment where the State pays from that date) to the total number of days in the month. For administrative efficiency, States may use a standard 30-day month in determining prorated payments.

In the preamble to the interim final regulations, we indicated that when a State was adding an individual to an existing assistance unit, the requirement to prorate the first month's benefit would apply only if the agency required a formal application. If State administrative procedures did not require this, the State was not required to prorate the first month's benefits.

Upon further review, we believe, however, that the method used to calculate the amount of benefits payable for the initial month of assistance to an individual should not hinge on the State's administrative procedures. Rather, it was clearly the intent of Congress that any individual's benefits payable for the month of application, whether filing as part of a new assistance unit or joining an existing one, should be prorated. We have clarified this position, therefore, to provide that all individuals applying to be included in an existing unit are considered applicants for assistance and the first month of benefits, if it is also the month of application, must be prorated. The procedures used in taking and processing applications can vary from the process used to establish the units's initial eligibility, but this does not change the fact that the individual is an applicant for benefits.

Therefore, if an individual is added to an existing assistance unit, in a manner prescribed by the State agency, the State may not make payment for the individual for any period prior to the date of application.

For purposes of implementing the proration provision, we have also clarified the definition of an application. We have always required an application to be filed in writing on a form prescribed by the State agency. Although § 206.10(a)(1)(ii) clearly requires this, it was not reflected in the definition of "application" at § 206.10(b)(2), renumbered in the interim final as (d)(2). In the final regulation we have included the words "on a form prescribed by the State agency" in the definition of "application."

The regulations include a definition of "date of application." We have defined "date of application" in the regulations at this time to assist in understanding the new provision.

We have redesignated certain paragraphs in § 206.10 to correct prior inconsistencies and errors in their designation.

Comment: One commenter asked whether a State may make payments to a pregnant woman with no other children beginning with the first day of the month in which the seventh month of pregnancy begins or the first day of the month in which she applies for assistance, even though her actual application date is later.

Response: Although the statute permits States to make payments to pregnant women with no other children beginning with any of the last four months of pregnancy, pregnant women are not exempt from the requirement that payments not be made for any period prior to the date of application. However, there is nothing to preclude the pregnant woman from applying for assistance in advance of the seventh month of pregnancy, based on State procedures.

Comment: Two commenters suggested that we mandate a 30-day standard for computing the prorated amount of the first month's AFDC payment.

Response: The 30-day standard for computation was included solely for administrative ease and, therefore, should be left to State discretion.

Comment: One commenter objected to including special needs in the total amount of assistance prorated in the month of application.

Response: In the preamble, we specifically highlighted this issue to clarify that all needs included in the payment for the month of application must be prorated. The State standard of need has always included any special need items that the State recognizes and special needs have never been a payment separate and apart from that standard. Therefore, special needs are a part of the payment which must be prorated for the month of application.

Comment: One commenter questioned whether the State must prorate the first payment for an individual added to an existing unit, if the individual is considered an applicant for budgeting purposes but under the State procedural requirements, a "new application" is not required.

Response: As described in the above section, the procedure prescribed by the agency to add an individual to an assistance unit may differ from those used to establish a new AFDC family. However, whether or not it is an initial payment to a family or an incremental increase in a family's payment as a result of adding an individual, proration applies in the month of application. No individual can receive assistance for a period prior to the date a written application is filed.

Comment: We received one comment suggesting that when a recipient fails to submit a monthly report and the State terminates assistance, States should be required to prorate the first month's assistance if the case is subsequently reopened.

Response: If a recipient is terminated and subsequently reapplies for assistance, the initial payment must be prorated if payment is made for the month of application and the application was filed after the first day of the month. In the case where a recipient is terminated for failure without good cause to file a monthly report and is not reinstated based on the submission of a replacement report in accordance with § 233.37(b), the State must prorate the initial AFDC payment if the individual subsequently reapplies after the first of the month and payment is made for the month of application.

Retention by State of Support Payment That Causes Ineligibility (Section 232.20(a)(1) of Final Regulations)

Prior to the new statute, when the amount collected on the monthly support obligation caused ineligibility for an AFDC assistance payment, that amount was to be paid to the assistance unit in the month for which the unit was determined to be ineligible. Under this requirement, the assistance unit would receive two support collections in the first month in which it was ineligible. The assistance unit would receive the

support collection that caused ineligibility and also the support collection for the first month of ineligibility. As a result, the State and Federal governments could not be reimbursed for the assistance paid in the month that the support collection that caused ineligibility was made.

The amendment to § 232.20 deletes the requirement that the IV–D agency pay the support collection that caused ineligibility to the assistance unit. The IV–A agency must still inform the IV–D agency when an assistance unit loses eligibility.

Comment: One commenter wrote that some States are not clear whether this provision is optional or not.

Response: We have amended the regulation to make explicit that this is not an optional provision. By amending section 454(5) of the Social Security Act, there is no longer any statutory authority for the IV–D agency to pay the amount collected on the monthly support obligation to the AFDC recipient when that amount causes ineligibility in the redetermination of eligibility under § 232.20.

Comment: One commenter was concerned about situations where the support collection that caused ineligibility was larger than the assistance payment in the month that the collection was made.

Response: In situations where the support collection that caused ineligibility is larger than the assistance payment in the month that the collection was made, under § 302.51(b)(3), the IV–D agency will pay the excess to the family. The IV–D agency shall pay the excess to the family in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the State's title IV–A plan.

Comment: One commenter felt that § 232.20 should give more detail about the treatment of the support collection that causes ineligibility. The commenter also felt that the regulation should provide for situations where, (1) the support collections do not continue, (2) the support collections do not remain at the same level, and (3) the family's need changes.

Response: Section 232.20 provides IV–A State plan requirements for the treatment of reported support collections in determining eligibility for assistance. This regulation requires the IV–A agency to inform the IV–D agency whenever a reported support collection causes ineligibility.

When the IV–D agency receives the report from the IV–A agency, it is responsible for any further action under § 302.32 and § 302.51 governing the treatment of the support collection that caused ineligibility.

If the support collections do not remain at the same level, or the family's need changes, the family can reapply for assistance.

Rounding of Need Standard and Payment Amounts (Section 233.20(a)(2)(iv) and (a)(3)(viii) of Final Regulations)

The new statutory provision requires States to round the need standard and payment amount, when not a whole dollar amount, to the next lower whole dollar amount. For the need standard, rounding is required after completing all steps necessary to determine the applicable standard of need (including special needs); then the payment amount is computed, prorated for the first month under § 206.10(a)(6)(i)(D) if necessary, and rounded down, if not already a whole dollar.

In developing these regulations, we considered whether members of an assistance unit whose payment amount was computed as 99 cents or less (but greater than zero) and was then rounded down to zero would still be considered AFDC recipients for purposes of categorical eligibility for other assistance programs. We decided that these individuals, as in the case of individuals who receive no payment because their payment amount is less than $10, should be considered recipients for all other purposes. This means that the family would still be eligible for Medicaid, Social Services and, where appropriate, be required to register for work activities other than CWEP, and submit monthly reports.

Some additional savings are foregone by allowing categorical eligibility where no payment is made. However, these savings are insignificant because very few cases would have been affected. Furthermore, the decision is consistent with the earlier provisions regarding payment amounts under $10, and the small cost involved will be somewhat offset by lower administrative costs for case closings and processing reapplications and requests for fair hearings.

Comment: One commenter suggested that States be permitted to round down the payments standard. Another commenter was concerned that the interim final regulations preclude States from rounding down the payment amount before prorating the first month's payment under § 206.10(a)(6)(i)(D) even though the State rounds down the prorated payment.

Response: The new statute requires only that States round down the need standard and the payment amount. Prior to TEFRA, States had flexibility to round off at any step in the computation. The new statute does not remove the flexibility to round any other figures used in the computation, including the payment standard.

Exclusion from Income of Certain Payments From State-only Funds (Section 233.20(a)(3)(iv)(D) of Final Regulations)

The new statute provides that payments made to meet certain needs of children receiving AFDC will be excluded from income for all purposes in the AFDC program (including determining whether the assistance unit has income in excess of the need standard under § 233.20(a)(3)(ii)(D)), if all the following conditions are met: (1) The payments are made from State-only funds; (2) the payments are made under a statutorily established State program which has been continuously in effect since before January 1, 1979; and (3) the payments are made by the State agency that administers the AFDC program.

No comments were received on this provision.

Exclusion from Income of Certain State Payments (Section 233.20(a)(4)(iv) of Final Regulations)

In addition to the provisions under § 233.20(a)(3)(iv)(D) of the regulations, the new statute provides that a State can also exclude from income supplementary State-only payments made to an assistance unit which was subject to retrospective budgeting and which experienced a sudden loss of income. For example, in a 2-month retrospective State, if an assistance unit whose monthly payment standard is $300 has monthly income in January (after disregards) of $280, the regular monthly payment for March would still be $20. If the unit loses the income after January, the monthly payment for March would be $20. Under this provision, the State may pay up to the difference between the computed payment ($20) and the anticipated or current need for that month (i.e., the payment standard for that month—$300). Any such State-only payment does not count as income in determining the matchable payment for May, to the extent that the total of the State-only payment made in March, the AFDC payment for March, and actual income (countable income) received in March did not exceed what the State pays to a comparable family with no income. Federal matching for the State-only payment is expressly prohibited in accordance with § 233.20(b)(4).

Comment: One commenter asked that we clarify the term "actual income."

Response: Actual income is the amount of income received during the payment month after applying applicable disregards, i.e., after subtracting from gross income the $75 work expense disregard (to recognize mandatory payroll deductions, transportation costs, and other work expenses), the child care disregard, etc. We have amended the regulation to include the definition of actual income.

Comment: One commenter asked that the regulation be revised to permit a disregard of supplementary payments when paid from local general assistance funds.

Response: We cannot extend this provision to supplementary payments made from local general assistance funds. The statute is specific in limiting this disregard to payments made by the State. We do not believe, therefore, that there is sufficient authority to extend this provision to general assistance payments made by localities.

Comment: One commenter was concerned that under the criteria in § 233.20(a)(3)(iv)(D), this provision would apply only to payments under statutorily-based State programs which have been in effect continuously since January 1, 1979.

Response: Regulations at § 233.20(a)(3)(iv)(D) refer to payments made to meet particular needs of children receiving AFDC out of State-only funds which are not met by the regular AFDC payment, and those criteria are not applicable to this regulation. The requirement that payments be statutorily-based and in effect since January 1, 1979 applies only to States that make special payments under § 233.20(a)(3)(iv)(D).

Proration of Standard Amount for Shelter, Utilities, and Similar Needs (Section 233.20(a)(5) of Final Regulations)

The new statute allows States to prorate the shelter, utilities, and similar needs portions of the need standard and payment standard whenever the AFDC assistance unit lives with other individuals as a household. Proration must be accomplished on a reasonable basis and in a manner and under circumstances prescribed by the State. States cannot prorate, however, for a recipient of Supplemental Security Income benefits to whom the one-third reduction is applied because he or she lives in the household of another and receives support and maintenance in-kind (as required under section 1612(a)(2)(A)(i) of the Social Security Act).

In enacting this optional provision, Congress intended each State to establish a reasonable basis for proration depending on its own policy and administrative considerations. For example, a State may wish to prorate under narrow circumstances and not prorate where non-AFDC household members have little or no income or are unrelated. On the other hand, a State may wish to prorate in all circumstances where the assistance unit shares shelter, utilities, and similar needs with other individuals. States may also choose to prorate only for shelter or utilities.

In the preamble to the interim final regulations, we indicated that States may choose to prorate the shelter and utilities portion of the payment standard only. After reviewing this position, we believe that the better reading of the statute requires that both the need standard and the payment standard be prorated. This means that the State must reduce the payment standard by the same proportion it reduces the need standard. For example, if a State reduces the shelter amount in its need standard by 20 percent, it must also reduce the shelter portion of its payment standard by 20 percent. We have clarified this position in § 233.20(a)(5).

Under these regulations, States must define "household" for purposes of applying the proration provision and must specify in their plans the chosen method for prorating. The new legislation allows the Secretary of HHS to define "household." However, in keeping with the President's commitment to assure States adequate flexibility in developing their own programs, we have decided to leave this to each State. This approach is consistent with the position we took in developing the regulations implementing the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) where the statute authorized the Secretary to prescribe definitions. Nevertheless, while we have provided States with great flexibility, we believe that it would be unreasonable for a State to include landlords and bona fide tenants in the definition of "household," as the statute refers to individuals living with the AFDC unit as a household. As landlords and bona fide tenants are in a commercial relationship rather than a household relationship, their inclusion would be contrary to the intent of the statute. Accordingly, no State plan can permit proration in these situations.

In developing these regulations, we considered whether including persons in the proration computation who are not included in the assistance unit but whose income is counted as available to the assistance unit (i.e., stepparents and sponsors) represents double counting of the same income. We determined that it is not. In determining the amount of income available to the assistance unit, an amount is disregarded which is equal to the State need standard for a family of the same composition as the person's whose income is counted. Therefore, it would be reasonable for a State to prorate to recognize that the need for these items is reduced as a result of sharing.

We have also amended § 233.20(a)(2)(viii) to conform with this statutory change permitting proration in AFDC.

Comment: One State asked whether the term "proration" meant that a State's proration plan must be based on a fractional computation of shelter and utilities.

Response: No. The legislative history is clear that Congress intended to allow States as much flexibility in this area as possible and not to limit them to one specific method of proration. The Senate Finance Committee Report (97 Cong. 2nd Sess. (1982), Rept. 97–494, Vol. 1) on the Tax Equity and Fiscal Responsibility Act of 1982 states that each State should "have the flexibility to decide the method of proration based on its own policy and administrative considerations." Each State may determine the circumstances and method by which to prorate as long as it is accomplished in a reasonable manner as defined in § 233.20(a)(5).

Comment: Two commenters asked whether States must apply the proration provision for purposes of determining eligibility and applying the lump sum policy.

Response: Yes. States that choose to prorate must prorate both the need standard and the payment standard and must use these prorated standards in determining eligibility and the amount of payment. The State must reduce the payment standard by the same proportion as it reduces the need standard. The prorated need standard will be used for determining eligibility under the 150 percent rule and in applying the lump sum policy.

Comment: One commenter asked to what extent SSI recipients can be required to disclose information regarding their grant to AFDC recipients and whether verification of the one-third reduction to the SSI recipient's grant will be required.

Response: When other individuals live in the household, it is the AFDC recipient's responsibility to provide information as to why proration should not be applied in that case. For States implementing the proration provision,

this information may be verified by information provided by the recipient or through available records including the State Data Exchange (SDX) provided by the Social Security Administration.

Comment: Several organizations asked that more definitions be provided in the regulation for terms such as "similar needs," "reasonable," and "household."

