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federal register

Tuesday
April 1, 1980

Highlights

Los Angeles Briefing on How To Use the Federal Register—See details on "What It Is and How to Use It" workshops on April 14, 15, and 16, in Reader Aids section in this issue.

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., Los Angeles, Calif., Boston, Mass., New York, N.Y., Salt Lake City, Utah, Seattle, Wash., and Chicago, Ill., see announcement in the Reader Aids section at the end of this issue.

21199 **ORT Centennial Day, 1980** Presidential proclamation

21201 **National Bicycling Day** Presidential proclamation

21303 **Grant Programs** HEW/OE issues proposed regulations setting forth procedures for collection of debts that grantees and contractors own the United States under programs administered by the Education Division, comments by 6–2–80

21600 **Native Latex Research Grants** USDA/SEA will award project grants for research (Part VII of this issue)

21409 **Supervised Release Program Test Design** Justice/NIJ announces competitive research cooperative agreement program; apply by 5–30–80

21552 **Libraries** List of libraries carrying FR and CFR (Part II of this issue)

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

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Area Code 202-523-5240

Highlights

21211 **Federal Home Loan Bank** FHLBB reduces overall liquidity requirements; effective 4-1-80

21582 **Medicare** HEW/HCFA issues proposed schedule of limits on hospital inpatient general routine operating costs for cost reporting periods beginning on or after July 1, 1980; comments by 6-2-80 (Part IV of this issue)

21210 **Federal Candidate Debates** FEC announces effective date of regulations on funding and sponsorship of nonpartisan candidate debates; effective 4-1-80

21331 **Oil Import** DOE request assistance in developing a plan to reduce U.S. vulnerability to an oil import disruption

21228 **Pension Benefit Guaranty** PBGC issues regulations prescribing interest rates and factors used to value benefits provided under terminating pension plans; effective 4-1-80

21405 **Violent Juvenile Offender Research and Development** Justice/LEAA request comments for proposed guidelines; comments by 5-1-80

21206 **Crude Oil** DOE/ERA issues regulations concerning exempting heavy crude oil from price controls; effective 3-25-80

21211 **Election Campaign** FEC announces the effective date of regulations implementing the 1979 amendments to the Federal Election Campaign Act of 1971; effective 4-1-80

21228 **Community Relations** Defense/Sec'y issues regulations regarding guidance in planning and conduct of community relation activities of the Armed Forces; effective 7-19-79

21434 **Entitlement Period Eleven** Treasury/RSO announces date of final gereral revenue sharing allocations on or about 4-10-80

21436 **Sunshine Act Meetings**

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21560 **Part III, Interior/SMO**
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21590 **Part V, EPA**
21596 **Part VI, USDA/FGIS**
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Presidential Documents

Title 3—

The President

Proclamation 4740 of March 28, 1980

ORT Centennial Day, 1980

By the President of the United States of America

A Proclamation

The Organization for Rehabilitation through Training was founded by Jews in Czarist Russia on April 10, 1880, to give technical instruction to Russian Jews and allow them to enter the industrial workforce for the first time in their history. In the course of the following century, the Organization gradually expanded its scope to include vocational training and technical education for unskilled men and women of many races and religions on several continents.

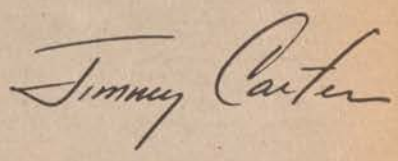
On its 100th Anniversary, ORT is the largest voluntary, nongovernmental job training program in the world. By providing training in over 100 trades—including transportation, education, engineering, mining, agriculture, hygiene, public health, and commerce—ORT has helped more than two million people in their efforts to overcome poverty.

The Organization has been a thread of hope even under the harshest of circumstances. It continued to function in the Warsaw ghetto until the very morning of the 1943 uprising. Among its other proud achievements, ORT can count the rehabilitation of survivors of Nazi persecution in the DP camps of postwar Europe as well as its recent collaboration with the Agency for International Development on programs to modernize Third World countries during the Decade of Development.

Today, as ORT celebrates its centennial, its basic educational network extends to 24 countries and serves 100,000 students in 700 schools. It has helped to lay foundations of individual pride and self-sufficiency all over the world, and the consistent quality of its performance has been an inspiration and an indispensable aid to progress.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to join me in observing April 10, 1980, as ORT Centennial Day.

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



[FR Doc. 80-9966
Filed 3-28-80; 2:32 pm]
Billing code 3195-01-M

Presidential Documents

Title 3—

The President

Proclamation 4741 of March 28, 1980

National Bicycling Day

By the President of the United States of America

A Proclamation

Bicycling is finally breaking away in this country, making racers and riders out of a hundred million Americans.

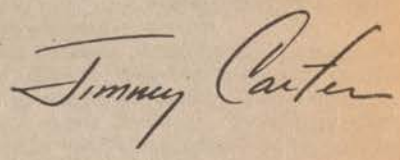
Whether they are huffing up mountain roads on vacation or commuting a few miles to work every day, bicycle riders are using their energy to save our energy, while their pumping legs mean pumping hearts and better health. One of the most energy-efficient forms of transportation known to man, bicycle riding is bound to become even more popular in the energy-conscious, health-conscious future.

The Congress, by joint resolution (H.J. Res. 414), has authorized and requested the President to designate the first day of May, 1980, as National Bicycling Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby declare May 1, 1980, National Bicycling Day.

I call upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and events.

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



[FR Doc. 80-10073
Filed 3-31-80; 11:30 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Tuesday, April 1, 1980

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 ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1980 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of interpretations.

SUMMARY: Attached is an interpretation issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period February 1, 1980 through February 29, 1980.

Appendix B identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 5E052, Washington, D.C. 20585 (202) 252–2931.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation or ruling interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation or ruling (§ 205.85(e)). The interpretation published below is not subject to appeal.

Issued in Washinton, D.C., March 24, 1980.

Merrill F. Hathaway, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings.

Appendix A

Number	To	Date	Category	File No.
1980–4	F. M. Brown's Sons, Inc	February 5	Allocation	A–434

Interpretation 1980–4

To: F. M. Brown's Sons, Inc.
Regulations Interpreted: 10 CFR 211.51; 211.103
Code: GCW–AI–Allocation Levels; Agricultural Production, def.

Facts

F. M. Brown's Sons (Brown's Sons), a firm engaged in the manufacture and distribution of processed animal feeds, is a "wholesale purchaser-consumer" of motor gasoline as that term is defined in 10 CFR 211.51 of the Mandatory Petroleum Allocation Regulations. In collecting and transporting grains from farms to its processing centers and in deliverning grains processed into animal feed directly to its farm customers, Brown's Sons' trucks consume significant quantities of motor gasoline. Because the firm has experienced difficulty in obtaining sufficient motor gasoline to perform these functions, it has filed a request for interpretation seeking a determination under the allocation regulations that it is entitled to first priority allocation status.

Brown's Sons contends that the activities in which the firm is engaged are included within the definition of "agricultural production" contained in 10 CFR 211.51. Under 10 CFR 211.103 wholesale purchaser-consumers of motor gasoline engaged in "agricultural production" are entitled to an allocation of that product for that use equal to 100 percent of their base period use.[1]

Issue

Is the use of motor gasoline for the collection of grains to be processed into animal feed and for the delivery of processed animal feed directly to customers by a firm engaged in the manufacture of animal feed a use properly characterized as "agricultural production" as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations?

Interpretation

For the reasons discussed below, the Department of Energy (DOE) concludes that Brown's Sons' use of motor gasoline for collecting grains for processing into animal feed and for delivering the processed product to customers is not "agricultural production" and therefore does not qualify for a first priority allocation level under 10 CFR 211.103(b)(2). However, depending upon the type of vehicles employed, the use by Brown's Sons of motor gasoline in grain collection and animal feed delivery qualifies either for the first priority allocation level accorded "cargo, freight and mail hauling by truck" under 10 CFR 211.103(b)(8), or for a second priority allocation level accorded "commercial use" under 10 CFR 211.103(c)(2).[2] Furthermore, to the extent that the firm uses motor gasoline directly in the manufacture of animal feed, it is entitled to a first priority allocation level for that use. This result comports with our decision issued on November 30, 1979, in *National Soft Drink Association,* Interpretation 1979–24, 44 FR 72098 (December 13, 1979).

The definition of "agricultural production" at 10 CFR 211.51 provides in relevant part:

"Agricultural production" means all the *activities* classified under the industry code numbers specified in paragraph (a) below as set forth in the Standard Industrial Classification Manual, 1972 edition * * *

* * * * *

[(a)](2) All industry code numbers included in Major Group 20, Food and Kindred Products, of Division D, Manufacturing * * *

* * * * *

[(a)](3) All the following other industry code numbers * * *

* * * * *

4212 Local Trucking Without Storage (Farm to market hauling and log trucking only) * * *. (Emphasis added.)

Major group 20 of the Standard Industrial Classification (SIC) Manual is entitled "Food and Kindred Products" and includes "establishments manufacturing or processing * * * prepared feeds for animals and

[1] At the time that Brown's Sons submitted its request for interpretation, firms engaged in first priority uses were entitled to an allocation level of 100 percent of total current requirements for that use of motor gasoline. The rule was changed effective August 1, 1979. *See* 44 FR 42545 (July 19, 1979).

[2] A first priority allocation would entitle Brown's Sons to 100 percent of its base period use of motor gasoline for the qualified use. A second priority allocation would entitle Brown's Sons to its base period use of motor gasoline for the qualified use, reduced by application of the appropriate allocation fraction.

fowls."[3] Within this major category, there is under Industry Code Number 2048 a section entitled "Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified." This category includes "*[e]stablishments primarily engaged* in manufacturing prepared feeds and feed ingredients and adjuncts, for animals and fowls, not elsewhere classified." (Emphasis added.)[4]

The language of § 211.51 clearly states that "agricultural production" means the *activities* classified under the SIC Manual industry code numbers that are referenced in that definition. As we concluded in *National Soft Drink Association*, agricultural production uses include only those *activities* which are themselves expressly included in the SIC Manual classifications included in the definition of agricultural production, and not all of the other activities in which a firm classified under these SIC Manual categories may be involved. *National Soft Drink Association* at 72099. Therefore, the manufacture of animal feed itself qualifies as "agricultural production" because this *activity* is classified under Industry Code Number 2048, included in Major Group 20 of Division D of the SIC Manual which is explicitly included under clause (a)(2) of the definition of agricultural production. Accordingly, any activities directly related to the actual processing of grains into animal feed qualify for the first priority allocation level for motor gasoline under § 211.103(b)(2). However, other activities of firms primarily engaged in the manufacture of animal feed which are not expressly included in the SIC Manual categories referred to in § 211.51 are not "agricultural production."

While the activities of buying and transporting grain and of delivering processed animal feed directly to customers are classified in the SIC Manual, they are not specifically included in any of the SIC Manual categories listed under the agricultural production definition. Buying and/or marketing grain is included in Division F of the SIC Manual under industry code number 5153.[5] The wholesale distribution of animal feed is also included in Division F under industry code number 5191.[6] Moreover, local trucking with and without storage is included under industry code numbers 4214 and 4212 in Division E of the SIC Manual.[7] Of these activities only log trucking and farm to market hauling without storage under industry code number 4212 are included within the definition of agricultural production.[8] Local trucking for any other purpose is not an agricultural production use. Therefore, we conclude that motor gasoline usage related to the purchase of grains and to the delivery of processed animal feed directly to farm customers is not "agricultural production" and does not qualify for the first priority allocation level accorded to that use under 10 CFR 211.103(b)(2). See *Interstate Brands Corporation*, 1 FEA ¶20,744 (December 20, 1974) at 20,955.

Nevertheless, trucking by Brown's Sons for the purchase and collection of grains and for the distribution of processed animal feed to customers may qualify for the first priority allocation level accorded under 10 CFR 211.103(b)(8) to "cargo, freight and mail hauling by truck." In order to qualify under that provision, the trucking activities must be carried out in vehicles that fit the definition of "truck" set forth in 10 CFR 211.102. *Id.* Section 211.102 states in relevant part:

"Truck" means a motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds * * *.

If the firm's trucks do not meet this definition, the firm is not entitled to a first priority allocation of motor gasoline for its grain collection and animal feed delivery activities under 10 CFR 211.103(b)(8). However, these uses would qualify for a second priority allocation level accorded under § 211.103(c)(2) for "commercial use," which is defined in § 211.51 as follows:

"Commercial use" means usage by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

Issued in Washington, D.C., on February 5, 1980.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Appendix B.—*Cases Dismissed*

File No., and requester	Category	Date dismissed
A-401 The Gulf Companies	Price	Feb. 22.
A-389 Cooper Ltd	Price	Feb. 22.
A-414 Santa Clara County Service Station Dealers Association.	Price	Feb. 22.
A-380 California Service Station Association.	Price	Feb. 22.
A-463 San Jose Peace Officer's Association.	Allocation	Feb. 4.

[FR Doc. 80-9770 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

[3] *Standard Industrial Classification Manual* 59 (1972 edition).

[4] *Id.* at 64.

[5] *Id.* at 255.

[6] *Id.* at 256. Retail Trade is classified generally in Division G of the SIC Manual.

[7] *Id.* at 224.

[8] Industry code number 4212 includes "[e]stablishments primarily engaged in furnishing trucking or transfer services *without storage*, in a single municipality, contiguous municipalities, or a municipality and its suburban areas." (Emphasis added.) Brown's Sons conducts its business activities at three locations, each of which serves as a processing and distribution center. Brown's Sons can store animal feed and other products at these facilities. Accordingly, the delivery of animal feed by Brown's Sons is not an activity included within the farm to market hauling without storage classification.

Economic Regulatory Administration

[Docket No. ERA-R-80-06]

10 CFR Part 211

Mandatory Petroleum Allocation Regulations; Entitlements Program Corrective Amendment

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting a technical correction to the domestic crude oil allocation (entitlements) program to correct the definition of "National domestic crude oil supply ratio" by reinserting reference to the issuance of entitlements for imports of middle distillates during the period May 1, 1979 through October 31, 1979. This reference was inadvertently deleted in an unrelated entitlements rulemaking that was issued shortly after the adoption of the rule providing entitlement benefits for imports of middle distillates. The corrective amendment is made effective July 1, 1979, the effective date of the inadvertent deletion. The amendment effects a technical correction only and represents no substantive change in the regulations.

DATES: Effective date: July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Sue D. Sheridan (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

I. Background
II. Amendment Adopted
III. Procedural Requirements

I. Background

On May 24, 1979, the ERA amended the entitlements program to provide entitlements benefits for imports of middle distillates for the months May 1979 through August 1979 (44 FR 31162, May 31, 1979). The regulatory change was implemented by (i) adding a new paragraph at 10 CFR 211.67(a)(6) specifying the terms under which entitlements are issuable for middle distillate imports and by (ii) including a corresponding reference to middle distillate entitlements in the "National domestic crude oil supply ratio" definition set forth at 10 CFR 211.62.[1]

[1] On August 31, 1979, the ERA extended the period during which middle distillate imports were eligible for entitlement benefits through October 31, 1979 (44 FR 52170, September 7, 1979).

On June 10, 1979, in an action unrelated to middle distillate entitlements, the ERA amended the entitlements program effective July 1, 1979 by extending the provisions granting entitlement benefits for imports of residual fuel into the East Coast market or the State of Michigan and reducing entitlement benefits for certain domestically refined residual fuel transported into those markets (44 FR 34468, June 15, 1979). In amending the definition of "National domestic crude oil supply ratio" to effect these changes, the § 211.67(a)(6) middle distillate reference was inadvertently deleted.

II. Amendment Adopted

We are adopting today a corrective amendment to the definition of "National domestic crude oil supply ratio" in § 211.62 to define the numerator of that ratio as the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by the number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under §§ 211.67(a)(4), 211.67(a)(5) and 211.67(a)(6). This amendment adds the reference to § 211.67(a)(6), pertaining to entitlements for middle distillate imports, which was inadvertently deleted in the June 10 rulemaking. The amendment is effective retroactive to the effective date of the omission, July 1, 1979.

III. Procedural Requirements

A. *Section 404 of the DOE Act.*—Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act), we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. *Section 7 of the FEA Act.*—Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. section 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. *National Environmental Policy Act.*—It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* This amendment to the definition of "National domestic crude oil supply ratio" is technical in nature, and has no effect on the environment. Therefore, an environmental assessment or an environmental impact statement is not required by NEPA or the applicable DOE regulations for compliance with NEPA.

D. *Section 501 of the DOE Act.*—Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)–(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

This amendment to § 211.62 is technical in nature, and does not raise substantial issues of fact or law. Nor is the rule likely to have a substantial impact on the Nation's economy since it merely corrects the unintended omission of reference to § 211.67(a)(6) in the definition of "National domestic crude oil supply ratio" set forth in § 211.62 and confirms the entitlements calculations already made. For the same reason, the amendment is not likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

E. *Section 553 of the Administrative Procedure Act.*—Section 553(b) of the Administrative Procedure Act requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the advance notice and public comment procedures of section 553(b) are unnecessary in this case, since this amendment is being issued solely to correct the unintended omission of reference to § 211.67(a)(6) in the definition of "National domestic crude oil supply ratio" set forth in § 211.62.

Subsection (d)(3) of section 553 requires that the publication of a rule be made at least 30 days before the effective date of the rule, unless the agency for good cause finds otherwise. This rule is being issued to resolve confusion which the inadvertent omission of the reference to § 211.67(a)(6) has caused. This correction, to have its requisite effect, must be made retroactive to the date that the omission was made.

F. *Executive Order 12044.*—Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures give as an example of a nonsignificant regulation an amendment designed to correct errors in draftmanship. This amendment fits that description.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective July 1, 1979.

Issued in Washington, D.C., March 25, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 211.62 is corrected by revising the definition of "National domestic crude oil supply ratio" to read as follows:

§ 211.62 Definitions.

"National domestic crude oil supply ratio" means,

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(4), § 211.67(a)(5), and § 211.67(a)(6), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and fifty percent (50%) of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

* * * * *

[FR Doc. 80-9771 Filed 3-31-80; 8:45 am]
BILLING CODE 6450-01-M

10 CFR Part 212

[Docket No. ERA-R-80-05]

Final Rules Concerning the Exemption of Heavy Crude Oil From Price Controls

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting amendments to conform the crude oil pricing regulations to the President's Executive Orders exempting first sales of heavy crude oil from the ceiling price limitations established by the crude oil pricing regulations. A new section is being added to Part 212 to provide that prices charged in the first sales of crude oil produced from heavy oil properties have not been subject to ceiling price limitations since August 17, 1979. For the period August 17, 1979 through December 20, 1979, a heavy oil property is any property for which the crude oil production had a weighted average gravity of 16.0° API or less during the last month prior to July 1979 in which crude oil was produced and sold from that property. Beginning December 21, 1979, a heavy oil property is any property for which the crude oil production had a weighted gravity of 20.0° API or less during the last month prior to July 1979 in which crude oil was produced and sold from that property.

Also adopted as a final rule is a technical change to the crude oil allocation regulations to make it clear that heavy crude oil, as well as other types of crude oil that are no longer subject to first sale price controls, are subject to the bona fide offer provisions before a supplier/purchaser relationship can be terminated.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055

William Carson, (Regulations & Emergency Planning), Economic Regulatory Administration, Room 7302-F, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3202

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-6739

SUPPLEMENTARY INFORMATION:

I. Background
II. Exemption of Heavy Crude Oil
III. Technical Amendments to the Crude Oil Pricing and Allocation Regulations
IV. Procedural Requirements
A. Section 404 of the DOE Act
B. Section 7 of the FEA Act
C. National Environmental Policy Act
D. Section 501 of the DOE Act
E. Section 553 of the Administrative Procedures Act
F. Executive Order 12044

I. Background

On August 17, 1979, the President issued Executive Order No. 12153 (the August Order) which exempted first sales of heavy crude oil from the ceiling price limitations established by the crude oil pricing regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended). The August Order defined heavy crude oil as any crude oil produced from a property for which the crude oil production during the last month prior to July 1979 in which crude oil was produced and sold from the property had a weighted average of 16.0 degrees API or less, corrected to 60 degrees Fahrenheit.[1]

Section 1-102 of the August Order directed the Secretary of Energy (the Secretary) to conduct a public inquiry as to what other types of heavy crude oil, if any, should be exempted from the ceiling price limitations. On September 6 and 7, 1979, we held a public hearing in Long Beach, California to consider this issue. We also received written comments through September 12, 1979. After reviewing the record of this inquiry, the Secretary recommended that the President exempt crude oil produced from those properties whose production had a weighted average of 20.0 degrees API or less.

On December 21, 1979, the President issued Executive Order No. 12186 which amended the August Order to change the definition of heavy crude oil to include crude oil from any property for which the crude oil production during the last month prior to July 1979 in which crude oil was produced and sold from that property had a weighted average gravity of 20.0 degrees API or less, corrected to 60.0 degrees Fahrenheit. This amendment to the August Order was intended to have effect only with respect to first sales of crude oil on or after December 21, 1979. On January 16, 1980, Executive Order No. 12189 was issued to clarify that the President's action to broaden the definition of heavy crude oil had no retroactive effect.

II. Exemption of Heavy Crude Oil

In order to conform the crude oil pricing regulations with the President's actions, we are amending Subpart C of Part 212 to include a new section 212.59 which provides that first sales of crude oil from heavy oil properties are exempted from the ceiling price provisions of the pricing regulations. For the period August 17, 1979 through December 20, 1979, a heavy oil property is defined as any property for which the crude oil production had a weighted average gravity of 16.0 degrees API or less during the last month prior to July 1979 in which crude oil was produced and sold from the property. Beginning December 21, 1979, a heavy oil property is defined as any property for which the crude oil production had a weighted average gravity of 20.0 degrees API or less during the last month prior to July 1979 in which crude oil was produced and sold from the property.

Section 212.59 provides that, in most instances, weighted average gravity shall be determined by referring to the gravity determinations used in connection with first sales of crude oil produced and sold from a property during the base month for that property. These determinations normally are reflected in run tickets. In those instances where production from several properties is commingled and sold in a common stream, these determinations

[1] The density or weight of crude oil is indicated by its gravity which normally is measured in degrees on the American Petroleum Institute (API) scale. On this scale, oil with the lowest density has the highest API gravity. The lower the gravity of crude oil, the more tar-like and the more difficult it is to produce. Generally, the higher the API gravity, the greater the value of the oil. Crude oils vary in gravity from a low of less than 0 degrees API to a high of more than 60 degrees API. However, most domestic crude oils range from 27 degrees to 35 degrees API.

can be made by referring to the gravity assigned to the production, based upon the last gravity tests on crude oil produced from that property prior to July 1979. It is important to note that although heavy crude oil production may currently be physically commingled with other production which is subject to first sale ceiling price limitations, the certification requirements which we are adopting today (see Section III below) require a producer to certify its heavy oil production. Thus, heavy oil production must be sold and invoiced as a separate transaction (even where the oil is physically commingled) from other domestic crude oil production.

The regulations adopted today address those properties on which a diluent was injected into the well bore to facilitate crude oil production during the base month. Where a diluent is used, the weighted average gravity of the crude oil "recovered" from the property in the base month may be in excess of 20.0° API, since the diluent typically has a higher gravity than the crude oil found on the property. The crude oil recovered from a property into which a diluent has been injected is a mixture of crude oil actually produced from that property and crude oil produced from another property. Since the exemption for heavy crude oil is made on the basis of crude oil *produced* and sold in the base month, a special procedure must be used to accurately determine the gravity of the crude oil *produced* from a property into which a diluent has been added. Accordingly, for such properties, section 212.59 provides that the weighted average gravity shall be determined by referring to the last gravity test on crude oil produced from that property prior to July 1979 and also prior to the first injection of the diluent.

Any crude oil injected as a diluent and subsequently recovered shall be deemed to retain the character it had prior to its injection and not be eligible for the exemption granted to heavy oil. Thus, although section 212.59 refers to "all" crude oil produced from a property that qualifies as a heavy oil property, that section also makes clear that the term "produced" does not include any oil injected into the property as a diluent.

The exemption of production from a particular property begins on either August 17, 1979 or December 21, 1979. In those situations where it is impracticable in the first month of the exemption to determine what production occurred after the date of the exemption, a producer may pro rate its production for that month. In calculating the amount of heavy oil produced and sold in August 1979 from a property which qualified as a heavy oil property in August 1979 the amount of heavy oil would be 15/31 of the total amount of crude oil produced and sold from that property in August 1979. For a property which qualifies as a heavy oil property for the first time in December 1979, the amount of heavy crude oil produced and sold from that property in December 1979 would be 11/31 of the total amount of crude oil produced and sold from that property in December 1979.

III. Technical Amendments to the Crude Oil Pricing and Allocation Regulations

The President's actions have not exempted heavy crude oil from the Mandatory Crude Oil Allocation Regulations. Thus, crude oil production from a heavy oil property which was subject to a supplier/purchaser relationship prior to the President's actions remains subject to that supplier/purchaser relationship.

An exception permitting termination of a supplier/purchaser relationship is provided explicitly in the case of old, new, and stripper well crude oil pursuant to the "bona fide offer" provision of the supplier/purchaser rule. That provision, section 211.63(d)(1)(iii), states that a producer may terminate a relationship it has with a purchaser for "old, new, or stripper well lease crude oil" if the purchaser refuses, within 15 days, to meet a higher bona fide offer made by another purchaser at a lawful price. Several producers of heavy crude oil have inquired as to whether a supplier/purchaser relationship involving heavy crude oil may be terminated pursuant to the bona fide offer provision, since the provision refers explicitly only to old, new, or stripper well lease crude oil.

The only categories of domestic crude oil production which existed at the time the bona fide offer provision was adopted in June 1976 were old, new, and stripper well crude oil. As subsequent categories of crude oil were created, no changes were made to the explicit language of the bona fide offer provision to add these categories. Indeed, the definition of old oil and new oil in section 212.72 show that all crude oil production from any property is either old oil or new oil regardless of whether that production also fits the definition of another category of crude oil that has been exempted from the lower tier or upper tier ceiling prices. It was never intended to remove any of these categories from the coverage of the bona fide offer provision. Thus, the bona fide offer provison applies to heavy crude oil, as well as all other domestic crude oil, even though this category of crude oil is not listed explicitly in the bona fide offer provision.

In order to make it clear that this provision applies to all types of domestic crude oil, including heavy crude oil, we are adopting a technical amendment to section 211.63(d)(1)(iii) to make explicit that the bona fide offer provision applies to any crude oil subject to a supplier/purchaser relationship.[2]

Although the President has exempted first sales of heavy crude oil from the ceiling price limitations established by the crude oil pricing regulations of Part 212, the other provisions of Part 212 remain applicable to heavy crude oil. Section 212.131 provides for the certification of domestic crude oil sales. We are revising paragraph (a)(4) of this section so that a producer of oil from a heavy oil property will certify in writing once to each purchaser of crude oil from that property that such crude oil is exempt from the ceiling price limitations. The form has been revised on which first purchasers must report specified information concerning the crude oil they purchase to provide that this information be reported separately with respect to heavy crude oil.

With respect to all other provisions of the regulations adopted pursuant to the EPAA, heavy crude oil is to be treated like any other domestic crude oil the first sale of which is exempted from the crude oil ceiling price limitations.

IV. Procedural Requirements

A. *Section 404 of the DOE Act.*—Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred these amendments to the Federal Energy Regulatory Commission (FERC) for a determination whether they would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review these amendments, the FERC has declined to determine that they may significantly affect any of its functions.

B. *Section 7 of the FEA Act.*—Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended), the requirements of which

[2] In the Further Notice of Proposed Rulemaking Regarding Phased Decontrol of Upper Tier Crude Oil (44 FR 59240, October 15, 1979), we proposed two changes in the supplier/purchaser rule with respect to market level new crude oil. Under the primary proposal, such crude oil would be completely exempted from the supplier/purchaser rule. The alternative proposal would continue to make it subject to the supplier/purchaser freeze but would adopt a technical amendment explicitly treating market level new crude oil as subject to the bona fide offer provision. A final rule has not yet been adopted in that rulemaking regarding this issue. However, the amendment we are adopting today encompasses the alternative proposal.

remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations or policies on the quality of the environment. Following an opportunity to review the rule, the EPA Administrator notified us that he did not anticipate that this rule would have an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. *National Environmental Policy Act.*—It has been determined that these amendments do not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*), and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance of NEPA. As noted in the preceding paragraph, adoption of these amendments does not change the current treatment of crude oil. Accordingly, we do not believe they constitute a major Federal action significantly affecting the quality of the human environment.

D. *Section 501 of the DOE Act.*—Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b), (c) and (d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

The amendments to Part 212 raise no substantial issues of fact or law since they only revise Part 212 to implement actions already taken by the President. The amendment to the bona fide offer provision of § 211.63 does not raise substantial issues of fact or law since it is a technical change merely to clarify the treatment of the several categories of domestic crude oil. For the same reasons, all of these amendments will not have a substantial impact on the Nation's economy or on large numbers of individuals or businesses. Therefore, these amendments shall be promulgated in accordance with section 553 of Title 5, United States Code.

E. *Section 553 of the Administrative Procedures Act.*—Section 553(b) of the Administrative Procedures Act requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon in impracticable, unnecessary, or contrary to the public interest. We find that the notice and public procedures of sections 553(b) are unnecessary, since the purpose and effect of the amendments is either to eliminate any inconsistency between DOE's pricing regulations and the action already taken by the President to exempt heavy crude oil from those regulations, to clarify existing regulations, or to interpret the terms of the Executive Orders.

Subsection (d)(1) of section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule, except when the agency for good cause finds that such publication is impracticable, unnecessary, or contrary to the public interest. For the reason stated in the preceding paragraph, we find that the required publication is unnecessary.

F. *Executive Order 12044.*—Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE implementing procedures define "insignificant" regulations as those which are not expected to affect important policy concerns or to engage much public interest.

As stated in the preceding sections, these amendments are designed solely to eliminate inconsistencies between DOE's pricing regulations and the President's exemption of first sales of heavy crude oil from those regulations, to clarify existing regulations, or to interpret the terms of the Executive Orders. We find, therefore, that these amendments are "insignificant" under the definition set forth in DOE's implementing procedures, and do not invoke the requirements of Executive Order 12044.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below, effective immediately.

Issued in Washington, March 25, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

1. Section 211.63(d)(1)(iii) is revised to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

* * * * *

(d) Termination of supplier/purchaser relationships.

(1) Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

* * * * *

(iii) By a producer (as defined in Part 212 of this chapter), if the present purchaser as to any crude oil subject to a supplier/purchaser relationship refuses, within a fifteen day period after receipt of written notice of any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser, to meet that offer.

2. 10 CFR Part 212 is revised by the addition of a new section 212.59 which reads as follows:

§ 212.59 Heavy crude oil.

(a) Prices charged in the first sale of heavy crude oil are exempt from the provisions of this Part.

(b) Heavy crude oil means all crude oil produced from any property during a period when that property qualified as a heavy oil property.

(c) For the period August 17, 1979 through December 20, 1979, heavy oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 16.0° API or less, corrected to 60° Fahrenheit.

(d) On and after December 21, 1979, heavy oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 20.0° API or less, corrected to 60° Fahrenheit.

(e) For purposes of this section, the base month for a particular property is the last month prior to July 1979 in

which crude oil was produced and sold from that property.

(f) For purposes of this section, the weighted average gravity for the crude oil produced and sold from a particular property shall be the gravity determinations used in connection with the first sale of crude oil from that property during the base month; provided that, with respect to a property to which a diluent had been injected into the well bores thereon during the base month, the weighted average gravity shall be based on the last gravity test on crude oil produced from that property prior to July 1979 and prior to the first injection of a diluent.

(g) For purposes of this section, the crude oil produced from a property does not include any diluent injected into that property.

3. Section 212.131 is amended by revising paragraph (a)(4) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a)(1) *Stripper well properties.* * * *

(4) *Other domestic crude oils the first sale of which is exempt from this part.* (i) With respect to each sale of crude oil exempt from the provisions of this part, other than crude oil produced from a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property that the first sale of crude oil produced and sold from that property is exempt from the provisions of this part.

(ii) For purposes of this paragraph (a)(4), domestic crude oil the first sale of which is exempt from the provisions of this part includes U.S.-owned petroleum sold by the Secretary of the Navy under the Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94–258) and crude oil produced from a heavy oil property as defined in section 212.59 of this Part; but domestic crude oil the first sale of which is exempt from this part does not include incremental tertiary crude oil or tertiary incentive crude oil determined pursuant to § 212.78.

* * * * *

[FR Doc. 80-9765 Filed 3-31-80; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL ELECTION COMMISSION

11 CFR Chapter I

Technical Amendments and Corrections

AGENCY: Federal Election Commission.

ACTION: Final rule: Technical Amendments and Corrections.

SUMMARY: The Commission publishes technical amendments to its regulations (11 CFR, Chapter I) to conform cross references and other material to the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96–187) and Commission regulations to implement the 1979 Amendments made effective today in a separate notice.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463, (202) 523–4143.

SUPPLEMENTARY INFORMATION: In a separate notice being published today, the Commission makes effective regulations to implement the 1979 Amendments to the Federal Election Campaign Act (Pub. L. 96–187). The text of these regulations was published on March 7, 1980, at 45 FR 15094–15126. The 1979 Amendments also caused numerous changes of citations to Title 2 of the United States Code. The technical amendments published in this notice amend cross-references and other material in Commission regulations to conform with the new regulations prescribed today and the new citations to the U.S. Code. The changes also correct certain typographical errors in the original document and insert the proper designations of new reporting forms required under the new regulations.

Because the amendments published herein are merely technical and nonsubstantive, they are not a substantive rule within the meaning of the Administrative Procedure Act (relating to notice and comment) or 2 U.S.C. 438(d), 26 U.S.C. 9009(c) and 26 U.S.C. 9039(c) (relating to legislative review of Commission regulations). They are therefore made effective upon publication.

The following amendments are made to regulations appearing in 11 CFR, Chapter I:

§ 1.1 [Amended]

1. In 11 CFR 1.1(c): Delete "2 U.S.C. 437g(a)(6)(C)," insert "2 U.S.C. 437g(a)(4)(C)."

§ 1.14 [Amended]

2. In 11 CFR 1.14(a): Delete "2 U.S.C. 437d(a)(10), 438(a)(8)," insert "2 U.S.C. 438(b)"; delete "438(a)(9)", insert "437d(9)"; delete "2 U.S.C. 437g(a)(6)(C)", insert "2 U.S.C. 437g(a)(4)(C)".

§ 3.2 [Amended]

3. In 11 CFR 3.2(a)(1): Delete "2 U.S.C. 437g(a)(3)(B)", insert "2 U.S.C. 437g(a)(12)".

§ 100.7 [Amended]

4. In 11 CFR 100.7(a)(1)(i)(B): Delete "individual" and insert "contributor".

5. In 11 CFR 107(a)(1)(ii): Delete "instrument" and insert "instruments".

6. In 11 CFR 100.7(c): Delete "individuals'" and insert "individual's".

§ 101.1 [Amended]

7. In 11 CFR 101.1(a): After "Form", delete the dash and insert "2".

§ 102.3 [Amended]

8. In 11 CFR 102.3(a): After "termination report on," insert "the appropriate."

§ 102.5 [Amended]

9. In 11 CFR 102.5(a)(2): Delete "11 CFR 102.5(a)(1)", insert "11 CFR 102.5(a)(1)(i)"; delete "11 CFR 102.5(a)(2)", insert "11 CFR 102.5(a)(1)(ii)".

§ 102.14 [Amended]

10. In 11 CFR 102.14(c): Delete "11 CFR 109.4", insert "11 CFR 109.3".

§ 104.2 [Amended]

11. In 11 CFR 104.2(e)(3): After "Form 3–", delete the dash and insert "X".

§ 104.3 [Amended]

12. In 11 CFR 104.3(d): After "Schedule", delete the dash and insert "C or D, as appropriate,".

13. In 11 CFR 104.3(e)(3): In the first sentence: after "amount listed", insert "as a memo entry"; after "line", delete the dash and insert "11(a)".

14. In 11 CFR 104.3(f): After "Form", delete the dash and insert "3–Z".

15. In 11 CFR 104.3(g): Delete all after "reported" and insert "as a memo entry on Schedule A."

16. In 11 CFR 104.3(h): After "report", insert "as a memo entry"; after "Schedule", delete the dash and insert "A".

17. In 11 CFR 104.3: Add the following new subparagraph:

(j) *Earmarked contributions.* Earmarked contributions shall be reported in accordance with 11 CFR 110.6. *See also* 11 CFR 102.8(c).

§ 106.1 [Amended]

18. In 11 CFR 106.1(e): Delete "§ 102.6", insert "11 CFR 102.5".

§ 106.4 [Amended]

19. In 11 CFR 106.4(a): Delete "§ 100.7(b)(2)", insert "11 CFR 100.8(b)(1)".

20. In 11 CFR 106.4(b): Delete "§ 100.4(b)(1)", insert "11 CFR 100.7(b)(1)".

§ 108.4 [Amended]

21. In 11 CFR 108.4: Delete "authorized", insert "unauthorized".

§ 110.1 [Amended]

22. In 11 CFR 110.1(i)(1): Delete "§ 104.5(e)", insert "11 CFR 104.8(d)".

23. In 11 CFR 110.1(i)(2): Delete "§ 104.5(e)", insert "11 CFR 104.8(d)".

§ 110.2 [Amended]

24. In 11 CFR 110.2(b): Delete "§ 100.14(a)(3)", insert "11 CFR 100.5(e)(3)".

§ 110.3 [Amended]

25. In 11 CFR 110.3(a)(1)(i): Delete "§ 100.14(c)", insert "11 CFR 100.5(g)".

§ 110.7 [Amended]

26. In 11 CFR 110.7(c)(2)(ii): Delete "Part 102", insert "11 CFR 102.2".

§ 110.8 [Amended]

27. In 11 CFR 110.8(c)(2): Delete "§ 100.7(b)(13)", insert "11 CFR 100.8(b)(21)".

§ 110.11 [Amended]

28. In 11 CFR 110.11(a)(1)(ii): Delete "§ 102.2(a)(2)", insert "11 CFR 102.2(a)(1)(ii)".

§ 111.8 [Amended]

29. In 11 CFR 111.8(c): Delete "§ 104.5(a)(1)(i)", and insert "11 CFR 104.5(a)(1)(iii)"; delete "104.5(a)(1)(iii)" and insert "by 104.5(a)(1)(i)".

§ 114.1 [Amended]

30. In 11 CFR 114.1(a)(1): Delete "(except a loan by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business)" insert "(except a loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the National Savings and Loan Insurance Corporation, or the National Credit Union Administration, if such loan is made in accordance with 11 CFR 100.7(b)(11))".

31. In 11 CFR 114.1(a)(2)(vi): Delete "of the national committee", insert "of any political committee".

32. In 11 CFR 114.1(a)(2)(vii): Delete "of a candidate or political committee", insert "of an authorized committee of a candidate or any other political committee"; delete "Part 104", insert "11 CFR 104.3(h)".

33. In 11 CFR 114.1(a)(2)(ix): Delete "Part 104", insert "11 CFR 104.3(g)".

§ 114.3 [Amended]

34. In 11 CFR 114.3(b): Delete "§ 100.7(b)(15)", insert "11 CFR 100.8(b)(4)".

§ 114.5 [Amended]

35. In 11 CFR 114.5(e)(2)(i): Delete "§ 100.7(b)(5)", insert "11 CFR 100.8(b)(4)".

§ 114.9 [Amended]

36. In 11 CFR 114.9(a)(2): Delete "§ 100.4(a)(1)(iii)(B)", insert "11 CFR 100.7(a)(1)(iii)(B)".

37. In 11 CFR 114.9(b)(2): Delete "§ 100.4(a)(1)(iii)B)", insert "11 CFR 100.7(a)(1)(iii)(B)".

38. In 11 CFR 114.9(d): Delete "§ 100.4(a)(1)(iii)(B)", insert "11 CFR 100.7(a)(1)(iii)(B)".

§ 114.12 [Amended]

39. In 11 CFR 114.12(a): Delete "§ 100.14", insert "11 CFR 100.5".

40. In 11 CFR 114.12(a): In the second sentence, delete "the chairman and"; delete "remain", insert "remains".

§ 115.1 [Amended]

41. In 11 CFR 115.1(a): Delete "§ 100.13", insert "11 CFR 100.10".

§ 9008.2 [Amended]

42. In 11 CFR 9008.2(e): Delete "(2 U.S.C. 431(k))", insert "(2 USC 431(14))".

§ 9008.6 [Amended]

43. In 11 CFR 9008.6(b)(3): Delete "2 U.S.C. 431(o)", insert "2 USC 431(19)".

§ 9008.7 [Amended]

44. In 11 CFR 9008.7(a)(3): Delete "2 U.S.C. 431(o)", insert "2 USC 431(19)".

§ 9008.8 [Amended]

45. In 11 CFR 9008.8(a)(4): Delete "2 U.S.C. 431(o)", insert "2 USC 431(19)".

§ 9032.4 [Amended]

46. In 11 CFR 9032.4: Delete "11 CFR 100.4", insert "11 CFR 100.7".

§ 9033.1 [Amended]

47. In 11 CFR 9033.1(c): Delete "this disclosure requirements", insert "the disclosure requirements".

§ 9033.9 [Amended]

48. In 11 CFR 9033.9(a): Insert after "candidate", "or his or her authorized committee(s)".

§ 9034.2 [Amended]

49. In 11 CFR 9034.2(a)(3): Delete "principal place of business", insert "name of employer".

§ 9034.3 [Amended]

50. In 11 CFR 9034.3(d): Delete "11 CFR 100.14", insert "11 CFR 100.5".

§ 9036.2 [Amended]

51. In 11 CFR 9036.2(a)(3): Delete "2 U.S.C. 432(c)(2), 434(b)(2) and 11 CFR 102.9(a) (20), 104.2(b)(2)", insert "2 USC 432(c)(3), 434(b)(3)(A), and 11 CFR 102.9(a)(2), 104.3 (a)(4)(i)".

Dated: March 27, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-9878 Filed 3-31-80; 8:45 am]

BILLING CODE 6715-01-M

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11 CFR Parts 100, 110, and 114

Funding and Sponsorship of Federal Candidate Debates

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: The Commission announces the effective date of regulations on the funding and sponsorship of nonpartisan candidate debates published on December 27, 1979, at 44 FR 76736.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463, (202) 523–4143.

SUPPLEMENTARY INFORMATION: On December 27, 1979, at 44 FR 76736, the Commission published regulations on the funding and sponsorship of candidate debates. The regulations create an exemption from various provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan federal candidate debates.

2 U.S.C. 439(d) (formerly 2 U.S.C. 438(c)) requires that any rule or regulations proposed by the Commission to implement Chapter 14 of Title 2, United States Code, be transmitted to the Speaker of the House and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation within 30 legislative days after its transmittal, the Commission may finally prescribe the regulation.

The regulations published at 44 FR 76736 were transmitted to Congress on December 20, 1979. 30 legislative days having passed, the Commission announces they will become effective on publication of this notice.

"11 CFR 100.4(b)(16), 100.7(b)(18), 110.13, and 114.4(e), published at 44 FR 76736, are effective as of April 1, 1980."

Dated: March 27, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-9877 Filed 3-31-80; 8:45 am]

BILLING CODE 6715-01-M

11 CFR Parts 100–106, 108–114, 9008

Amendments to Federal Election Campaign Act of 1971

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On Friday, March 7, 1980, (45 FR 15094–15126) the Commission published the test of regulations to implement the 1979 Amendments to the Federal Election Campaign Act of 1971 (Pub. L. 96–187). The Commission announces these regulations will become effective on (April 1, 1980).

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463 (202) 523–4143.

SUPPLEMENTARY INFORMATION: Pub. L. 96–187, Title III, section 303 required the Commission to transmit to Congress by February 29, 1980, regulations to implement the 1979 Amendments to the FECA and further provided that such regulation could be prescribed by the Commission after they had been before each House of Congress for 15 legislative days. The regulations being made effective by this notice were transmitted to Congress on February 28, 1980. 15 legislative days passed in both the House and Senate as of March 26, 1980.

"The amendments to 11 CFR Parts 100 through 106, 108 through 114, and 9008, published at 45 FR 15094 through 15126, are effective as of April 1, 1980."

Dated: March 27, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-9876 Filed 3-31-80; 8:48 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 80-201]

Reduction of Liquidity Requirement

March 26, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment reduces the overall liquidity requirement of each Federal Home Loan Bank member from 5½ to 5 percent of its liquidity base and reduces each member's short-term liquidity requirement from 1½ to 1 percent of such base. This action is taken to provide members with greater portfolio flexibility and to expand the ability of individual members to pursue varying strategies designed to improve their earnings.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Marshall A. Kaplan, Deputy Director, Office of Policy and Economic Research, Federal Home Loan Bank Board, 1700 G Street, NW, Washington, DC 20552, telephone number 202–377–6770.

The Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because this amendment relieves restriction, and (2) publication of this amendment for the 30-day notice specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to effective date is unnecessary for the same reason.

Accordingly, the Board hereby revises § 523.11(a) of the Regulations for the Federal Home Loan Bank System (12 CFR 523.11(a)) to read as set forth below, effective April 1, 1980.

§ 523.11 Liquidity requirements.

(a) *General.* Except as otherwise provided in paragraphs (b) and (d) of this section, for each calendar month, each member, other than a mutual savings bank with an election under paragraph (e) of this section in effect, shall maintain an average daily balance of liquid assets not less than 5 percent of the average daily balance of its liquidity base during the preceding calendar month, and each member, other than a mutual savings bank or an insurance company, shall maintain an average daily balance of short-term liquid assets not less than 1 percent of the average daily balance of its liquidity base during the preceding calendar month.

* * * * *

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 252, as amended, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

James J. McCarthy,

Acting Secretary.

[FR Doc. 80-9321 Filed 3-31-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 159

[Docket No. 19939; Amdt. 159-17]

Dulles Airport Access Highway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Carpools of four or more persons will be permitted to use the Dulles Airport Access Highway during the peak commuter hours. The highway had been restricted to airport traffic only. The following ramps will be open to carpools:

	A.M.	P.M.
Reston Ave. Eastbound	6:00–9:00	3:30–7:00
Reston Ave. Westbound	6:00–9:00	3:30–7:00
Trap Road Eastbound	6:00–9:00	(1)
Trap Road Westbound	(1)	4:00–7:00

[1] Closed.

The hours and 4 person limitation will be strictly enforced by the State of Virginia. FAA is relaxing its restrictions on the Dulles Airport Access Highway in order to promote energy efficient ride sharing.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dexter Davis, Manager Dulles International Airport, P.O. Box 17045, Washington, D.C. 20041, Telephone 471–7596, or Edward Faggen, Legal Counsel, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, D.C. 20001, Telephone 557–8123.

SUPPLEMENTARY INFORMATION: The FAA director of Metropolitan Washington Airports issued a Notice of Proposed Rulemaking on January 9, 1980 (Notice No. 80–1) which was published in the **Federal Register** on January 14, 1980 (45 FR 2661) in which FAA proposed to allow carpools to use the Dulles Airport Access Highway (Access Highway). With certain exceptions, use of the Access Highway is presently restricted to airport users. The proposal was to permit vehicles with four or more persons to have access to the highway in both directions during the peak commuter periods until January 1, 1985. Interested persons have been afforded an opportunity to participate in the making of this final rule. After consideration of comments received in response to the Notice, and after having completed an environmental assessment of the proposal, FAA has determined that the proposed rule should be finalized, as modified below, and made effective.

This amendment is part of the DOT/FAA continuing effort to improve transportation efficiency and to encourage ride sharing and other energy conservation measures. This amendment removes certain restrictions on the use of the Dulles Airport Access Highway and will enhance carpooling as an alternative to the existing modes of transportation for those who commute

from or to the Dulles Airport Access Highway corridor.

Discussion of Comments

The FAA received approximately 50 comments predominantly from members of the general public who reside or work in the Access Highway corridor. Several comments were submitted by civic organizations on behalf of large numbers of individuals. Comments were also submitted by representatives of local government and by agencies of the Federal Government. Industry organizations such as the Air Transport Association and the American Motorcycle Association also expressed their views on the opening of the Access Highway to carpools.

Airport Access

The majority of the comments by far were in favor of opening the Access Highway to carpools. However, many of the comments expressed concern or sought clarification about the one aspect of the proposal or another. The comments in opposition expressed concern about access for the users of Dulles Airport. The Air Transport Association supports an exclusive airport use policy and objects to deviation from that policy, including the proposed carpool use. The ATA believes that if carpools are allowed, enforcement of the 4 person restriction should be on a full-time basis not on spot check basis. ATA also takes the position that the Highway should revert to the use for which it was authorized and constructed no later than January 1, 1985. Restoration to exclusive airport related use in 1985 should not be conditioned on the adoption of the Metropolitan Washington Airports Policy which appeared in the **Federal Register** on January 21, 1980. The ATA also expressed concern over the informal exemptions to the "airport only" policy that have developed over the years such as for the Reston Commuter Bus and for patrons of Wolf Trap Farm Park. One other commenter expressed concern about congestion on the Access Highway and was skeptical about FAA's ability to return the road to exclusive airport use.

The FAA's philosophy regarding the Access Highway has not changed. The Dulles Access Highway was built with Federal funds to provide airport users with a free flowing artery to the airport. It was designed to support use of Dulles Airport. The FAA remains committed to preserving the original intent of the Access Highway. The Secretary of Transportation's report to Congress entitled Carpool Access to Dulles Airport Access Road, July, 1979, in which the Department of Transportation recommended opening the Highway to four or more person carpools, clearly acknowledged that free flowing airport access is the overriding purpose of the highway and it recommended that carpools be allowed only until January 1, 1985.

Also, the National Capital Planning Commission specifically endorsed the carpool proposal on the condition that carpool use be terminated in 1985. By that date Dulles Airport traffic is projected to have increased to the point that the carpool and other non-airport users will contribute to congestion on the Access Highway. However, FAA's traffic projections indicate that significant interference to airport patrons will not result before 1985 from implementation of the proposal. FAA's resolve to preserve the Access Highway for its principal purpose was stated in the Notice and is restated here. As congestion increases on the Highway, whether or not it is a result of efforts to promote Dulles Airport, efforts to minimize or eliminate non-airport related traffic will be considered by FAA.

As for informal exemptions, FAA has allowed very few exemptions in the 18 years that the Highway has been open. In addition to carpools, this regulation will give formal recognition to vehicles operated for the purpose of going directly to or from performances of Wolf Trap Farm Park, to buses operated in common carriage for which use of the Access Highway is appropriate, and to buses operated by the Fairfax County School systems.

Enforcement

Several commenters urged that if the carpool proposal is adopted a strong commitment to enforcement is essential to its success. FAA agrees, but has clearly stated from the outset, that enforcement is primarily a local government responsibility inasmuch as local citizens and employees derive the benefit from carpool use. FAA has sought and received the cooperation of the State of Virginia in this regard. FAA and the State have executed a Memorandum of Understanding in which the State has assumed the responsibility for the enforcement of the carpool restrictions. The enforcement plan involves having an attendant on duty on each of the ramps during the carpool operating hours. The attendant will operate the gates to permit entrance to the highway only by vehicles with four or more occupants. State or local police will provide the necessary law enforcement. FAA is taking the necessary steps to confer jurisdiction upon the State to enable the State police to enforce the carpool restriction on the ramps which heretofore have been subject to exclusive Federal jurisdiction. The carpool restriction will be posted on an official sign at the ramps. Violators will be subject to penalty under Virginia Code Sections 46.1–173. A violation is a traffic infraction subject to a fine of not more than one hundred dollars under Virginia code Section 46.1–16.01.

In addition, FAA police will continue to have jurisdiction over these ramp areas. Since this regulation is enacted pursuant to the authority of the FAA granted in the Second Washington Airport Act, 64 Stat 770, violations may be prosecuted as a Federal misdemeanor offense under Section 159.19 and subjected to a fine to be determined by the Federal Court. Operation of a vehicle in violation of an operating sign is also a violation of the regulation under section 159.35(c)(6). If violations become excessive, stricter enforcement measures will be taken. If ineffective enforcement of these restrictions occurs which would jeopardize the primary purpose of the Highway, the FAA will have to consider closing it to carpools.

Hours of Operation

A considerable number of commenters requested FAA to modify the proposed hours for carpool access. As proposed in Notice 80–1, the carpools would be allowed to operate between 6:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 7:00 p.m., Monday through Friday. Many employees at the United States Geological Survey in Reston, Virginia requested that the ramps at Reston Avenue be open at 3:30 p.m. instead of 4:00. FAA has inquired at the Geological Survey and has been advised that more than 2,000 employees complete their work day at 3:30 p.m. and that the vast majority of these employees commute by private automobile. Many carpools already exist and would use the Access Highway westbound in the morning but would be precluded from using them in the afternoon without enduring a half-hour delay that more than offsets the benefits from carpool use of the Access Highway.

FAA agrees that the ramps at Reston can be opened at 3:30 p.m. The State of Virginia has also concurred and will provide law enforcement and an attendant at this hour. Therefore the Reston Avenue ramps will be open in both directions from 6:00–9:00 a.m. and from 3:30–7:00 p.m.

The ramps at Trap Road are not expected to generate as much traffic as Reston Avenue. The Trap Road ramps

will be opened in the peak direction only. That is, in the morning the westbound exit ramp from the Access Highway onto Trap Road will be closed. The eastbound entrance ramp onto the Highway will be opened to carpools from 6:00–9:00 a.m. In the afternoon, the eastbound ramp will be closed. Westbound carpool traffic will be able to exit from 4:00–7:00 p.m.

The hours are summarized as follows:

Ramp	A.M.	P.M.
Reston Ave. Eastbound	6:00–9:00	3:30–7:00
Reston Ave. Westbound	6:00–9:00	3:30–7:00
Trap Road Eastbound	6:00–9:00	(1)
Trap Road Westbound	(1)	4:00–7:00

[1] Closed.

Furthermore, FAA wants to keep a degree of flexibility in the hours of operation of the ramps. Therefore, the final regulation will not precribe the hours which would necessitate regulatory action to make even a minor adjustment. Instead, these vehicles may operate in the hours prescribed by the signs posted on the Access Highway. Enforcement action is not dependent on the hours being prescribed by regulation. FAA will, in cooperation with the State of Virginia, see to it that the hours of operation are set forth on a highway sign at each of the ramps. Once posted, the hours will be enforced as any other Access Highway operating sign pursuant to Section 159.35(c)(6). However, the hours of operation may only be changed by order of the Director of the Metropolitan Washington Airports.

Wolf Trap Farm Park

The Department of Interior, National Park Service, which operates Wolf Trap expressed concern about the use of the Trap Road ramps. During the summer month when the park is open, matinee performances are conducted which generate considerable traffic during the early part of the rush hour. To expedite the traffic from the park, the Trap Road is operated in a one way mode south from the park towards the Access Highway for the time necessary to clear the parking lots. Carpools arriving at the Westbound exit ramp of Trap Road at 4:00 p.m on the matinee days may encounter delays up to 30 minutes in exiting the ramp.

FAA does not intend to interfere with the efficient operation of Wolf Trap. Neither does FAA believe that carpooling should be disallowed on the westbound Trap Road ramps or that the hours of operation should differ significantly from the other ramps. FAA has discussed the matter with the Park Service and has decided that the Westbound ramp should be available to carpools from 4:00 to 7:00 p.m. in the afternoon, as proposed. Carpoolers are advised that they may encounter significant delays on matinee performance days during the Wolf Trap performance season.

The Park Service's other principal concern is that the parking lots at Wolf Trap might be used by commuters for carpool formation. FAA does not condone or encourage in any way, the use of Wolf Trap parking lots by commuters. However, the park police, as opposed to FAA or State Police, are in the best position to enforce the Park Service parking policies. Should unanticipated conflicts with Park operations arise, further carpool management action may be undertaken in consultation with the National Park Service. Such action could include, if necessary, changing carpool operating hours at Trap Road or closing the Westbound ramp to carpools during the Park season.

"Backtracking"

Backtracking is the term applied to those commuters who enter on the road, proceed west to the Airport only for the purpose of making a U turn and proceeding back to the east. The maneuver evidently results in some time saving for commuters, its circuitous nature notwithstanding. The practice has become widespread; as many as 3500 cars make U turns at Dulles Airport in a typical peak period. The practice has led to considerable congestion on the Access Highway from Route 28 west to the Airport. Furthermore the practice is not legal as the road is intended to be an "airport only" highway and its use is restricted by regulation. The regulation is, today, clarified in this regard by the addition of the phrase "on airport related business" to 159.35(a). Unless one of the exceptions apply, private vehicles are permitted to use the Access Highway only for the purpose of going to, or leaving, Dulles Airport on Airport related business.

Several commenters were concerned that FAA is cracking down on this illegal use as part of implementing the carpool proposal. This is not the case. FAA will engage in random enforcement of the traffic restrictions on the Access Highway. However, the advent of carpooling does not require or signal any change in the FAA's position on backtracking. Carpooling offers commuters a legal alternative to backtracking and the FAA is hoping that the number of backtrackers will be diminished. This is the only relationship between the carpool proposal and backtracking.

Number of Occupants

A significant percentage of the commenters urged FAA to lower the vehicle occupancy requirement to three or two persons because such carpools are easier to form and could ultimately take more cars off congested alternative routes than four person carpools.

FAA considers it necessary to require carpools to have four or more persons in order in insure the free flow of traffic for airport users. A lower number may indeed attract more cars. It would also create a greater likelihood of congestion and therefore constitute a conflict with the FAA's airport only policy. The four person requirement is consistent with existing and planned carpool strategies for the metropolitan area. Less than four person carpools are not allowed on the I–395 carpool lanes, nor will they be allowed on the I–66 segment inside I–495 (the "Beltway"), nor on the Dulles Access Highway extension to meet I–66 when it is completed. These roads would become overly congested if the four person restrictions were relaxed. When the Access Highway and I–66 are connected, the Access Highway will conform to the traffic restrictions imposed upon I–66 by the Secretary of Transportation. It would not be good transportation policy to provide relaxed carpool requirements for the interim period until the Dulles Access Highway extension and I–66 are completed; this would encourage a commuter practice which will need to be stopped when the new facilities are opened.