Response: We believe that the intent of the legislation is to allow States to implement the provision in a flexible manner consistent with State policy and administration. In keeping with the intent of Congress and the President's concern for State flexibility, we have decided not to place constraints on States which would result from inserting Federal definitions in the final regulations.

Comment: One State questioned whether in implementing the proration provision, it should be concerned about section 402(a)(23) of the Social Security Act, which requires States to have updated assistance standards by July 1, 1969.

Response: Yes. The prorated standard must still meet the requirements of section 402(a)(23). This means proration is permissible as long as the total need standard after proration does not fall below the updated amounts required by section 402(a)(23) of the Act for a comparable family.

Comment: Several organizations asked that proration not be applied when the State does not pay 100% of need or to non-AFDC recipients in the household whose income is below the poverty level.

Response: Congress intended that all States, including those that pay less than 100% of need, have the option to prorate for shelter, utilities, and similar needs and to determine the best method to do so. Similarly, a State has the discretion to include or exclude non-recipients with low income in the proration computation.

Comment: One commenter suggested that we clarify the optional nature of the proration provision by adding the words "at its option" after the statement, "Provide that the State agency may . . .", at § 233.20(a)(5)(i).

Response: By using the word "may," we are clearly providing States the option whether to implement this provision. The term "at its option" is redundant.

Comment: Two commenters opposed including in the proration computation individuals whose income is considered available to the assistance unit but whose needs are not included in the assistance payment.

Response: In the preamble to the interim final regulations, we considered this issue and stated our position that this is not double counting of income. Our view remains the same. In determining the amount of income available to the unit, the State accounts for the needs of that individual by disregarding an amount equal to the standard of need for a family of the same composition as the person's whose income is counted. Therefore, it would be reasonable for a State to recognize that the need for these items is reduced as a result of sharing.

Absence Due to Uniformed Service (Section 233.90(c)(1)(iii) of Final Regulations)

In June 1972, the Supreme Court ruled in *Carleson v. Remillard* that a State, in determining entitlement for AFDC benefits, could not determine that a child was not deprived because the parent's absence was due to military service. The Court held that, under the existing Social Security Act and regulations, the eligibility criterion of "continued absence" of a parent from the home meant that the parent may be absent for any reason. This law amends the Act to provide that a parent whose absence is occasioned *solely* by reason of the performance of active duty in a uniformed service of the United States is *not* considered absent from the home.

One issue considered in developing the regulations was whether we should provide Federal criteria for determining when absence is not solely due to active duty in a uniformed service. We decided that each State should develop criteria and specify what evidence an individual must provide to establish that continued absence would exist irrespective of the parent's performance of active duty in the uniformed service of the United States.

The regulations provide that the definition of "uniformed services" at section 101(3) of title 37, United States Code, applies. "Uniformed Services" is defined in that section to mean the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and Public Health Service of the United States.

Comment: One commenter asked whether a parent who is incarcerated while on active duty in a uniformed service of the United States is considered absent from the home for purposes of determining whether deprivation exists and if so, whether the State must include incarceration while in a uniformed service as a reason for absence under the deprivation factor of absence. The same commenter asked whether deprivation by reason of absence can be satisfied when a parent on active duty in a uniformed service is absent without leave (AWOL).

Response: When a parent is incarcerated or AWOL while in a uniformed service, the absence is not occasioned *solely* by active duty in a uniformed service. Therefore, just as in any case in which a parent is not in a uniformed service and is incarcerated, the State must review the case circumstances to determine whether the child is deprived based on continued absence.

Comment: Several commenters have suggested Federal standards would be helpful concerning what evidence an individual applicant or recipient must provide to establish that continued absence would exist irrespective of the parent's active duty in a uniformed service.

Response: Consistent with longstanding policy of leaving verification methods up to the State, as with any other factor of eligibility, each State should develop criteria and specify what evidence an individual must provide to establish that continued absence would exist irrespective of the parent's peformance of active duty in a uniformed service of the United States.

Comment: One commenter, who was concerned that the absence due to uniformed service provision serves only to eliminate from eligibility those needy children whose putative fathers are in the military, suggested that the rule be changed to substitute the word "principally" for "solely."

Response: As the statutory language uses the term "solely," we have not changed the regulatory language.

Employment Search Program (Part 240 of Final Regulations)

Section 154 of TEFRA permits States to establish employment search programs which are operated and funded under title IV-A of the Social Security Act. In these programs States may require, as a condition of eligibility for AFDC, that certain applicants and recipients participate in a program of employment search, beginning at the time they file an application. Only those individuals who are required to participate in WIN and those who are exempt from WIN because of remoteness from a WIN site can be required to participate.

The statute, however, allows States to further limit the employment search requirement to certain groups, types, or classes of these individuals. A State may also permit volunteers to participate.

The initial employment search period begins at the time of application and continues for a period, prescribed by the State, of not more than 8 consecutive weeks. The State can also require a recipient to participate in employment search after the close of the initial 8-week period, but not for more than the equivalent of 8 weeks in any period of 12 consecutive months. In other words, a State may not require an individual to participate in employment search activities beyond what could be required during an 8-week period of full-time, continuous employment search. The first period of 12 consecutive months begins at any time the State designates following the close of the initial employment search period.

A State choosing to implement an employment search program under this part must include in its plan the requirements which it attaches to individuals participating in this program. For example, the plan must contain the conditions which the State applies to the acceptance of available jobs, including any criteria for determining whether good cause exists for refusing a job offer or not performing job search. States may vary the intensity or the kinds of job seeking activities individuals may have to perform in different areas of the State.

An applicant is not eligible for assistance for so long as he fails without good cause to satisfy the State's requirements for participation in employment search. The application for the rest of the assistance unit must still be processed. However, if it is either the only dependent child or the principal earner who fails to satisfy the State's requirements, then the entire assistance unit is ineligible for assistance.

Recipients who, without good cause, fail to satisfy the State's requirements for participation are subject to the sanctions at § 240.22(a). Under § 240.22(a), when a sanction is applied, the individual's needs cannot be included in determining the assistance unit's need for a period of up to 3 payment months for the first failure and up to 6 payment months for each subsequent failure, effective no later than the first day of the corresponding payment month. In an AFDC–UP case, when the principal earner is sanctioned, or where the only dependent child is sanctioned, the entire family is denied aid for the duration of the sanction period.

Section 240.22(c) of the regulations requires States to define good cause for failure of applicants and recipients to participate. States must give an individual an opportunity to show that he or she meets one of their "good cause" criteria before deciding to deny aid for failure to participate. The AFDC hearings and appeal procedures at § 205.10 are then available to individuals who wish to appeal State agency decisions regarding their participation or failure to participate in the program. Current rules regarding the furnishing of assistance in the form of protective and vendor payments at § 234.60 apply in the case of individuals sanctioned under these provisions.

Under the regulations, States may make preliminary assessments of eligibility and may exempt from employment search applicants who appear ineligible for AFDC based on the information they supplied. However, such a prelimiary screening process cannot substitute for a formal denial of eligibility for assistance nor can it result in a delay in processing the individual's application. The only effect of such a decision under a preliminary screening process is that the individual is exempt from participating in employment search until the State determines otherwise.

We estimate some savings from allowing States to screen applicants before requiring them to participate in employment search. These savings derive primarily from ensuring that employment search participation expenses are incurred only on behalf of individuals whom the State considers likely to be eligible for AFDC.

The new statutory provision at section 402(a)(35)(A)(ii) of the Act specifically provides that the employment search program may not be used as a reason for delay in a determination of eligibility or payment to or on behalf of an individual who is otherwise eligible for aid. A State may, of course, require reasonable verification that employment search requirements are being met in circumstances where the applicant or recipient is not participating in a supervised job club setting. For example, a State may require that a participant have potential employers sign a form indicating that an interview was sought or conducted. If no verification has been received at the time the State is prepared to make an eligibility decision, the State may provide additional time for verification of employment search participation rather than finding the individual ineligible.

Once it establishes that all other eligibility requirements have been met, the State may not require additional job search prior to its eligibility determination. Nor may the State require a fixed period of employment search prior to eligibility determination.

For efficient administration of the program, the new statute amends section 409(b)(3) of the Act to require that the employment search program be coordinated with CWEP and WIN in order to ensure that job placement receives the highest priority and that individuals are not given conflicting assignments which are impossible to meet. These provisions are implemented in Parts 238 and 240 of the regulations.

The regulations also provide that any individual participating in an employment search program must be furnished transportation and other services necessary for participation or paid (in advance or by way of reimbursement) any amounts necessary to cover transportation costs and other expenses reasonably incurred in order to enable the individual to participate in the Employment Search Program.

Allowable Administrative Costs.

Under these regulations, Federal matching at the 50 percent administrative rate is available for costs necessary for the proper and efficient administration of the IV–A Employment Search Program. The costs could include the development and operation of job-finding clubs, resume development, interview training, skills assessment and the provision of other short-term support services, such as transportation and child care. State agencies may provide these support services directly or through a third party, or pay participants for out-of-pocket expenses. Payment to participants may be in the form of advance payments or reimbursement.

Costs are matchable only when identified as a covered expense in the State plan, when reasonable in relation to their expected benefits, and when necessary to enable individuals to participate effectively in the program. Services and payments are matchable when provided to individuals who are either applicants for, or recipients of, assistance at the time the costs are incurred. Such costs are matchable only under this provision and not as special needs in the State AFDC payment. Federal matching funds are not available for longer range remedial services and expenditures not essential to job seeking. Such unmatchable costs include psychological counseling, education or training (except short-term training as identified above), health care or medical care, and costs of accepting a job such as union dues, special clothing or other items required by employees in a particular job since such costs can normally be met through earnings from such employment. We view this provision as focusing on immediate employment search and rapid job placement.

Also, not mentioned in the interim final, under the special provision at § 205.37, if the State develops a statewide Employment Search Program, FFP is available at a 90 percent rate for its expenditures relating to the inclusion of automated employment search information in its statewide automated application processing and information retrieval system which are consistent with an approved Advance Planning Document (APD).

The State may operate the entire employment search program itself or may contract with outside agencies to operate certain job search activities.

Comment: Several commenters suggested changes which are not allowable under the statute. These suggestions included mandating employment search activities, prohibiting programs in States with very high unemployment, and requiring individuals to participate in employment search more than 8 weeks a year following the initial job search period.

Response: We have neither mandated employment search nor restricted its implementation since the statute at section 402(a)(35) of the Act specifically provides that employment search requirements are established "at the option of the State." We have not extended the length of time individuals may be required to participate in employment search since the limits are established in section 402(a)(35(A) of the Act.

Comment: A few commenters felt that the regulations should impose additional Federal requirements on the States regarding the definition of good cause for failing to participate in the program. One suggestion was that the criteria for "good cause" used in the WIN program be applied.

Response: Our decision to leave the definition of good cause to the States is consistent with the policy established for those work programs authorized in the Omnibus Budget Reconciliation Act (OBRA)—CWEP, Work Supplementation and WIN Demonstrations. In establishing these programs, Congress has indicated that States should be given the flexibility to implement programs which will be most effective in their areas. Therefore, we have decided not to establish a Federal definition of good cause.

Comment: Two commenters wanted us to impose additional requirements on how States determine whether expenses incurred by participants are reasonable and necessary.

Response: The final regulations contain a new paragraph at § 240.20(d) which requires State plans to provide for the furnishing of necessary support services or for the payment to participants for reasonable costs they incur for such services in order to meet the requirements of the program. The State plans must specify which services shall be provided and how they shall be provided. However, we have not added a specific requirement on the States' determinations of what constitutes a reasonable and necessary expense. We feel that imposition of Federal standards in this area would be inconsistent with the general approach taken in the OBRA and TEFRA legislation, i.e., to provide State IV–A agencies with flexibility in the design and operation of their work programs.

Comment: One commenter asked whether FFP is available for costs of individuals who participate in the program as applicants and are subsequently found ineligible.

Response: The regulations at § 240.60 provide for FFP for services provided to both applicants and recipients. States may claim FFP for the participation expenses of any individual who has not yet been determined ineligible for assistance. FFP is not available for expenses incurred by or on behalf of individuals who have already been determined ineligible for assistance at the time the expenses were incurred.

Comment: Some commenters were concerned that we omitted the requirement to give priority to job placement.

Response: This requirement is contained in § 238.20(c), § 238.26(a)(1) and § 240.20(b)(1).

Comment: Other commenters were concerned that we did not provide States the option to reduce the sanction periods below the standard 3 and 6 month sanctions applied in WIN.

Response: We do provide the States this option under § 240.22(a) where we allow for sanctions of "up to" 3 payment months for the first failure and "up to" 6 payment months for any subsequent failure. However, we have revised the preamble language to make it more consistent with the regulation by adding the words "up to" to indicate that the sanction period may be less than the maximum. We have also modified the regulation to require States to include the length of the sanction periods in their State plans.

Comment: Several commenters indicated that our language at § 240.01 was less emphatic than the statute about the optional nature of the program.

Response: By using the word "may," States clearly have the option whether or not to operate a program.

Comment: Several commenters had suggestions or questions about the allowance of contracts for third parties to provide services under this program. A majority of these comments came from Job Service or Employment Security offices. These commenters wanted the regulations to provide special consideration for their agencies in such contracts.

Response: The statute authorizes the IV–A agencies to operate an employment search program with IV–A funds. The regulations at § 240.60(c) allow IV–A agencies to enter into contracts to provide services which are part of employment search programs designed and administered by the State agencies. However, the State IV–A agencies may not transfer or delegate responsibility for the program. The IV–A agency must retain administrative discretion for the program, including responsibility for determining:

(1) Which individuals participate;

(2) What the requirements for participation are (including the duration of employment search);

(3) What constitutes good cause for failing to participate;

(4) What constitutes failure to participate;

(5) What sanctions to impose; and

(6) When to impose sanctions.

The IV–A agency may contract with third parties to:

(1) Perform job search activities such as the conduct of group job clubs, teaching of job search skills, job development, work orientation, exposure to labor market information, and job referral; and

(2) Provide the support services such as transportation and child care which are necessary for participation.

We have not included in the regulation any restrictions, suggestions or requirements as to which agencies or firms could enter into contracts with the IV–A agency. Where the IV–A agency needs to draw upon the expertise of outside individuals or agencies, we would expect it to contract with those who can produce the most effective services at reasonable costs.

Under § 240.60(c), FFP is available for reasonable expenses incurred on contracted services. FFP is not available for payments to contractors (in the form of bonuses or otherwise) which duplicate other payments for services already financed by other Federal funds, or for payments to a State Employment Security Agency or other public agency which exceed the costs they incur in providing services.

Comment: One individual recommends that we allow funds granted to States under title III of the Job Training Partnership Act to be

credited as part of the State IV–A match (this was suggested in order to promote contracts with the State Employment Security Agencies).

Response: Under title IV–A, Federal financial participation is available only to match actual State money expenditures incurred in connection with the approved State plan. It is not available to match Federal funds authorized under another Federal statute except where the law specifically provides otherwise.

Comment: One commenter suggested that the regulations permit a State to operate job search through its Community Work Experience Program (CWEP) and its WIN program.

Response: The commenter misunderstands how the new employment search program relates to CWEP and WIN. CWEP provides actual work experience and training for individuals in order to assist them to move into regular employment.

CWEP does not cover job search activities such as group job clubs, job referrals, and exposure to labor market information. If the IV–A agency wants to provide these job services under title IV–A, it must submit a separate IV–A plan amendment covering Employment Search. However, the State may use the same staff to operate both CWEP and employment search programs and may require the same individuals to participate in both programs.

The new authority for title IV–A job search at section 402(a)(35) of the Act does not affect the authority of regular WIN or WIN Demonstration programs to operate their own job search program. However, under these regulations, the IV–A agency may contract with the WIN programs to conduct job search activities on the behalf of the title IV–A agency. WIN agencies may conduct title IV–A job search activities only if the IV–A agency decides to enter into a contract with WIN and only if the title IV–A agency retains overall responsibility for the administration of the title IV–A Employment Search Program. Under the requirements of § 205.100(b)(3), the title IV–A agency is not permitted to allow another agency to substitute its judgment for that of the IV–A agency "as to the application of policies, rules, and regulations promulgated by the State agency."

Comment: One commenter expressed concern that the statewideness provision would force States to create duplicative and costly employment search programs in counties which were already covered by WIN job search programs. Another suggested that we eliminate the statewideness requirement entirely.

In addition to these comments, a number of State officials expressed concern that the statewideness requirement would limit their ability to design a program that could respond adequately to the varied needs of local areas and different client groups.

Response: A State that chooses to operate an employment search program must operate it statewide because this program is part of the State plan, and under section 402(a)(1) of the Act, a State plan must be "in effect in all political subdivisions of the State." Nevertheless, the statute clearly gives the States great discretion in deciding who shall participate and what the terms of their participation shall be. To support State flexibility in these areas, at § 240.20(a), we allow States to vary the requirements for participation for different categories of individuals. States may vary requirements based upon individual characteristics of the participants. Under the statewideness requirement, differences in participation requirements must be established on an equitable basis and applied in a similar manner throughout the State.

We have revised § 240.12 to clarify that a State may vary the types of activities it provides or its participation requirements were economic or employment conditions differ from one area of the State to another. For example, a State may impose intensive employment search requirements (such as full-time participation in a job club) in those areas of a State with the largest client population or greatest employment opportunities while imposing different requirements elsewhere. Examples of requirements that a State could impose in all areas of the State include making a specified number of employer contacts each month, registration with the public employment office and regular reporting there for additional job leads, and acceptance of bona fide job offers.

In addition, if the WIN office operates a job search program in certain parts of the State which serves the same categories of individuals as the State's IV–A Employment Search Program, the IV–A agency may choose to exempt those individuals from further participation in other job search program activities.

Comment: A few commenters objected to the provision at § 240.14(b) that allows States to impose sanctions, when appropriate, against volunteers for the job search program.

Response: States are free to decide the circumstances under which volunteers may participate in the program and the conditions which shall apply to voluntary participation. If the State wishes, these conditions may include sanctions for failure to participate.

However, we have revised the regulation at § 240.14(b) so that the language in the Employment Search regulation is consistent with the language covering voluntary participation in the Community Work Experience Program. To make the language consistent, we deleted the phrase "including what sanctions, if any, are imposed."

Comment: One commenter asked whether the 45-day period allowed for determining eligibility could be extended when an applicant had not completed the initial job search period.

Response: No. The regulation at § 206.10(a)(3)(i) limits the period for eligibility determination to 45 days.

The commenter apparently did not realize that the initial job search period and the period for eligibility determination are established independently. Thus, the period of initial job search may extend beyond the date when eligibility is determined. Where this happens, an individual may complete the initial job search requirement as a recipient rather than as an applicant. We have modified the regulation at § 240.20(a) to clarify this point.

Comment: Two commenters believed that subparagraph (A)(ii) of section 402(a)(35) of the Act which reads "at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months" prevents a State from requiring additional job search until one year after the start of the initial 8-week job search period.

Response: The 12-month limitation in section 402(a)(35)(A)(ii) of the Act is separate from the limitation on job search which begins at the time of application. According to the statutory language, the 8-week limit in these 12-month periods applies "at such time or times *after the close* of the period prescribed" for initial job search. Based upon this language, it is clear that time spent in job search at the time of application does not apply against the 8-week limit imposed on subsequent participation. Therefore, the first 12-month period may begin as soon as the initial period (of up to 8 consecutive weeks) has ended.

Comment: A few individuals noted that the regulation did not specifically required States to furnish transportation and other services to participants (or to pay the amounts to cover costs of these services) which are reasonable and

necessary, as provided for under section 402(a)(35)(B) of the Act.

Response: We agree that this requirement should be specifically contained in the regulations and have added it as a new paragraph in § 240.20.

Comment: Some commenters believed the regulations should specify that prepayment of expenses to program participants would be preferable to reimbursement.

Response: We have not included a preference in the regulations. The statute provides for both types of payments, and we believe it is appropriate for the States to retain flexibility in designing their programs.

Comment: One commenter objected to the provision that States may establish their own verification procedures.

Response: Since each State establishes its own participation requirements, it would be very difficult to establish Federal rules on how States should verify that participation. For this reason, and to minimize regulatory burden, we have decided to leave the establishment of verification procedures to the States.

Comment: One commenter wanted to require States to provide activities such as job clubs, exposure to labor market information or work orientation which would assist individuals in locating jobs. Another suggested that we should be more specific in indicating that such activities are allowed.

Response: Since we do not wish to restrict State flexibility in designing these programs, the regulations do not require States to include any specific job search activities. We clearly allow such activities since the regulations at § 240.60(c) provide that FFP is available for them. Therefore, we have made no change in the regulation.

Comment: Several commenters felt that the interim final regulations were deficient in their requirements for coordination among the IV–A Employment Search Program, WIN and CWEP, particularly with respect to duplicative or conflicting assignments.

Response: The interim final regulations at § 238.26(a) included the requirement for coordination among CWEP, WIN and the new Employment Search Program to ensure that individuals who are required to participate in more than one program may not be denied aid for failing to participate in one such program if they are actively and satisfactorily participating in another. The requirement was included in the CWEP part of the regulations because the statutory requirement was part of the CWEP section of the statute. However, it is clear from the comments that the requirement was overlooked in that location. Therefore, we have repeated it at § 240.20(b).

In addition, we have clarified the regulatory language prohibiting States from sanctioning individuals for failure to participate in one program when they are meeting the requirements of another program. With the revision, it is clear that the protection applies only in cases of conflicting assignments. For example, if one program required participation in a job club on Monday afternoon, the individual may not be required to participate in another separate work activity during that same time period. However, the individual could be required to participate in other activities at a different time. The statute at section 409(b)(3) specifically permits the State to require part-time participation in more than one program.

The WIN and IV–A programs must coordinate with each other to ensure that individuals do not face conflicting assignments.

Comment: One individual expressed concern that States might try to use the IV–A job search program to provide job search services for all public assistance applicants under the guise that they are "potential" AFDC applicants.

Response: We appreciate this concern, but we have decided not to require States to screen individuals for eligibility. We do encourage States to follow such a practice, however, as a means of preserving limited program resources. For example, if at the time of application, the State learns that an individual has no children, the State should never include that individual as a participant in the IV–A Employment Search Program. States may not receive Federal matching if they keep an individual in the Employment Search Program after they determine that individual is not eligible for AFDC.

The asterisks used throughout the regulatory text represent material within a codified paragraph or section that is not being amended by these final regulations.

These regulations are issued under the authority of section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302 and Pub. L. 97–248, 96 Stat. 324.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

Accordingly, the interim amendments to 45 CFR Parts 206, 232, 233, 234, 238, and 240 as published at 48 FR 41108–41116 are further amended and are adopted as final to read as set forth below.

List of Subjects

45 CFR Part 206

Aid to Families with Dependent Children, Family assistance, Grant programs—social programs, Public assistance programs.

45 CFR Part 232

Aid to Families with Dependent Children, Child support, Child welfare, Family assistance, Grant programs—social programs.

45 CFR Part 233

Aid to Families with Dependent Children, Aliens, Family assistance, Grant programs—social programs, Public assistance programs, Reporting requirements.

45 CFR Part 234

Aid to Families with Dependent Children, Family assistance, Grant programs—social programs, Health facilities, Public assistance programs, Public housing.

45 CFR Part 238

Aid to Families with Dependent Children, Family assistance, Grant programs—social programs, Manpower training programs.

45 CFR Part 240

Employment search program.

Dated: April 22, 1983.

John A. Svahn,

Acting Commissioner of Social Security.

Approved: May 19, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

1. Section 206.10 is amended by redesignating paragraphs (b) and (c) to be paragraphs (a)(1)(iv) and (a)(1)(v) respectively, by revising redesignated paragraphs (a)(6)(i)(B), (a)(9)(iii)(A) and (a)(9)(iii)(B), adding new paragraphs (a)(6)(i)(C) and (D), by redesignating paragraph (d) headed "Definitions," previously redesignated in the interim final regulations published in the **Federal Register** on September 17, 1982 on pages 41112–41113, to be paragraph (b), by revising redesignated paragraph (b)(2) of this section, and by adding a new definition as paragraph (b)(3). For Clarity, and the convenience of the reader, § 206.10 is set forth in its entirety.

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, or XVI(AABD), of that Social Security Act shall provide that:

(1) Each individual wishing to do so shall have the opportunity to apply for assistance under the plan without delay. Under this requirement:

(i) Each individual may apply under whichever of the State plan plans he chooses;

(ii) The agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized represenative, or, where the applicant is incompetent or incapacitated, someone acting responsibly for him;

(iii) An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them.

(iv) For assistance under title IV–A prior to July 1, 1975, the agency shall request on the application the social security number (SSN) of each individual (including children) for whom assistance is requested. Under this requirement, the agency shall advise the applicant whether disclosure of such number is mandatory or voluntary, by what statute or other authority such number is requested, and what uses will be made of it. Disclosure of the SSN may be made mandatory only if the State had in existence and operating prior to January 1, 1975, a system of welfare or Medicaid records for which disclosure of the SSN was required, by statute or regulation, in order to verify the identity of the individual. If any individual cannot provide a SSN either because he has not been issued one or he does not know his SSN, and wishes to secure one, the agency shall assist him in filling out an application for such number on such forms and under such procedures as may be required by the Social Security Administration (SSA) and shall transmit it to the SSA. Under this requirement, the agency shall also obtain such evidence as may be required under SSA regulations to establish the age, citizenship or alien status, and true identity of such applicant, and, where the case record attests that a previous social security number has been issued, request verification of the number by SSA. Where disclosure of the SSN is voluntary, no individual who is otherwise eligible shall be denied assistance because of failure or refusal to disclose or apply for a SSN, and the individual shall be so informed.

(v) The agency shall not deny or delay assistance to an eligible individual pending issuance by SSA or verification by the agency of his SSN.

(vi) Every recipient in a State which provides a supplemental payment under § 233.27 of this chapter shall have an opportunity to request that payment without delay.

(2)(i) Applicants shall be informed about the eligibility requirements and their rights and obligations under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms are publicized and available in quantity.

(ii) Procedures shall be adopted which are designed to assure that recipients make timely and accurate reports of any change in circumstances which may affect their eligibility or the amount of assistance.

(3) A decision shall be made promptly on applications, pursuant to reasonable State-established time standards not in excess of:

(i) 45 days for OAA, AFDC, AB, AABD (for aged and blind); and

(ii) 60 days for APTD, AABD (for disabled). Under this requirement, the applicant is informed of the agency's time standard in acting on applications which covers the time from date of application under the State plan to the date that the assistance check, or notification of denial of assistance or change of award is mailed to the applicant or recipient. The State's time standards apply except in unusual circumstances (e.g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency), in which instances the case record shows the cause for the delay. The agency's standards of promptness for acting on applications or redetermining eligibility shall not be used as a waiting period before granting aid, or as a basis for denial of an application or for terminating assistance.

(4) Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual's right to request a hearing.

(5)(i) Financial assistance and medical care and services included in the plan shall be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and shall be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(ii) Under title IV–A, assistance will not be denied, delayed or discontinued pending receipt of wage information requested under § 205.56, if other evidence establishes the individual's eligibility for assistance.

(6) Assistance shall begin as specified in the State plan, which:

(i) For financial assistance,

(A) Must be no later than:

(*1*) The date of authorization of payment, or

(*2*) Thirty days in OAA, AFDC, AB, and AABD (as to the aged and blind), and 60 days in APTD and AABD (as to the disabled), from the date of receipt of a signed and completed application form, whichever is earlier: *Provided,* That the individuals then met all the eligibility conditions, and

(B) For purposes of Federal financial participation in OAA, AB, APTD, and AABD, may be as early as the first of the month in which an application has been received and the individual meets all the eligibility conditions; and

(C) In AFDC, for purposes of Federal financial participation, may be as early as the date of application provided that the assistance unit meets all the eligibility conditions; and

(D) In AFDC, States that pay for the month of application must prorate the payment for that month by multiplying the amount payable if payment were made for the entire month including special needs in accordance with § 233.34 by the ratio of the days in the month including and following the date of application (or, at State option, the date of authorization of payment) to the total number of days in such month. The State plan may provide for using a

standard 30-day month to determine the prorated amount.

(7) In cases of proposed action to terminate, discontinue, suspend or reduce assistance, the agency shall give timely and adequate notice. Such notice shall comply with the provisions of § 205.10 of this chapter.

(8) Each decision regarding eligibility or ineligibility will be supported by facts in the applicant's or recipient's case record. Under this requirement each application is disposed of by a finding of eligibility or ineligibility unless:

(i) The applicant voluntarily withdraws his application, and there is an entry in the case record that a notice has been sent to confirm the applicant's notification to the agency that he does not desire to pursue his application; or

(ii) There is an entry in the case record that the application has been disposed of because the applicant died or could not be located.

(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency-established time standards, but not less frequently than every 6 months in AFDC, and every 12 months in OAA, AB, APTD, and AABD, on eligibility factors subject to change.