Neither does FAA agree with those commenters who urged that carpools be given a pass so that on days when one, or more than one, member is absent, the vehicle and its remaining occupants may continue to use the highway. A pass system, though a convenience for some, is also subject to abuse when absenteeism becomes more the rule than the exception. An increased enforcement effort would be required in order to minimize the violation rate and to be fair to legitimate four-person carpoolers. Neither FAA nor the State is prepared to undertake the administrative tasks associated with issuing passes for the use of the Access Highway and assuring that the passes are not abused.

Motorcycles

Several commenters urged FAA to open the Access Highway to motorcyles on the theory that motorcycles provide an energy efficient form of transportation. FAA, however, is not prepared to allow vehicles onto the Access Highway based upon their passenger miles per gallon of fuel

consumed. If it did so, the same rationale would have to be extended to fuel efficient automobiles. The result would be a vehicle access plan that is difficult to administer and one that has a greater potential for adding congestion to the Dulles Airport Access Highway as well as to Reston Avenue and to Trap Road. The Department of Transportation and FAA's efforts are directed at promoting carpooling and ride sharing, and relaxing the restrictions on the Access Highway will achieve these objectives. Allowing motorcycles would not promote these objectives.

Metrorail

One citizen association expressed its opposition to the carpool access until such time as the Metrorail system replaces "other ground transportation systems" in the corridor such as the proposed Dulles toll road. FAA does not believe that Metrorail is a realistic short-term alternative to promoting carpooling. Metrorail is planned to serve Vienna, Virginia, and will eventually provide a transportation alternative to the automobile and bus in the area. Also, the median strip of the Access Highway is being preserved by FAA for Metrorail in the eventuality that the Washington Metropolitan Area Transit Authority concludes that an extension of Metrorail to Dulles Airport is feasible and prudent. Moreover, while the Department of Transporation is interested in the issue of Metro service to Dulles, that issue is not properly a subject of FAA rulemaking or one exclusively within FAA's authority.

New Ramps

The Board of Supervisors of Loudoun County, Virginia, endorsed the proposal to allow carpools to use the Access highway and, further, requested FAA to pursue the construction of access ramps at Route 28. At present access to or from Route 28 is permitted only to and from the airport. As a result Route 28 is heavily used by "backtrackers." Loudoun County carpools would have to travel to Reston Avenue to gain lawful access to the Highway. FAA recognizes this as a disincentive to Loudoun County commuters. Nevertheless, the FAA is not prepared to undertake the capital expenditures in excess of $750,000 associated with the new ramp construction. Carpoolers will be allowed to turn around at Dulles Airport, since the number of carpools making the U turn is not anticipated to be so great as to cause significant delay to airport users. This approach will be beneficial to carpools composed of citizens from Loudoun County and from the Herndon area of Fairfax County.

Implementation at Reston, Va.

The Reston Community Association and the Reston Commuter Bus (RCB) organization generally endorsed the proposal and submitted a suggested plan to allow carpools to use the Reston Avenue ramps. These ramps are Federal property but were constructed at the expense of Gulf Reston. They have been used primarily to provide Highway access for Reston's commuter bus service. RCB is concerned that FAA not "arbitrarily assign priority to car and vanpools."

The ramps have served as a convenient transfer point for bus riders and a staging area for the RCB. The compatibility of this practice with automobile use of the ramps concerns the FAA and the State of Virginia from a safety standpoint. Every effort should be made to retain the bus transfer location on the ramps. If that is not tenable, then a location in the immediate vicinity of the ramp will be pursued. FAA and the state have developed a plan for operating the ramp that does not contemplate relocating the bus operation unless operational problems develop that cannot be otherwise resolved. It is currently planned to widen the ramp approximately six feet opposite the bus shelter to allow automobiles to pass the stopped buses. Additional construction and the use of barriers will be considered if found necessary after the ramps are opened. Also, traffic signal lights will be installed at the intersections of the ramps and Reston Avenue. This is expected to moderate the speed of vehicles through the area and safely permit left turns from the westbound exit ramp onto Reston Avenue. After the opening of the ramps, further measures will be taken as needed.

Local Governments and Planning Organizations

Loudoun County and Fairfax County, Virginia have endorsed the proposal. The Council of Governments Transportation Planning Board (COG) and the National Capital Planning Commission (NCPC) have also endorsed the proposal. No opposition has been expressed by any local government or planning agency. NCPC's endorsement was conditioned on development of an acceptable enforcement program, termination of carpool use by January 1, 1985, and development of measures to avoid commuter parking at the Wolf Trap parking lots. The COG staff concurred with NCPC and, in addition, urged completion of the Dulles Access Highway Extension to join I–66.

An adequate enforcement program has been developed by FAA that is in accordance with all of the conditions expressed by NCPC and COG. The FAA does not encourage or condone the use of Wolf Trap for parking and carpool formation. However, enforcement of the no parking retrictions will be the responsibility of the National Park Service.

Environmental Assessment

FAA has prepared and circulated for comment an environmental assessment. A number of comments have been received and on the basis of the study and the comments FAA has concluded that the proposal, if implemented, will not have a significant impact on the human environment.

The principal environmental concerns related to continued growth in western Fairfax County and Loudoun County and to the burden imposed on closer in jurisdictions by measures that encourage, rather than discourage, use of the automobile as means of commuting to the District of Columbia.

The FAA, on behalf of the United States, is a significant landowner and employer in western Fairfax and Loudoun Counties. It has an interest in land use and in planning for the areas surrounding Dulles Airport. Also, FAA has an obligation, when considering how to best use the land entrusted to it, to carefully weigh the impacts of its decisions on its neighbor's land. Therefore, in principle, FAA agrees with those comments that stress the complex interrelationship between certain transportation development projects and land development.

However, FAA does not believe that this carpool proposal is one of those projects. The carpool proposal is a transportation development much smaller in scale with significantly less impact than, for example, the plan for building a Dulles Toll Road. The carpool proposal will not provide increased access for commercial traffic and therefore the commercial growth planned for the Dulles corridor will continue to be restrained as it currently is. The Access Highway/Route 7 corridors are planned for substantial residential development and that development is occurring rapidly and without regard for the outcome of this proposal. Several of the projected carpools that will use the DAH are already formed and are either backtracking at the airport or using alternate routes. As the incentives for carpools increase when the Dulles Extension and I–66 are completed, new carpools will be formed from existing commuters now traveling alone or in

two or three passenger carpools. While the increase in carpools will result in some reduction in congestion in traffic on alternate routes, the reductions are not expected to be great enough to attract any significant growth in the corridor. While home/work trips constitute a large share of the through traffic on Route 7, the transportation problems in northwest Fairfax County frequently surface at times other than carpool peak periods such as on weekends, and holidays. The existence of the carpool access for limited weekday periods is not likely to draw any significant volumes of people to western Fairfax County or Loudoun County that would otherwise not relocate there.

Furthermore, this proposal is not expected to significantly change the volume of traffic passing through Arlington County, Virginia and into the District of Columbia. Any change that there is will be towards the reduction in total vehicle trips. There will be no significant secondary impacts on these areas as a result of this proposal.

Access by Handicapped Persons

FAA was requested by an individual to allow handicapped persons who are not in carpools to commute via the Access Highway. An exemption is not warranted. The purpose of the rule is to promote the use of carpools. An exemption for the commuter who is handicapped does not promote the carpool policy, nor is it consistent with the basic FAA policy on commuter use of the Access Highway. Commuters in private vehicles have not been permitted to use the Access Highway and handicapped individuals have not been exempt. The relaxation of the rule to permit carpools does not change the status of the individual commuter.

Editorial Revisions

The reference to "trespass" in section 159.35(a) is deleted as obsolete. Violators of the Access Highway regulation may be charged with a misdemeanor under the Second Washington Airport Act, 64 Stat. 770, and under these regulations, 14 CFR 159.191. The regulation will state that any person who enters upon the Highway for an unauthorized purpose shall be guilty of a criminal offense and subject to a penalty under these regulations.

Access "road" is changed to access "highway".

The phrase "on airport related business" is added to 159.35(a) to further underscore the original intent of the regulation that private vehicles may enter upon the highway only to travel to the airport on airport related business, unless one of the exceptions apply.

Termination

The regulation provides that carpool access will terminate on January 1, 1985. The Agreement between the FAA and the State of Virginia Department of Highways and Transportation providing for enforcement and other responsibilities, also expires on January 1, 1985. Termination of that Agreement may occur prior to that date: (a) if a highway paralleling the Access Highway is completed by the State of Virginia and is open to the public; (b) if FAA determines that enforcement of the carpool restriction is not effectively achieving a high level of compliance; or (c) if FAA determines that the carpool traffic is interfering with Dulles Airport traffic; (d) if the State of Virginia determines that carpool access should be terminated due to a severe decrease in use, the State's inability to staff the ramps, or similar reason.

Termination of the Agreement with the State may cause FAA to amend its regulations to modify carpool access or prohibit carpool use of the access highway. The State has agreed that termination of the Agreement shall be effective only after public notice and an opportunity to comment. FAA regulations would not be amended without appropriate notice and opportunity for comment.

Effective Date

The rule will be effective upon publication in the **Federal Register.** Inasmuch as the rule operates to remove a restriction, the requirement for publication of the rule not less than 30 days before its effective date is inapplicable. 5 U.S.C. Section 553(d).

Adoption of Amendment

Accordingly, § 159.35 of Part 159 of the Federal Aviation Regulations is amended, effective April 1, 1980, to read as follows:

§ 159.35 Use of access highway to Dulles International Airport.

(a) Except in an emergency, and except as provided in paragraph (b) of this section, private vehicles may enter upon the Dulles Airport Access Highway only for the purpose of going to, or leaving, Dulles International Airport on airport related business, or, with the permission of the Airport Manager, to perform work on the Highway. Entry by any person upon the Dulles Airport Access Highway for a purpose not authorized by this section is a criminal offense. Violators are subject to a penalty under these regulations.

(b) *Exceptions.* Any person may enter upon and travel over the Access Highway in the following vehicles:

(1) Vehicles operated for the purpose of going directly to or from performances at the Wolf Trap Farm Park for the Performing Arts.

(2) Buses operated in common carriage of persons by companies holding a certificate of public convenience and necessity for an operation for which use of the highway is appropriate, and buses operated by the Fairfax County School System.

(3) Until January 1, 1985, vehicles occupied by four or more persons. These vehicles may operate as prescribed by signs posted on the Access Highway.

(c) Except in an emergency, no operator of a private vehicle may—

(1) Enter or leave the Access Highway through an entrance or exit road or ramp other than one constructed by the FAA as part of the Access Highway system;

(2) Make a U-turn on the Access Highway;

(3) Enter or cross the median strip of the Access Highway;

(4) Use an exit road or ramp to enter the Access Highway;

(5) Use an entrance road or ramp to leave the Access Highway; or

(6) Operate the vehicle in violation of speed limit signs and other operating signs posted on the Access Highway.

(Secs. 3 and 4 of the Second Washington Airport Act, 64 Stat. 770; sec. 313 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1359); sec. 6, Department of Transportation Act (29 U.S.C. 1655))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is judged to be minimal and a detailed evaluation is not required.

Issued in Washington, D.C., on March 28, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-9941 Filed 3-31-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 803

Commercial Practices; Transmittal Rules

AGENCY: Federal Trade Commission.

ACTION: Issuance of Commission formal interpretation of the premerger notification rules establishing policy with regard to disclosure of premerger notification materials in certain subsequent actions or proceedings.

SUMMARY: The Federal Trade Commission, with the concurrence of the assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has issued a formal interpretation establishing their policy with regard to disclosure, in certain subsequent actions or proceedings, of materials filed with either enforcement agency under the premerger notification program. If premerger notification materials are to be placed on the public record in an administrative or judicial action or proceeding, including one unrelated to the original transaction, the staffs of the Commission and the Antitrust Division have been instructed to give the submitting person 10 days' notice, whenever possible, regardless of whether the submitting person is a party to the action or proceeding. In the event that circumstances preclude 10 days' notice, the staffs are instructed to give the submitting person as much notice as possible. The purpose of this notice is to permit the submitting person to seek appropriate protection for confidential materials, should it wish to do so.

This interpretation represents a modification of prior policy as reflected in the Statement of Basis and Purpose to the Premerger Notification Rules published in the **Federal Register** on July 31, 1978.

EFFECTIVE DATE: March 20, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a (Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976), requires that certain persons contemplating certain mergers or acquisitions file Notificiation and Report Forms with the Commission and Assistant Attorney General and wait designated periods before consummation of such transaction. Section 803.30 of the rules implementing the Act authorizes the Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, to issue formal interpretations and to publish a summary of each Commission formal interpretation in the **Federal Register.**

Copies of the formal interpretation are available in the Public Reference Room of the Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Room 130, Washington, D.C. 20580.

By direction of the Commission.

Carol M. Thomas,

Secretary.

Formal Interpretation

In accordance with the provisions of § 803.30 of the Commission's premerger notification rules, 16 CFR 803.30, the Commission, with the concurrence of the Assistant Attorney general in charge of the Antitrust Division of the Department of Justice, issues this formal interpretation.

Section 7A(h) of the Clayton Act, 15 U.S.C. 18a(h), exempts documents or information submitted pursuant to the premerger notification program from Freedom of Information Act disclosure and forbids public disclosure "except as may be relevant to any administrative or judicial action or proceeding." Neither the statue nor the premerger notification rules, 16 CFR 801.1 *et seq.*, require advance notice to the submitting person before premerger submissions are made public in a proceeding, but the Statement of Basis and Purpose to the Premerger Notification Rules states that submitting persons will be given "reasonable notice, when possible," before premerger submissions are placed on the public record in any proceeding to which the submitting person is not a party. 43 FR 33450, 33519 (July 31, 1978).

The Commission and the Assistant Attorney General have determined that a flexible 10 day notice requirement would not hinder the administration of the premerger notification program.

Accordingly, it is hereafter the policy of each agency to instruct its staff to give a submitting person 10 days' notice, whenever possible, before placing on the public record in any administrative or judicial action or proceeding any documents or information submitted pursuant to the Premerger Notification Program, regardless of whether the submitting person is a party to the action or proceeding. In cases where 10 days' notice is not feasible—for example, where a temporary restraining order is being sought—staff is instructed to give the submitting person as much advance notice as reasonably can be given, advise the court or administrative agency that the material was obtained under the premerger notification program, and request that the tribunal receive the material *in camera* for sufficient time to afford the submitting person an opportunity to seek a protective order, if appropriate.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 9863 Filed 3–31–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 0, 1, 2, 3, 157, 284, 375, 376

[Docket No. RM80–45]

Recodification of Rules Reflecting the Establishment of the FERC and Certain Rules Concerning Its Operation

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to promulgate permanent rules concerning the Commission, its establishment, organization, mission, and functions and to revoke obsolete provisions promulgated by the FPC. The Commission has relied on many of the FPC rules since its creation, with additional necessary procedural provisions of its own placed in Part 0.

The recodification moves to Subchapter W, and restates many of the provisions basic to the Commission's operation currently contained in Subchapter A. A new Subpart A is added to Part 1 and contains definitions applicable to all Commission rules and regulations.

The changes in this final rule do not alter any legal requirement of the Commission's regulations; the changes only conform the procedures of the Commission to existing law and practice and begin the process of reorganizing the regulations for clarity.

EFFECTIVE DATE: Because this is a rule of agency organization, procedure and practice, it is effective March 28, 1980.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8000–E, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357–8455.

March 28, 1980.

I. Background

The Federal Energy Regulatory Commission ("Commission") was created by Title IV of the Department of Energy Organization Act ("DOE Act"). In accordance with that statute the Commission has assumed many of the

responsibilities of the Federal Power Commission ("FPC").[1]

Shortly after its creation, interim regulations were promulgated setting forth the functions, powers and duties of the newly created FERC 18 CFR, Part 0. For other operational and internal rules, the Commission has temporarily relied upon FPC rules (*e.g.*, the FERC has used the FPC Sunshine rules.) The purpose of this rule is to promulgate permanent rules concerning the Commission, its establishment, organization, mission, functions and method of operation and to revoke obsolete provisions promulgated by the FPC.

The new regulations are codified in Parts 375 and 376. Part 375 sets forth rules governing the Commission *per se*. Subpart A concerns the establishment of the Commission, custody of records, the official seal, and transcripts, proceedings from other agencies and attendant provisions. Subpart A is essentially a recodification of Subpart O. Subpart B sets forth the procedures for Commission meetings under the Government in the Sunshine Act; it is essentially a recodification of the FPC Sunshine rule set forth in its § 1.3a. Subpart C recodifies the delegations of authority to certain office heads. Those delegations were previously found in § 3.5

Part 376 sets forth the organization, mission, and functions of the Commission and certain provisions concerning operations during emergency conditions. These rules replace provisions previously found in Part 3 of the regulations.

These rules also add a new Subpart A to existing Part 1. This subpart will contain definitions generally applicable to all of the provisions of the Commission codified in Title 18 of the Code of Federal Regulations. Presently it is limited to definitions of the terms in the new Parts 375 and 376. Subpart A also contains rules of construction of terms used in the regulations.

II. Summary

Following is a Cross-reference table. It shows the derivation by old section number, for the new regulations.

[1] It also acquired certain responsibilities from the Interstate Commerce Commission ("ICC") with regard to establishing oil pipeline rates under the Interstate Commerce Act. In addition, the Commission was given responsibility to review certain actions of the Secretary of the Department of Energy. Subsequently Congress has passed additional legislation expanding the responsibilities of the Commission.

Regulation	Derivation (references are to present regulations unless otherwise specified)
Subpart A	
§ 375.101:	
(a)	§ 0.1; § 0.2; § 3.2; Sec. 401(a) DOE Act.
(b)	§ 0.4(a); first sentence of § 1.1(a)(2); § 3.6(a).
(c)	§ 1.1(b).
(d)	Sec. 401(b), DOE Act; § 1.1(c).
(e)	Sec. 401(e) DOE Act; § 1.1(d).
(f)	Sec. 401(f), DOE Act; § 1.1(e).
§ 375.102:	
(a)	§ 1.2(a).
(b)	§ 1.2(b).
§ 375.103	
§ 375.104	§ 0.3.
§ 375.105:	
(a)	§ 0.4(c).
(b)	§ 0.4(b).
(c)	§ 0.4(b), (d), (e), (f), (g), (i); § 1.2(c).
Subpart B	
§ 375.201	None.
§ 375.202:	
(a)(1)	§ 1.3a(a)(2).
(a)(2)	
(a)(3)	§ 1.3a(b).
(a)(4)	§ 1.3a(d).
(b)	§ 1.3a(b)(3).
§ 375.203:	
(a)	§ 1.3a(b)(1).
(b)	§ 1.3a(b).
(c)	§ 1.3a(c).
§ 375.204:	
(a)	§ 1.3a(f)(1).
(b)	§ 1.3a(f)(2) Proviso.
(c)	§ 1.3a(f)(3).
(d)	§ 1.3a(f) (4), (5), and (6).
§ 375.205:	
(a)	§ 1.3a(d)(1).
(b)	§ 1.3a(d)(2).
§ 375.206:	
(a)	§ 1.3a(d)(3)(i).
(b)	§ 1.3a(d)(3)(ii).
(c)	§ 1.3a(d)(3)(iii).
(d)	§ 1.3a(e)(1).
(e)	§ 1.3a(e)(2).
(f)(1)	§ 1.3a(e)(5).
(f)(2)	§ 1.3a(e)(6).
Subpart C	
§ 375.301 through § 375.331	§ 3.5. § 0.5.
Part 376; Subpart A	
§ 376.101	§ 3.1.
§ 376.102	§ 3.2; § 3.4.
§ 376.103	§ 3.3.
§ 376.104	Subpart B of Part 3.
§ 376.105	Sec. 401(c) § 3.4(b).
Subpart B	
§ 376.201	§ 3.7(a).
§ 376.202	§ 3.7(b)(1).
§ 376.203	§ 3.7(b)(2).
§ 376.204:	
(a)	§ 3.7(c)(1).
(b)	§ 3.7(c)(3).
(c)	§ 3.7(c)(4).
§ 376.205	§ 3.7(c)(5).
§ 376.206	§ 3.7(c)(6), (d).
§ 376.207	§ 3.7(e).
§ 376.208	§ 3.7.(f).

III. Effective Date

Pursuant to section 553 of Title 5 of the United States Code, this rule is being issued without prior notice and comment because it is a rule of agency organization, procedure and practice. For the same reasons, and because the amendments to the regulations contained in this rule are necessary to conform the Commission's regulations to existing law and practices and to provide the public with essential new provisions respecting Commission practice, the Commission finds good cause to have the amendment of this rule made effective March 28, 1980.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1977))

In consideration of the foregoing, Chapter I, Title 18 of the Code of Federal Regulations is amended as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

1. Chapter I is amended by adding a new Subchapter W to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

PART 375—THE COMMISSION

Subpart A—General Provisions

Sec.

375.101 The Commission.
375.102 Custody and authentication of Commission records.
375.103 Official seal.
375.104 Transfer of proceedings from other agencies to the Commission.
375.105 Filings.

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375.201 Purpose.
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375.203 Open meetings.
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375.205 Closed meetings.
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Subpart C—Delegations

375.301 Purpose.
375.302 Delegations to the Secretary.
375.303 Delegations to the Chief Accountant.
375.304 Delegations to the Chief Administrative Law Judge.
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375.306 Delegations to the Oil Pipeline Board.
375.307 Delegations to the Director of the Office of Producer and Pipeline Regulation.
375.308 Delegations to the Director of the Office of Electric Power Regulation.
375.309 Delegations to the Director of the Office of Enforcement.
375.310 Delegations to the Director of the Office of Opinions and Review.
375.311 Delegations during emergency conditions.

Authority: Dept. of Energy Organization Act, (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 442 (1978); Administrative Procedure Act (5 U.S.C. 553 (1977))

Subpart A—General Provisions

§ 375.101 The Commission.

(a) *Establishment.* The Federal Energy Regulatory Commission is an independent regulatory commission within the Department of Energy established by section 401 of the DOE Act.

(b) *Offices.* The principal office of the Commission is at 825 North Capitol Street, NE., Washington, D.C. 20426. Regional offices are maintained at Atlanta, Ga., Chicago, Ill., Fort Worth, Texas, New York, N.Y., and San Francisco, Calif.

(c) *Hours.* Unless the Chairman otherwise directs, the offices of the Commission are open each day, except Saturdays, Sundays, and Holidays, from 8:30 a.m. to 5:00 p.m.

(d) *Sessions.* The Commission may meet and exercise its powers at any place in the United States. The time and place of meetings of the Commission are announced in advance as provided in § 375.204.

(e) *Quorum.* A quorum for the transaction of business consists of at least three members present.

(f) *Action by Commissioners or representatives.* The Commission may, by one or more of its members or by such agents as it may designate, conduct any hearing, or other inquiry necessary or appropriate to its functions, except that nothing in this paragraph supercedes the provisions of section 556, of Title 5, United States Code relating to Administrative Law Judges.

§ 375.102 Custody and authentication of Commission records.

(a) *Custody of official records.* (1) The Secretary shall have custody of the Commission's seal, the minutes of all action taken by the Commission, the transcripts, electronic recordings, or minutes of meetings closed to public observation, its rules and regulations, and its administrative orders.

(2) The Executive Director shall have custody of records of the Commission except records designated in paragraph (a)(1) of this section.

(b) *Authentication of Commission action.* All orders and other actions of the Commission shall be authenticated or signed by the Secretary or the Secretary's designee.

§ 375.103 Official seal.

The Commission hereby prescribes as its official seal, judicial notice of which shall be taken pursuant to section 401(e) of the DOE Act, the imprint illustrated below and described as follows:

A circle, the outside border of which shall consist of two concentric circles enclosing the words "Department of Energy" and "Federal Energy Regulatory Commission." Within the inner circle shall appear a stylized eagle with head facing to its right. Its body shall be in the shape of a tapered shield, widest at the top, consisting of nine vertical stripes. The top of the shield contains five equally-spaced light color stars representing the five members of the Commission appointed by the President under Title IV of the DOE Act. Identical stylized wings appear on either side of the shield, each incorporating twenty stylized feathers protruding from a solid color wing-like shape. Below the eagle shall appear five squares, arranged in a horizontal line. Each of these squares shall contain a circle representing an area of the Commission's responsibility. The first square at the left of the line shall include a stylized representation of a pipeline; the second square shall represent a hydroelectric power facility; the third, and center square, shall represent a natural gas flame; the fourth square shall represent a drilling rig; the fifth square shall represent a stylized lightning bolt.



§ 375.104 Transfer of proceedings from other agencies to the Commission.

(a) *Transfer of pending proceedings.* Pursuant to the authorization provided in section 705(b)(2), and the provisions of section 705(b)(1) of the DOE Act, all proceedings and applications pending at the time such Act took effect, before any department, agency, commission, or component thereof, the functions of which have been transferred to the Commission by the Act, have been transferred in accordance with the joint regulations issued by the Commission and the Secretary of Energy on October 1, 1977. Those joint regulations appear as an appendix to this section.

(b) *Substitution of Commission for other agencies in court proceedings.* Pursuant to section 705(e) of the DOE Act, the Commission authorizes the Solicitor of the Commission to file the appropriate pleadings to substitute the Commission for the Interstate Commerce Commission or the Federal Power Commission as necessary in any pending court litigation, responsibility for which is transferred to the Commission.

§ 375.105 Filings.

(a) *Filings in pending proceedings.* All filings in proceedings referred to in § 375.104 shall be made with the Secretary.

Appendix to § 375.104

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

§ 1000.1 Transfer of proceedings.

(a) *Scope.* This part establishes the transfer of proceedings pending with regard to those functions of various agencies which have been consolidated in the Department of Energy and identifies those proceedings which are transferred into the jurisdiction of the Secretary and those which are transferred into the jurisdiction of the Federal Energy Regulatory Commission.

(b) *Proceedings transferred to the Secretary.* The following proceedings are transferred to the Secretary:

(1) All Notices of Proposed Rulemaking, pending and outstanding, which have been proposed by the Department of Energy;

(2) All Notices of Inquiry which have been issued by the Department of Energy;

(3) All Requests for Interpretations which have been filed pursuant to 10 CFR Part 205, Subpart F, and on which no interpretation has been issued, with the Office of General Counsel of the Department of Energy;

(4) All Applications for Exception Relief which have been filed pursuant to 10 CFR Part 205, Subpart D, and on which no final decision and order has been issued, with the Office of Exceptions and Appeals of the Department of Energy;

(5) All petitions for special redress, relief or other extraordinary assistance which have been filed pursuant to 10 CFR Part 205, Subpart R, and on which no order has been issued, with the Office of Private Grievances and Redress of the Department of Energy;

(6) All appeals from Remedial Orders, Exception Decisions and Orders, Interpretations issued by the Office of General Counsel, and other agency orders which have been filed pursuant to 10 CFR Part 205, Subpart H, and on which no order has been issued prior to October 1, 1977, with the Office of Exceptions and Appeals of the Department of Energy;

(7) All applications for modification or rescission of any DOE order or interpretation which have been filed

pursuant to 10 CFR Part 205, Subpart J, and on which no order has been issued prior to October 1, 1977, with the Office of Exceptions and Appeals of the Federal Energy Administration;

Note.—For a document relating to procedures for natural gas import and export proceedings see 42 FR 61856, Dec. 7, 1977.

(8) All applications for temporary stays and stays which have been filed pursuant to 10 CFR Part 205, Subpart I, and on which no order has been issued, with the Office of Exceptions and Appeals of the Department of Energy;

(9) All applications which have been filed with the Office of Regulatory Programs of the Department of Energy and on which no final order has been issued;

(10) All investigations which have been instituted and have not been resolved by the Office of Compliance of the Department of Energy;

(11) All Notices of Probable Violation which have been issued prior to October 1, 1977, by the Office of Compliance of Department of Energy;

(12) All Notices of Proposed Disallowance which have been issued prior to October 1, 1977, by the Office of Compliance of Department of Energy;

(13) All Prohibition Orders which have been issued pursuant to 10 CFR Part 303 and as to which no Notice of Effectiveness has been issued;

(14) From the Department of the Interior:

(i) The tentative power rate adjustments for the Central Valley Project, California, proposed on September 12, 1977 (42 FR 46619, September 16, 1977).

(15) From the Interstate Commerce Commission:

(i) Ex Parte No. 308 (Sub-No. 1)—Investigation of Common Carrier Pipelines.

(16) From the Federal Power Commission:

(i) Cases:

(A) Northwest Pipeline Corporation, Docket No. CP75–340.

(B) Midwestern Gas Transmission Co., Docket NO. CP77–458, *et al.*

(C) St. Lawrence Gas Company, Docket No. G–17500.

(D) U.S.D.I. Bonneville Power Administration, Docket No. E–9563.