(A) For recipients of assistance under title IV-A, the agency shall verify that the case record contains a social security number (SSN) for each recipient, including children; if the case record does not contain a SSN, the agency shall follow the procedures set forth in § 232.10 of this chapter for the purpose of obtaining a SSN; and

(B) For any recipient whose social security number was established as part of the case record without corroborative evidence of age, citizenship or alien status, and true indentity, the agency shall obtain verification thereof under the procedures set forth in § 232.10 of this chapter.

(10) Standards and methods for determination of eligibility shall be consistent with the objectives of the programs, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(11) [Reserved]

(12) The State agency shall establish and maintain methods by which it shall be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it shall take corrective action when necessary.

(b) *Definitions.* For purposes of this section:

(1) "Applicant" is a person who has, directly, or through his authorized representative, or where incompetent or incapacitated, through someone acting responsibly for him, made application for public assistance from the agency administering the program, and whose application has not been terminated.

(2) "Application" is the action by which an individual indicates in writing to the agency administering public assistance (on a form prescribed by the state agency) his desire to receive assistance. The relative with whom a child is living or will live ordinarily makes application for the child for AFDC. An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance. Such inquiry may be followed by an application.

(3) "Date of Application" is the date on which the action described in paragraph (b)(2) of this section occurs.

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Part 232 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

2. Section 232.20 is amended by revising paragraph (a)(1) to read as follows:

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.

(a) * * *

(1) Upon notification to the IV-A agency by the IV-D agency of the amount of a support collection, such amount will be used to redetermine eligibility for an assistance payment under § 206.10(a)(9). This use of these amounts so collected shall not be later than the second month after the month in which the IV-A agency received a report of the monthly collections from the IV-D agency. In determining whether a support collection made by the State's IV-D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV-A agency will notify the family and the IV-D agency of the effective date of the family's ineligibility. The IV-D agency will treat the support collection that caused ineligibility in accordance with § 302.32. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection.

* * * * *

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

3. Section 233.20 is amended by revising paragraphs (a)(2) (iv) and (v) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * *

(2) *Standards of assistance.* * * *

(iv) Include the method used in determining need and the amount of the assistance payment. For AFDC, the method must provide for rounding down to the next lower whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar. Proration under § 206.10(a)(6)(i)(D) to determine the amount of payment for the month of application must occur before rounding to determine the payment amount for that month.

(v) If the State agency includes special need items in its standard, (A) describe those that will be recognized and the circumstances under which they will be included, and (B) provide that they will be considered for all applicants and recipients requiring them; except that under AFDC, work expenses and child care (or care of incapacitated adults living in the same home and receiving AFDC) resulting from employment or participation in either a CWEP or an employment search program cannot be special needs.

* * * * *

4. Section 233.20 is amended by revising paragraph (a)(2)(viii) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * *

(2) *Standards of assistance.* * * *

(viii) Provide that the money amount of any need item included in the standard will not be prorated or otherwise reduced solely because of the presence in the household of a non-legally responsible individual; and the agency will not assume any contribution from such individual for the support of the assistance unit except as provided in paragraphs (a)(3)(xiv) and (a)(5) of this section and § 233.51 of this part.

* * * * *

5. Section 233.20 is amended by revising paragraph (a)(3)(iv) to read as follows:

(a) *Requirements for State plans.*

* * *

(3) *Income and resources.* * * *

(iv) Provide that in determining the availability of income and resources, the following will not be included as income (A) Except for AFDC, income equal to expenses reasonably attributable to the earning of income (including earnings from public service emloyment); (B) loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs; (C) home produce of an applicant or recipient, utilized by him and his household for their own consumption; and (D) for AFDC, any amounts paid by a State IV–A agency from State-only funds to meet needs of children receiving AFDC, if the payments are made under a statutorily-established State program which has been continuously in effect since before January 1, 1979.

* * * * *

6. Section 233.20 is amended by revising paragraph (a)(3)(viii) to read as follows:

(a) *Requirements for State plans.*

* * *

(3) *Income and resources.* * * *

(viii) Provide that: (A) payment will be based on the determination of the amount of assistance needed; (B) if full individual payments are precluded by maximums or insufficient funds, adjustments will be made by methods applied uniformly statewide; (C) in the case of AFDC no payment of aid shall be made to an assistance unit in any month in which the amount of aid prior to any adjustments is determined to be less than $10; and (D) an individual who is denied aid because of the limitation specified in (C) of this paragraph, or because the payment amount is determined to be zero as a result of rounding the payment amount as required by § 233.20(a)(2)(iv), shall be deemed a recipient of aid for all other purposes except participation in the Community Work Experience Program.

* * * * *

7. Section 233.20 is amended by adding a new paragraph (a)(4)(iv) to read as follows:

(a) *Requirements for State plans.*

* * *

(4) *Disregard of income in OAA, AFDC, AB, APTD, or AABD.* * * *

(iv) for AFDC, any amounts determined to have been paid by a State from State-only funds to supplement or otherwise increase the amount of aid paid to an assistance unit as computed under § 233.35 for a month in recognition of current or anticipated needs of the assistance unit for that same month shall not be counted as income—to the extent that the total of the State supplemental payment, the AFDC payment and actual income (i.e., the amount of income received during the payment month after subtracting from gross income the $75 work expense disregard (to recognize mandatory payroll deductions, transportation costs, and other work expenses), child care and other applicable disregards) received in that month are not in excess of what the State would have paid for that month to an assistance unit of the same size and composition with no income—in computing the assistance payment under § 233.35 for the corresponding payment month.

* * * * *

8. Section 233.20 is amended by adding a new paragraph (a)(5) to read as follows:

(a) *Requirements for State plans.*

* * *

(5) *Proration of shelter, utilities, and similar needs in AFDC.* (i) Provide that the State agency may prorate allowances in the need and payment standards for shelter, utilities, and similar needs when the AFDC assistance unit lives together with other individuals as a household; except that, the State shall not prorate with respect to any person receiving SSI to whom the statutory one-third reduction (section 1612(a)(2)(A)(i) of the Act) is applied, or prorate when a bona fide landlord-tenant relationship exists. If the State chooses to prorate under this paragraph, it must prorate both the need standard and payment standard.

(ii) If the State agency elects to prorate allowances for shelter, utilities, and similar needs the State plan must:

(A) Indicate which allowances will be prorated, and describe the procedure which will be used to prorate the allowances;

(B) Provide that the allowances will be prorated on a reasonable basis; and

(C) Specify the circumstances under which proration will occur, including a description of which individuals are considered to be living with an AFDC assistance unit as a household.

* * * * *

9. Section 233.90 is amended by revising paragraph (c)(1)(iii) to read as follows:

§ 233.90 Factors specific to AFDC.

* * * * *

(c) *Federal financial participation.* (1) Federal financial participation under title IV–A of the Social Security Act in payments with respect to a "dependent child as defined in section 406(a) of the Act, is available within the following interpretations: * * *

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or some time previously; except that a parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States (as defined in section 101(3) of title 37, United States code) is not considered absent from the home. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

* * * * *

10. Section 233.100 is amended by revising paragraphs (a)(3), (a)(5)(i), (c)(2)(ii), and (c)(2)(iii), and adding paragraphs (a)(3)(vii), (a)(5)(iii), and (c)(2)(iv) to read as follows:

§ 233.100 Dependent children of unemployed parents.

(a) *Requirements for State plans.*

* * *

(3) Provide for payment of aid with respect to any dependent child (as defined by the State pursuant to paragraphs (a)(2) of this section) when the conditions set forth in paragraphs (a)(3) (i), (ii), (iii), and (vii) of this section are met: * * *

(vii) The parent who is the principal earner (unless exempt under § 240.14) has met the requirements for participation in an employment search program under Part 240 of this chapter.

* * * * *

(5) * * *

(ii) With respect to any week for which such child's parent qualifies for unemployment compensation under an unemployment compensation law of the State or of the United States but refuses to apply for or accept such unemployment compensation, and

(iii) If the parent who is the principal earner (unless exempt under § 240.14) fails to meet the requirements for participation in a program of employment search established under Part 240 of this chapter.

* * * * *

(b) *Exception.* * * *

(c) *Federal financial participation.*

* * *

(2) * * *

(ii) For such 30-day period if during that period the parent refused without good cause a bona fide offer of employment or training for employment;

(iii) For any period beginning with the 31st day after the receipt of aid, if and for as long as no action is taken during the period to certify the parent for participation in the Work Incentive Program as provided in section 402(a)(19) of the Act and the regulations relating thereto; and

(iv) For any part of the sanction period imposed under § 240.22 (for failure to meet the requirements for participation in the employment search program).

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Part 234 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

11. Section 234.60 is amended by revising paragraphs (a)(1) and (a)(12) to read as follows:

§ 234.60 Protective, vendor and two-party payments for dependent children.

(a) *State plan requirements.* (1) If a State plan for AFDC under title IV–A of the Social Security Act provides for protective, vendor and two-party payments for cases other than failure to participate in WIN, employment search, or Community Work Experience Programs (CWEP), or failure by the caretaker relative to meet the eligibility requirements of §§ 232.11 or 232.12 of this chapter, it must meet the requirements in paragraphs (a) (2) through (11) of this section. In addition, the plan may provide for protective, vendor, and two-party payments at the request of the recipient as provided in paragraph (a)(14) of this section.

* * * * *

(12) In cases where an individual is sanctioned for failure to participate in WIN, employment search, or CWEP, the State plan must provide that when protective or vendor payments are made pursuant to § 224.51(a)(1), § 238.22, § 240.22(a)(1), and § 240.22(b)(1) of this chapter, only paragraphs (a)(7), (9)(ii), and (11) (i) and (ii) of this section will be applicable. Under these circumstances, when protective payments are made, the entire payment will be made to the protective payee; and when vendor payments are made, at least the greater part of the payment will be through this method. Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, with return to money payment status when adults who refused training, employment, or participation in employment search without good cause either accept training, employment, or employment search or agree to do so. In the case of continuing refusal of the relative to participate, payments will be continued for the children in the home in accordance with this paragraph.

* * * * *

PART 238—COMMUNITY WORK EXPERIENCE PROGRAM

Part 238 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

12. Section 238.20 is amended by revising paragraph (c) to read as follows:

§ 238.20 Participation requirements.

* * * * *

(c) The State must have procedures under which there is coordination among CWEP, the employment search program, and WIN to ensure that job placement will have priority.

* * * * *

13. Section 238.26 is amended by revising paragraphs (a) and (b) to read as follows:

§ 238.26 Chief Executive Officer.

The Chief Executive Officer of the State:

(a) Shall provide for coordination among CWEP, the program of employment search and WIN to ensure that:

(1) Job placement will have priority; and

(2) An individual who is required to participate in more than one of the programs identified in this section may not be denied aid under the State plan on the grounds of "failure to participate" in one such program if there is a conflict in the implementation or scheduling of activities between programs, and he is satisfactorily participating in the other program.

(b) May require that a participant who satisfactorily meets the requirements of CWEP may be required to participate in a program of employment search or WIN during such time as he is not participating in CWEP.

14. A new Part 240 is added to Chapter II, Title 45, Code of Federal Regulations to read as follows:

PART 240—EMPLOYMENT SEARCH PROGRAM

Subpart A—Introduction

Sec.

240.01 Scope of this part.

Subpart B—Administration and Program Requirements

240.10 Agency administering the program.
240.12 Statewideness.
240.14 Establishment of mandatory participant groups.
240.20 Program requirements.
240.22 Conditions of eligibility and sanctions.
240.24 Hearings and notices.

Subpart C—Federal Financial Participation

240.60 Allowable administrative expenses.
240.62 Expenses not matchable.
240.64 Fiscal recordkeeping requirements.

Subpart A—Introduction

§ 240.01 Scope to this part.

Each State may operate a program of employment search and require certain AFDC applicants and recipients to participate in it as a condition of AFDC eligibility. The purpose of this employment search program is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized employment. Allowable costs to operate a program of employment search are matched by the Federal government at the AFDC administrative match level.

Subpart B—Administration and Program Requirements

§ 240.10 Agency administering the program.

Each State with a plan approved under title IV–A of the Social Security Act may establish a program of employment search in accordance with the requirements in this part. The single State agency designated in the State plan to administer or supervise the AFDC program must administer the employment search program.

§ 240.12 Statewideness.

The employment search program must be statewide. It may provide different employment search activities or impose different participation requirements based on an individual's characteristics.

§ 240.14 Establishment of mandatory participant groups.

(a) The State plan shall specify the groups, types, and classes of applicants and recipients who will be mandatory participants in the employment search program. These categories may only include individuals who would be required to register for WIN under § 224.20, and those excluded from registration requirements because of remoteness from a WIN site under § 224.20(b)(6).

(b) A State plan may also provide for voluntary participation in an employment search program in those not required to participate under (a). If the plan provides for voluntary participation, it shall identify any conditions which attach to voluntary participation. States must inform voluntary participants of these conditions, if any.

(c) The State agency may exempt from employment search any applicant who does not appear to meet eligibility criteria for AFDC based upon a preliminary assessment it makes at the time the individual files his application. This process must not constitute informal denial of eligibility for assistance nor delay the processing of the application

§ 240.20 Program requirements.

(a) The State plan must specify the requirements for participation (such as a minimal number of employer contacts a week or that a bona fide job offer cannot be refused without good cause). However, these requirements may vary for different categories of individuals depending on an individual's work history, etc. States must not impose requirements which would delay processing of an application. States may require that an individual participate in the employment search program from the time he files an application for aid for an initial period, prescribed in the State plan, of up to 8 consecutive weeks. Following this initial period (which may extend beyond the date when eligibility is determined), the States may require additional participation in employment search, not in excess of 8 weeks (or its equivalent) in any period of 12 consecutive months. The first such period of 12 consecutive months shall begin at any time following the close of the initial period.

(b) The State may assign individuals to any combination of CWEP, WIN, and employment search activities. The State plan must specify procedures for coordination among CWEP, WIN, and the employment search program to ensure that:

(1) Job placement will have priority; and

(2) An individual who is required to participate in more than one of the programs identified in this section may not be denied aid under the State plan on the grounds of "failure to participate" in one such program if there is a conflict in the implementation or scheduling of activities between programs, and he is satisfactorily participating in the other program.

The State may require an individual to participate in a program of employment search during such time as he is not participating in CWEP or WIN.

(c) The State plan must also provide for methods to ensure that requirements for participation in employment search are met. The State must establish procedures enabling it to verify participation in the program.

(d) The State plan shall also provide that participants in the program:

(1) Are furnished those support services (such as transportation and child care) necessary for participation or

(2) Are paid in advance or reimbursed for expenses or such services which they reasonably incur (as defined by the State) in order to meet the requirements of the program.

The plan must specify how this requirement will be met and which services will be covered.

§ 240.22 Conditions of eligibility and sanctions.

(a) The State plan shall provide for sanctions when a recipient, who is required to participate in the program of employment search, fails to meet the requirements for participation in that program, and shall also indicate the duration of the sanction periods which apply in cases of first or subsequent failures to participate. If a recipient fails to meet State requirements for participation in employment search, the sanctions specified below shall remain in effect for a period (effective no later than the first day of the corresponding payment month) up to 3 payment months for the first such failure and up to 6 payment months for any subsequent such failure.

(1) If the individual is a caretaker relative receiving benefits (other than a principal earner), the State shall not take into account his needs in determining the assistance unit's need for assistance. The State shall provide assistance in the form of protective or vendor payments;

(2) If the individual is one of several dependent children in the assistance unit, the State shall not take into account the child's needs in determining the assistance unit's need for assistance; if the individual is the only dependent child in the assistance unit, the State shall deny assistance to the entire unit; and

(3) If the individual is a principal earner, the State shall deny assistance to the entire assistance unit.

(b) The State plan shall provide that an applicant will remain ineligible for assistance for so long as he fails to meet the State requirements for participation in the employment search program:

(1) If the individual is a caretaker relative, the State shall not take into account his needs in determining the assistance unit's need for assistance. The State shall provide assistance in the form of protective or vendor payments;

(2) If the individual is one of several dependent children in the assistance unit, the State shall not take into account the child's needs in determining the assistance unit's need for assistance; if the individual is the only dependent child in the assistance unit the State shall deny assistance to the entire unit; and

(3) If the individual is a principal earner, the State shall deny assistance to the entire assistance unit.

(c) The State plan shall specify the criteria to be used in determining whether applicants and recipients have "good cause" for failing to meet State requirements for participation in employment search.

§ 240.24 Hearings and notices

The State plan shall specify that the hearings and notice procedures at § 205.10 apply to applicants and recipients who are required to participate in employment search under this part.

Subpart C—Federal Financial Participation

§ 240.60 Allowable administrative expenses.

(a) Federal financial participation (FFP) is available at a 50 percent rate for reasonable expenditures which a State makes in implementing an employment search program. The State plan must specify the services and activities for which FFP will be claimed. Under this requirement, the plan must include those services and activities:

(i) For which direct payment will be made to participants, whether in advance or by way of reimbursement;

(ii) For which payment will be made to third-party providers; and

(iii) Which the agency will provide directly to participants.

(b) FFP is available for direct payments to employment search participants for expenditures for transportation, child care, and other costs reasonably incurred by participants in meeting the requirements of the program.

(c) FFP is available for reasonable expenses incurred by the single State agency in providing services or in contracting with third-parties to provide services for its employment search program if the expenses are consistent with the approved employment search program. FFP is available for expenditures in employment search activities for applicants and recipients such as group jobseeking, job development, exposure to labor market information, work orientation, and referral which are necessary to assist individuals in locating unsubsidized employment.

§ 240.62 Expenses not matchable.

FFP is not available for expenditures for services or activities which are not essential to immediate job seeking, such as longer range remedial care and services, training or psychological counseling.

§ 240.64 Fiscal recordkeeping requirements.

To support claims for FFP, States shall identify all participants in their employment search program, the activities in which each individual participates, and any services or direct payments for expenses provided to individual participants. The reporting or recordkeeping provisions for Employment Search have been assigned OMB No. 0960–0319.

[FR Doc. 83-16570 Filed 6-20-83; 8:45 am]

BILLING CODE 4130-11-M

federal register

Tuesday
June 21, 1983

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 915]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 15, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 915

Issued June 15, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ARKANSAS OIL & GAS COMMISSION									
-AMGO INC				RECEIVED:	05/25/83	JA: AR			
8338612		0310310640		102-4		ANDREW GREEN #1	ELLIOTT SOUTH FIELD	300.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	05/25/83	JA: AR			
8338637		0308310899		103		KLECK #1	PARIS	50.0	
-BROCK HYDROCARBONS INC				RECEIVED:	05/25/83	JA: AR			
8338617		0303310996		102-4		STARBIRD #1-36	HOLLIS LAKE	0.0	ARKANSAS LOUISIAN
-C & K PETROLEUM INC				RECEIVED:	05/25/83	JA: AR			
8338594		0311510135		102-4		MORLEY #6-1	MORELAND	336.0	ARKANSAS LOUISIAN
8338595		0311510140		102-4		REAVIS #1	MORELAND	2155.0	ARKANSAS LOUISIAN
-CHARLES E MCRAY DBA MCRAY AND ASSOC				RECEIVED:	05/25/83	JA: AR			
8338607		0311510151		103		HUDSON #1-8	MORELAND	220.0	ARKANSAS LOUISIAN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/25/83	JA: AR			
8338624		0307110253		103		J R POPE "B" #2-C	KNOXVILLE	9.0	ARKANSAS LOUISIAN
8338623		0307110253		102-4		J R POPE "B" #2-T	KNOXVILLE	96.0	ARKANSAS LOUISIAN
-DOME PETROLEUM CORP				RECEIVED:	05/25/83	JA: AR			
8338606		0311510108		102-4		PAGE #1	ROSS	365.0	ARKANSAS LOUISIAN
-EXXON CORPORATION				RECEIVED:	05/25/83	JA: AR			
8338638		0308310083		102-4		CHISMVILLE GAS UNIT 2 #1U	CHISMVILLE	1372.0	
8338639		0308310089		102-4		PHILLIPS GAS UNIT #1	BOONEVILLE FIELD	1308.0	
-GULF OIL CORPORATION				RECEIVED:	05/25/83	JA: AR			
8338616		0303310099		103		CLAUDE MEADORS #2-14	KIBLER-WILLIAMS	530.0	ARKANSAS LOUISIAN
8338630		0304710204		103		FLANAGAN #2-27	PETER PENDER	286.0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:	05/25/83	JA: AR			
8338625		0307110265		103		PITTS #1-32	SPADRA	188.0	
8338640		0308310087		102-4		WHITECOTTON #1-32	DELAWARE	100.0	ARKANSAS LOUISIAN
-HUGGS INCORPORATED				RECEIVED:	05/25/83	JA: AR			
8338615		0313911382		102-4		STEINBERG #1	GREGORY	182.5	ARKANSAS LOUISIAN
-J M HUBER CORPORATION				RECEIVED:	05/25/83	JA: AR			
8338611		0309110271		102-4		BENSON #1	RONDO FIELD	300.0	NATURAL GAS PIPEL
-MCGOLDRICK OIL COMPANY				RECEIVED:	05/25/83	JA: AR			
8338614		0313911550		102-2		OAKES #1	SOUTH RAINBOW	200.0	ARKANSAS LOUISIAN
-OLD DOMINION OIL CORP				RECEIVED:	05/25/83	JA: AR			
8338626		0307110228		102-4		TILLMAN #1	KNOXVILLE	613.0	ARKANSAS LOUISIAN
-REVERE CORP				RECEIVED:	05/25/83	JA: AR			
8338586		0313110231		103		BEULAH JOHNSON #1	BONANZA	401.5	ARKANSAS LOUISIAN
8338587		0303110206		102-4		TROTTER #1-C	BONANZA	945.0	ARKANSAS LOUISIAN
-SEECO INC				RECEIVED:	05/25/83	JA: AR			
8338621		0307110259		103		PLUGGE #1-33-C	SPADRA	0.0	ARKANSAS WESTERN
8338622		0307110259		102-4		PLUGGE #1-33-T	SPADRA	0.0	ARKANSAS WESTERN
-TENNECO OIL COMPANY				RECEIVED:	05/25/83	JA: AR			
8338627		0307110193		102-4		DAVIS 1-32	ALTUS	164.0	
-THOMAS C MUELLER				RECEIVED:	05/25/83	JA: AR			
8338608		0311510147		102-4		SINGLETON #1-34-C	FURGERSON	1825.0	TENNESSEE GAS PIP
8338609		0311510147		102-4		SINGLETON #1-34-T	FURGERSON	730.0	TENNESSEE GAS PIP
-TIDELAND ENERGY INC				RECEIVED:	05/25/83	JA: AR			
8338610		0309110365		102-4		ABRAHAM #1	RONDO	300.0	NATURAL GAS PIPEL