(E) U.S.D.I. Southwestern Power Administration, Docket No. E–7201.

(F) U.S.D.I. Southeastern Power Administration, Docket No. E–6957.

(G) Tenneco InterAmerica, Inc., Docket No. CP77–561.

(ii) Applications:

(A) Maine Public Service Co., Docket No. E–6751, (ERA Docket No. IE–78–1).

(B) Northern States Power Co., Docket No. E–9589, (ERA Docket No. IE–78–2).

(C) Arizona Public Service Co., Docket No. IT–5331, (ERA Docket No. IE–78–3).

(D) Niagara Mohawk Power Corp., Docket No. E–7022, (ERA Docket No. IE–77–6).

(E) Maine Public Service Co., Docket No. IT–6027, (ERA Docket No. PP–12).

(F) Boise Cascade, Docket No. E–7765, (ERA Docket No. PP–52).

(G) Bonneville Power Administration, Docket No. IT–5959, (ERA Docket No. PP–10).

(H) EPR—Oregon (Geothermal Steam Leases).

(I) EPR—Utah (Geothermal Steam Leases).

(J) EPR—Idaho (Geothermal Steam Leases).

(K) EPR—Oregon (Geothermal Steam Leases).

(L) EPR—Idaho (Geothermal Steam Leases).

(iii) Rulemakings:

(A) Implementation of Sections 382(b) and 382(c) of the Energy Policy and Conservation Act of 1975. Docket No. RM77–3.

(B) New Form Nos:

151, Docket No. RM76–19.
153, Docket No. RM76–27.
154, Docket No. RM76–33.
156, Docket No. RM76–32.
157, Docket No. RM76–21.
158, Docket No. RM76–31.
159, Docket No. RM76–23.
160, Docket No. RM76–20.
161, Docket No. RM76–26.
162, Docket No. RM76–34.
155, Docket No. RM76–28.
163, Docket No. RM76–30.
164, Docket No. RM76–25.

(C) Procedures for the Filing of Federal Rate Schedules Docket No. RM77–9.

(iv) Project withdrawals and power site revocations:

(A) Project 1021, 1226, 1606, and 1772—(Wyoming)—U.S. Forest Service (Applicant).

(B) Project Nos. 1021, 1226, 1606, and 1772—(Wyoming)—U.S. Forest Service (Applicant).

(C) Project Nos. 220 and 691—(Wyoming)—Cliff Gold Mining Co. (Applicant for P–691) The Colowyo Gold Mining Co. (Applicant for P–220).

(D) Project No. 1203—(Wyoming)—F. D. Foster (Applicant).

(E) Project No. 1241—(Wyoming)—F. B. Hommel (Applicant).

(F) Project No. 847—(Oregon)—H. L. Vorse (Applicant).

(G) Project No. 907—(Colorado)—S. B. Collins (Applicant).

(H) Project No. 941—(Colorado)—Marian Mining Company (Applicant).

(I) Project Nos. 347 and 418—(Colorado)—Jones Brothers (Applicant for P–347) Frank Gay et al. (Applicant for P–418).

(J) Project Nos. 373, 521, 937, 1024, 1415, 1546, 1547, and 1025—( )—U.S. Forest (Applicant).

(K) Project No. 163—(Colorado)—James F. Meyser and Edward E. Drach (Applicants).

(L) Project Nos. 385, 445, 506, 519, 1220, 1296, 1418, 1519, 1576, 1615, 1616, 1618, 1678, 1682, and 1750—(Colorado)—U.S. Forest Service (Applicant).

(M) DA–117—(Alaska)—Bureau of Land Management (Applicant).

(N) Project No. 114—(Alaska)—Elizabeth H. Graff et al. (Applicant).

(O) DA–222—(Washington)—Bureau of Land Management (Applicant).

(P) DA–562—(Oregon)—U.S. Geological Survey (Applicant).

(Q) DA–601—(Idaho)—Bureau of Land Management (Applicant).

(R) DA–509—(Colorado)—Fed. Highway Admin. (Applicant).

(S) Da–616—(Idaho)—U.S. Forest Service (Applicant).

(T) DA–1—(South Carolina)—U.S. Forest Service (Applicant).

(U) DA–1116—(California)—U.S. Geological Survey (Applicant).

(V) DA–154—(Arizona)—U.S. Geological Survey (Applicant).

(W) DA–1098—(California)—Merced Irrigation District (Applicant).

(c) *Proceedings transferred to the Commission.* There are hereby transferred to the jurisdiction of the Federal Energy Regulatory Commission the following proceedings:

(1) From the Interstate Commerce Commission:

(i) Ex Parte No. 308—Valuation of Common Carrier Pipelines.

(ii) I&S 9164—Trans Alaska Pipeline System—Rate Filings (including I&S 9164 (Sub-No. 1), NOR 36611, NOR 36611 (Sub-No. 1). NOR 36611 (Sub-No. 2), NOR 36611 (Sub-No. 3), NOR 36611 (Sub-No. 4)).

(iii) I&S 9089—General Increase, December 1975, Williams Pipeline Company.

(iv) I&S 9128—Anhydrous Ammonia, Gulf Central Pipeline Company.

(v) NOR 35533 (Sub-No. 3)—Petroleum Products, Southwest & Midwest Williams Pipeline.

(vi) NOR 35794—Northville Dock Pipeline Corp. et al.

(vii) NOR 35895—Inexco Oil Company v. Belle Fourche Pipeline Co. et al.

(viii) NOR 36217—Department of Defense v. Interstate Storage & Pipeline Corp.

(ix) NOR 36423—Petroleum Products Southwest to Midwest Points.

(x) NOR 36520—Williams Pipeline Company—Petroleum Products Midwest.

(xi) NOR 36553—Kerr-McGee Refining Corporation v. Texoma Pipeline Co.

(xii) Suspension Docket 67124—Williams Pipeline Co.—General Increase.

(xiii) Valuation Docket 1423—Williams Pipeline Company (1971–1974 inclusive).

(2) To remain with the Commission until forwarding to the Secretary:

The following proceedings will continue in effect under the jurisdiction of the Commission until the timely filing of all briefs on and opposing exceptions to the initial decision of the presiding Administrative Law Judge, at which time the Commission shall forward the record of the proceeding to the Secretary for decision on those matters within his jurisdiction:

(i) *El Paso Eastern Co., et al.*, Docket No. CP 77–330, *et al.*

(ii) *Tenneco Atlantic Pipeline Co., et al.*, Docket No. CP 77–100, *et al.*

(iii) *Distrigas of Massachusetts Corp., et al.*, Docket No. CP 70–196, *et al.*

(iv) *Distrigas of Massachusetts Corp., et al.*, Docket No. CP 77–216, *et al.*

(v) *Eascogas LNG, Inc., et al.*, Docket No. CP 73–47, *et al.*

(vi) *Pacific Indonesia LNG Co., et al.*, Docket No. CP74–160, *et al.*, (except as provided in paragraph (c)(3) of this section).

(3) The Amendment to Application of Western LNG Terminal Associates, filed on November 11, 1977, in *Pacific Indonesia LNG Co., et al.*, FPC Docket No. CP74–160, et al., ERA Docket No. 77–001–LNG, is transferred to the jurisdiction of the Commission until timely filing of all briefs on and opposing exceptions to the Initial Decision of the presiding Administrative Law Judge on that Amendment, at which time the Commission shall forward a copy of the record of that proceeding to the Secretary of Energy for decision on those matters within his jurisdiction. (If the Commission waives the preparation of an initial decision, the Commission will forward a copy of the record after completion of the hearing, or after the timely filing of any briefs submitted to the Commission, whichever occurs later.)

(d) *Residual clause.* All proceedings (other than proceedings described in paragraphs (b) and (c) of this section) pending with regard to any function of the Department of Energy, the Department of Energy, Department of the Interior, the Department of Commerce, the Department of Housing and Urban Development, the Department of Navy, and the Naval Reactor and Military Applications Programs which is transferred to the Department of Energy (DOE) by the DOE Organization Act, will be conducted by the Secretary. All proceedings (other than proceedings described in paragraphs (b) and (c) of this section) before the Federal Power Commission or Interstate Commerce Commission will be conducted by the Federal Energy Regulatory Commission.

(Department of Energy Organization Act, Pub. L. 95–91; EO 12009, 42 FR 46267)

[42 FR 55534, Oct. 17, 1977, as amended at 43 FR 21434, May 18, 1978; 43 FR 21658, May 19, 1978]

(b) *Filings in connection with functions transferred to the Commission.* All persons required to file periodic or other reports with any agency or commission whose functions are transferred under such Act to the Commission shall file such reports which relate to those transferred functions with the Secretary. The Commission hereby continues in effect all previously-approved forms for making periodic or other reports.

(c) *Where to make filings.* All filings of documents with the Commission shall be made with the Secretary. The address for filings to be made with the Secretary is: Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426. Where a document to be filed with the Secretary is hand-delivered, it shall be submitted to Room 3110, 825 North Capitol Street, NE., Washington, D.C. 20426. Documents received after regular business hours are deemed to have been filed on the next regular business day.

Subpart B—Procedures Under the Government in the Sunshine Act

§ 375.201 Purpose.

The purpose of this subpart is to set forth the Commission procedures for conduct of its official business in accordance with the provisions of 5 U.S.C. 552b. The Commission may waive the provisions set forth in this subpart to the extent authorized by law.

§ 375.202 Definitions and limitations on definitions.

(a) *Definitions.* For purposes of this subpart:

(1) "Meeting" means the deliberations of at least a quorum of the Commission where such deliberations determine or result in the joint conduct of official Commission business, except that such term does not include deliberations to determine whether to conduct a closed meeting.

(2) "Portion of a meeting" means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meeting described in § 375.204.

(3) "Open" when used in the context of a Commission meeting or a portion thereof, means the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting consistent with the provisions of § 375.203.

(4) "Closed" when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of such meeting.

(b) *Limitations on other definitions in this chapter.* For purposes of this subpart: (1) Transcripts, minutes and electronic recordings of Commission meetings (whether or not prepared at the direction of the Commission) are not part of the "formal record" as defined in § 1.1(f)(19) of this chapter; and

(2) Transcripts, minutes and electronic recordings of Commission meetings (whether or not prepared at the direction of the Commission) are not part of the "public record" of the Commission as defined in § 1.36(c)(2) of this chapter.

§ 375.203 Open meetings.

(a) *General rule.* Except as provided in § 375.206, meetings of the Commission will be open meetings.

(b) *Public participation in open meetings.* (1) Members of the public are invited to listen and observe at open meetings.

(2)(i) Subject to the provisions of paragraph (b)(2) (ii), (iii), and (iv) of this section, members of the public may record discussions at Commission meetings by means of electronic or other devices (including tape recorders, stenotype, stenomask, or shorthand). The photographing of Commission meetings by still or movie camera, or by video taping without lighting aids, is permitted.

(ii) Due to the limited space of the Commission meeting room, use of recording or photographic equipment which would require the user to move about the room during the meeting is not allowed. Recording and photographic equipment may be set up and used only in the public areas of the Commission meeting room as designated by the Commission.

(iii) Except for portable equipment which is used at an individual's seat in the audience, equipment must be in place and ready to use prior to the start of the meeting or set up during a recess of the meeting. Such equipment may be removed only at the conclusion of the meeting or during a recess. A pre-arranged recess for the set up or

removal of equipment may be requested through the Commission's Director of the Division of Public Information.

(iv) No microphones may be placed on the tables used by the Commissioners and Staff.

(c) *Physical arrangements.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of open meetings.

§ 375.204 Notice of meetings.

(a) *Public announcements of meetings*—(1) *General rule.* Except to the extent that information described in § 375.205(a) (involving closed meetings) is exempt from disclosure, the Secretary shall announce at least one week before each Commission meeting, the time, place, and subject matter of the meeting, whether it is an open meeting or closed meeting, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting.

(2) *Abbreviated notice.* If the Commission determines by a majority of its members by a recorded vote that Commission business requires that a Commission meeting be called with less than one week's notice as prescribed in paragraph (a)(1) of this section, the Secretary shall make public announcements of the time, place, and subject matter of such meeting and whether open or closed to the public, at the earliest practicable time.

(3) *Change in the time or place.* If there is a change in time or place of a meeting following the public announcement prescribed in paragraph (a)(1) or (2) of this section the Secretary shall publicly announce such change at the earliest practicable time.

(4) *Change in the subject matter or the determination to open or close a meeting.* The subject matter of a meeting, or the determination of the Commission to open or close a meeting or a portion of a meeting, may be changed following the public announcement prescribed in paragraph (a) (1) or (2) of this section only if:

(i) The Commission determines by a recorded vote by a majority of the membership that Commission business so requires and that no earlier announcement of the change is possible; and

(ii) The Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(b) *Stricken items.* Notwithstanding the provisions of paragraph (a) of this section, individual items that have been announced for consideration at Commission meetings may be deleted without vote or notice.

(c) *Definitions.* For the purpose of this section, "earliest practicable time", means as soon as practicable, which should in few, if any, instances be later than the commencement of the meeting or portion of the meeting in question.

(d) *Informing public of meeting announcements.* (1) The Secretary shall use reasonable means to assure that the public is fully informed of the public announcements required by this section. For example, such announcements may be posted on the Commission's public notice boards, published in official Commission publications, or sent to the persons on a mailing list maintained for those who want to receive such material.

(2) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in a preceding announcement, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting shall also be submitted by the Secretary for publication in the **Federal Register.**

(e) *Issuance of list of Commission actions.* Following each Commission meeting, the Secretary shall issue a list of Commission actions taken which shall become effective as of the date of issuance of the related order (or date designated therein) or other document, which the Secretary shall issue in due course, in the manner prescribed by the Commission.

§ 375.205 Closed meetings.

(a) Meetings will be closed to public observation where the Commission properly determines, according to the procedures set forth in § 375.206, that such meeting or portion of the meeting or disclosure of information to be considered at the meeting is likely to: (1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That such statute: (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commerical or financial information obtained from a person and privileged or confidential, which may include geological or geophysical information and data, including maps, concerning wells;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, including personnel and medical files and similar files;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures, or;

(vi) Endanger the life or physical safety of law enforcement personnel.

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be:

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, likely to:

(A) Lead to significant financial speculation in currencies, securities, or commodities, or

(B) Significantly endanger the stability of any financial institution; or

(ii) Likely to frustrate significantly implementation of a proposed Commission action, except that paragraph (a)(9)(i) of this section shall not apply where the Commission has already disclosed to the public the content or nature of such proposed action, or where the Commission is required by law to make such disclosure

on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case:

(i) Of formal Commission adjudication pursuant to the procedures in 5 U.S.C. 554; or

(ii) Otherwise involving a determination on the record after opportunity for a hearing.

(b) Commission meetings shall not be closed pursuant to paragraph (a) of this section when the Commission finds that the public interest requires that they be open.

375.206 Procedures to close meetings.

(a) *General rule.* A meeting or a portion of a meeting may be closed only when the Commission votes by a majority of the membership to close the meeting. A separate vote shall be taken with respect to each Commission meeting or portion of a meeting which is proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Request for closed meeting.* Whenever any person whose interests may be directly affected by a meeting or a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraphs (a) (5), (6), or (7) of § 375.205, the Commission, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(c) *Release of vote.* Within one day of any vote taken pursuant to paragraph (a) or (b) of this section, the Secretary of the Commission shall make publicly available a written copy of such vote reflecting the vote of each member. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) or (b) of this section, make publicly available a full written explanation of the Commission's action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of § 375.205(a).

(d) *Certification.* Prior to a determination that a meeting should be closed pursuant to paragraph (a) or (b) of this section, the General Counsel of the Commission shall publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary of the Commission as part of the transcript, recording, or minutes required by paragraph (e).

(e) *Transcripts, recordings, minutes.* (1) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to § 375.205(a)(8), (9)(i), or (10), the Secretary shall maintain either a transcript or recording, or a set of minutes. Any such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All agenda documents considered in connection with any Commission action shall be identified in such minutes.

(2) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(f) *Public availability of transcripts, records, minutes.* (1) Within a reasonable time after the adjournment of a meeting closed to the public, the Commission shall make available to the public, in the Division of Public Information of the Commission, Washington, D.C., the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeing, except for such item or items of such discussion or testimony as the Director of Public Information determines may be withheld under § 375.204. Copies of such transcript, or minutes, or a transcription of such recording shall be furnished to any person at the actual cost of duplication or transcription.

(2) The determination of the Director of the Division of Public Information to withhold information pursuant to paragraph (f)(1) of this section may be appealed to the Chairman of the Commission, in accordance with § 1.36 of this chapter.

Subpart C—Delegations

§ 375.301 Purpose.

The purpose of this subpart is to set forth the authorities which the Commission has delegated to staff officials. Any action by a staff official under the authority of this subpart may be appealed to the Commission in accordance with § 1.7(d) of this chapter.

§ 375.311 Delegations during emergency conditions.

For delegations of Commission authority during emergency conditions, see Subpart B of Part 376 of this chapter.

PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

Subpart A—Organization, Mission, and Functions

Sec.

376.101 Purpose.
376.102 Organization.
376.103 Mission.
376.104 Functions.
376.105 Chairman.

Subpart B—Commission Operation During Emergency Conditions

376.201 Emergency condition defined.
376.202 Authority to move Commission offices.
376.203 Mailing address of Commission during emergency conditions.
376.204 Delegation of Commission authority during emergency conditions.
376.205 Delegation of Chairman's authority during emergency conditions.
376.206 Delegative function of certain Commission staff members.
376.207 Exercise of personnel and fiscal functions.
376.208 Effect on existing Commission requirements.

Authority: Dept. of Energy Organization Act, (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, (5 U.S.C. 553 (1977)).

Subpart A—Organization, Mission, and Functions

§ 376.101 Purpose.

This subpart sets forth the organization, mission and functions of the Commission, and its offices and divisions.

§ 376.102 Organization.

The Commission is established as an independent regulatory Commission within the DOE by the DOE Act. The Commission is composed of five members appointed by the President, by and with the advice and consent of the Senate. One of the members is designated by the President as the Chairman. To carry out its mission and functions, the Chairman has organized the Commission into a number of major offices, some of which are further organized into divisions and lower units. The organization of the Commission staff structure may be obtained from the Division of Public Information.

§ 376.103 Mission.

The Commission is responsible for developing, managing, and directing energy regulatory programs and activities assigned to it by statute, executive orders, or by the Secretary, DOE. The Chairman serves as the chief executive officer of the Commission and is responsible for the conduct of all Commission executive and administrative functions. In carrying out its mission, the Commission and its employees are not subject to the supervision or direction of any other official of DOE.

§ 376.104 Functions.

The functions of the Commission include: (a) All functions vested in the Commission under the DOE Act;

(b) All functions delegated to the Commission by the Secretary of Energy in accordance with the DOE Act; and

(c) All functions vested in the Commission by statute.

§ 376.105 Chairman.

(a) *Administrative head of agency.* The Chairman is the administrative head of the Commission.

(b) *Administrative responsibilities.* The Chairman is responsible on behalf of the Commission for the executive and administrative operation of the Commission, including functions of the Commission with respect to—

(1) The appointment and employment of Administrative Law Judges in accordance with the provisions of Title 5, United States Code.

(2) The selection, appointment, and fixing of the compensation of such personnel as he deems necessary, including an Executive Director.

(3) The supervision of personnel employed by or assigned to the Commission, except that each Commissioner may select and supervise personnel for his personal staff.

(4) The distribution of business among personnel and among administrative units of the Commission.

(5) The procurement of services of experts and consultants in accordance with section 3109 of Title 5, United States Code.

Subpart B—Commission Operation During Emergency Conditions

§ 376.201 Emergency condition defined.

For purposes of this subpart, emergency conditions (a) shall commence (1) at the time of an armed attack upon the United States, or its territories or possessions;

(2) At the time the Commission is officially notified of the likelihood or imminence of such an attack; or

(3) At a time specified by the authority of the President; and

(b) Shall continue until the Commission is officially notified of the end of such conditions.

§ 376.202 Authority to move Commission offices.

The Commission may provide for removal of its headquarters to any location in the United States for the duration of emergency conditions. Consistent with directives of the Chairman, the Commission officer or employee in charge of a regional office of the Commission may move such office to a new location in the United States for the duration of emergency conditions.

§ 376.203 Mailing address of Commission during emergency conditions.

The Chairman may direct that during the continuance of emergency conditions, communications, filings, reports, or other submittals to the Commission shall be addressed to the Federal Energy Regulatory Commission, Official Mail and Messenger Service, United States Postal Service to such or other address as the Commission may designate.

§ 376.204 Delegation of Commission's authority during emergency conditions.

(a) *Delegation of authority to one or two Commissioners.* During emergency conditions, the Commission shall function as usual, if a quorum of the Commission is available and capable of acting. If by reason of such conditions a quorum of the Commission is not available and capable of acting, all functions of the Commission are delegated to the Commissioner or Commissioners who are available and capable of acting.

(b) *Delegation of authority to Commission staff.* (1) When, by reason of emergency conditions, there is no Commissioner available and capable of acting, the functions of the Commission are delegated to the first five members of the Commission staff on the list set forth in paragraph (b)(2) of this section who are available and capable of acting.

(2) The list referred to paragraph (b)(1) of this section is: (i) Executive Director;

(ii) Director, Office of Electric Power Regulation;

(iii) Director, Office of Pipeline and Producer Regulation;

(iv) General Counsel;

(v) Executive Assistant to the Chairman;

(vi) Deputy Director, Office of Electric Power Regulation;

(vii) Deputy Director, Office of Pipeline and Producer Regulation;

(viii) Deputy General Counsel;

(ix) Solicitor;

(x) Assistant Director and Division heads, Office of Electric Power Regulation; Assistant Director and Division heads, Office of Pipeline and Producer Regulation, and Assistant General Counsel; in order of seniority;

(xi) Remaining Commission staff members, in order of seniority;

(3) For purposes of paragraph (b)(2) of this section order of seniority shall be based on the highest grade and longest period of service in that grade but without regard to the particular office or Division to which assigned.

(c) *Reconsideration of staff action taken under delegations.* Action taken pursuant to the delegations provided for in this section shall be subject to reconsideration by the Commission, acting with a quorum, within thirty days after the date upon which public notice is given that a quorum of the Commission has been reconstituted and is functioning.

§ 376.205 Delegation of Chairman's authority during emergency conditions.

When, by reason of emergency conditions, the Chairman is not available and capable of acting, his functions are delegated to the Commissioner available and capable of acting and who is designated by the President. Until such time as the President designates, or if no such Commissioner is designated, such functions are delegated to the Commissioner designated by the Chairman as Acting Chairman, but if such Acting Chairman is not available and capable of acting such functions are

delegated to the Commissioner who is available and capable of acting and who has the longest tenure as a member of the Commission. If there is no Commissioner available and capable of acting, such functions are delegated to the person on the Commission staff who is available and capable of acting and who is highest on the list set forth in § 376.204(b)(2).

§ 376.206 Delegation of functions of certain Commission staff members.

When, by reason of emergency conditions, the Secretary, Executive Director, Director of any Office or Division, or officer in charge of a regional office, is not available and capable of carrying out his functions, such functions are delegated to staff members designated by the Chairman to perform such functions. If no staff member so designated is available and capable of carrying out his functions, such functions are delegated to the next subordinate employee in the Office or Division of the highest grade and longest period of service in that grade.

§ 376.207 Personnel and fiscal functions.

Subject to modifications or revocation by authority of the Executive Director, during the continuation of emergency conditions authority to effect temporary appointments of such additional officers and employees, to classify and allocate positions to their proper grades, to issue travel orders, and to effect emergency purchases of supplies, equipment and services shall be exercised by the respective Directors of Offices and officials in charge of regional offices, their deputies, or staff in line of succession, as may be required for the discharge of the lawful duties of such organization.

§ 376.208 Effect upon existing Commission requirements.

All outstanding Commission orders, rules and regulations shall remain in force and effect during the continuance of emergency conditions, except to the extent modified in accordance with authority exercised under this subpart.

PART 0—FUNCTIONS, POWERS, AND DUTIES OF THE FEDERAL ENERGY REGULATORY COMMISSION [DELETED]

2. Part 0 is deleted in its entirety.

PART 1—RULES OF PRACTICE AND PROCEDURE

3. Part 1 is amended by deleting paragraphs (a) through (e) of § 1.1 and reserving the same for future use; and by amending the introductory sentence of § 1.1(f) to read as follows:

§ 1.1 The Commission.

(a)–(e) [Reserved]

(f) *Definitions.* The following definitions apply to all provisions of this Part 1, except:

(1) Subpart A; and

(2) As otherwise required by the context of a term.

* * * * *

§§ 1.1, 1.36, 1.38, 1.40 and 1.41 [Amended]

4. Part 1 is further amended in § 1.1(f)(23) by deleting the reference to "§ 3.5" and inserting in lieu thereof the words "Subpart C of Part 375"; in § 1.36(a) by deleting the references to "§§ 1.3 and 1.3a" and inserting in lieu thereof the reference "Subpart B of Part 375"; in § 1.36(c)(14) by deleting the words "§ 1.3a of this Part" and inserting in lieu thereof the reference "Subpart B of Part 375"; in § 1.38(a)(2) and § 1.40(a)(2) by deleting subclauses (i), (ii), and (iii) and by reserving the same for future use; in § 1.41(a)(3)(i) by deleting subclauses (A), (B) and (C) and reserving the same for future use; and by adding at the end of Part 1 a new Subpart A to read as follows:

Subpart A—Definitions and Rules of Construction

Sec.
1.101 Definitions.
1.102 Words denoting number, gender, and so forth.

Authority: Dept. of Energy Organization Act, (42 U.S.C. 7010–7352); E.O. 12009, 3 CFR 142 (1978); Administrative Procedure Act, (5 U.S.C. 553 (1977)).

Subpart A—Definitions and Rules of Construction

§ 1.101 Definitions.

For purposes of this chapter, except as otherwise provided:

(a) "Chairman" means the Chairman of the Federal Energy Regulatory Commission.

(b) "Commission" means the Federal Energy Regulatory Commission.

(c) "Commissioner" and "Member" mean a member of the Commission.

(d) "Secretary" means the Secretary of the Commission.

(e) "Executive Director" means the Executive Director of the Commission.

(f) "General Counsel" means the General Counsel of the Commission.

(g) "DOE Act" means the Department of Energy Organization Act.

(h) "DOE" means the Department of Energy.

§ 1.102 Words denoting number, gender, and so forth.

In determining the meaning of any provision of this chapter, unless the context indicates otherwise:

(a) Words imparting the singular include and apply to several persons, parties, and things;

(b) Words imparting the plural include the singular;

(c) Words used in the present tense include the future as well as the present;

(d) "Oath" includes affirmation and "sworn" includes affirmed; and

(e) Words imparting one gender include the other gender as well.

§ 1.3a [Deleted]

5. Part 1 is further amended by deleting § 1.3a in its entirety.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.1 [Amended]

6. Section 2.1(a)(1)(xi) is amended in subclause (F) by deleting the reference to "§ 3.5(a)(10)" and inserting in lieu thereof the reference "§ 375.302(j)"; and in subclause (G) by deleting the reference to "§ 3.5(a)(6)" and inserting in lieu thereof the reference "§ 375.302(f)".

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

§ 3.5 [Redesignated as §§ 375.302—375.310]

7. Part 3 of Subchapter A is amended by redesignating paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i) of § 3.5 as § 375.302, § 375.303, § 375.304, § 375.305, § 375.306, § 375.307, § 375.308, § 375.309 and § 375.310 respectively.

§§ 3.1, 3.2, 3.3, 3.5, 3.6, and 3.7 [Deleted];

§ 3.4 [Amended]

§§ 3.100—3.102; 3.104—3.186 [Deleted]

§ 3.103 [Amended]

8. Part 3 is further amended by deleting § 3.1, § 3.2, § 3.3, § 3.5, § 3.6 and § 3.7 and reserving the same for future use; by deleting all provisions of § 3.4, except paragraph (d)(14) which is redesignated paragraph "(a)"; by deleting the references to "§ 1.3a" and "§ 1.1(b)" in § 3.8(b) and inserting the references "§ 375.206" and "§ 375.101(c)" respectively in lieu thereof; by deleting the words "Section 1.3a" in § 3.8(j) and inserting the reference "§ 375.206" in lieu thereof; by deleting all provisions of subpart B, except the first two sentences of § 3.103.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

§ 157.101 [Amended]

9. Section 157.101(b)(1) of Part 157 is amended by deleting the reference "§ 3.5(f)(1)(iv)" and inserting in lieu thereof the reference "§ 375.307(a)(4)".

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

§ 284.208 [Amended]

10. Section 284.208(c) of Part 284 is amended in clauses (2) and (4)(ii) by deleting the reference "§ 3.5(f)(1)(iv) where it appears and inserting the reference "§ 375.307(a)(4)" in lieu thereof.

PART 375—THE COMMISSION

11. Section 375.302 of Part 375 is amended by renumbering paragraphs (1) as (a); (2) as (b); (3) as (c); (4) as (d); (5) as (e); (6) as (f); (7) as (g); (8) as (h); (9) as (i); (10) as (j); (11) as (k); (12) as (l); (13) as (m); (13)(i) as (m)(1); (13)(ii) as (m)(2); (14) as (n); (15) as (o); (16) as (p); (17) as (q); (18) as (r); (19) as (s); (20) as (t); (21) as (u); (22) as (v); (22)(i) as (v)(1); (22)(ii) as (v)(2); and by revising the introductory language of that section to read as follows:

§ 375.302 Delegations to the Secretary.

The Commission authorizes the Secretary, or in the Secretary's absence, the Secretary's designee to:

(a) * * *

* * * * *

12. Section 375.303 is amended by renumbering paragraphs (1) as (a); (2) as (b); (3) as (c); (4) as (d); (5) as (e); (5)(i) and (e)(1); (5)(ii) as (e)(2); (6) as (f); (6)(i) as (f)(1); (6)(ii) as (f)(2); (6)(iii) as (f)(3); (6)(iv) as (f)(4); (6)(v) as (f)(5); (6)(vi) as (f)(6); and (7) as (g); and by revising the introductory language of that section to read as follows:

§ 375.303 Delegations to the Chief Accountant.

The Commission authorizes the Chief Accountant, or in the Chief Accountant's absence, the Chief Accountant's designee to:

(a) * * *

* * * * *

13. Section 375.304 is amended in its introductory language to read as follows:

§ 375.304 Delegations to the Administrative Law Judges.

The Commission authorizes the Chief Administrative Law Judge; * * *

14. Section 375.305 is amended by renumbering paragraphs (1) as (a); (2) as (b); and (3) as (c); and by revising the introductory language of that section to read as follows:

§ 375.305 Delegations to the Solicitor.

The Commission authorizes the Solicitor, or in the Solicitor's absence, the Solicitor's designee to:

(a) * * *

* * * * *

14. Section 375.306 is amended by renumbering paragraphs (1) as (a); (2) as (b); (3) as (c); (4) as (d); (5) as (e); (6) as (f); (7) as (g); (8) as (h); and (9) as (i); and by revising the introductory language of that section to read as follows:

§ 375.306 Delegations to the Oil Pipeline Board.

The Commission authorizes the Oil Pipeline Board to:

(a) * * *

* * * * *

16. Section 375.307 is amended by renumbering paragraphs (1) as (a); (1)(i) as (a)(1); (1)(ii) as (a)(2); (1)(iii) as (a)(3); (1)(iv) as (a)(4); (1)(v) as (a)(5); (1)(v)(A) as (a)(5)(i); (1)(v)(B) as (a)(5)(ii); (1)(vi) as (a)(6); (1)(vii) as (a)(7); (1)(viii) as (a)(8); (1)(ix) as (a)(9); (1)(x) as (a)(10); (2) as (b); (2)(i) as (b)(1); (2)(ii) as (b)(2); (2)(iii) as (b)(3); (3) as (c); (4) as (d); (5) as (e); (6) as (f); (6)(i) as (f)(1); (6)(ii) as (f)(2); (7) as (g); (8) as (h); (9) as (i); and (10) as (j); by deleting the words "subparagraphs (2)(i) or (2)(ii)" in paragraph (b)(3) and inserting the words "subparagraphs (b)(1) or (2)(ii)" in paragraph (b)(3) and inserting the words "subparagraphs (b)(1) or (b)(2)" in lieu thereof; and by revising the introductory language of that section to read as follows:

§ 375.307 Delegations to the Director of the Office of Pipeline and Producer Regulation.

The Commission authorizes the Director of the Office of Pipeline and Producer Regulation or in the Director's absence, the Director's designee to:

(a) * * *

* * * * *

17. Section 375.308 is amended by renumbering paragraphs (1) as (a); (2) as (b); (3) as (c); (4) as (d); (5) as (e); (6) as (f); (7) as (g); (8) as (h); (9) as (i); (10) as (j); (11) as (k); (12) as (l); (13) as (m); (14) as (n); (15) as (o); (16) as (p); (17) as (q); (18) as (r); (19) as (s); (20) as (t); (21) as (u); (22) as (v); (23) as (w); (24) as (x); (25) as (y); (26) as (z); (26)(i) as (z)(1); (26)(ii) as (z)(2); (26)(ii)(A) as (z)(2)(i); (26)(ii)(B) as (z)(2)(ii); (26)(ii)(C) as (z)(2)(iii); (27) as (aa); (28) as (bb); (29) as (cc); (30) as (dd); (31) as (ee); (32) as (ff); (33) as (gg); (34) as (hh); (35) as (ii); (36) as (jj); and (37) as (kk) and by revising the introductory language of that section to read as follows:

§ 375.308 Delegations to the Director of the Office of Electric Power Regulation.

The Commission authorizes the Director of the Office of Electric Power Regulations, or in the Director's absence, the Director's designee to:

(a) * * *

* * * * *

18. Section 375.309 is amended by renumbering paragraphs (1) as (a); (2) as (b); (3) as (c) and (4) as (d); and by revising the introductory language of that section to read as follows:

§ 375.309 Delegations to the Director of the Office of Enforcement.

The Commission authorizes the Director of the Office of Enforcement, or in the Director's absence, the Director's designee to:

(a) * * *

* * * * *

19. Section 375.310 is amended by renumbering subparagraph (1) as (a); and by revising the introductory language of that section to read as follows:

§ 375.310 Delegations to the Director of the Office of Opinions and Review.

The Commission authorizes the Director of the Office of Opinions and Review, or in the Director's absence, the Director's designee to:

(a) * * *

* * * * *

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 14

List of Standing Advisory Committees; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document reissues the agency's list of standing advisory committees. Certain amendments made to the list were in error. This document gives the corrected, current list contained in § 14.100 (21 CFR 14.100).

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: Section 14.100 *List of standing advisory committees* (21 CFR 14.100) was revised in the **Federal Register** of April 13, 1979 (44 FR 22318). Subsequent amendments were made to § 14.100 at 44 FR 28321; May 15, 1979 (two amendments), 44 FR 29048; May 18, 1979, 45 FR 8587; February 8, 1980, 45 FR 10332; February 15, 1980. But these amendments were made to the old § 14.100, i.e., the section before the April 13, 1979 revision. The April 13, 1979 revision already incorporated changes made in the amendments in the **Federal Register** of both May 15, 1979 and May 18, 1979. The amendments made in the **Federal Register** of both February 8, 1980 and February 15, 1980 were incorrectly designated. Therefore, § 14.100 is being reissued below.

§ 14.100 List of standing advisory committees.

Standing advisory committees and the dates of their establishment are as follows:

(a) *Office of the Commissioner, Board of Tea Experts.* (1) Date established: March 2, 1897.

(2) Function: Advises on establishment of uniform standards of purity, quality, and fitness for consumption of all tea imported into the United States under 21 U.S.C. 42.

(b) *Bureau of Biologics*—(1) Advisory review panels for biological products, and the dates of their establishment are as follows:

(i) [Reserved]

(ii) *Blood and Blood Derivatives Panel.*—Established August 24, 1973.

(iii) *Vaccines and Related Biological Products Advisory Committee.* (*a*) Date established: December 31, 1979.

(*b*) Function: Reviews and evaluates available data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

(2) Function: Review and evaluate available data on the safety and effectiveness of biological products.

(c) *Bureau of Drugs*—(1) *Anesthetic and Life Support Drugs Advisory Committee.* (i) Date established: May 1, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology and surgery.

(2) *Anti-Infective and Topical Drugs Advisory Committee.* (i) Date established: April 10, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases, dermatological disorders, and ocular disease.

(3) *Arthritis Advisory Committee.* (i) Date established: April 5, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

(4) *Cardiovascular and Renal Drugs Advisory Committee.* (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

(5) *Drug Abuse Advisory Committee:* (i) Date established: May 31, 1978.

(ii) Function: Advises on the scientific and medical evaluation of information gathered by the Department of Health, Education, and Welfare and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

(6) *Endocrinologic and Metabolic Drugs Advisory Committee.* (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

(7) *Fertility and Maternal Health Drugs Advisory Committee.* (i) Date established: March 23, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

(8) *Gastrointestinal Drugs Advisory Committee.* (i) Date established: March 3, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

(9) *Oncologic Drugs Advisory Committee.* (i) Date established: September 21, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

(10) *Peripheral and Central Nervous System Drugs Advisory Committee.* (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in neurologic disease.

(11) *Psychopharmocologic Drugs Advisory Committee.* (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

(12) *Pulmonary-Allergy Drugs Advisory Committee.* (i) Date established: February 17, 1972.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

(13) *Radiopharmaceutical Drugs Advisory Committee.* (i) Date established: August 30, 1967.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

(14) *Advisory review panels for over-the-counter (OTC) drugs.* (i) Dates established—*(a) Antimicrobial Panel.* Established March 16, 1972;

(*b*) [Reserved]

(*c*) *Miscellaneous Internal Drug Products Panel.* Established July 16, 1973; and

(*d*) *Miscellaneous External Drug Products Panel.* Established July 16, 1973.

(ii) Function: Review and evaluate available data on the safety and effectiveness of nonprescription drug products.

(d) *Bureau of Medical Devices.* (1) Advisory panels for medical devices, and the dates of their establishment are as follows:

(i) *Circulatory Systems Devices Panel.* Established April 28, 1978.

(ii) *Clinical Chemistry and Hematology Devices Panel.* Established April 28, 1978.

(iii) *General Medical Devices Panel.* Established April 28, 1978.

(iv) *Immunology and Microbiology Devices Panel.* Established April 28, 1978.

(v) *Obstetrics-Gynecology and Radiologic Devices Panel.* Established April 28, 1978.

(vi) *Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.* Established April 28, 1978.

(vii) *Respiratory and Nervous System Devices Panel.* Established April 28, 1978.

(viii) *Surgical and Rehabilitation Devices Panel.* Established April 28, 1978.

(2) Function: Review and evaluate available data on the safety and effectiveness of devices currently in use and make recommendations for their regulation.

(3) *Device Good Manufacturing Practice Advisory Committee.* (i) Date established: August 12, 1976.

(ii) Function: Reviews proposed regulations for good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and makes recommendations on the feasibility and reasonableness of the proposed regulations.

(e) *Bureau of Radiological Health*—(1) *Medical Radiation Advisory Committee.* (i) Date established: October 31, 1963.

(ii) Function: Advises on the formulation of policy and development of a coordinated program for the application of ionizing radiation in the healing arts.

(2) *Technical Electronic Product Radiation Safety Standards Committee.* (i) Date established: October 18, 1968.

(ii) Function: Advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation under 42 U.S.C. 263f(f)(1)(A).

(f) *National Center for Toxicological Research, Science Advisory Board.* (i) Date established: June 2, 1973.

(2) Function: Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Effective date. This reissuance is effective April 1, 1980.

Dated: March 26, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-9769 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 561

[FAP 8H5186/T54; FRL 1452-2]

Tolerances for Pesticides in Animal Feeds; N,N-Dimethylpiperidinium Chloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule renews a feed additive regulation related to the experimental use of the plant growth regulator *N,N*-dimethylpiperidinium chloride in cottonseed meal. The renewal was requested by BASF Wyandotte Corp. This rule will permit the marketing of cottonseed meal while further data are collected on the subject pesticide.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460 (202) 755-2196.

SUPPLEMENTARY INFORMATION: On September 12, 1978, the EPA announced (43 FR 40456) that in response to a pesticide petition (FAP 8H5186) submitted by BASF Wyandotte Corp., Agricultural Chemicals Div., 100 Cherry Hill Road, Parsippany, NJ 07054, 21 CFR 561.197 was being established to permit residues of the plant growth regulator *N,N*-dimethylpiperidinium chloride to growing cotton in a proposed experimental program with a tolerance limitation of 2 parts per million (ppm) in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). This experimental program expired September 5, 1979.

BASF Wyandotte Corp. has requested a one-year renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the plant growth regulator to the growing raw agricultural commodity cotton.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in cottonseed meal from the agricultural use provided for in the experimental use permit, the feed additive regulation should be renewed along with the tolerance limitation. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on cotton forage; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; eggs; and milk appears elsewhere in today's **Federal Register**.)

Accordingly, a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective April 1, 1980, 21 CFR 561.197 is amended as set forth below.

Part 561, § 561.197 is amended as follows:

§ 561.197 [Amended]

In § 561.197, the date at the end of the last line of paragraph (a) is changed from "September 5, 1979" to "March 25, 1981."

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1)).

Dated: March 25, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-9787 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the interest rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). This valuation is necessary because under section 4041 of the Act, the PBGC must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in annuity markets. This amendment adopts the rates and factors applicable to plans that terminated on or after December 1, 1979, but before March 1, 1980, and will enable the PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors must be reflective of current annuity market conditions, it is necessary to update the rates and factors periodically.

When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before December 1, 1979. (29 CFR 2610 (1979), 44 FR 42180, 58908, 45 FR 2026). The purpose of this amendment is to provide the rates and factors applicable to plans that terminated on or after December 1, 1979, but before March 1, 1980.

The PBGC has derived these rates from several sources. One is the survey of annuity price data obtained from the private insurance industry. This is the data on which rates have been based in the past. In deriving rates for this quarter, the PBGC has also considered both the price of annuities which were actually purchased by terminating pension plans during this period and the value of annuities obtained from liquidating insurance contracts for plans trusteed by PBGC.

On April 16, 1979, after public notice and comment, the PBGC adopted a new procedure of issuing new interest rates and factors in final form without first publishing them in a Notice of Proposed Rulemaking (44 FR 22453 *et seq.*). Because the PBGC cannot value the benefits provided under pension plans that terminated on or after December 1, 1979 and before March 1, 1980 until the new interest rates and factors contained herein are promulgated, and consistent with this new procedure, the PBGC finds that notice of and public comment on this amendment are impracticable and unnecessary. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that terminated on or after December 1, 1979, but before March 1, 1980, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

The PBGC has determined that this amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (March 24, 1978), and the PBGC's Statement of Policy and Procedures implementing the Order, 43 FR 58237 (December 13, 1978). The reasons for this determination are that this amendment is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is hereby amended by adding a new Table XVII to Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Benefits

* * * * *

XVII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after December 1, 1979, but before March 1, 1980.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 8½ percent shall be used to value immediate annuities, to compute the quantity "G_y" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0775$.
(2) $k_2 = 1.065$.
(3) $k_3 = 1.04$.
(4) $n_1 = 7$.
(5) $n_2 = 8$.

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)))

Issued at Washington, D.C., on this 27th day of March 1980.

Ray Marshall,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 80-9768 Filed 3-31-80; 8:45 am]
BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 238

[DOD Instruction 5410.19] [1]

Armed Forces Community Relations

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

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

SUMMARY: This rule supplements Part 237 of this title "Community Relations" to: establish the Armed Forces community relations program policy; prescribe procedures including site, support, sponsor, and funding criteria; and assign responsibilities and authorities. The overall effect of this rule is to provide uniform guidance in the planning and conduct of community relation activities of the Armed Forces.

EFFECTIVE DATE: July 19, 1979.

FOR FURTHER INFORMATION CONTACT: LTC R. Egenmaier, Office of the Assistant Secretary of Defense (Public Affairs), Directorate for Community Relations, Washington, D.C. 20301, telephone: 202-695-2709.

SUPPLEMENTARY INFORMATION: In FR Doc. 66-8723, appearing in the Federal Register (31 FR 10681) on August 11, 1966, the Office of the Secretary of Defense published Part 238, effective April 21, 1965. The source document, DoD Directive 5410.19, was revised and reissued November 26, 1968. The Office of the Secretary of Defense has again revised this Part and retitled it, "Armed Forces Community Relations."

Accordingly, 32 CFR Chapter I, is amended by revising Part 238, reading as follows:

PART 238—ARMED FORCES COMMUNITY RELATIONS

Sec.

238.1 Reissuance and Purpose.
238.2 Applicability and Scope.
238.3 Definitions.
238.4 Policy.
238.5 Procedures.
238.6 Guidelines.
238.7 Funding.
238.8 Responsibilities and Authorities.
238.9 Information Requirements.
238.10 Armed Forces Aerial Demonstrations.
238.11 Armed Forces Bands, Troops, and Units in Support of Public Programs.
238.12 Speaking Engagements.
238.13 National Organizations.
238.14 Armed Forces Day.
238.15 Veterans Day Observances and National Conventions of National Veterans Organizations.
238.16 Presidential Wreath-Laying Ceremonies.
238.17 Sports Activities.
238.18 DoD Coordinators.
238.19 Miscellaneous Public Affairs-Related Activities.
Enclosure 1—Format Request for Aerial Demonstration.
Enclosure 2—Request Format for Armed Forces Participation in Public Events.
Enclosure 3—Fact Sheet (Speaking Engagements by DoD Personnel).
Enclosure 4—Speaker Request Format.
Enclosure 5—President's Approved Wreath List.

Authority: The provisions of this Part 238 issued under 5 U.S.C. 22.

§ 238.1 Reissuance and purpose.

This Part is reissued to supplement Part 237 of this title and to provide procedural guidance for the planning and conduct of community relations activities of the Armed Forces.

§ 238.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments (including their National Guard and Reserve Components), the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). (As used in this Instruction, the term "Military Services" refers to the Army, Navy, Air Force, and Marine Corps.)

(b) Its provisions encompass all DoD community relations programs regardless of name, program, or sponsorship.

§ 238.3 Definitions.

(a) As used herein the following definitions apply:

(1) *Military Installation.* Any installation owned or operated by the Department of Defense or by a DoD Component such as a base, station, post, reservation, camp, depot, fort, terminal, facility, ship, school, and college.

(2) *Elsewhere.* Any location, other than a military installation, at or on which a community relations program may be conducted.

(3) *Official Federal Government Functions.* Those activities in which officials of the Federal Government are involved in the performance of their official duties.

(4) *Official DoD Functions.* Those activities (including Defense Committees, Joint Civilian Orientation Conference (JCOC), and activities held on military installations, or elsewhere when the appropriate commander certifies that suitable facilities are not available on a military installation) which are sponsored by a Military Service, have as their principal purpose the promotion of esprit de corps, and are conducted primarily for active duty personnel, dependents, and guests.

(5) *Official Civic Functions.* Those activities in which officials of State, county, or municipal governments are involved in the performance of their official duties (for example, inaugurals, dedications of public buildings and projects, the convening of legislative bodies, and ceremonies for officially invited Government visitors).

(b) Other terms used in this Part are defined in Part 237.8 of this title, and §§ 238.10 and 238.12 of this Part.

§ 238.4 Policy.

(a) The policy of the Secretary of Defense governing Armed Forces Community Relations programs is based on public law and executive orders and is set forth in Part 237 of this title. Amplification of basic policy and supplemental guidelines for the planning and conduct of specific categories and types of community relations programs are contained in this part.

(b) The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) been designated as the principal staff assistant to act for and in behalf of the Secretary of Defense in granting any exceptions to basic public affairs policy.

(1) Requests for exceptions to this policy shall be submitted to the ASD(PA) via command channels.

(2) Such requests shall contain, as a minimum, (i) a description of the community relations program contemplated, (ii) a justification for approval of the exception, and (iii) appropriate recommendations.

(3) Exceptions shall be granted on a case-by-case basis.

(c) Policy guidance concerning public affairs relations with business and non-Government organizations representing business is contained in Part 237a of this title.

(d) Policy governing the use of military carriers for public affairs purposes is contained in DoD Instruction 5435.2,[1] "Delegation of Authority to Approve Travel In and Use of Military Carriers for Public Affairs Purposes," April 25, 1975.

§ 238.5 Procedures.

(a) Within basic legal and policy limitations, commanders at all levels who plan or conduct a community relations program shall consider initially:

(1) The interests of the Department of Defense and the community as a whole.

(2) Pertinent operational requirements.

(3) The availability of adequate and appropriate resources.

(b) When a proposed community relations program exceeds local support capability or the scope of local public affairs responsibility, it shall be referred, via command channels, to the appropriate higher echelon. The proposal shall contain, as a minimum:

(1) A description of the program;

(2) A list of support requirements;

(3) A description of the anticipated scope of the program;

[1] See footnote, page 21228.

(4) Comments concerning expected community reactions; and

(5) Appropriate recommendations.

(c) All DoD Components shall use approved DoD request formats, appended as various enclosures to this Part, in processing requests by civilian sponsors for Armed Forces support of community relations programs. These formats, which may be reproduced locally, provide sufficient information to permit the approving authority to (1) evaluate the appropriate degree of Armed Forces support, and (2) determine compliance with the requirements of this Part.

(d) To ensure that a proposed community relations program conforms to the limitations imposed by public law and by policy contained in Part 237 of this title, the following aspects of the program shall be evaluated (using the criteria set forth in § 238.6.)

(1) The objectives and purposes of the program (*"program criteria"*).

(2) The interests and objectives of the sponsor or sponsoring group (*"sponsor criteria"*).

(3) The nature or character of the location of the program (*"site criteria"*).

(4) The full particulars of DoD support (*"support criteria"*).

§ 238.6 Guidelines.

(a) The Department of Defense authorizes and encourages support of community relations programs when at least one of the conditions listed in each of the following criteria categories (program, sponsor, site, and support) is met:

(1) *Program Criteria.* When the program is:

(i) Specifically authorized or directed by public law, executive order, or the Secretary of Defense.

(ii) An official Federal Government, military, or civil ceremony or function.

(iii) An event or occasion of general interest or benefit to a local, State, regional, or national community, and is available to the community.

(iv) In support of authorized recruiting or personnel procurement programs.

(v) In support of (A) united, federated or joint fund-raising campaigns authorized by DoD Directive 5035.1,[1] "Fund-Raising Within the Department of Defense, April 7, 1978; (B) such fund-raising appeals as the President or the Director of the Office of Personnel Management may authorize; or (C) the Military Service Aid societies. NOTE: DoD support for local fund-raising programs, other than those described above, is authorized only when the fund-raising program is local in nature, is of community-wide interest and benefit, and has the support of endorsement of the local united, federated, or joint campaign officials; or when, in the judgment of the local commander, support of a purely local charitable drive is part of the responsible role of the military installation in the local community. Volunteer fire department, rescue unit, or youth activity fund drives are examples of such local programs.

(vi) In support of fund-raising campaigns solely for the benefit of U.S. teams competing in the Pan American Games or the Olympic Games (see DoD Directive 1330.4,[1] "Participation in Interservice National and International Sports Activities," November 14, 1968).

(vii) Of a patriotic nature; or with the addition of military support, designed to include a patriotic acknowledgement; or the celebration of a Government-recognized local, State, regional, or national holiday.

(2) *Sponsor Criteria.* The sponsor or sponsoring organization does not specifically exclude any person from its membership for reasons of race, creed, color, or national origin. DoD support is authorized for programs sponsored by organizations whose qualification for membership is based on sex or national origin only when the primary benefit and interest are to the community rather than to the organization. DoD support is authorized when the sponsor is:

(i) A local, State, or Federal Government.

(ii) A veteran's, Military Service-related, patriotic, or historical organization or auxiliary.

(iii) An organization (civic, service, youth, professional, educational, business, trade, or labor) whose interests are in support of the community.

(iv) A commercial enterprise *only* when (A) DoD support is patriotic in nature, is incidental to the program, and does not benefit selectively nor appear to benefit selectively the commercial activity of the sponsor; (B) the sponsor's role is clearly civic in nature; and (C) the commercial interest is subordinate to the community interest, and benefit in the program.

(v) A public school, public college, or public university.

Note.—Support is authorized for programs sponsored by nonpublic schools, colleges, or universities only when the program is (A) of a community-wide nature of common interest and benefit, is open to all, and is broadly publicized; or (B) when the program is clearly patriotic or educational in nature or is in support of recruiting programs.

(3) *Site Criteria.* Admission, seating, and all other accommodations and site facilities connected with any public programs are available to all without regard to race, creed, color, national origin, or sex, and the location of the program is:

(i) A military installation.

(ii) A local, State, or Federal Government property, facility or building.

(iii) A bona fide community center.

(iv) A private or commercial building ONLY when DoD support is patriotic in nature, is incidental to the program, and does not benefit selectively nor appear to benefit selectively the owner of the building or the agent.

(v) A religious building or facility ONLY when the program is of a community-wide, nonsectarian nature of common interest and benefit and is broadly publicized.

(vi) A shopping mall or center ONLY when the program is a recruiting program, and:

(A) The support is directly related to the recruiting activities taking place, and the type and amount of support are commensurate with the scope and nature of the recruiting activity.

(B) Community relations support is not advertised, promoted, or presented as an attraction for the center or mall (or for special business activities such as promotional sales).

(C) The support activities are in no way related, nor do they appear to be related, to a particular business or particular group of business establishments within the mall or center. NOTE: Because of the commercial nature of shopping malls and centers, special care must be exercised to avoid the selective benefit of specific business interests. Where two or more such centers or malls are part of a community, support of recruiting activities must be administered in an even-handled manner, with fairness and extreme care.

(4) *Support Criteria.* The Department of Defense authorizes support which (i) can be reasonably expected to bring credit to the individuals involved and to the Armed Forces and is at no additional cost to the Government; or (ii) is specifically authorized to be at Government expense by this Part (§ 238.7), by public law, by executive order, or by the Secretary of Defense.

(b) The Department of Defense does *not* authorize support of community relations programs when any one of the conditions listed in one of the following criteria categories exists.

(1) *Program Criteria.* When the program is:

(i) Intended or appears to endorse, benefit selectively, or favor any private individual, group corporation, religion,

[1] See footnote, page 21228.

sect, ideological movement, political organization candidate, or commercial venture.

(ii) For the purpose of solicitation of votes in a political election.

(iii) A commercially oriented program, such as a Christmas parade, a motion picture premiere, a fashion show, a beauty pageant, or any other event or activity conducted to stimulate sales or increase the flow of business traffic.

(iv) For the purpose of raising funds for causes other than those specified in § 238.6(a)(1)(v).

(v) One in which public confrontation is planned or likely or where the real or apparent purpose is to stage controversy.

(2) *Sponsor Criteria.* The sponsor or sponsoring organizations specifically excludes any person from its membership for reasons of race, creed, color, or national origin.

(i) A commercial enterprise (except as specified in § 238.6(a)(2)(iv)).

(ii) A religious group (except for a school, as specified in § 238.6 (a)(2)(v), sect, or partisan political organization, or ideological movement.

(iii) An organization whose constitution, bylaws, membership qualifications, or ritual is privately held and not available to the general public (e.g., many fraternal organizations).

(3) *Site Criteria.* When:

(i) Admission, seating, and any other accommodation or facility connected with a public program are barred to any person because of race, creed, color, national origin, or sex.

(ii) The location of the program is a private, commercial, or religious facility, a shopping mall or center, or a nonpublic school, college, or university (except as specified in § 238.6(a)(3)).

(4) *Support Criteria.* When DoD support:

(i) Has been determined, by a finding of fact, to interfere with the customary or regular employment of non-DoD persons in their art, trade, or profession.

(ii) Is or could be considered to be the primary or major attraction for which admission is charged, except for:

(A) Athletic events of the Military Service academies;

(B) Performances by aerial demonstration teams;

(C) Concerts by the U.S. Army Band, the U.S. Army Field Band, the U.S. Navy Band, the U.S. Marine Band and the U.S. Air Force Band while on authorized tours.

(iii) Consists wholly or in part of resources, facilities, or services which are otherwise reasonably available from commercial sources.

(iv) Involves the use of military personnel (including members of Guard/Reserve components and ROTC in uniform) outside military reservations as ushers, guards, parking lot attendants, runners, messengers, baggage handlers, for crowd control, or in any other inappropriate capacity.

(v) Interferes with military needs or operational requirements.

§ 238.7 Funding.

(a) The cost of DoD support of community relations programs / authorized in § 238.7(b) shall be the responsibility of the DoD Component(s) involved. Funding requirements for these purposes shall be kept to the minimum necessary to accomplish DoD objectives.

(b) DoD Components shall absorb the costs of supporting those community relations programs that are specifically authorized by public law, executive order, or the Secretary of Defense, and the following types of programs when they are in the primary interest of the Department of Defense:

(1) Official Federal Government functions.

(2) DoD or civic-sponsored observances of United States or host country national holidays.

(3) Official civil ceremonies and functions.

(4) Speaking engagements.

(5) Events considered to be in the national interest or in the professional, scientific, or technical interests of a DoD Component or element, when approved by the Assistant Secretary of Defense (Public Affairs) or the Commander of an overseas Unified or Specified Command, as appropriate.

(6) Direct support of recruiting and personnel procurement activity, when the cost of such support is charged to recruiting or personnel procurement programs funds.

(c) DoD support of community relations programs that are not authorized in § 238.7(b) shall be at no additional cost to the Government.

(d) To adhere to congressional funding limitations, due care must be exercised in the identification of costs of community relations programs. Programming, budgeting, and financing policies are set forth in Part 237 of this title. In general, for purposes of the limitations, the incremental cost of any resource incurred solely for community relations purposes must be identified as a public affairs cost; and costs incurred by a DoD Component in connection with its support of a community relations program, which would not be incurred but for their public affairs aspects, must be identified as public affairs costs. Effective management of a community relations program may require full costing (total direct and indirect costs) of the use of resources when their use benefits or is caused by the program. This information shall be provided to management officials and the OASD(PA) on an "as required" basis.