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TOWNER PETROLEUM CO				RECEIVED: 05/25/83		JA: AR			
8338599		0311510113		103		CARPENTER PAUL WEIR #30-1	N LONDON	0.0	ARKANSAS LOUISIAN
8338596		0311510100		102-3		CONNERLY #10-1	FURGERSON	100.0	ARKANSAS LOUISIAN
8338597		0311510165		102-4		GUMLOG #19-1	MORELAND	0.0	ARKANSAS LOUISIAN
8338598		0311510114		102-4		SIMPSON 4-1	MORELAND	0.0	ARKANSAS LOUISIAN
-TXO PRODUCTION CORP				RECEIVED: 05/25/83		JA: AR			
8338632		0304710209		102-4		AUSTIN "B" #1-C	CECIL	700.0	
8338631		0304710209		102-4		AUSTIN "B" #1-T	CECIL	700.0	
8338600		0311510126		102-2		BEARD "A" #1-C	FURGERSON	420.0	
8338601		0311510126		102-2		BEARD "A" #1-T	FURGERSON	420.0	
8338602		0311510158		102-4		BEWLEY #1	ROSS	53.8	COLUMBIA GAS DEVE
8338628		0307110273		102-4		CASEY "D" #1	SILEX	148.3	COLUMBIA GAS TRAN
8338641		0308310107		102-4		DEAN "C" #1	PARIS	10.5	COLUMBIA GAS DEVE
8338603		0311510136		102-4		FOREHAND #1-C (AMENDED)	FURGERSON	3281.3	COLUMBIA GAS DEVE
8338604		0311510136		102-4		FOREHAND #1-T (AMENDED)	FURGERSON	1496.3	COLUMBIA GAS DEVE
8338588		0313110155		103		GILL #3-C	EWING	39.4	
8338589		0313110155		102-4		GILL #3-T	EWING	1207.5	
8338620		0307310792		103		GRIMMETT #1	KRESS CITY EAST	133.9	
8338590		0313110233		103		HAMILTON "D" #1-C	URSULA	11.0	
8338591		0313110233		103		HAMILTON "D" #1-T	URSULA	652.3	
8338634		0304710237		102-4		HOWE #1-C	JETHRO	13.1	COLUMBIA GAS TRAN
8338633		0304710237		103		HOWE #1-T	JETHRO	13.1	COLUMBIA GAS TRAN
8338613		0302710966		103		MAHONEY #1	TUBAL	52.5	
8338592		0313110207		103		MCBRIDE "C" #1-C	BONANZA	560.0	
8338593		0313110207		102-4		MCBRIDE "C" #1-T	BONANZA	560.0	
8338642		0308310112		102-4		PARKER "K" #1-C	PARIS	18.9	COLUMBIA GAS DEVE
8338643		0308310112		102-4		PARKER "K" #1-T	PARIS	76.1	COLUMBIA GAS DEVE
8338635		0304710184		103		PENDERGRASS "B" #1-T (AMENDED)	AETNA	538.1	COLUMBIA GAS DEVE
8338629		0307110278		102-4		POMRENKE #1	ROSS	5.3	COLUMBIA GAS DEVE
8338636		0304710238		102-4		STRONG #1	POSSOM TROT	8.1	COLUMBIA GAS TRAN
8338605		0311510160		102-4		TAYLOR "L" #1	DOVER	65.6	COLUMBIA GAS DEVE
8338644		0308310104		102-4		WILLIAMS "V" #1-C	CHISMVILLE	131.3	
8338645		0308310104		103		WILLIAMS "V" #1-T	CHISMVILLE	175.9	
8338618		0312710021		103		YOWELL #1-C	MANSFIELD	2.6	
8338619		0312710021		102-4		YOWELL #1-T	MANSFIELD	4.7	
LOUISIANA OFFICE OF CONSERVATION									
-DAVIS OIL COMPANY				RECEIVED: 05/25/83		JA: LA			
8338578	82-2802	1702321774		102-4		CUTLER OIL AND GAS #2	LITTLE PECAN LAKE	365.0	LOUISIANA RESOURC
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SHELL OIL CO				RECEIVED: 05/24/83		JA: MI			
8338571		2113700000		102-4		STATE CHARLTON 2-11	CHARLTON 11A	1168.0	MICHIGAN CONSOLID
8338572		2113700000		102-4		STATE CORWITH 3-31	CORWITH 31	59.8	MICHIGAN CONSOLID
8338573		2113700000		102-4		STYLES 2-2	OTSEGO LAKE 2	189.0	MICHIGAN CONSOLID
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED: 05/26/83		JA: PA			
8338657	18963	3706325026		108		HARRY RAY #1-A	CLYLER	0.1	COLUMBIA GAS TRAN
8338656	18962	3706324683		108		NORTH AMERICAN COAL #1	CLYMER	0.1	COLUMBIA GAS TRAN
-ANGERMAN ASSOCIATES INC				RECEIVED: 05/26/83		JA: PA			
8338648	17310	3712921599		108		A EIDIEMILLER (MILLER TRACT)#1-2159	W PENNA - UPPER DEVON	3.5	INDUSTRIAL ENERGY
-ARROWHEAD GAS PRODUCERS INC				RECEIVED: 05/26/83		JA: PA			
8338655	18909	3712331131		107-TF		D BOARDMAN #1	SUGAR GROVE	25.5	COLUMBIA GAS TRAN
8338654	18907	3712330631		107-TF		W SAUNDERS #3	SUGAR GROVE	61.2	COLUMBIA GAS TRAN
-ATLAS RESOURCES INC				RECEIVED: 05/26/83		JA: PA			
8338709	19951	3706327102		102-2		ORANGE #1	GREEN	108.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED: 05/26/83		JA: PA			
8338661	19129	3712332107		107-TF		A PETKO #1	WILDCAT	14.0	COLUMBIA GAS TRAN
8338660	19128	3712332107		102-3		A PETKO #1	WILDCAT	14.0	COLUMBIA GAS TRAN
8338659	19072	3712332106		102-3		BUNTING UNIT #1	WILDCAT	14.0	COLUMBIA GAS TRAN
8338658	19071	3712332106		107-TF		BUNTING UNIT #1	WILDCAT	14.0	COLUMBIA GAS TRAN
8338663	19199	3712332134		107-TF		C EASTMAN #3	WILDCAT	16.0	COLUMBIA GAS TRAN
8338662	19198	3712332134		102-3		C EASTMAN #3	WILDCAT	16.0	COLUMBIA GAS TRAN
8338664	19214	3712332232		107-TF		R EASTMAN #2	WILDCAT	0.0	COLUMBIA GAS TRAN
8338665	19213	3712332232		102-3		R EASTMAN #2	WILDCAT	0.0	COLUMBIA GAS TRAN
-C & C TROYER BROTHERS				RECEIVED: 05/26/83		JA: PA			
8338716	19999	3704920780		108		KOWALSKI #1	UNION TWP	2.0	NATIONAL FUEL GAS
-CABOT OIL & GAS CORP				RECEIVED: 05/26/83		JA: PA			
8338691	19869	3712133814		102-2		CATHERINE TEIG #1	SUGAR CREEK	50.0	TENNESSEE GAS PIP
8338690	19868	3712133814		107-TF		CATHERINE TEIG #1	SUGAR CREEK	50.0	TENNESSEE GAS PIP
8338689	19867	3712133416		102-3		KENNETH A HOLLABAUGH #1	CANAL	50.0	TENNESSEE GAS PIP
8338688	19866	3712133416		107-TF		KENNETH A HOLLABAUGH #1	CANAL	50.0	TENNESSEE GAS PIP
-CASTLE GAS CO INC				RECEIVED: 05/26/83		JA: PA			
8338684	19779	3706327341		103		M D HILL #5 (C-765) IND-27341	WHITE	60.0	PEOPLES NATURAL G
8338683	19705	3706327274		103		INDIANA CO DEV CORP #1 (C-762)27274	CENTER	6.0	PEOPLES NATURAL G
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED: 05/26/83		JA: PA			
8338736	20041	3705120325		103		MELLON BANK (O&G) 621040	OHIOPYLE	62.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 05/26/83		JA: PA			
8338732	20031	3706323746		108		FIRST NATL BANK INDIANA #3 WM-1575	CANOE	19.0	GENERAL SYSTEM PU
8338682	19648	3703321459		102-4		H SHAW #1 WM-1964	PENN	71.0	GENERAL SYSTEM PU
8338734	20035	3703320709		108		J L BROTHERS EST #1 WM-1671	BURNSIDE	15.0	GENERAL SYSTEM PU
8338733	20032	3706325593		108		J P MOTTORN #2 WM-1649	NORTH MAHONING	20.0	GENERAL SYSTEM PU
8338735	20038	3703321397		102-2		R G OLSON #1 WM-1939	PENN	13.0	GENERAL SYSTEM PU
-DOC-NCC SERVICE CO				RECEIVED: 05/26/83		JA: PA			
8338723	20007	3712900000		108		BEN F AIKIN 8850-1	EAST HUNTINGDON	0.0	COLUMBIA GAS OF P
8338718	20002	3712921626		108		D S LOUCKS 851-1	EAST HUNGTINGDON	1.3	COLUMBIA GAS OF P
8338726	20010	3712921638		108		F O KEISTER 997-1	EAST HUNTINGDON	10.1	COLUMBIA GAS OF P
8338719	20003	3712921428		108		H E NEWLIN 419-1	EAST HUNTINGDON	14.1	COLUMBIA GAS OF P
8338722	20006	3712921641		108		HAROLD E DILLINGER 843-1	EAST HUNTINGDON	11.7	COLUMBIA GAS OF P
8338720	20004	3712921561		108		J C MCGILL 802-1	EAST HUNTINGDON	17.0	COLUMBIA GAS OF P
8338725	20009	3712921629		108		ROY E LYNCH 893-1	EAST HUNTINGDON	17.1	COLUMBIA GAS OF P
8338721	20005	3712921643		108		T R LEAMAN 817-1	EAST HUNTINGDON	4.2	COLUMBIA GAS OF P
8338724	20008	3712921634		108		WESTMORELAND-FAYETTE COUNCIL 880-1	SOUTH HUNTINGDON	16.6	COLUMBIA GAS OF P
-DORAN & ASSOCIATES INC				RECEIVED: 05/26/83		JA: PA			
8338715	19981	3706324150		108		GEORGE CORNELL #2 KL-51	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8338714	19980	3706324018		108		V FRECH #3 KL-25	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL G
-ENERGY PRODUCTION CO				RECEIVED: 05/26/83		JA: PA			
8338729	20024	3706326824		103		A WITTENMAIER #1	NOLO MOUNTAIN	4.5	T W PHILLIPS GAS
-ENVIROGAS INC				RECEIVED: 05/26/83		JA: PA			
8338717	20011	3704920793		102-4		C BEMIS #2	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8338727	20012	3704920747		102-4		S CHWATEK #1	NORTH EAST	18.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	05/26/83	JA: PA			
8338728	20016	3706522101		108		R BAIRD LOVELACE #3 F-2813	BIG RUN	19.0	CONSOLIDATED GAS
8338678	19614	3706522654		103		STATE GAME LANDS #195 #7 F-3623	BIG RUN	60.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC				RECEIVED:	05/26/83	JA: PA			
8338706	19941	3706522607		103		R & P COAL CO #52 (595A)	WINSLOW	0.0	COLUMBIA GAS TRAN
8338707	19942	3706522609		103		R & P COAL CO #54 (222A)	WINSLOW	0.0	COLUMBIA GAS TRAN
8338708	19944	3706522619		103		R & P COAL CO #58 (222A)	WINSLOW	0.0	COLUMBIA GAS TRAN
-JENNIFER PETROLEUMS PA INC				RECEIVED:	05/26/83	JA: PA			
8338653	18897	3712330188		107-TF		J LITTLE #4	FREENOLD	50.0	COLUMBIA GAS TRAN
8338652	18896	3712330184		103		J LITTLE #4	FREEHOLD	50.0	COLUMBIA GAS TRAN
-KALTSAS OIL CO				RECEIVED:	05/26/83	JA: PA			
8338687	19855	3704922430		103		FRANCIS STROBEL #1	WATTSBURG	0.0	COLUMBIA GAS TRAN
8338686	19854	3704922430		107-TF		FRANCIS STROBEL #1	WATTSBURG	0.0	COLUMBIA GAS TRAN
8338675	19344	3704971939		107-TF		PAUL MICKLE #1	CAMBRIDGE SPRINGS	15.0	COLUMBIA GAS TRAN
8338674	19343	3704921939		103		PAUL MICKLE #1	CAMBRIDGE SPRINGS	15.0	COLUMBIA GAS TRAN
-NEA CROSS CO				RECEIVED:	05/26/83	JA: PA			
8338705	19916	3704922550		107-TF		KURTZ A & BARBARA FICHTHORN #3	WATERFORD	10.0	NATIONAL FUEL GAS
8338704	19915	3704922550		102-2		KURTZ A & BARBARA FICHTHORN #3	WATERFORD	10.0	NATIONAL FUEL GAS
8338677	19541	3704922523		107-TF		SAMUEL HAZEN #1	WATERFORD	10.0	NATIONAL FUEL GAS
8338676	19540	3704922523		102-2		SAMUEL HAZEN #1	WATERFORD	10.0	NATIONAL FUEL GAS
8338703	19914	3704922662		107-TF		SILAS W COON #2	WATERFORD	10.0	NATIONAL FUEL GAS
8338702	19913	3704922662		102-2		SILAS W COON #2	WATERFORD	10.0	NATIONAL FUEL GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	05/26/83	JA: PA			
8338700	19907	3704922457		107-TF		CLARKSON #1	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338701	19908	3704922457		102-2		CLARKSON #1	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338697	19898	3704922484		107-TF		LOPER #1	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338694	19895	3704922485		107-TF		LOPER #2	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338696	19897	3704922484		102-2		LOPER 1	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338695	19896	3704922485		102-2		LOPER 2	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338698	19899	3704922476		107-TF		SALMON B #4	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
8338699	19900	3704922476		102-2		SALMON B #4	WEST WATERFORD	0.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	05/26/83	JA: PA			
8338649	17382	3706326223		108		MILDRED B WYNKOOP #1	RAYNE	4.0	COLUMBIA GAS TRAN
-SCOTT AND HUSSING				RECEIVED:	05/26/83	JA: PA			
8338681	19638	3712921691		108		CONCORD-LIBERTY #1 WELL #145	SALTSBURG	15.0	BETHLEHEM STEEL C
-T W PHILLIPS GAS & OIL CO				RECEIVED:	05/26/83	JA: PA			
8338711	19977	3700500000		108		J A TURNER #2	MADISON	1.1	T W PHILLIPS GAS
8338712	19978	3700500000		108		J A TURNER #3	MADISON	1.3	T W PHILLIPS GAS
8338713	19979	3700500000		108		MINNIE E UNGER #1	MADISON	1.6	T W PHILLIPS GAS
8338710	19976	3700500000		108		WILLIAM STEWART #3	MADISON	2.8	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	05/26/83	JA: PA			
8338692	19879	3706327405		103		ERNEST C FOWLER #1 0701	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8338693	19880	3706327425		103		ZENAS HENRY #2 0703	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	05/26/83	JA: PA			
8338680	19625	3712332395		102-2		DODD #4	COLUMBUS	20.0	NATIONAL FUEL GAS
8338679	19624	3712332395		107-TF		DODD #4	COLUMBUS	20.0	NATIONAL FUEL GAS
-US ENERGY DEVELOPMENT CORP				RECEIVED:	05/26/83	JA: PA			
8338730	20027	3712332487		102-2		CARTER LUMBER #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338731	20028	3712332487		107-TF		CARTER LUMBER #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338647	9354	3712328918		107-TF		CORNISH #2	FREEHOLD	20.0	COLUMBIA GAS TRAN
8338646	9353	3712328918		102-2		CORNISH #2	FREEHOLD	20.0	COLUMBIA GAS TRAN
8338673	19297	3712331836		107-TF		J ZAJAC #3	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338672	19296	3712331836		102-2		J ZAJAC #3	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338666	19290	3712331888		102-2		J ZAJAC #4	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338667	19291	3712331888		107-TF		J ZAJAC #4	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338669	19293	3712332193		107-TF		JENSEN-LEWIS #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338668	19292	3712332193		102-2		JENSEN-LEWIS #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338671	19295	3712332251		107-TF		W W HAMMOND #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8338670	19294	3712332251		102-2		W W HAMMOND #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
-VICTORY DEVELOPMENT CO				RECEIVED:	05/26/83	JA: PA			
8338685	19836	3706327046		103		MUMAU #2 - IND-27046	GRANT	36.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO				RECEIVED:	05/26/83	JA: PA			
8338650	17459	3704922006		107-TF		ZIMMERLY #4	DRUMLIN	18.0	NATIONAL FUEL GAS
8338651	17460	3704922006		102-2		ZIMMERLY #4	DRUMLIN	18.0	NATIONAL FUEL GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
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-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/25/83	JA: LA 3			
8338574	G2-2681	1770440516		102-5		EAST CAMERON BLK 259 WELL #A-9	EAST CAMERON	1743.0	TENNESSEE GAS PIP
8338576	G2-2683	1770440491		102-5		EAST CAMERON BLK 359 WELL #A-3	EAST CAMERON	2403.0	TENNESSEE GAS PIP
-KERR-MCGEE CORPORATION				RECEIVED:	05/25/83	JA: LA 3			
8338575	G2-2987	1771140598		102-5		OCS G-1528 #B-3D	SHIP SHOAL	779.0	TRANSCONTINENTAL
-EXXON CORPORATION				RECEIVED:	05/25/83	JA: TX 3			
8338577	G2-2993	4270340133		102-5		OCS-G-3091 A-6	MATAGORDA 633 FIELD	1800.0	SOUTHERN NATURAL
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-UNION TEXAS PETROLEUM				RECEIVED:	05/25/83	JA: ND 5			
8338581	ND 349-2	3305301209		103		FEDERAL 24-1	ROUGH RIDER	48.5	
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/25/83	JA: WY 5			
8338584	W 352-2	4901321189		103		ARCO TRIBAL #33	RIVERTON DOME	730.0	MONTANA-DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	05/25/83	JA: WY 5			
8338583	W 351-2	4903520629		103		C77-23	CHIMNEY BUTTES UNIT	0.0	NORTHWEST PIPELIN
-CIG EXPLORATION INC				RECEIVED:	05/25/83	JA: WY 5			
8338582	W 350-2	4901320984		103		MADDEN DEEP - MEDIAN 1-21 21-39-90	MADDEN DEEP	171.0	COLORADO INTERSTA
8338585	W 355-2	4901320999		103		MADDEN DEEP - MESA FED 1-14 143991	MADDEN DEEP - CODY	10.0	COLORADO INTERSTA
-WOODS PETROLEUM CORPORATION				RECEIVED:	05/25/83	JA: WY 5			
8338580	W 348-2	4900526402		102-4		PINE TREE #9-42	PINE TREE	1.0	WESTERN GAS PROCE
8338579	W 321-2	4900526433		102-4		PINE TREE UNIT 29-38	PINE TREE	1.0	WESTERN GAS PROCE

[FR Doc. 83-16506 Filed 6-20-83; 8:45 am]
BILLING CODE 6717-01-C

[Volume 916]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 15, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is avilable on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 916