(e) When routine training flights are used as opportune airlift to transport military personnel, no reimbursement to the providing Component is required. When Military Airlift Command industrially funded transportation facilities are used, the industrial fund must be reimbursed, in accordance with DoD Directive 7410.4,[1] "Regulations Governing Industrial Fund Operations," September 25, 1972.

§ 238.8 Responsibilities and authorities.

(a) Requests for DoD support of community relations programs shall, except as otherwise specified in this Instruction, be evaluated and approved or disapproved at the lowest practicable echelon or command (see § 238.5(a)(2)).

(b) The *Assistant Secretary of Defense (Public Affairs)* is the sole authority for granting any exception to the policy contained in Part 237 of this title and in this Part.

(1) The ASD(PA) is the sole authority for approving all DoD support of community relations programs in the National Capital area (see § 238.11 and § 238.13), except speaking engagements (see § 238.12), and for DoD support of the following programs outside that area:

(2) National and international programs, including national conventions and meetings (except those programs taking place in overseas areas which are solely of internal concern to a Unified or Specified Commander); see §§ 238.11, 13, 14, 15, 16, and 18.

(3) Programs outside the 50 United States which are not within a Unified or Specified Command's area of responsibility.

(4) Programs where the officially designated flight and parachute demonstration teams (Golden Knights, Blue Angels, Thunderbirds) perform, in accordance with § 238.10.

(5) Programs held on a military installation involving an aerial review of more than one Military Service, and programs involving any aerial review, flyover, or aircraft demonstration held elsewhere within the United States or as outlined in § 238.8(b)(2) (except for flyovers for civic-sponsored observances of and official ceremonies for Armed Forces Day, Memorial Day, Independence Day and Veterans Day, authorized by the Secretaries of the

[1] See footnote, page 21228.

Military Departments), in accordance with § 238.10.

(6) Programs that require acting as the sole point of official contact within the Department of Defense for liaison between the Department of Defense and the headquarters and Washington offices of national organizations and other national non-Government groups, except for those organizations representing a specific interest of a single Military Service, e.g., Association of the U.S. Army, Air Force Association, Navy League, Marine Corps League, etc. (see § 238.8(d)).

(7) Programs that provide information to national organizations, including business and industry groups, and call for approving support of the activities of such organizations and groups, in accordance with § 238.13. (See Part 237a of this title.)

(c) The *Unified and Specified Commanders,* except as specified in § 238.8(b), have been and are designated to act for and in behalf of the Secretary of Defense in implementing the provisions of Part 237 of this title and this Part in their overseas area of responsibility (excluding the States of Hawaii and Alaska).

(d) The *Secretaries of the Military Departments,* except as specified in § 238.8(b), are authorized to approve requests for DoD support of community relations programs, and to:

(1) Approve the unofficial use of the official insignia of their Departments, except where such use is prohibited by law.

(2) Conduct direct communication and liaison with organizations representing specific interests of their respective Military Departments. Military Departments which maintain liaison with such organizations are required to carry on their activities in accordance with the letter and the spirit of policies set forth in Parts 237, 91, and 40 of this title, (respectively). ASD(PA) shall be responsible for monitoring the liaison activities between Military Departments and these organizations.

(3) Delegate to local major unit commanders authority to support local programs jointly planned and conducted by border communities in California, Arizona, New Mexico, and Texas, with their counterparts in Mexico.

(i) Local programs are defined as those which center on and are of primary interest in a U.S. or Mexican border community.

(ii) Favorable determinations shall be based on the significance of the program, defense interest, advance consultation, and approval of appropriate U.S. consular officials, coordination with other Federal agencies, as required, and the concurrence of municipal authorities involved.

(e) The *Head of the Interservice Sports Committee* shall act for the ASD(PA) in all matters pertaining to interservice competition and joint military Service participation in national and international sports. See § 238.17.

(f) The *Assistant Secretary of Defense (International Security Affairs)* (ASD(ISA)) shall coordinate DoD support of foreign disaster relief operations, in accordance with § 238.19.

(g) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall be responsible for certain miscellaneous public affairs-related activities, as specified in § 238.19.

§ 238.9 Information requirements.

(a) Records will be maintained and required reports furnished in accordance with section 237.6 of this title.

(b) The additional reporting requirement specified in §238.11 has been assigned Report Control Symbol DDPA(M) 979.

§ 238.10 Armed Forces aerial demonstrations.

(a) *Purpose.* (1) This Part relates to Armed Forces aerial demonstrations in support of community relations programs, including flight team demonstrations, parachute team demonstrations, flyovers, aerial reviews, static displays and other aerial activities.

(2) Attached to this enclosure is the approved DoD "Request for Aerial Demonstration" format.

(b) *Definitions.* As used herein, the following definitions apply:

(1) *Aerial Event.* Any occasion such as an air show, festival, official Federal Government function, or official military and civic functions held on a military installation or elsewhere where an Armed Forces aerial demonstration is either a primary or incidental attraction.

(2) *Aerial Demonstration.* The use or display of DoD military aircraft or personnel in any aerial event, including the following:

(i) *Flight Team Demonstration.* An exhibition of precision aerial maneuvers and techniques flown by an officially designated Service flight demonstration team, such as the U.S. Air Force Thunderbirds and the U.S. Navy Blue Angels.

(ii) *Parachute Team Demonstration.* A demonstration of free-fall and precision-landing techniques by the officially designated unit, the U.S. Army Golden Knights. Other military parachute teams, including individuals or groups, may be specifically authorized for such demonstrations when representing the Department of Defense.

(iii) *Flyover.* A straight and level flight by no more than four military aircraft from a Military Service over a predetermined point on the ground at a specific time and not involving aerobatics or demonstrations.

(iv) *Aerial Review.* A flyover of multiple types of aircraft or aircraft representing more than one Military Service with elements in trail formation and not involving precision maneuvers or demonstrations.

(v) *Static Display.* A ground display of aircraft and its related equipment not involving taxiing or starting of engines while spectators are in the display area.

(vi) *Aerial Activities.* All other aerial demonstrations, not listed in (i) through (vi), above, designed to portray performance techniques by a single aircraft or group of aircraft or personnel. Such demonstrations include but are not limited to air-to-air refueling, helicopter flight techniques, maximum performance takeoff, performance record demonstrations, mass parachute jumps, air delivery of equipment, assault aircraft demonstrations, tactical helicopter troop landings under simulated tactical conditions, air-rescue demonstrations, and rappelling demonstrations.

(c) *Policy.* (1) Armed Forces aerial demonstrations may be authorized at appropriate public programs, on a military installation, or elsewhere which meet basic criteria set forth in this Instruction. Support may include officially designated military flight or parachute demonstration teams, flyovers, aerial reviews, the static displays of aircraft, and other aerial activities.

(2) Any aerial demonstration will be entirely dependent upon the Military Services' capability to provide such resources at the time of an event.

(3) All pertinent safety regulations of the Department of Defense and the Department of Transportation (Federal Aviation Agency) will be rigidly observed, and will take precedence over any or all conditions or circumstances.

(4) Maximum advantage of Armed Forces recruiting will be taken at public events where Armed Forces aerial demonstrations have also been authorized.

(5) During the hours aircraft are actually on display or providing demonstrations before the public, qualified Armed Forces personnel will be available to explain the missions performed and answer spectators' questions.

(6) Armed Forces teams may not compete for prize monies. (See Part 237 of this title.)

(7) Armed Forces aerial demonstrations are usually limited to 2 days in any one aerial event. However, parachute demonstrations may extend over a 3-day period. This provision may be waived when:

(i) Other requests for the time frame have not been authorized.

(ii) Extended participation does not compromise another event because of travel time.

(iii) It is determined that the audience will change each day.

(iv) The event is of national or international nature and participation would be in the best interests of the Department of Defense.

(8) No two aerial demonstration teams of the same type will be approved for a single event. Flyovers may be authorized at an event where a flight or parachute demonstration team will perform, provided they are scheduled on days other than those authorized for the demonstration teams' performance. Static displays and other aerial activities may be authorized in conjunction with any other aerial participation.

(9) Aircraft performance record demonstrations are restricted to aircraft which have been assigned to an operational unit of a Military Service for at least 6 months in demonstrations which imply no competition among the Military Services. They may be conducted periodically in the interest of keeping the public apprised of U.S. engineering-technical capabilities in the development of aircraft altitude, speed, endurance, and individual performance or record demonstrations.

(d) *Procedures.* (1) All nonmilitary sponsors desiring Armed Forces aerial demonstrations should be requested to complete the approved DoD request format (enclosure 1). This format may be reproduced and distributed by the Military Services.

(2) The Department of Defense (OASD(PA)) will host a scheduling conference in mid-December each year to prepare the official flight and parachute demonstration team's performance schedules for the following year.

(i) Nonmilitary sponsors desiring flight and/or parachute demonstration teams must submit an approved DoD request format (enclosure 1) to ASD(PA) no later than September 30 to be considered for inclusion in the approved schedule for the following calendar year.

(ii) Military Departments desiring flight or parachute demonstration team performances will consolidate their requests and forward them to ASD(PA) no later than November 15 to be considered for inclusion in the approved schedule for the following calendar year.

(iii) Following the scheduling conference, a tentative schedule will be prepared by OASD(PA) and submitted to the Military Departments for review and concurrence prior to final approval by the ASD(PA). Precautions will be taken to ensure that sponsors are *not* provided any information concerning the status of their request until final approval and release of the schedule by ASD(PA). Exceptions to this policy may be made only with advance approval of the OASD(PA).

(3) Nonmilitary sponsors desiring aerial demonstrations other than flight and parachute team demonstrations should be requested to submit an approved DoD request form (enclosure 1) to OASD(PA) no later than 30 days, and preferably 60 days, prior to the scheduled event.

(4) DoD Components desiring to conduct aerial reviews involving more than one Military Service on a military installation, or aerial reviews, flyovers, and other aerial activities elsewhere (except as provided in § 238.8(b)(4) of this Part), will forward requests to ASD(PA) as soon as practicable and will include, as a minimum, those criteria contained in § 238.5(a)(2), this Part.

(5) The Military Departments will forward requests for attempts to establish aircraft performance records and to release information relative thereto to the ASD(PA) at least 45 days prior to the date of the proposed attempt. Submissions will include a description of the specific aircraft to be used and full justification for the proposed record attempt, including supporting flight and information plans. ASD(PA) will coordinate the request within the Department of Defense and with other appropriate Government departments or agencies and the National Aeronautic Association of the United States of America.

(e) *Evaluation.* Approvals or disapprovals of requests for aerial demonstrations will be based on the following:

(1) *Program Criteria.* (i) Public events which are appropriate for Armed Forces aerial demonstrations include such activities as dedications of airports and facilities, aviation shows, expositions and fairs, and civic events which contribute to the public knowledge of Armed Forces aviation equipment and capabilities.

(ii) Aerial demonstrations may be authorized for military installations, including those leased by Reserve Components, in accordance with the guidance and direction provided by the ASD(PA) and the Secretaries of the Military Departments. Appearances by the flight and parachute demonstration teams on a military installation will only be approved in support of an official "Open House" program.

(iii) To minimize interference with operations and training of Armed Forces aviation units, flyovers will be approved only for the following occasions.

(A) Those events outlined in (i) and (ii), above.

(B) Civic-sponsored public observances of and official ceremonies for Armed Forces Day, Memorial Day, Independence Day, and Veterans Day.

(C) Memorial or funeral services for dignitaries of the Armed Forces and the Federal Government, and for rated/designated aviation personnel of the Armed Forces as determined by appropriate Military Department regulations.

(D) Ceremonies honoring foreign dignitaries, when directed by executive order or the Secretary of Defense.

(E) Occasions primarily designed to encourage the advancement of aviation.

(2) *Sponsor Criteria.* See § 238.6 (a)(2) and (b)(2).

(3) *Site Criteria.* (i) Sponsors are required to obtain a Federal Aviation Agency waiver for any public demonstration by military aircraft or parachutists. The final authorization for such aerial demonstrations hinges upon the sponsor securing this waiver far enough in advance to permit adequate planning (normally no later than 60 days prior to the event).

(ii) Flight or parachute team demonstrations are restricted to appropriate events at airports, over open bodies of water, or over suitable open areas of land where crowd control can be ensured.

(iii) Flight demonstration team aircraft must operate from suitable airfields or the site of the event must be within a reasonable distance of a staging base. In the latter case, performances are seldom authorized since the recruiting potential is significantly reduced.

(iv) For any military aircraft to operate from an airport show site, all operational requirements concerning minimum usable runway lengths and load-bearing capacity must be met.

(v) Mass parachute jumps, aerial delivery of equipment, assault aircraft demonstrations, or tactical helicopter troop landings under simulated tactical conditions will be limited to military installations. These activities, except those scheduled as part of regular

training programs, are not authorized for public events.

(4) *Support Criteria.* (i) While the Department of Defense does not require the sponsor to provide the Department with a public liability and property damage insurance policy, this should not deter the sponsor from obtaining the insurance he/she feels is necessary for protection.

(ii) Civilian sponsors will be responsible for providing the following:

(A) The standard Military Services allowance for quarters and meals for Armed Forces participants, except for flyovers and other aerial activities not involving landing.

(B) If necessary, transportation, meals, and hotel accommodations for representatives of the requested unit to visit the site prior to the event.

(C) Transportation for Armed Forces participants between the site of the event and hotel and return. Additionally, if required, transportation from home station to the event and return.

(D) Telephone facilities for necessary official communications regarding the event.

(E) A recent aerial photograph, taken vertically from an altitude of 5,000 feet or higher, to the team giving the demonstration.

(F) Availability of suitable aircraft fuel at military contract prices. If fuel is not available at military contract prices, the sponsor must pay any costs over military contract prices, including transportation and handling.

(G) An ambulance and a doctor on the site during flight and parachute team demonstrations and certain other aerial activities, as determined in advance by the Military Services or the OASD(PA).

(H) Mobile firefighting, crash, and ground-to-air communications equipment at the demonstration site.

(I) Security for aircraft that land and are parked at the site during their entire stay.

(J) If necessary, aircraft for use as a jump platform by a parachute team at the location of the event.

(f) *Funding.* (1) Aerial demonstrations at public events, except for flyovers, aerial reviews, and other aerial activities not involving landing, will be provided at no additional cost to the Government.

(i) The sponsor is required to pay the standard per diem for quarters and meals, as prescribed in the Joint Travel Regulations, Volumes 1 and 2, and to provide adequate ground transportation between hotels and the site of the event and other necessary services, as determined by the participating Component and agreed to by the sponsor.

(ii) The sponsor should make the check for the required amount payable to the DoD organization which incurred reimbursable expenses. Usually, this will be the DoD organization to which the demonstration team is assigned. The Defense representative who makes the arrangements for the demonstration will provide the sponsor with the name or other identity of the organization to be cited as payee on the check. The sponsor will present the check to the appropriate demonstration team or aircraft commander upon arrival at the scheduled event. The commander, in turn, will transmit the check, expeditiously, to the accounting and finance office that supports the payee's operations.

(2) All costs are binding after a team or crew personnel have arrived at a show site, even though weather conditions or other unforeseen circumstances force the event to be canceled.

(g) *Responsibility and authority.* (1) The Assistant Secretary of Defense (Public Affairs) shall approve Armed Forces aerial demonstrations in support of community relations programs, as follows:

(i) All official flight team and parachute team demonstrations held on a military installation or elsewhere.

(ii) Flyovers held off a military installation (except as provided in § 238.10(g)(2)(ii), this Part).

(iii) Aerial reviews involving more than one Military Service held on a military installation and all aerial reviews held elsewhere.

(iv) Aerial demonstrations held outside the United States which are not within a Unified or Specified Command area of responsibility.

(v) Other activities held off a military installation (except as provided in § 238.10(g)(2)(v)).

(2) The Secretaries of the Military Departments are authorized to approve aerial demonstrations in support of community relations programs by aircraft of their respective Services, as follows:

(i) Flyovers for events on military installations.

(ii) Flyovers at events off military installations for civic-sponsored observances of Armed Forces Day, Memorial Day, Independence Day and Veterans Day (except in the National Capital area).

(iii) Flyovers provided for military funerals for rated/designated aviation personnel of the Armed Forces.

(iv) Static display of aircraft held on military installations or elsewhere.

(v) Other aerial activities, as follows:

(A) Those held on military installations.

(B) Air-rescue demonstrations, team, or single parachute demonstrations (other than the U.S. Army Golden Knights), Navy Seal Team demonstrations, rappelling demonstrations, and air-to-air refueling demonstrations.

§ 238.11 Armed forces bands, troops, and units in support of public programs.

(a) *Purpose and scope.* This enclosure is intended for use when determining the appropriateness or extent of Armed Forces participation in official Federal Government, military, or civic functions and all other community relation programs conducted in public. It governs all uniformed Armed Forces commands, organizations, units, and personnel appearing in public, including bands, musical groups, individuals, color guards, drill teams, marching units, exhibits or displays, and the loan or use of Armed Forces facilities and material in support of community relations programs.

(b) *Policy.* Armed Forces support of public programs has been developed by the Department of Defense to ensure compliance with public law, to ensure equitable distribution of resources to as many appropriate events as possible, and to avoid excessive disruption of training and operational missions of the Military Services. DoD support of public programs is authorized and encouraged when such support is in the best interest of the Department of Defense and the Armed Services. The Defense Establishment and the Armed Forces belong to the American people and thus the Department should not do for one segment of the society what it cannot do for all.

(c) *Procedures.* (1) *General.* Requests for Armed Forces support of public programs shall be addressed to the nearest military installation, giving full details on the approved DoD request format (enclosure 2), so that a decision, based on program criteria, sponsor criteria, site criteria and support criteria can be made.

(2) *National/International Programs.* Requests for Armed Forces support for programs which, by their nature or because of news media coverage, could be of national or international interest will be forwarded through established command channels to the ASD(PA) for approval. Approval will be based upon program, sponsor, site, and support criteria listed above, or any recommendation or request for exception to policy by the appropriate commander.

(3) *Events in the National Capital Area.* All requests for Armed Forces support of public programs within the National Capital area will be sent to the ASD(PA) for approval. Requests for Military Service bands, musical units, drill teams, color guards, etc., stationed in the Washington, D.C. area, may be made by submitting the attached approved DoD request format through appropriate command channels.

(4) *Local Events.* Local military commanders may authorize support of purely local programs without further authorization from the Department of Defense. The program must be consistent with at least one condition of each of the established criteria groups in § 238.6(a) and be consistent with resource capability, operational commitments and applicable regulations.

(d) *Evaluation.* (1) When evaluating requests for Armed Forces support of public programs, the interests of the Department of Defense, the public at large, operational requirements of the Military Services, and availability of appropriate resources are prime considerations. (See § 238.6 (a) and (b).) Commitment of resources to specific programs must be balanced with the governing factors and guidelines of the basic Instruction and with requests for similar participation received from other sources. DoD support, directly or indirectly, must not (i) endorse or benefit selectively or favor any private individual, group, corporation (whether for profit or nonprofit), sect, quasi-religious or ideological movement, political organization, or commercial venture; or (ii) be associated with the solicitation of votes in a political election. (See § 238.6 (a) and (b).) Such sites as commercial theaters, department stores, churches, or fraternal halls are, generally, inappropriate sites for Armed Forces support. Testimonials to individuals or sectarian religious services are inappropriate programs for Armed Forces support.

(2) Support by the Armed Forces of any program may be authorized only if admission, seating, and all other accommodations and facilities are available to all without regard to race, creed, color, national origin, or sex.

(i) Support of programs sponsored by certain organizations may be authorized when the program is oriented towards the community interests as opposed to the sectarian, fraternal, or national origin aspects or objectives of the organization.

(ii) Participation in nonpublic school events is authorized when the program is clearly patriotic or educational in nature or is in support of recruiting programs.

(iii) No admission charge may be levied on the public solely to see an Armed Forces demonstration, unit, or exhibit. When admission is charged, the Armed Forces activity must not be the sole or primary attraction. (Excludes Navy and Marine Corps Band Tours.)

(3) The term "fund-raising" identifies the avowed or announced purpose of a program which, by any means, seeks to acquire money or material in excess of actual costs for charitable, civic, or other purpose. Support by the Armed Forces in an official capacity in fund-raising programs is restricted to fund-raising activities in support of recognized united, federated, joint, or other authorized campaigns (see 238.6(a)(1)(v)). A required condition of such support will be that the sponsor of an event certifies that all profits accrued will be donated to a united, federated, or joint campaign. In view of the national interest, the Armed Forces may support sports or other public programs held for the sole purpose of raising funds for the U.S. teams competing in the Pan-American and Olympic Games. DoD policies concerning Armed Forces support of fund-raising programs are detailed in Part 237 of this title. Additional information may be found in DoD Directive 5035.1.

(4) When Armed Forces support of a public program is in the mutual interest of the Department of Defense and the sponsor, participation will be authorized at no additional cost to the Government. Additional costs to the Government—travel and transportation of military personnel, meals and quarters or the standard per diem allowance—must be borne by the sponsor.

(5) The duration of support by military units in any single program is limited in the interests of proper utilization and equitable distribution of Armed Forces manpower and resources. While an exhibit may be scheduled for the duration of a program, participation of a unit such as a military band is limited to 3 days.

(6) Armed Forces support of professional sports programs and all postseason bowl games will be authorized at no additional cost to the Government, will emphasize joint Service activity where praticable, and must support recruiting programs. Support of commercially oriented events, such as beauty pageants, Christmas parades, and motion picture premieres is not authorized.

(7) Armed Forces musical units may be authorized to provide certain specified musical presentations for public programs. The performance must not place military musicians in competition with the customary or regular employment of local nonmilitary musicians. Background, dinner, dance, or other social music is not authorized for public programs held away from a military installation. Programs which may be authorized usually include a short (15–20 minute) patriotic presentation. Musical selections consist of a medley of military or patriotic songs, appropriate honors, and music to accompany the presentation of the colors by a color guard.

(e) *Exhibits.* (1) Exhibits are both indoor and outdoor types. The Military Services maintain Armed Forces exhibits which are used in their individual public affairs programs. These exhibits are maintained by the Military Departments and are provided to sponsors of events at no additional cost to the Government.

(2) Most exhibits are displayed during programmed tours which are scheduled 6 to 8 months in advance. Requests for these exhibits should be initiated well in advance of the event.

(3) Requests for Armed Forces exhibits in support of public programs should be forwarded to one of the following addressees, using an approved DoD request format:

U.S. Army

Chief of Public Affairs, Department of the Army, Washington, D.C. 20310.

U.S. Navy

Chief of Information, Department of the Navy, Washington, D.C. 20350.

U.S. Air Force

Commander, USAF Orientation Group, Wright-Patterson AFB, Ohio 45433.

(4) The exhibits used in support of personnel procurement and recruiting are governed by policy established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(f) *Armed Forces personnel, facilities, and materiel.* (1) *General.* (i) Armed Forces (including Guard/Reserve and ROTC) resources, such as bands, troops, drill teams, color guards, installations facilities, and materiel may be effectively used to support community relations programs.

(ii) The use of military personnel as ushers, guards, parking lot attendants, runners, messengers, baggage handlers, crowd control, or other inappropriate capacities in support of public programs conducted off military installations is not authorized.

(2) *Flags.* (i) The loan of official flags of DoD Components will not be authorized without the approval of the

Secretaries of the Military Departments or Heads of the other Components concerned.

(ii) In public programs for which DoD support has been authorized and at which the display of colors is appropriate, a Joint Armed Forces Color Guard will be employed, when available, using the following composition: Two Army bearers with National and Army colors; one each Marine Corps, Navy, Air Force, and Coast Guard [2] bearer with individual Service colors; and one Army and one Marine Corps rifleman as escorts.

(iii) When a Joint Armed Forces Color Guard, as specified above, cannot be formed, the senior member of the senior Service in the Color Guard will carry the national colors. DoD Components will be guided by the Table of precedence prescribed in DoD Directive 1005.8,[1] "Order of Precedence of Members of Armed Forces of the United States When in Formations," October 31, 1977.

(iv) United States military personnel may carry flags of foreign nations in official civil ceremonies when an official of the nation concerned is present in an official capacity and the official is one for whom honors normally would be rendered. In all other public programs or ceremonies, United States military personnel in uniform and in an official capacity are not authorized to carry flags of foreign nations, veterans groups, or other nonmilitary organizations.

(3) *Loan of Materiel and Facilities.* (i) *Materiel.* Equipment which formerly was available only from the military is now readily available from commercial sources. In considering requests for loan of military materiel, commanders must determine that similar materiel or facilities are not reasonably available from commercial sources before providing the support requested. This is particularly applicable to such items as communications, office, food-handling, and lighting equipment. Also included are construction, earth-moving, or other transportation and field equipment support. Other criteria to be considered are:

(A) The equipment must be locally available in the command, and its use for public affairs purposes must not be permitted to interfere with the military mission of the command.

(B) The public affairs program for which loan support is requested must be one in which the command is actively participating and one within the scope of its community responsibilities.

(ii) *Facilities.* Requests which do not fall within the discussion in this section shall be referred, with the DoD Component's recommendations, to the ASD(PA) for consideration. Further guidance is provided in § 238.19.

(g) *State governors' inaugural ceremonies and parades.* (1) *General.* Support by DoD Components is appropriate in public parades and in inaugural ceremonies subject to the availability of resources. To the greatest extent practicable, Armed Forces support should be joint in nature. In those cases where a Military Service desires to support an inaugural program but has no troops or resources stationed within that State, the circumstances should be reported to the ASD(PA). Bands, troop units, and equipment from outside the local area may be provided only if no additional cost to the Federal Government will be incurred.

(2) *Support Considerations.* (i) Support should be limited in size and scope, bearing in mind the potential demands that may be generated from State to State. Marching units with a combined strength of no more than one platoon from each Military Service and no more than one military band are recommended guidelines. The display of equipment and vehicles in parades is encouraged.

(ii) It is recognized that the State National Guard may be ordered to State duty by appropriate State authority, although Federal funds are not made available. Such service and expenses involved are paid for by other than Federal funds. The governor of a State has the authority to utilize, at no expense to the Federal Government, national guard troop units as required in support of the inaugural parade and ceremonies.

(iii) The duties to be performed by national guardsmen in uniform shall conform to the policies of the Secretary of Defense as set forth in Part 237 of this title and this Part. Use of military personnel as escorts, ushers, doormen, or drivers for nonmilitary guests or local dignitaries is not authorized.

§ 238.12 Speaking engagements.

(a) *Purpose.* This Part which includes a reiteration of pertinent policy statements from Part 237 of this title, contains definitions, policy, procedural, and funding guidance concerning public speaking engagements by DoD personnel.

(b) *Definitions.* (1) *Speaking Engagement.* A prearranged official Federal, State, or Municipal government; organizational; or public event at which a military or civilian member of a DoD Component speaks about a DoD subject within his or her official cognizance. Impromptu remarks by an individual delivered incidentally and simply as a part of his/her attendance at an event does not constitute a speaking engagement within the meaning of this Instruction.

(2) *DoD Speaker.* Any civilian or military member of the Department of Defense at any level and of any rank who speaks in public about a DoD subject within his/her official cognizance.

(c) *Policy.* The Department of Defense encourages qualified civilian and military officials at all levels to accept speaking invitations as an effective means of informing the public about Defense matters. DoD Instruction 5230.13,[1] "Principles of Public Information," October 23, 1973.

(d) *Procedures.* (1) *General Considerations.* The following points should be considered by members of the Department of Defense prior to acceptance of a speaking invitation:

(i) Participation must not interfere with assigned duties.

(ii) Speakers must address their remarks to subjects within their official cognizance.

(iii) Views expressed must not conflict with national policy.

(iv) Speakers may not be provided for partisan political gatherings (see DoD Directive 1344.10,[1] "Political Activities by Members of the Armed Forces," September 23, 1969, or fund-raising events which do not meet basic DoD criteria (see Part 237 of this title and DoD Directive 5035.1, respectively).

(v) A speaker's participation must not lend an air of sponsorship to the statements of others which may be partisan in nature or contrary to national policy.

(vi) Subject matter and text may require review and clearance (see DoD Directive 5230.9,[1] "Clearance of DoD Public Information," December 24, 1966).

(vii) Situations where the real or apparent purpose is to stage controversy will be avoided. The ASD(PA) will be consulted before speakers are provided for events in which public confrontation or debate of national policy matters is planned or likely.

(viii) Department of Defense support is not authorized if the sponsor or sponsoring organization specifically excludes any person from its membership for reasons of race, creed, color, or national origin. However, DoD support is authorized for programs sponsored by organizations whose qualifications for membership is based

[1] See footnote, page 21228.

[2] Pursuant to agreement with the Secretary of Transportation.

on national origin or sex, but only when the program so supported is oriented to the community rather than to the national origin or objective of the organization itself, and admission, seating, and all other accommodations and facilities connected with the program are available to all without regard to race, creed, color, national origin, or sex.

(ix) Acceptance of press, radio, and television interviews in conjunction with speaking engagements is encouraged, subject to the provisions of this Instruction and other pertinent public affairs Directives.

(x) Advance distribution of copies of speech texts (embargoed when necessary) may be used to gain wider dissemination of DoD information beyond an intended local audience when media coverage is anticipated. Distribution of speech texts should be made in cooperation with the host organization.

(2) *Level of Acceptance.* Organizations or groups wishing to extend a speaking invitation should be encouraged to correspond directly with the Public Affairs Officer of the nearest installation likely to have someone assigned who is cognizant of the subject matter to be discussed. The Fact Sheet (enclosue 3) and Speaker Request Formats (enclosure 4) may be utilized when replying to queries concerning speakers. DoD Components shall channel speaking invitations to appropriate officials nearest the site of the event.

(3) *Presidential Representatives.* The Department of Defense is sometimes required to furnish a military officer to represent the President of the United States at occasions where "remarks" or "an address" are required. The minimum appropriate grade, in this circumstance, is a general or flag officer unless there are overriding practical considerations precluding general or flag officer availability.

(e) *Funding.* (1) Speaking engagements normally will be at Government expense.

(2) Acceptance of a gratuity as defined in Part 40 of this title, a fee, or an honorarium is prohibited. Reimbursement for necessary travel and living costs may be accepted from the sponsoring organization in lieu of reimbursement by the Government, in accordance with Joint Travel Regulations (Volumes 1 and 2). Consult the local finance or disbursing officer for specifics.

(f) *Reports.* (1) The Office of the Assistant Secretary of Defense (Public Affairs) requires a monthly speakers' report covering a projected 60-day period for all accepted speaking engagements of senior civilian and military representatives of the DoD Components down through Deputy Assistant Secretary and three-star rank. This report is due no later than the 24th day of each month, attention Directorate for Community Relations. The report will include the following information:

(i) Name, rank, and title of speakers

(ii) Date of speaking engagement

(iii) Place of speaking engagement

(iv) Host organization

(2) This reporting requirement has been assigned Report Control Symbol DD-PA(M)979.

(3) From the above information, the Directorate for Community Relations, Office of the Assistant Secretary of Defense (Public Affairs), will publish a monthly speakers' schedule.

§ 238.13 National organizations.

(a) *Policy.* OASD(PA) serves as the primary point of contact within the Department of Defense for all types of national organizations. In addition, on matters relating to the provision of information of DoD policies, programs, budgets, plans, and activities, OASD(PA) is the principal point of contact with business and industry. Establishment of this focal point is designed to avoid duplication and ensure that a coordinated DoD view is expressed when responding to the nontechnical needs of these organizations and the business/industrial community.

(b) *Procedures.* (1) OASD(PA) serves as the principal Department of Defense point of contact for all national organizations (to include their local and regional chapters in the National Capital area) on all matters except:

(i) Requests for information emanating from an organization and bearing directly on an individual DoD Component.

(ii) Requests for speakers.

(iii) Those matters involving contractual or consulting relationships.

(iv) Matters pertaining to scientific and technical information. Scientific and technical information services are administered by the Defense Logistics Agency.

(2) Except in the National Capital area, local and regional chapters of national organizations may deal directly with local commanders as delegated by appropriate authority. In the National Capital area, local and regional chapters shall be referred to OASD(PA) when they request support from the Department of Defense or any of its elements. When appropriate, OASD(PA) will refer the matter to whatever DoD Component can best fulfill the organization's request.

(3) Authority for direct communication and liaison with organizations directly associated with specific interests of a single DoD Component is delegated (see § 238.8(d)(2) of this Part) to that Component. Individual Components which maintain liaison with such organizations are required to carry on their activities in accordance with the letter and the spirit of policies set forth in Parts 237, 91, and 40 of this title, respectively).

(4) OASD(PA) periodically provides to national organizations information concerning policies, programs, budgets, and other activities of the Department of Defense. DoD Components are encouraged to provide informative material to OASD(PA) for inclusion in these periodic mailings. Examples of Component-related material which would be proper for distribution to organizations through OASD(PA) include posture statements, significant congressional testimony, internal publications outlining important programs which will have a wide-ranging impact, and other major policy pronouncements such as speeches.

(5) Policies regarding liaison and communication with the support for organizations representing business or commercial interests are outlined in Part 237a of this title which also covers relationships with businesses, industries, and other commercial enterprises.

§ 238.14 Armed Forces Day.

(a) *Purposes.* This enclosure contains guidelines concerning the annual observance of Armed Forces Day. (See Part 237 of this title.)

(b) *Policy.* (1) By Presidential proclamation, Armed Forces Day is observed on the third Saturday of each May. It provides a special occasion to satisfy public interest in the Defense establishment and to demonstrate the unity and common purpose of the Armed Forces in the fulfillment of our national security requirements.

(2) In keeping with the spirit of unification as set forth in the National Security Act of 1947, as amended, participation by military units in the observance of the birthdays of individual DoD Components or any other day or days of significance to a single Component, its subordinate elements, or auxiliaries will not be undertaken away from military installations without the specific authorization of the Assistant Secretary of Defense (Public Affairs).

(3) The United States Coast Guard is included, where feasible, in observances

of Armed Forces Day, pursuant to agreement with the Secretary of Transporation.

(c) *Procedures.* (1) The Assistant Secretary of Defense (Public Affairs) is responsible for coordinating Armed Forces Day programs at the national level and for issuing annual guidance for the conduct of each year's observance.

(2) Cooperation with communities and organizations planning observances of Armed Forces Day is encouraged.

(3) DoD Components shall extend hospitality to the general public by hosting "Open House" or similar activities on military installations and ships.

(4) In localities and situations where two or more Military Services are represented, joint participation in community sponsored programs is encouraged.

(5) Armed Forces Day will be treated as a national holiday for purposes of determining support authorized by Part 237 of this title and this Part.

(6) Armed Forces Day will be observed in overseas areas in the manner determined most suitable by the Commander-in-Chief of the Unified or Specified Command concerned. The observance may be held on military installations for U.S. personnel and dependents and may be open to the general public or conducted elsewhere in the host nation. These observances will not be combined with other U.S. or foreign holidays or observances.

(d) *Funding.* DoD Components shall, within their available funds, defray the expenses necessay for the observance of Armed Forces Day within their respective areas of responsibility.

§ 238.15 Veterans Day observances and national conventions of national veterans organizations.

(a) *Policy.* It is DoD policy to provide military support for:

(1) Veterans Day observances at communities designated as regional sites by the Veterans Day National Committee of the U.S. Veterans Administration;

(2) Smaller local observances held in communities not so designated; and

(3) National conventions of national veterans organizations.

(b) *Procedures.* (1) *Veterans Day Observances.* (i) The Administrator of Veterans Affairs is normally designated by Presidential proclamation as the Chairman, Veterans Day National Committee. The objective of this committee, comprised of representatives from major veterans organizations, is to stimulate and perpetuate national public interest in honoring all veterans of all wars on Veterans Day. Each year, this committee designates certain communities as regional sites for the observances of this national holiday. Department of Defense supports these observances by appointing a DoD Coordinator and approving military support.

(ii) Regional sites are designated to ensure that proper priority and an appropriate level of support are available for these major observances.

(2) *National Veterans Organizations Conventions.* Each year the national veterans organizations request military support for their national conventions. The support requested varies with each organization. At conventions with multi-Service support, a DoD Coordinator will be assigned by OASD/PA; while at smaller conventions, one Service project officer may coordinate appropriate Armed Forces support.

§ 238.16 Presidential wreath-laying ceremonies.

(a) *General.* Over the course of years the Office of The Military Assistant to the President has coordinated the annual placement of Presidential Wreaths at the tombs, burial sites, and/or monuments of all former Presidents. The repeated placement of these wreaths through the years led to the development of the "President's Approved Wreath List" (enclosure 5).

(b) *Procedures.* (1) Enclosure 5 contains the President's Approved Wreath List, including name, place, and date for wreath-laying ceremonies for each former President.

(2) Enclosure 5 also contains a list of Military Departments responsible for providing a representative of the President to place each wreath.

(3) The minimum appropriate military grade for this program is general or flag rank, unless overriding considerations preclude the availability of a general or flag officer.

(c) *Responsibilities.* (1) The ASD(PA) is responsible for overall coordination of DoD support for this program.

(2) Secretaries of the Military Departments will designate appropriate Presidential representatives, in accordance with the listing contained in enclosure 5, to place wreaths in honor of former Presidents. The name, rank, title, address, and telephone number of each designated representative will be forwarded to the ASD(PA) at least 60 days in advance of the month of wreath placement.

(3) The Military Assistant to the President will make necessary arrangements to provide each wreath.

(4) Names of designated Presidential representatives will be forwarded, via the Special Assistant to the Secretary of Defense, to the Military Assistant to the President, who will coordinate final details of each ceremony.

(d) *Reports.* The report required in § 238.16(c)(2) is assigned Report Control Symbol DD–PA(AR)1348.

§ 238.17 Sports activities.

(a) *Policy.* (1) DoD Directive 1330.4 establishes the Interservice Sports Committee (ISC) which acts for the ASD(PA) in all matters pertaining to interservice competition and joint Military Service participation in national and international sports. Each Military Service is represented on the committee.

(2) Athletic activities of the Military Service academies that are conducted away from military installations shall be governed by the general policy contained in Part 237 of this title and this Part.

(b) *Responsibilities.* Among other functions, the ISC as Executive Agent, for the DoD shall:

(1) Act for the Department of Defense on matters pertaining to sports involving more than one Military Service.

(2) Plan and conduct all interservice sports championships, and establish and monitor all joint Military Service efforts in support of national and international sports activities.

(3) Coordinate with Department of State, as required by Part 347 of this title, and other Government agencies and national sports organizations on sports tours and clinics in foreign countries which propose to utilize U.S. military personnel.

(4) Provide representation for the Department of Defense on related Government committees.

(5) Coordinate and maintain liaison with national sports governing bodies in matters of mutual interest to the Military Departments.

(6) Secure Department of State approval for military participation in international sports competition, and monitor military sports programs to ensure compliance with the provisions of Part 237 of this title.

(7) Serve as a contact point for the entire Defense establishment on questions pertaining to sports.

§ 238.18 DOD coordinators.

(a) *Purpose.* Some community relations programs involve support by more than one Military Service. Events of this nature include major national veterans conventions, regional Veterans Day observances, major air shows, large civic festivals, inaugurals, etc. The purpose of this enclosure is to provide guidelines for the coordination of such programs.

(b) *Procedures.* (1) When military support of a program sponsored by a civilian organization is furnished by more than one Military Service, and the magnitude of the support warrants DoD coordination, one Military Department will be requested by OASD(PA) to nominate an officer located in the area of the program to serve as the coordinator of DoD support.

(2) After being nominated, the officer will be designated as the DoD Coordinator by OASD(PA). The DoD Coordinator will be responsible for coordinating all military support, including support by National Guard/Reserve components, within the limitations set forth in Part 237 of this title, this Part, and other specific guidelines prepared by OASD(PA) and provided to him/her upon designation as DoD Coordinator. The DoD Coordinator is authorized direct liaison with OASD(PA).

(3) Also, OASD(PA) will request appointment of project officers, normally located within the area of the event, from the Military Departments providing support for the program. These Service project officers will assist the DoD Coordinator.

(c) *Reports.* The DoD Coordinator will prepare an after-action report and forward it to OASD(PA) within 30 days following the program. Report Control Symbol DD-PA(AR)1348 applies.

§ 238.19 Miscellaneous public affairs-related activities.

This Part contains a list of Public Affairs-related activities conducted by certain DoD Components under authority other than that delegated to the ASD(PA).

(a) *Employment of military resources in natural disaster emergencies within the U.S., its territories and possessions.* (1) DoD Directive 3025.1,[1] "Employment of Military Resources in Natural Disaster Emergencies Within the United States, Its Territories and Possessions," August 30, 1971, governs.

(2) The Secretary of the Army is designated as the DoD Executive Agent for military support in disasters.

(3) The ASD(PA) is responsible for associated public affairs activities.

(b) *Foreign disaster relief operations.* (1) DoD Directive 5100.46,[1] "Foreign Disaster Relief," December 4, 1975, governs.

(2) The ASD(ISA) is responsible for overall coordination of DoD support.

(3) The ASD(PA) is responsible for public affairs plans and activities. He is the single point of contact with the Department of State/AID or the International Communications Agency (ICA) on associated public affairs matters.

(c) *Use of DoD facilities or resources for other than public affairs purposes.* (1) The use of any DoD facility or resource to accomplish a community relations objective (see Part 237 of this title) is considered use for a public affairs purpose. Any other use of a DoD facility or resource is not a public affairs matter.

(2) Policies and procedures governing the use of DoD facilities or resources for other than public affairs purposes are the responsibility of the ASD(MRA&L), the Secretaries of the Military Departments, or the Directors/Commanders of other DoD Components.

(d) *Transportation.* (1) Policy governing the use of military carriers for public affairs purposes is contained in DoD Instruction 5435.2.

(2) Travel or transportation for public affairs purposes is defined as any travel or transportation of individuals, groups, or materiel undertaken as a result of a request to or an invitation from and authorized by competent authority in the Department of Defense in the interest of adding to the public understanding of DoD activities. It includes travel or transportation involving individuals or things, military or civilian, Government or non-Government, U.S. or foreign requests. It may be reimbursable.

(3) All other uses of military carriers are governed by policies promulgated by the ASD(MRA&L).

(e) *Organizational relationships.* Direct liaison channels exist between certain organizations and OSD agencies other than OASD(PA) in cases specifically provided for under public law or DoD Directive. Examples are:

(1) *United Service Organization*—ASD(MRA&L)—DoD Directive 1330.12,[1] "United Service Organizations, Inc." April 4, 1979.

(2) *American National Red Cross*—ASD(MRA&L)—DoD Directive 1330.5,[1] "American National Red Cross," August 16, 1969.

(3) *Boy Scouts of America and Girl Scouts of America:*

(i) Nonappropriated fund activities—ASD(MRA&L).

(ii) Where authorized, priorities for travel on military carriers—ASD(MRA&L)—DoD Regulation 4515.13-R,[1] "Air Transportation Eligibility," February 1975.

(iii) Use of military transportation and facilities to include support for International and National Jamborees—ASD(MRA&L).

(4) *United Seamen's Service*—ASD(MRA&L)—DoD Directive 1330.16,[1] "United Seamen's Service (USS)," July 10, 1971.

(5) *Veterans Organizations*

(i) Service Discharge matters—ASD(MRA&L); Military Departments.

(ii) Donation of Surplus Equipment—ASD(MRA&L) DoD Manual 4160.21-M,[1] "Defense Disposal Manual," June 1973.

Enclosure 1

Format Request for Aerial Demonstration

This format is used to request Armed Forces aerial demonstrations at public events. The information is required to evaluate the event for appropriateness and compliance with DoD policies and for coordination with units involved. Please complete *all* sections.

Each year, in December, the Department of Defense hosts a flight and parachute demonstration team scheduling conference to prepare the annual schedule for the following calendar year for the U.S. Navy Blue Angels, the U.S. Air Force Thunderbirds, and the U.S. Army Golden Knights. All requests for these demonstration teams must arrive at the Office of the Assistant Secretary of Defense, Public Affairs (OASD/PA), no later than September 30, to be considered at the scheduling conference. Requests for other aerial demonstrations (flyovers, static displays, etc.) must arrive at OASD(PA) a minimum of 30 days in advance of the event and preferably 60 days.

DoD policies require that aerial demonstrations at public events will be provided at no additional cost to the Government. The sponsor is required to pay the standard Military Services allowance for quarters and meals for Armed Forces participants and for certain other services determined in advance by the Military Services and agreed to by the sponsor. All costs are binding after a team or crew personnel have arrived at a show site, even though weather conditions or other unforeseen circumstances force the event to be canceled.

Section A: General

1. Title of event:

_____

2. Town or city: _____ State: _____

3. Place (airport, fairgrounds, etc.):

_____

4. Inclusive dates of event:

_____

5. Sponsoring organization:

_____

6. This request is for: (please circle the appropriate event):

a. U.S. Navy Blue Angels

Performance Dates _____

OR

U.S. Air Force Thunderbirds

(or) _____

(The standard Military Services allowance for quarters and meals for either team will cost $2,100.00 for each day a team is scheduled at your event.)

(or) Alternate Dates _____

b. U.S. Army Golden Knights

[1] See footnote, page 21228.

Performance Dates ———
(or) ———
(The cost will vary dependent upon travel time to and from the demonstration site, and the number of participants. *See note at bottom of this page for detailed explanation of how costs are computed.*)
(or) Alternate Dates ———
c. Aircraft Flyovers
Performance Dates ———
(No cost to sponsor)
d. Static Display
Performance Dates ———
(The standard Military Services allowance for quarters and meals is $35.00 per day per crewmember.)
e. Other: ———
Performance Dates ———

Note.—U.S. Army Golden Knights: Under normal conditions, the team is composed of nine jumpers, three aircraft crewmen, a ground controller, a narrator and information specialist. They are reimbursed by the Government at an average cost of $30.00 per individual per 24-hour day, for each performance day required to support your event (average team cost per performance day: 15 personnel × $30 = $450.00). Travel day reimbursement required to support your event is normally an average of $15.00 per individual per day, for each day of travel to and from Fort Bragg, North Carolina (average team cost per travel day: 15 personnel × $15 = $225.00). The sponsor will be advised by the Golden Knights, in advance, of the exact cost which the Government must be reimbursed.

Section B: Program

1. Purpose of this event: ———

2. Expected attendance: ———
Previous year's attendance: ———
3. Admission charge: $——
Charge for parking: $——
Charge for seating (if not included in admission charge): $——
a. Will prize monies be given for any purpose at this event? ———
b. Source of prize monies: ———
c. Is this event used to promote funds for any purpose? ———
d. Disposition of profits which may accrue: ———

4. Will admission, seating and all other accommodations and facilities connected with this event be available to all persons without regard to race, creed, color, sex, or national origin? ———

5. Will sponsor consult with local Military Service recruiters and support, at no charge, military recruiting activities at the site of the event? ———

6. This event (is) (is not) a civic occasion and (does) (does not) have the official backing of the Mayor.

7. Has a demonstration team ever performed at your event before? ———
a. Which team? ———
b. Year of last performance: ———

Section C: Site

1. Flight or parachute team demonstrations are restricted to appropriate events at airports, over open bodies of water, or over suitable open areas of land.
a. Specific location of event: ———

b. Length of active runway: ———

2. Flight and parachute team demonstrations must adhere to FAA regulations which specify that spectators are not to be permitted within 1,500 feet of an area over which flight demonstrations take place, or within 250 feet of a jump area over which parachutists are performing.
a. What type of crowd control is planned? ———

3. Flyovers and flight and parachute team demonstrations require that sponsors secure FAA clearance or waiver.
a. Does the FAA representative in your area agree that your aviation event is feasible for the type of Armed Forces aerial demonstrations requested? ———
b. Will sponsor secure FAA clearance or waiver at least 60 days prior to event? ———

4. Sponsor agrees to provide to the demonstration flight or parachute team commander, upon request, a recent aerial photograph, taken vertically from an altitude of at least 5,000 feet.

Section D: Support

Indicate that the sponsor understands and will provide the following:

1. Team costs as outlined in section A: ———

2. The standard Military Services allowance for quarters and meals for Armed Forces participants (if not included in team costs): ———

3. If required, transportation, meals, and hotel accommodation cost for representatives of the requested unit to visit the site prior to the event: ———

4. If required, transportation costs from home station to the event and return for all participants: ———

5. Transportation costs for all participants between site of the event and hotel: ———

6. Telephone facilities for necessary official communications at the site of the event: ———

7. Security for aircraft that land and are parked at the site during their entire stay: ———

8. Mobile firefighting, crash, and ground-to/air communications equipment at the demonstration site for flight and parachute demonstrations and static display aircraft: ———

9. Suitable aircraft fuel at military contract prices. (Sponsor must pay all costs, including transportation and handling, if necessary, over military contract prices if fuel is not available at such prices): ———

10. An ambulance and doctor on the site during flight and parachute demonstrations and during certain other types of aerial activities as determined in advance by the Military Services or OASD(PA): ———

Section E: Sponsor

1. Sponsor (is) (is not) a civic organization.
2. The sponsoring organization (does) (does not) specifically exclude any person from its membership based on race, creed, color, or national origin.
3. *Sponsor's Representative:* (Authorized to complete arrangements for Armed Forces aerial demonstrations and responsible for reimbursing the U.S. Government for accrued expenses when required)
Name: ———
Address: ———
City: ——— State: —— Zip: ——
Position with sponsoring organization: ———
Telephone: Office: ( ) ———
Home: ( ) ———
4. Name and address of any Armed Forces representative or Government official with whom you have discussed possible participation: ———

Certification

I certify that the information provided in sections A. through E. is complete and correct to the best of my knowledge and belief. I understand that representatives of the Military Services will contact me to discuss arrangements and costs involved prior to final commitments.
Signature: ———
(Sponsor's representative) ———
Date of Request: ———
Mail to: Directorate for Community Relations, OASD(PA), Room 1E 776, The Pentagon, Washington, D.C. 20301.

Enclosure 2

Request Format—Armed Forces Participation in Public Events

This format is used to request all Armed Forces Band, Troop, and Exhibit participation in public events. The information is required to evaluate the event for appropriateness and compliance with DoD policies and for coordination with the units involved. *Complete section A and only those other sections that apply to your event.*

Section A: General

1. Title of event: ———
Town or City: ——— State: ———
Date: ——— Time—from: —— to: ——
Place: (Auditorium, convention hall, etc.) ———

2. Sponsor: ———
3. The sponsor (is) (is not) a civic organization and the event (has) (does not have) the official backing of the mayor.
4. The sponsoring organization (does) (does not) exclude any person from its membership or practice any form of discrimination in its functions based on race, creed, color, or national origin.
5. Sponsor's representative authorized to complete arrangements for Armed Forces participation:
Name: ———
Address: ———
City, State: ——— Zip: ——
Telephone: (Office) ( ) ——— (Home) ( ) ———

6. Purpose of this event (explain fully): ———

7. Expected attendance:
8. Is this event being used to raise funds for any purpose?

9. Admission charge:
Charge for seating:
10. Disposition of profits which may accrue:

11. Will admission, seating, and all other accommodations and facilities connected with the event be available to all persons without regard to race, creed, color, sex, or national origin?

12. Will the standard Military Services allowance for *quarters* and *meals* be provided by the sponsor for Armed Forces participants?

13. Will transportation at sponsor's expense be provided for Armed Forces participants between the site of the event and hotel?

If required, will transportation be provided from home station to the event and return?

14. Will telephone facilities, at sponsor's expense, be made available for necessary official communications regarding the event?

15. It may be necessary for representatives of the requested unit to visit the site prior to the event. Will transportation, meals, and hotel accommodations be provided by the sponsor?

Section B: Bands and Troops

1. This request is for (check appropriate line(s)):
Music:
Troops:
Other:
2. If you desire a certain musical unit, troop unit, or type of equipment, please specify:

Note.—Standard Military Service allowances for quarters and meals—$35.00 per day per person. Bands will have approximately 50 members as a minimum.

3. If a musical unit is requested and an outdoor concert is planned, will there be a bandshell or bandstand?

4. Type of electric current available:
110V —— 220V —— Amps ——

Section C: Exhibits

1. Specify type of exhibit(s) desired:

2. If the event is indoors:
Area available for exhibit is —— feet long and —— feet wide; Ceiling height: ——; Type of floor (wood, concrete) ——; Floor loading capacity: ——; Electric current 110V —— 220V —— Amps ——; Size of doorway through which exhibit can be brought into building: —— feet high; —— feet wide. Size and load limits of freight elevators if event is on other than ground floor: —— feet wide; —— feet high; —— feet deep; load limit: ——.
3. If the event is outdoors:
Area available for exhibit is —— feet long and —— feet wide; Type of surface (sod, paved, gravel) ——; Type of electric current available: 110V —— 220V —— Amps ——; Obstructions to hinder unloading (high curbs, wires, trees):

4. Can forklift, C–2 wrecker or crane be made available for handling exhibits at no additional cost to the Government?

5. Will electric power, necessary services for connections, and other required utilities be provided by the sponsor?

6. Will police escorts through congested areas be required?

7. Will guards be provided for equipment and displays?

8. Is parking space available for tractors and trailers?

9. Name and address of any Armed Forces representative or Government official with whom you have discussed possible participation:

Certification

I certify that the information I have provided here is complete and correct to the best of my knowledge and belief. I understand that representatives of the Military Services will contact me to discuss arrangements and costs involved prior to final commitments.

Signature: (Sponsor's Representative)

Date of Request:

Return this request to:

Enclosure 3

Fact Sheet

(Speaking Engagements by DoD Personnel.)

1. The Department of Defense encourages qualified civilian and military officials at all levels to accept speaking invitations as an effective means of informing the public about Defense matters by developing understanding and stimulating patriotic spirit.

2. DoD personnel may accept speaking invitations provided they adhere to the following guidelines:

a. Participation must not interfere with assigned duties.

b. Speakers must address their remarks to subjects within their official cognizance.

c. Views expressed reflect national policy.

Note.—This requirement exists so that Government employees, when discussing Government business, may accurately explain official policy.

d. Speakers may not participate in partisan political gatherings.

e. DoD speaker participation in fund-raising efforts will be limited to the programs of the Combined Federal Campaign, to such appeals as the President may authorize, and to the Military Service aid societies. Note: Support for local fund-raising programs other than those described above is authorized only when the fund-raising program, is, in fact, *local* in nature and is of community-wide interest and benefit.

f. Their participation must not lend an air of sponsorship to the statements of others which may be partisan in nature and/or contrary to national policy.

g. Situations where the real or apparent purpose is to stage controversy will be avoided.

h. Speakers may not accept invitations when the sponsor or sponsoring organization specifically excludes any person from its membership for reasons of race, creed, color, or national origin. However, DoD support is authorized for programs sponsored by organizations whose qualifications for membership is based on national origin or sex when the program so supported is oriented to the community rather than to the national origin or sex-oriented aspects or objectives of the organization itself; and when admission, seating, and all other accommodations and facilities connected with the program are available to all without regard to race, creed, color, national origin, or sex.

i. Speakers may not accept gratuities, fees, or honoraria. Reimbursement for necessary travel and living costs may be accepted in lieu of reimbursement by the Government.

3. Speaking invitations should be directed to the Public Affairs Officer of the nearest military installation. The Public Affairs Officer would appreciate information of the type outlined on the enclosed speaker request form.

4. Inquiries may also be addressed to Director for Community Relations, Office of the Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D.C. 20301.

Enclosure 4

Speaker Request Format

I. Sponsoring Organization(s)

Name(s)
Person to contact relative to this request (Name, address & telephone number)

II. Meeting

Time:
Date
Meeting will begin at
Meeting will end at
Place:
City
Hall or Auditorium

III. Speech

Subject of speech
Time to be allowed
Will there be a question & answer period following speech?
Time to be allowed for speech

IV. Details of the Program

Other Speakers (Please list in order of appearance)
Speaker
Subject
Length of Speech

V. Audience

Anticipated Size
Composition of audience (teachers, businessmen, etc., or general public)

VI. Publicity

Will the meeting be open to the press?

Will the speech be broadcast? Will it be taped, filmed, or otherwise recorded? ——

VII. Miscellaneous

Would acceptance of this invitation place the DoD speaker in violation of any of the guidelines contained in paragraphs 2.a. through i. of the accompanying Fact Sheet?

Give any other significant information which may be helpful in the selection of an appropriate speaker. If more space is needed use continuation sheets.

Signed ——

Enclosure 5

President's Approved Wreath List

Birth date	Former President	Location	Responsible Military Dept.
Jan. 7	Millard Fillmore	Buffalo, NY	Air Force.
Jan. 29	William McKinley	Canton, OH	Army.
Jan. 30	Franklin D. Roosevelt	Hyde Park, NY	Army.
Feb. 9	William H. Harrison	North Bend, OH	Air Force.
Feb. 12	Abraham Lincoln	Lincoln Memorial	Army.
		Springfield, IL	Army.
3d Monday in February (Official Holiday).	George Washington	Mt. Vernon, VA	Army.
Mar. 15	Andrew Jackson	Nashville, TN	Army.
Mar. 16	James Madison	Montpelier, VA	Navy (U.S. Marine Corps).
Mar. 18	Grover Cleveland	Princeton, NJ	Army.
Mar. 29	John Tyler	Richmond, VA	Army.
Apr. 13	Thomas Jefferson	Jefferson Memorial	Army.
Apr. 23	James Buchanan	Lancaster, PA	Army.
Apr. 27	Ulysses S. Grant	New York, NY	Army.
Apr. 28	James Monroe	Richmond, VA	Army.
May 8	Harry S. Truman	Independence, MO	Army.
May 29	John F. Kennedy	Arlington Cemetery	Army.
July 4	Calvin Coolidge	Plymouth, VT	Army.
July 11	John Quincy Adams	Quincy, MA	Navy.
Aug. 10	Herbert C. Hoover	West Branch, IA	Army.
Aug. 20	Benjamin Harrison	Indianapolis, IN	Army.
Aug. 27	Lyndon B. Johnson	LBJ Ranch, TX	Air Force
Sept. 15	William H. Taft	Arlington Cemetery	Army.
Oct. 4	Rutherford B. Hayes	Freemont, OH	Army.
Oct. 5	Chester A. Arthur	Albany, NY	Air Force.
Oct. 14	Dwight D. Eisenhower	Abilene, KS	Army.
Oct. 27	Theodore Roosevelt	Oyster Bay, NY	Navy.
Oct. 30	John Adams	Quincy, MA	Navy
Nov. 2	James K. Polk	Nashville, TN	Army.
Nov. 2	Warren G. Harding	Marion, OH	Army.
Nov. 19	James A. Garfield	Cleveland, OH	Army.
Nov. 23	Franklin Pierce	Concord, NH	Army.
Nov. 24	Zachary Taylor	Louisville, KY	Army.
Dec. 5	Martin Van Buren	Kinderhook, NY	Army.
Dec. 28	Woodrow Wilson	Washington Cathedral	Army.
Dec. 29	Andrew Johnson	Greeneville, TN	Army.