Issued June 15, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-ERGON INC				RECEIVED:	05/26/83	JA: LA			
8338832	83-0373	1711123810		103		CLARA C GIBSON #1	MONROE	9.3	TEXAS GAS TRANSMI
-IMC EXPLORATION COMPANY				RECEIVED:	05/26/83	JA: LA			
8338833	83-0289	1711123737		103		UNION PRODUCING CO #N-281	MONROE	14.0	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO				RECEIVED:	05/26/83	JA: LA			
8338831	83-0377	1711123888		103		GRAYLING #7	MONROE	0.0	IMC PIPELINE CO I
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMAX PETROLEUM CORPORATION				RECEIVED:	05/31/83	JA: NM			
8338946		3003900000		108-PB		BISHOP #2	SOUTH BLANCO	18.0	EL PASO NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	05/31/83	JA: NM			
8338940		3002500000		108		H CORRIGAN #7	EUNICE	19.5	GETTY OIL CO
8338942		3002500000		108		H CORRIGAN #8	EUNICE	8.9	NORTHERN NATURAL
8338941		3002500000		108		H CORRIGAN BLINEBRY GAS COM #9	EUNICE	17.6	NORTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	05/31/83	JA: NM			
8338927		3004500000		103		DAVIS GAS COM "I" #1	BROOMFIELD CHACRA	16.4	EL PASO NATURAL G
-DALLAS MCCASLAND				RECEIVED:	05/31/83	JA: NM			
8338951		3002500000		108-PB		LITTIE WOOLWORTH #3	JALMAT	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/31/83	JA: NM			
8338932		3003907047		108		RINCON UNIT #21	BLANCO - MESAVERDE	10.0	EL PASO NATURAL G
8338950		3003900000		108-PB		SAN JUAN 30-6 UNIT #13	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8338949		3003900000		108-PB		SAN JUAN 30-6 UNIT #13	BLANCO-MESA VERDE	0.0	EL PASO NATURAL G
8338948		3003900000		108-PB		SAN JUAN 30-6 UNIT #13	BLANCO-MESA VERDE	0.0	EL PASO NATURAL G
8338947		3003907737		108		SAN JUAN 30-6 UNIT #13	BLANCO - MESA VERDE	18.0	EL PASO NATURAL G
8338931		3004524196		108		SAN JUAN 32-9 UNIT #57A	BLANCO - MESA VERDE	13.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	05/31/83	JA: NM			
8338926		3002506278		108		A B REEVES #2	EUMONT GAS	16.9	NORTHERN NATURAL
8338944		3002510449		108		AMANDA #1	BLINEBRY & TUBB GAS	18.0	NORTHERN NATURAL
8338921		3002504574		108		BELL RAMSAY (NCT-A) #1	EUNICE MONUMENT	6.9	PHILLIPS PETROLEU
8338925		3002504935		108		HARRY LEONARD (NCT-C) #8	EUMONT	8.9	NORTHERN NATURAL
8338929		3002525463		108		S J CARR #9	LANGLIE MATTIX	15.7	EL PASO NATURAL G
8338922		3002511920		108		VINSON RAMSAY (NCT-B) #11	JUSTIS BLINEBRY	9.0	EL PASO NATURAL G
8338923		3002520064		108		W A RAMSAY (NCT-C) #5	JUSTIS BLINEBRY	1.2	EL PASO NATURAL G
-RAULT PETROLEUM CORP				RECEIVED:	05/31/83	JA: NM			
8338930		3000561865		103		R C GRAVES #1	TWIN LAKE	360.0	MAPCO PRODUCTION
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	05/31/83	JA: NM			
8338934		3004525278		107-TF		SUSCO 16 STATE #1	BASIN DAKOTA	1053.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	05/31/83	JA: NM			
8338936		3002528139		103		BAUM STATE #2	BAUM	109.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/31/83	JA: NM			
8338945		3002500000		108		STATE "A" A/C 1 #34	JALMAT TANSILL YT 7 R	8.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	05/31/83	JA: NM			
8338935		3001500000		107-PE		COTTON DRAW UNIT #65	MORROW	361.0	NMESCO FUELS INC
-UNICON PRODUCING CO				RECEIVED:	05/31/83	JA: NM			
8338928		3004525040		103		STATE COM 31-8 #1	BLANCO MESAVERDE	760.0	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-UNION TEXAS PETROLEUM				RECEIVED:	05/31/83	JA: NM			
8338939		3002527841		103		LANGLIE-JAL UNIT 96	LANGLIE-MATTIX (QUEEN	8.0	EL PASO NATURAL G
8338938		3002527842		103		LANGLIE-JAL 97	LANGLIE-MATTIX (QUEEN	7.0	EL PASO NATURAL G
8338933		3002527984		103		POST #1	KING DEV	82.0	
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	05/31/83	JA: NM			
8338945		3002506685		108		C L HARDY #2	BLINEBRY & PADDOCK	7.3	EL PASO NATURAL G
8338937		3002525500		103		H T MATTERN (NCT-C) #11	DRINKARD & BLINEBRY	15.0	EL PASO NATURAL G
8338924		3002506834		108		J N CARSON NCT-C #7	PADDOCK	4.2	EL PASO NATURAL G
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OKLAHOMA CORPORATION COMMISSION									
**********									
-AMERICAN EXPLORATION & DEVELOPMENT				RECEIVED:	05/26/83	JA: OK			
8338870	21851	3514300000		103		JONES #2	LIBERTY MOUNDS	0.0	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	05/26/83	JA: OK			
8338912	22035	3500321025		103		JENLINK A 2-9	LAMBERT S E	140.0	PIONEER GAS PRODU
-ARKOMA ENERGY CORP				RECEIVED:	05/26/83	JA: OK			
8338861	21939	3501100000		103		PERDUE #1	SE/4 SECTION 12-16N-1	365.0	WARREN PETROLEUM
-BEARD OIL COMPANY				RECEIVED:	05/26/83	JA: OK			
8338881	21904	3510920600		103		AMOS #1	CHOCTAW	12.0	OKLAHOMA NATURAL
8338882	21903	3510920652		103		CHOCTAW #3	CHOCTAW	13.0	OKLAHOMA NATURAL
-BERRY PETROLEUM CORP				RECEIVED:	05/26/83	JA: OK			
8338885	21972	3508720801		103		BAXTER 1-20	NORTH CRINER	189.5	WARREN PETROLEUM
-BETA OIL & GAS DEVELOPMENT				RECEIVED:	05/26/83	JA: OK			
8338919	21895	3511123134		108		PINE G-1		6.9	PHILLIPS PETROLEU
8338920	21896	3511123127		108		PINE G-2		9.5	PHILLIPS PETROLEU
8338885	21897	3511123123		108		PINE H-1		7.5	PHILLIPS PETROLEU
-BODARD DRILLING CO				RECEIVED:	05/26/83	JA: OK			
8338869	21863	3504722635		103		RINGWOOD #1	RINGWOOD	16.0	UNION TEXAS PETRO
-BOGERT OIL CO				RECEIVED:	05/26/83	JA: OK			
8338908	22022	3509322587		103		MABEL #1-20	SOONER TREND	204.0	PHILLIPS PETROLEU
-C J CASSELMAN				RECEIVED:	05/26/83	JA: OK			
8338913	22023	3511123726		103		KENNEDY #1	MORRIS	18.3	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/26/83	JA: OK			
8338909	22042	3504723178		103		MATHILDA VOGT #2	ENID	0.0	CHAMPLIN PETROLEU
-CHERRY OIL & GAS LTD				RECEIVED:	05/26/83	JA: OK			
8338902	19966	3513122938		102-2		BLAKELEY #5		15.0	DIAMOND-S GAS SYS
8338903	19967	3513122957		102-2		PEARSON #1		15.0	DIAMOND-S GAS SYS
-CHEW-COAST & SONS				RECEIVED:	05/26/83	JA: OK			
8338900	19972	3514721486		102-2		CHEW #1		3.7	DIAMOND 'S' GAS S
8338901	19971	3514721479		102-2		CHEW #2		4.5	DIAMOND 'S' GAS S
-CITIES SERVICE COMPANY				RECEIVED:	05/26/83	JA: OK			
8338863	21928	3513920565		108		MURDOCK A #12	MOUSER	2.7	PANHANDLE EASTERN
8338864	21927	3502500000		108		OYLER A #1	N E SAMPSEL	4.9	PANHANDLE EASTERN
-D & G OIL & GAS CO INC				RECEIVED:	05/26/83	JA: OK			
8338875	21816	3500320915		103		003-74573	WEST HELENA	45.0	UNION TEXAS PETRO
-EAGLE MINERALS INC.				RECEIVED:	05/26/83	JA: OK			
8338910	22038	3510721112		103		UNTERKIRCHER #1		0.0	GOLDEN ARROW GAS
-ENERGY RESOURCES LTD				RECEIVED:	05/26/83	JA: OK			
8338868	21875	3511124084		103		SPRIGGS #2-22	BEGGS DISTRICT	182.5	PHILLIPS PETROLEU
-F C D OIL CORP				RECEIVED:	05/26/83	JA: OK			
8338876	21814	3509322584		103		THERRIL 1-17	NW FAIRVIEW	40.2	PHILLIPS PETROLEU
-GARY MATTHEWS OIL & GAS				RECEIVED:	05/26/83	JA: OK			
8338918	21967	3512300000		103		CHAFFIN #1	ALLEN DISTRICT	100.0	ARKANSAS LOUISIAN
-HARPER OIL COMPANY				RECEIVED:	05/26/83	JA: OK			
8338862	21936	3510920642		103		SMITH-GREER #20-1	W EDMOND	73.0	PHILLIPS PETROLEU
-HOLD OIL CORP				RECEIVED:	05/26/83	JA: OK			
8338865	21925	3512321852		103		CHARLES SHOCKLEY #19-11	ALLEN	130.0	BOETTCHER OIL & G
-JONES & PELLOW OIL CO				RECEIVED:	05/26/83	JA: OK			
8338916	21997	3501922571		103		VARNER 13-1	NW TATUMS	150.0	MOBIL OIL CORP
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	05/26/83	JA: OK			
8338872	21827	3509320290		108		HAYES #1	RINGWOOD	11.0	UNION TEXAS PETRO
-L R FRENCH JR				RECEIVED:	05/26/83	JA: OK			
8338867	21913	3500320742		103		ARGANBRIGHT #2		75.0	PIONEER GAS PRODU
-LADD PETROLEUM CORPORATION				RECEIVED:	05/26/83	JA: OK			
8338875	21818	3503920792		103		DENNEY #2	THOMAS SOUTHEAST	136.9	TRANSOK PIPE LINE
-MACKELLAR INC				RECEIVED:	05/26/83	JA: OK			
8338893	21860	3510321713		103		PFEIFFER A-#1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8338894	21858	3510332173		103		PFEIFFER A-#2	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8338895	21859	3510321730		103		PFEIFFER B-#2	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8338892	21861	3510321712		103		PFEIFFER C-#1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
-MARION CORPORATION				RECEIVED:	05/26/83	JA: OK			
8338905	19768	3514721927		102-2		LIGHTHILL	VERA	100.0	CITY SERVICE GAS
8338904	19769	3514722714		102-2		MARTIN M-2	HOGSHOOTER	0.2	CITIES SERVICE GA
-MUSTANG PRODUCTION CO.				RECEIVED:	05/26/83	JA: OK			
8338879	21787	3508720537		103		BELL #2-26	FLINT CREEK	28.0	SUN EXPLORATION &
8338878	21788	3508720569		103		BELL #3-26	FLINT CREEK	28.0	SUN EXPLORATION &
8338880	21786	3508720582		103		BELL #4-26	FLINT CREEK	28.0	SUN EXPLORATION &
-NOBLE OPERATING INC				RECEIVED:	05/26/83	JA: OK			
8338883	21902	3509322390		103		HALDAMAN #2	NE SEILING	0.0	
8338884	21901	3509322382		103		WHITAKER #1	NE SEILING	0.0	
8338917	21970	3504722573		103		WOOD #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-OIL EXPLORATION OF AMERICA INC				RECEIVED:	05/26/83	JA: OK			
8338858	21953	3506321670		103		BUCK #3		25.1	WELLHEAD ENTERPRI
8338859	21952	3506321599		103		BUCK NO 2	UNKNOWN	584.0	WELLHEAD ENTERPRI
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	05/26/83	JA: OK			
8338907	18599	3510721018		102-4	103	MCKERNAN #1		0.0	TRANSOK PIPELINE
8338906	18600	3510721145		102-4	103	RYANS #1		0.0	TRANSOK PIPELINE
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	05/26/83	JA: OK			
8338911	22036	3501722270		103		PLOTNER-BENNETT #1		127.8	PHILLIPS PETROLEU
-READING & BATES PETROLEUM CO				RECEIVED:	05/26/83	JA: OK			
8338891	21862	3504700000		108		ERL #1	SOONER TREND	11.0	GRACE PETROLEUM C
8338896	21830	3504721313		108		ERL #2	SOONER TREND	14.0	GRACE PETROLEUM C
8338871	21831	3504700000		108		LANG "A" #1	SOONER TREND	18.5	GRACE PETROLEUM C
-RED EAGLE OIL CO				RECEIVED:	05/26/83	JA: OK			
8338866	21916	3509322275		103		EMMA #1	N W OKEENE	37.0	PHILLIPS PETROLEU
-STANTON ENERGY INC				RECEIVED:	05/26/83	JA: OK			
8338915	22017	3511922153		103		CUNDIFF #1		180.0	SUN GAS TRANSMISS
-TENNECO OIL COMPANY				RECEIVED:	05/26/83	JA: OK			
8338874	21954	3512920911		103		RATCLIFF #1-7	S E STRONG CITY	185.0	DELHI GAS PIPELIN
8338914	22020	3510321829		103		SOUTH LONE ELM CLEVELAND SAND #73	SOUTH LONE ELM	35.0	AMINOIL USA INC
8338887	21982	3510321835		103		SOUTH LONE ELM CLEVELAND SAND #81	SOUTH LONE ELM	15.0	AMINOIL U S A INC
-UNION TEXAS PETROLEUM				RECEIVED:	05/26/83	JA: OK			
8338899	20718	3507300000		108		CROSSWHITE-DUNCAN #2	DOVER HENNESSEY	14.1	EXXON CO USA
8338898	21209	3507300000		108		WILL K #2	DOVER - HENNESSEY	16.8	EXXON CO USA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VALIDUS, INC.				RECEIVED:	05/26/83	JA: OK			
8338860	21945	3505320971		103		BROWN "15" #1	LAMONT	31.0	FARMLAND INDUSTRI
-VAUGHN GOOD OIL CO				RECEIVED:	05/26/83	JA: OK		1.0	UNION TEXAS PETRO
8338877	21802	3509300000		103		FAST A#1	NORTH TUSSY	701.0	MOBIL OIL CORP
-WESTHEIMER-NEUSTADT CORP				RECEIVED:	05/26/83	JA: OK		0.0	KAY PIPELINE CORP
8338886	21996	3501922601		103		PERKINS #2	UNALLOCATED	1.7	WELLSTON NATURAL
-WILLIAM J ZUHONE JR				RECEIVED:	05/26/83	JA: OK	UNALLOCATED	1.9	WELLSTON NATURAL
8338897	21519	3507100000		108		CHARLES & NANCY ROLLINS			
-WILMAR OIL INC				RECEIVED:	05/26/83	JA: OK			
8338889	21871	3508100000		108		BROWN A 2			
8338890	21870	3508100000		108		BROWN B 2			
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	05/27/83	JA: WV			
8338837		4703300500		108		DAISY PRITT #1	BRIDGEPORT	48.0	CONSOLIDATED GAS
8338834		4703300531		108		FARIS #1003	BRIDGEPORT	29.0	CONSOLIDATED GAS
8338839		4703300530		108		FARIS #1004	BRIDGEPORT	23.0	CONSOLIDATED GAS
8338835		4703300503		108		FARIS #3	BRIDGEPORT	21.0	CONSOLIDATED GAS
8338838		4703300494		108		GLEN SMITH #1	BRIDGEPORT	0.0	CONSOLIDATED GAS
8338836		4703300501		108		MCKINLEY #1	BRIDGEPORT	19.0	CONSOLIDATED GAS
8338840		4703300960		108		STELLA CRIM #2	BRIDGEPORT	64.0	CONSOLIDATED GAS
********** ** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM **********									
-AMOCO PRODUCTION CO				RECEIVED:	05/26/83	JA: NM 4			
8338811	NM 0162-83	3004525450		103		GALLEGOS CANYON UNIT 190E	BASIN DAKOTA	38.2	EL PASO NATURAL G
-AZTEC ENERGY CORP				RECEIVED:	05/26/83	JA: NM 4			
8338781	NM-1970-82	3004320649		103		JICARILLA "O" #3	CHACON DAKOTA	17.6	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	05/26/83	JA: NM 4			
8338788	NM-1872-82	3004525355		103		NORTHEAST BLANCO UNIT #55A	BLANCO MESAVERDE	160.0	EL PASO NATURAL G
8338787	NM-1874-82	3004525369		103		NORTHEAST BLANCO UNIT #56A	BLANCO MESAVERDE	160.0	EL PASO NATURAL G
8338800	NM-1877-82	3004525409		103		NORTHEAST BLANCO UNIT #78	BLANCO MESAVERDE	160.0	EL PASO NATURAL G
-C & K PETROLEUM INC				RECEIVED:	05/26/83	JA: NM 4			
8338760	NM 0059-83	3001524023		103		EXXON FED COM #2	WHITE CITY (PENN)	468.0	EL PASO NATURAL G
-CONOCO INC				RECEIVED:	05/26/83	JA: NM 4			
8338771	NM 0103-83	3003922950		103		AXI APACHE M #6	AXI APACHE AREA	196.0	GAS CO OF NEW MEX
8338776	NM 0095-83	3002527076		103		MCA UNIT #359	BAISH-MALJAMAR-PEARSA	0.9	TRANSWESTERN PIPE
8338777	NM 0094-83	3002527063		103		MCA UNIT #360	BAISH-MALJAMAR-PEARSA	6.9	TRANSWESTERN PIPE
8338774	NM 0097-83	3002527065		103		MCA UNIT #362	BAISH-MALJAMAR-PEARSA	1.3	TRANSWESTERN PIPE
8338775	NM 0096-83	3002527064		103		MCA UNIT NO 361	BAISH-MALJAMAR-PEARSA	1.2	TRANSWESTERN PIPE
8338815	NM 0148-83	3002527937		103		RUSSELL FED 17 #13	EAST MASON	28.1	PHILLIPS PETROLEU
8338770	NM 0104-83-A	3002527653		103		SIMS FEDERAL #1	NMFU-BLINEBRY	4.4	WARREN PETROLEUM
8338769	NM 0104-83-B	3002527653		103		SIMS FEDERAL #1	NMFU-WARREN TUBB	18.3	WARREN PETROLEUM
8338783	NM-1952-82	3002521459		108		SKAGGS B AC/1 #6	NMFU - MONUMENT TUBB	11.3	WARREN PETROLEUM
8338813	NM 0150-83	3002527930		103		THOMPSON FED 18 #5	NORTH MASON	23.7	PHILLIPS PETROLEU
8338814	NM 0149-83	3002527938		103		THOMPSON FED 19 #4	NORTH MASON	15.7	PHILLIPS PETROLEU
-COTTON PETROLEUM CORPORATION				RECEIVED:	05/26/83	JA: NM 4			
8338826	NM 0125-83	3003923029		103		APACHE #31	SO BLANCO P C	0.0	NORTHWEST PIPELIN
-DELTA DRILLING CO				RECEIVED:	05/26/83	JA: NM 4			
8338782	NM-1968-82	3001500000		108		SOUTH CULEBRA BLUFF #5	SOUTH CULEBRA BLUFF (	0.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	05/26/83	JA: NM 4			
8338797	NM-192382107	3004525221		103	107-TF	BIG EIGHT #1-E WELL		7.5	NORTHWEST PIPELIN
8338812	NM 0160-83	3004525205		103		PITTAM POND #3	CHA CHA GALLUP	30.0	INTRASTATE GATHER
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/26/83	JA: NM 4			
8338795	NM-1928-82	3004520906		108		DAY A #15	BLANCO-PICTURED CLIFF	20.0	EL PASO NATURAL G
8338779	NM-1930-82	3004521512		108		DAY A #17	BLANCO-PICTURED CLIFF	21.0	EL PASO NATURAL G
8338796	NM-1927-82	3004521150		108		HARDIE #12	BLANCO-PICTURED CLIFF	15.0	EL PASO NATURAL G
8338761	NM-0051-83	3002500000		108		MOBERLY #B-2	RHODES - STORAGE AR G	5.0	EL PASO NATURAL G
8338749	NM-1387-82	3002500000		108		RHODES GSU #16	RHODES - YATES SEVEN	3.0	EL PASO NATURAL G
8338794	NM-1929-82	3004520848		108		RIDDLE B #7	BLANCO-PICTURED CLIFF	22.0	EL PASO NATURAL G
8338789	NM 0057-83PB	3003907281		108-PB		SAN JUAN 28-4 UNIT #29	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8338746	NM 0032-83PB	3003907218		108-PB		SAN JUAN 28-4 UNIT #8	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8338747	NM 0033-83PB	3003907449		108-PB		SAN JUAN 28-7 UNIT #21	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8338745	NM 0034-83PB	3003907876		108-PB		SAN JUAN 30-6 UNIT #40X	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	05/26/83	JA: NM 4			
8338809	NM 0170-83	3001524281		103		LAKEWOOD FEDERAL #2	SEVEN RIVERS YESO	4.0	
8338810	NM 0169-83	3001524347		103		LAKEWOOD FEDERAL #3	SEVEN RIVERS YESO	10.0	
-FLAG-REDFERN OIL CO				RECEIVED:	05/26/83	JA: NM 4			
8338757	NM 0085-83	3000520790		103		AMOCO FEDERAL #10 NM 13418	TOM-TOM (SAN ANDRES)	4.0	NATURAL GAS PIPEL
8338755	NM 0087-83	3000520732		103		AMOCO FEDERAL #8 NM-13418	TOM-TOM (SAN ANDRES)	5.1	NATURAL GAS PIPEL
8338756	NM 0086-83	3000520763		103		AMOCO FEDERAL #9 NM-13418	TOM-TOM (SAN ANDRES)	3.6	NATURAL GAS PIPEL
8338751	NM 0089-83	3000520774		103		HAHN FEDERAL #7 NM-15677	TOM-TOM (SAN ANDRES)	12.7	NATURAL GAS PIPEL
8338752	NM 0088-83	3000520802		103		HAHN FEDERAL "A" #2 NM-16637	TOM-TOM (SAN ANDRES)	2.5	NATURAL GAS PIPEL
-GETTY OIL COMPANY				RECEIVED:	05/26/83	JA: NM 4			
8338829	NM 0117-83	3003923102		103		C W ROBERTS #7	BLANCO MESAVERDE	150.0	NORTHWEST PIPELIN
8338830	NM 0116-83	3003923101		103		C W ROBERTS #8	BLANCO MESAVERDE	175.0	NORTHWEST PIPELIN
-JEROME P MCHUGH				RECEIVED:	05/26/83	JA: NM 4			
8338753	NM-0372-82	3003922543		108		BIG HIT #12	GAVILAN PICTURED CLIF	25.0	EL PASO NATURAL G
8338754	NM-0371-82	3004523507		108		CHACO PLANT #36	WAW FRUITLAND PICTURE	18.0	EL PASO NATURAL G
-LATCH OPERATIONS				RECEIVED:	05/26/83	JA: NM 4			
8338759	NM-0062-83	3001521510		108		BERRY #30 025527	RED LAKE QUEEN	23.0	PHILLIPS PETROLEU
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	05/26/83	JA: NM 4			
8338750	NM-1056-82	3004510997		108		BLANCO 8	BLANCO MESAVERDE	0.0	SOUTHERN UNION GA
8338799	NM-1905-82	3003907355		108		INDIAN L #2	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338790	NM 0055-83PB	3003920819		108-PB		JICARILLA 92 #3	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8338820	NM 0050-83PB	3003921130		108-PB		JICARILLA 92 #8	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338791	NM 0054-83PB	3003906897		108-PB		JICARILLA 92-#2	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338819	NM 0051-83PB	3003921133		108-PB		JICARILLA 93 #10	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8338818	NM 0052-83PB	3003907964		108-PB		ROSA #10	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338817	NM 0053-83PB	3003907958		108-PB		ROSA #14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338739	NM 0041-83PB	3003907944		108-PB		ROSA #18	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338738	NM 0042-83PB	3003907971		108-PB		ROSA #22	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338737	NM 0043-83PB	3003907981		108-PB		ROSA #41	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338744	NM 0035-83PB	3003907963		108-PB		ROSA UNIT #16	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338740	NM 0040-83PB	3003921148		108-PB		SAN JUAN 30-5 UNIT #2R	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338741	NM 0039-83PB	3003907835		108-PB		SAN JUAN 30-5 UNIT #25	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8338825	NM 0044-83PB	3003907799		108-PB		SAN JUAN 30-5 UNIT #3	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338824	NM 0046-83PB	3003907937		108-PB		SAN JUAN 31-6 UNIT #11	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338821	NM 0049-83PB	3003907907		108-PB		SAN JUAN 31-6 UNIT #14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338823	NM 0047-83PB	3003907908		108-PB		SAN JUAN 31-6 UNIT #17	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8338822	NM 0048-83PB	3003982390		108-PB		SAN JUAN 31-6 UNIT #23	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8338743	NM 0036-83PB	3003920779		108-PB		SAN JUAN 31-6 UNIT #24	LOS PINO NORTH FRUITL	0.0	NORTHWEST PIPELIN
8338742	NM 0038-83PB	3004522170		108-PB		SAN JUAN 32-8 UNIT #37			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-RAY WESTALL				RECEIVED:	05/26/83	JA: NM 4			
8338764	NM 0113-83	3001523413		103		DENTON FEDERAL #1	TURKEY TRACK	0.0	PHILLIPS PETROLEU
8338763	NM 0114-83	3001523555		103		DENTON FEDERAL #2	TURKEY TRACK	0.0	PHILLIPS PETROLEU
8338816	NM 0128-83	3001523823		103		DENTON FEDERAL #3	TURKEY TRACK	0.0	PHILLIPS PETROLEU
8338765	NM 0112-83	3001523852		103		DENTON FEDERAL #4	TURKEY TRACK	0.0	PHILLIPS PETROLEU
8338762	NM 0115-83	3001524135		103		DENTON FEDERAL #6	TURKEY TRACK	0.0	PHILLIPS PETROLEU
-READ & STEVENS INC				RECEIVED:	05/26/83	JA: NM 4			
8338792	NM 0372-83	3000561373		103		HARRIS FEDERAL #9	BUFFALO VALLEY PENN	1049.0	TRANSWESTERN PIPE
-ROBERT L BAYLESS				RECEIVED:	05/26/83	JA: NM 4			
8338780	NM 1975-82	3003923038		103		JICARILLA 363 B-4	SOUTH BLANCO PICTURED	37.0	NORTHWEST PIPELIN
-UNICOM PRODUCING CO				RECEIVED:	05/26/83	JA: NM 4			
8338778	NM 0091-83	3004525473		103		ZACHARY #32	ARMENTA GALLUP EXT	183.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	05/26/83	JA: NM 4			
8338773	NM 0098-83-A	3004524918		103		BASSETT GU 1M	BLANCO MESAVERDE	100.0	EL PASO NATURAL G
8338772	NM 0098-83-B	3004524918		103		BASSETT GU 1M	BASIN DAKOTA	100.0	EL PASO NATURAL G
8338828	NM 0120-83	3004525296		103		BLANCO A1E	BASIN DAKOTA	100.0	EL PASO NATURAL G
8338784	NM-1933-82	3004523479		108		FLORANCE 114	BASIN DAKOTA/BLANCO P	5.0	EL PASO NATURAL G
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

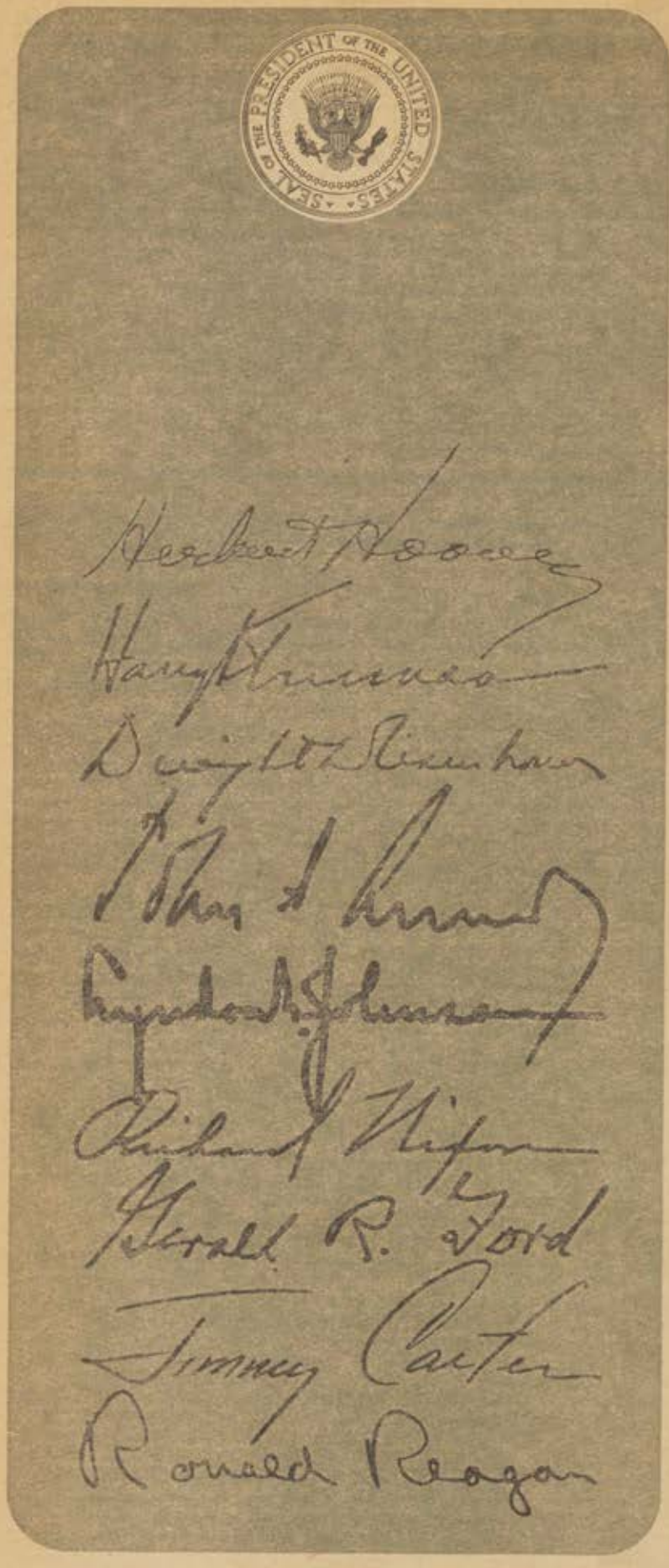
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Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

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