March 26, 1980.

O. J. Williford,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

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BILLING CODE 3810-70-M

VETERANS ADMINISTRATION

38 CFR Parts 14, 36

VA Home Loans; Delegation of Authority

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Administrator is revoking the section which provides for the use of recorded powers of attorney in connection with the execution of documents conveying or affecting title to property acquired under the Veterans Administration (VA) home loan program. Henceforth, documents conveying or otherwise affecting title to such property must be executed by only the field station Director, Loan Guaranty Officer, or Assistant Loan Guaranty Officer. Other sections currently delegate to employees occupying those positions the authority to exercise many of the powers of the Administrator under the home loan program including the power to convey or otherwise affect the title to property acquired under this program. The sections which contain this delegation of authority are being amended to require that each field station maintain and keep current a list of all employees of that office who have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. The present policy of using powers of attorney has proven to be quite costly, both in terms of personnel time needed to prepare and process powers of attorney and also in terms of fees paid to record these documents in the local public land records. It is the belief of the VA that the new procedure will reduce Federal paperwork and produce a significant cost savings while still affording title companies, attorneys, and purchasers with assurance that the employees executing the documents possess actual authority.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Kane, Assistant General Counsel (021), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C 20420, Telephone: (202) 389-2189.

SUPPLEMENTARY INFORMATION: On August 30, 1979, the Veterans Administration (VA) published for comment in the **Federal Register** (44 FR 50864) a proposal to revoke § 14.620, title 38, Code of Federal Regulations, and to amend §§ 36.4221, 36.4342, and 36.4520. A total of 37 comments were received. Of these, 26 voiced support for a change in the procedures, and 11 stated their opposition. Commentators in favor included 11 title company officials, 7 attorneys, 7 officials of bar or title associations, and 1 area counsel of a Federal agency. Unfavorable comments were received from 5 title company officials, 5 attorneys, and 1 bar association official. Fourteen of the favorable comments stated the authors' unqualified support for our initial proposal. Six title company officials wrote that, although they generally supported the proposed change, they recommended that the VA provide a copy of the list of persons occupying the designated positions to title companies. Three commentators (one attorney, one title company official, and one bar association officer) recommended that such a list be recorded or posted at the local courthouses. One title company official recommended that the delegation be by office and not by name. One attorney recommended that the deed include the telephone number of the VA office which could confirm that the person whose name appears on the deed was in fact authorized to execute the document. One attorney recommended that a copy of the regulation granting authority be brought to the closing. Finally, one attorney recommended that some officer be designated who could certify that the person signing was in fact authorized. Three attorneys, four title company

officials, and one bar association official objected to the proposed change since they believed the proposed procedure did not comply with State law requirements for delegation of authority and because it would be necessary for title examiners to go outside the land records at the local courthouse to ascertain whether or not the person who executed the deed possessed actual authority.

One attorney and one title company official objected to the proposal, stating that the VA office where the proposed listing would be maintained was a considerable distance from where they ordinarily practiced, and therefore checking this list would impose a considerable hardship. Finally, one attorney objected to the proposal, stating that it would be necessary to obtain written confirmation from the VA on each case that the person who signed the deed was in fact authorized. This, the attorney stated, would increase his workload.

The VA believes the suggestion that the delegation of authority be to positions has merit. The regulations (§§ 36.4221(a), 36.4342(a), and 36.4520(a)) currently delegate authority to persons occupying certain offices, *i.e.*, field station Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer.

The VA believes that a recitation on the deed that the person who executed the document on behalf of the Administrator held a particular position, coupled with a citation to the applicable regulation, should be sufficient indication of authority. To provide an additional measure of certainty for those who desire it, a list of persons who have held the designated offices will be maintained at the field station. For the convenience of title examiners, the VA is adopting the recommendation that the deed contain the telephone number of the field station to which an inquiry may be addressed. Persons who believe it necessary to obtain a certified copy of the list under the VA seal may request it from the field office, subject to payment of the fees (see 38 CFR 1.526). Authority to certify copies of documents has been delegated to the General Counsel and Assistant General Counsel (38 CFR 2.5); thus, the recommendation that someone be designated to certify that the official had authority to act is unnecessary. The comments received indicate that the majority of title examiners will not look behind the statement on the deed that the employee held the office indicated and therefore would not find it necessary to check the list maintained at the field station. The VA notes that §§ 36.4221, 36.4342, and 36.4520 authorize redelegation of the authority granted by those sections to other VA employees with the approval of the Chief Benefits Director. To eliminate any uncertainty that such redelegation might create, the VA has determined that redelegation of the authority to execute deeds will not be authorized. No change to the regulation is believed necessary since redelegation involves an internal VA procedure to be covered in internal manuals.

The VA agrees with the comments that the names of persons authorized to execute deeds should be provided to title companies. Instructions will go out to all VA offices to insure that the names of these officials are made known to title companies and other interested parties.

The VA does not agree, however, with the suggestion that the list of names be recorded at the local courthouses. One of the reasons for eliminating powers of attorney is to save the costs of recording these documents in various courthouses around the Nation. Recording a list at the same courthouses would negate this benefit.

The VA concedes that the procedures suggested may not strictly conform with the formal requirements of the laws of each of the 50 States. However, the courts have recognized that, in the sale of VA-owned properties, the United States as sovereign "cannot be subjected to the vagaries of the various state laws which might otherwise control * * *" *U.S.* v. *Wells*, 403 F.2d 596 (5th Cir. 1968). Based upon the experience of other Federal agencies (*i.e.*, the Department of Housing and Urban Development and the Government National Mortgage Association) and the comments received, the VA believes that title examiners will generally accept title conveyed by a VA employee on behalf of the Administrator of Veterans Affairs through the new delegation procedures.

Accordingly, § 14.620 is hereby revoked, and the proposed regulations, as amended, are hereby adopted and are set forth below.

Approved: March 25, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

PART 14—LEGAL SERVICES, GENERAL COUNSEL

§ 14.620 [Revoked]

1. Section 14.620 is revoked and the center title "Power of Attorney and Delegation of Authority in the Making and the Guaranty and Insurance of Loans" is deleted.

PART 36—LOAN GUARANTY

2. In § 36.4221, paragraph (d) is added to read as follows:

§ 36.4221 Delegation of authority.

* * * * *

(d) Each Regional Office, VA Center, and Medical and Regional Office Center shall maintain and keep current a cumulative list of all employees of that Office or Center who, since May 1, 1980, have occupied the positions of Director, Loan Guaranty Officer and Assistant Loan Guaranty Officer. This list will include each employee's name, title, date the employee assumed the position, and the termination date, if applicable, of the employee's tenure in such position. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

3. In § 36.4342, paragraph (d) is added to read as follows:

§ 36.4342 Delegation of authority.

* * * * *

(d) Each Regional Office, VA Center, and Medical and Regional Office Center shall maintain and keep current a cumulative list of all employees of that Office or Center who, since May 1, 1980, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. This list will include each employee's name, title, date the employee assumed the position, and the termination date, if applicable, of the employee's tenure in such position. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

4. In § 36.4520, paragraph (d) is added to read as follows:

§ 36.4520 Delegation of authority.

* * * * *

(d) Each Regional Office, VA Center, and Medical and Regional Office Center shall maintain and keep current a cumulative list of all employees of that Office or Center who, since May 1, 1980, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. This list will include each employee's name, title, date the employee assumed the position, and the termination date, if applicable, of the employee's tenure in such position. The list shall be available for public inspection and copying at the Regional Office, or Center, during

normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

[FR Doc. 80-9767 Filed 3-31-80; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1450-6]

Designation of Areas for Air Quality Planning Purposes Approval of Section 107 Designations for Maryland

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Maryland has revised its list of air quality attainment designations for two counties within the State with respect to ozone (O_3). The State has changed the designation for Garrett and Allegany Counties from nonattainment of primary standards to attainment.

On June 1, 1979, Maryland submitted these revisions to the Environmental Protection Agency, along with supporting information, for promulgation under Section 107(d) of the Clean Air Act.

This notice announces EPA's approval of these changes submitted by Maryland. All other Section 107 designations for the State of Maryland not discussed in this notice remain intact.

EFFECTIVE DATE: April 1, 1980.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, PA 19106.

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Mykijewycz, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106 (phone) 215/597-8181, Ref: 107MD-2.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d)(1) of the Clean Air Act requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for Maryland for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3) and oxides of nitrogen (NO_x), 43 FR 8962. These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended certain of the original designations, 43 FR 40502. The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** on March 3, 1978, 43 FR 8962, September 11, 1978, 43 FR 40412, and September 12, 1978, 43 FR 40502. Maryland has revised its original designation list and on June 1, 1979 submitted these revisions to EPA.

On October 31, 1979, 44 FR 62545, the Environmental Protection Agency acknowledged receipt of these revised designations and solicited public comments on the acceptability of these changes. During the public comment period, no comments were received.

Change to O_3 Designation

The State of Maryland has revised the O_3 designation for Garrett County and Allegany County from nonattainment of primary standards to attainment. The State submitted air quality data showing no violations of the O_3 standards during eight consecutive quarters (January, 1977 to January, 1979). Therefore, EPA redesignates this area to "better than national standards" in accordance with Maryland's revision.

EPA Actions

This designation is being made effective immediately upon publication of this notice in order to lift the statutory restrictions on construction of major sources of pollution currently applying to nonattainment areas for which no SIP revision has been submitted and approved.

Although this action is being taken as a final rule, EPA will consider comments at any time and make appropriate changes in attainment designations.

All comments should be addressed to: Mr. Howard R. Heim, Jr., Chief (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, 10th Floor, Philadelphia, PA 19106. ATTN: 107MD-2.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)))

Dated: March 17, 1980.

Douglas M. Costle,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES APPROVAL OF SECTION 107 DESIGNATIONS FOR MARYLAND

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended and § 81.321 is revised to read as follows:

Subpart C—Section 107 Attainment Status Designation

* * * * * *

§ 81.321 Maryland.

* * * * * *

BILLING CODE 6560-01-M

Maryland - O_x

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Central Maryland Intrastate AQCR		X
Metropolitian Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X
Cumberland-Keyser Interstate AQCR	X	
1. Washington County	X	
2. Garrett County		X
3. Allegany County		X

[FR Doc. 80-9746 Filed 3-31-80; 8:45 am]
BILLING CODE 6560-01-C

40 CFR Part 120

[FRL 1442-6]

Water Quality Standards; Navigable Waters of the State of North Carolina

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is promulgating a final rule reinstating the State's previous dissolved oxygen criterion for a segment of Welch Creek located in Plymouth, North Carolina. EPA is taking this action because testimony and data received at a public hearing held on EPA's proposed rule failed to justify the State-adopted criterion of zero mg/l for the subject stream segment in accordance with 40 CFR 35.1550(c)(3)(III). However, this information did indicate that the State's previous criterion of a daily average of 5 mg/l, but not less than 4 mg/l could be maintained, with provision that swamp waters may have lower values if caused by natural conditions.

EFFECTIVE DATE: This rule becomes effective May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert F. McGhee, Water Division, Environmental Protection Agency, Region IV, 345 Courtland Ave., Atlanta, Georgia 30308 (404/881-4793).

SUPPLEMENTARY INFORMATION: On October 8, 1976, the Weyerhaeuser Company requested the State to grant an exception to the dissolved oxygen criterion for Welch Creek. Weyerhaeuser's request was based on the asserted cost to the facility to achieve the existing water quality standard for its discharge into Welch Creek. On November 30, 1977, the North Carolina Environmental Management Commission (EMC) held a public hearing to receive comments on the proposal to change the dissolved oxygen criterion of the standard for the lower three miles of Welch Creek (Seaboard Coastline Railroad Bridge to the confluence with the Roanoke River) from 5.0 mg/l average, 4 mg/l minimum (5/4), to zero mg/l. The EMC adopted the proposed revision and submitted its action to EPA, Region 4, for approval on July 5, 1978. EPA concluded that Weyerhaeuser had the less costly option of discharging into the Roanoke River, rather than Welch Creek. This alternative would not require modification of the water quality standards for either body of water. EPA reviewed the action of the EMC for consistency and compliance with the Act and 40 CFR 35.1550 and disapproved the variance on October 4, 1978. The North Carolina Division of Environmental Management submitted additional information to support its action on January 5, 1979. EPA discussed this information with both the State and Weyerhaeuser and concluded that the State had not justified the variance.

On October 16, 1979, EPA proposed a dissolved oxygen criterion for Welch Creek (44 FR 59565). The Agency proposed to nullify the zero dissolved oxygen criterion in the subject segment of Welch Creek and reestablish the State's previous criterion of 5 mg/l average, 4 mg/l minimum (with the provision that swamp waters may have lower values if caused by natural conditions). Today's action makes final the EPA proposal.

Since EPA's proposed rulemaking was published, Weyerhaeuser has withdrawn its request for the dissolved oxygen criterion exception for Welch Creek and expressed their intent to proceed with construction of a pipeline for direct discharge to the Roanoke River.

North Carolina's Division of Environmental Management has advised EPA of its intent to seek reinstatement of the statewide oxygen criterion. Though this action has been intended, it has not been undertaken. In the event that the State amends the criterion variation for Welch Creek, EPA will withdraw its promulgation.

As part of the rulemaking process, EPA held a public hearing on December 6, 1979 in Plymouth, North Carolina, for the purpose of receiving comments on the proposed rule. A summary of the comments received and EPA's response to the issues raised in these comments follows.

Digest of Public Comments on Proposed Rule and EPA's Response

EPA received four comments on the proposed rule, two of which were provided by the same individual. A list of the individuals and/or organizations represented are included in Appendix A.

The general attitude expressed in the comments received was that the zero mg/l dissolved oxygen criterion adopted by the State would be detrimental to aquatic life. In general, the comments were supportive of EPA's proposed rule.

A commercial fisherman provided fish kill investigation reports done by the State's fisheries biologists which noted excessive growths of slime downstream of Weyerhaeuser's plant which were identified as a species of zooplankton which could have caused stress and contributed to the fish kills. Low dissolved oxygen was also found in this area. The fisherman was opposed to rerouting the discharge to the Roanoke River and urged EPA to require Weyerhaeuser to improve the quality of their discharge so that more protection would be provided for both Welch Creek and the Roanoke River. Another commenter also supported EPA's action to overrule the Environmental Management Commission's standards revision but expressed concern about the potential impact on the Roanoke River if the discharge was relocated there.

In response, EPA cites information contained in the State hearing record indicating that rerouting Weyerhaeuser's discharge to the Roanoke River will not adversely affect the Roanoke River and is expected to maintain water quality standards on the Roanoke.

The State expressed concern regarding EPA action that in effect overrules the State's legal authority and responsibility in regard to State water quality standards.

EPA's response to the State's concern is based in the Act at section 303(c)(4)(A) and (B).

Availability of Record

The transcript of the hearings referred to in this preamble as well as written comments and additional technical supporting information relative to today's action are hereby made a part of the record of this rulemaking. The entire administrative record is available for public inspection and copying at the Environmental Protection Agency, Region 4 Office at the address noted above. The hearing transcript and other written comments are available for inspection and copying at the EPA library, 401 M Street, SW, Washington, D.C. 20460, during the Agency's normal business hours of 8:00 a.m. to 4:30 p.m.

Dated: March 21, 1980.

Douglas M. Costle,

Administrator.

Appendix A

North Carolina Department of Natural Resources and Community Development.
Sierra Club
Private citizens: Gilbert Layton

PART 120—WATER QUALITY STANDARDS

Section 120.43 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations hereby will read as follows:

§ 120.43 North Carolina.

The water quality criteria variance of zero mg/l dissolved oxygen for Welch Creek from the Seaboard Coastline Railroad bridge to the Roanoke River which was approved by the North

Carolina Environmental Management Commission on June 8, 1978, is null and void. The Class C dissolved oxygen criterion of not less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l (with the proviso that swamp waters may have lower values if caused by natural conditions) is reinstated as the applicable limitation.

[FR Doc. 80-9724 Filed 3-31-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1451-8; 80P-17]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate on stone fruit at 0.2 part per million (ppm). The regulation was requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate on stone fruit.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202-755-2196).

SUPPLEMENTARY INFORMATION: On February 14, 1979, notice was given (44 FR 9625) that Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, had filed a pesticide petition (PP 9F2162) with the EPA under provisions of the Federal Food, Drug, and Cosmetic Act. This petition proposed that 40 CFR 180.364 be amended to establish a tolerance for combined residues of the herbicide glyphosate (*N*-phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on the crop grouping stone fruit at 0.2 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rabbit acute oral toxicity study with a lethal dose (LD_{50}) of 3.8 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 2,000 ppm; a 90-day dog feeding study with an NOEL of 2,000 ppm; two rabbit teratology studies, negative at 30 mg/kg bw/day (highest dose); a 2-year dog feeding study with an NOEL of 300 ppm; a 3-generation rat reproduction study with an NOEL of 300 ppm (highest level fed), a 2-year rat feeding study with an NOEL of 100 ppm; a neurotoxicity (hen) study, negative at 7.5 mg/kg bw; a dominant lethal (mice) study, negative at 10 mg/kg bw; host-mediated assay (negative); an Ames test (negative); and a rec-assay (negative).

Desirable data that are lacking are a repeat of the teratology study, a teratology study on a second mammalian species, a repeat of mutagenicity testing (multi-test evidence), and full exploration of the oncogenic potential. The studies available show that glyphosate has low potential for showing any teratological effects. The lifetime rat and mouse studies suggest glyphosate to have a relatively low oncogenic potential. Two additional oncogenic studies are needed. A further assurance of low risk associated with glyphosate is found in the fact that on a theoretical basis, the exposure via the diet is relatively low. The petitioner has been notified of the deficiencies and has agreed to furnish data reflecting the required studies.

The acceptable daily intake (ADI) is 0.05 mg/kg bw/day based on the NOEL of 100 ppm (5 mg/kg bw/day) in the 2-year rat feeding study using a 100-fold safety factor. Based on a theoretical maximum residue contribution (TMRC) of 0.2 mg/day for a 60-kg man or 6.93 percent of the ADI, tolerances ranging from 0.1 ppm to 15 ppm have previously been established for residues of glyphosate on a variety of raw agricultural commodities. Other approved but unpublished tolerances utilize the ADI to 1.08 percent. The current action utilizes 0.13 percent of the ADI. All tolerances for glyphosate utilize 10.93 percent of the ADI.

A regulatory action was pending against glyphosate based on its contamination with *N*-nitrosoglyphosate, but this was resolved since no residues of the contaminant at detectable levels were present in the raw agricultural commodities, nor did it pose a hazard to the applicator. There are no regulatory actions pending against the pesticide and no RPAR criteria have been exceeded.

Since stone fruits are not feed items, there is no reasonable expectation of residues in meat, milk, poultry, and eggs resulting from this use. Cover crops in orchards are feed items, but secondary residues in meat resulting from their use would be covered by the established liver and kidney tolerances (40 CFR 180.6(a)(2) applies). The metabolism of glyphosate is adequately understood, and an adequate analytical method (gas chromatography using a phosphorus specific flame photometric detector) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.2 ppm on stone fruit established by amending 40 CFR 180.364 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before May 1, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, D.C. 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on April 1, 1980, Part 180 is amended as set forth below.

Part 180, Subpart C, § 180.364 is amended by alphabetically inserting stone fruit at 0.2 ppm in the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Stone fruit	0.2
* * * * *	

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

Dated: March 26, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc 80-9795 Filed 3-31-80; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5715

[S-5149]

California; Modification of Public Land Order No. 2595

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies PLO No. 2595 by withdrawing a 9.78-acre tract from operation of the mining laws only.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Evelyn Tauber, 202–343–6486

By virtue of the authority contained in the Act of September 5, 1958 (72 Stat. 1722), and pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 2595 of January 27, 1962, which modified Public Land Order No. 2136 of June 22, 1960, to the extent necessary to permit prospecting, location, entry, and purchase under the mining laws of the United States is hereby modified to delete the following "to the extent necessary to permit prospecting, location, entry, and purchase of the following described land under the mining laws of the United States":

Mount Diablo Meridian

T. 3 S., R. 20 E.,
Sec. 18, a parcel of land situated in the S½SW¼ bounded by a line particularly described as follows: Beginning at Corner #1, from which the quarter corner between Sections 17 and 18 of said Township and Range bears N. 60°35'11"E., 4101.2 feet distance; thence N.0°55'15"W., 393.6 feet to Corner #2; thence N. 32°37'30"W., 640.0 feet to Corner #3; thence N. 48°28'W., 174.9 feet to Corner #4; thence S. 12°09'15"W., 921.7 feet to Corner #5; thence S. 77°41'45"E., 692.3 feet to Corner #1, the point of beginning.

The area described aggregates approximately 9.78 acres.

The above described land remains withdrawn from operation of the general mining laws.

Guy R. Martin,
Assistant Secretary of the Interior.
March 21, 1980.
[FR Doc. 80-9841 Filed 3-31-80; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul, & Pacific Railroad Co. at Oshkosh, Wis.

AGENCY: Interstate Commerce Commission.

ACTION: Corrected Service Order No. 1436.

SUMMARY: This order authorizes the Chicago and North Western Transportation Company (CNW) to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Oshkosh, Wisconsin, in order to relieve cars trapped by the MILW embargo. The order is being corrected to add an expiration date.

EFFECTIVE DATE: 12:01 a.m., March 14, 1980, and continuing in effect until 11:59 p.m., March 21, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275–7840.

Decided: March 13, 1980.

By Order No. 290A, dated February 25, 1980, the United States District Court for the Northern District of Illinois, Eastern Division, authorized the Trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to impose an embargo on all operations outside of the MILW "core system" as identified by the Court. The MILW was authorized to place an embargo on inbound traffic as of 11:59 p.m., February 27, 1980, and on originating traffic as of 11:59 p.m., February 29, 1980. The MILW placed Embargo No. 10–80 as directed by the Court, effective on these dates.

The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Oshkosh, Wisconsin, have been included in this embargo. Duwe Concrete Industries has been deprived of essential railroad service because of the inability of the MILW to switch this industry at Oshkosh. The Chicago and North Western Transportation Company (CNW) has agreed to switch this industry in order to relieve cars trapped by the embargo. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring the operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure 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,

§ 1033.1436 Corrected Service Order No. 1436.

(a) *Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Oshkosh, Wisconsin.* The Chicago and North Western Transportation Company (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Oshkosh, Wisconsin, for the purpose of switching Duwe Concrete Industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective 12:01 a.m., March 14, 1980.

(e) [1] *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 21, 1980, unless otherwise modified, amended or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads, subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

James H. Bayne,
Acting Secretary.
[FR Doc. 80-9882 Filed 3-31-80; 8:48 am]
BILLING CODE 7035-01-M

[1] Corrected.

49 CFR Part 1033

[Revised Service Order No. 1448]

The Denver and Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island, Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1448.

SUMMARY: This order authorizes The Denver and Rio Grande Western Railroad Company (DRGW) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

1. From Sandown Junction, Milepost .1 to and including Belt, Milepost 3.9 (junction with DRGW Belt Line), all in the vicinity of Denver, Colorado.

2. From Colorado Springs, Milepost 609.1 to and including Milepost 602.8, including all rail facilities at Colorado Springs and Roswell, all in the vicinity of Colorado Springs, Colorado.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 19, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Denver and Rio Grande Western Railroad Company (DRGW) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by DRGW over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less that thirty days' notice.

It is ordered,

§ 1033.1448 Revised Service Order No. 1448.

(a) The Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee). The Denver and Rio Grande Western Railroad Company (DRGW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

1. From Sandown Junction, Milepost .1 to and including Belt, Milepost 3.9 (junction with DRGW Belt Line), all in the vicinity of Denver, Colorado.

*2. From Colorado Springs, Milepost 609.1 to and including Milepost 602.8, including all rail facilities at Colorado Springs and Roswell, all in the vicinity of Colorado Springs, Colorado.

(b) Application. The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) A similar application has been received from Cadillac and Lake City Railway Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the DRGW to conduct these temporary operations in the public interest as listed in paragraph (a). Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123 (b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the DRGW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via DRGW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, DRGW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled "*Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association*" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if DRGW chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9804 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

*Addition.

49 CFR Part 1033

[Service Order No. 1454]

Des Moines Union Railway Co. Authorized To Operate Over Tracks Embargoed by Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1454.

SUMMARY: This order authorizes the Des Moines Union Railway Company (DMU) to operate over tracks embargoed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Des Moines (Milepost 0) and Clive (Milepost 8.5 in the 25th Sub Division of the Illinois-Iowa Division) and between Clive (Milepost 0) and Grimes, Iowa (Milepost 7 in the 27th Sub Division of the Illinois-Iowa Division), a total of 15.5 miles for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., March 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 21, 1980.

By Order No. 290A, dated February 25, 1980, the United States District Court for the Northern District of Illinois, Eastern Division, authorized the Trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to impose an embargo on all operations outside of the MILW "core system" as identified by the Court. The MILW was authorized to place an embargo on inbound traffic as of 11:59 p.m., February 27, 1980, and on originating traffic as of 11:59 p.m., February 29, 1980. The MILW placed Embargo No. 10–80 as directed by the Court, effective on these dates. A subsequent court order authorized the Trustee to embargo additional lines named in Embargo No. 13–80, effective 11:59 p.m., March 23, 1980.

The lines from Des Moines to Grimes, Iowa are included in this embargo. Des Moines Union Railway Company (DMU) has applied to the Railroad Service Board to operate those lines. MILW has consented to the use of these lines by DMU.

It is the opinion of the Commission that an emergency exists requiring the operation by DMU over tracks embargoed by MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days notice.

It is ordered,

§ 1033.1454 Service Order No. 1454.

(a) *Des Moines Union Railway Company authorized to operate over tracks embargoed by Chicago, Milwaukee, St. Paul and Pacific Railroad Company.* Des Moines Union Railway Company (DMU) is authorized to operate over tracks embargoed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Des Moines (Milepost 0) and Clive (Milepost 8.5 in the 25th Sub Division of the Illinois-Iowa Division) and between Clive (Milepost 0) and Grimes, Iowa (Milepost 7 in the 27th Sub Division of the Illinois-Iowa Division), a total of 15.5 miles, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation to begin on or about April 1, 1980, will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rates applicable.* Inasmuch as this operation by DMU over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable via DMU become effective.

(f) In transporting traffic over these lines, DMU and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled "*Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association*" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if DMU chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9806 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1440]

El Dorado & Wesson Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1440.

SUMMARY: This order authorizes the El Dorado and Wesson Railroad Company

to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at El Dorado, Arkansas, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 14, 1980.

The lines of the Chicago, Rock Island and Pacific Railroad Company (RI) at El Dorado, Arkansas are embargoed depriving shippers located between El Dorado and Newell, Arkansas, on the lines of the El Dorado and Wesson Railroad Company (EDW) of essential railroad service. The EDW connects with the RI at El Dorado and has consented to operate over these tracks in order to interchange its traffic with the Missouri Pacific Railroad Company.

It is the opinion of the Commission that an emergency exists requiring the operation of EDW trains over these tracks of the RI in the interest of the public; that notice and public procedure 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,

§ 1033.1440 Service order No. 1440.

(a) (*El Dorado and Wesson Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee*). El Dorado and Wesson Railroad Company (EDW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at El Dorado, Arkansas for the purpose of interchanging its traffic with the Missouri Pacific Railroad Company and providing continued service to its shippers.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation, if any, will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the EDW over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via EDW become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, EDW and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if EDW chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-9802 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1444]

Fort Worth & Denver Railway Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1444.

SUMMARY: This order authorizes the Fort Worth and Denver Railway Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) including terminal trackage at Amarillo, TX (milepost 754.1 to milepost 766.0) and all yard trackage within these points and including the spur tracks (old Liberal Line) to the Asarco Plant; and Bowie, TX (milepost 543.2) to North Fort Worth, TX (milepost 609.6), for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840.

Decided: March 19, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Fort Worth and Denver Railway Company (FWD) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by FWD over tracks formerly

operated by RI in the interest of the public; that notice and public procedure 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,

§ 1033.1444 Service Order No. 1444.

(a) *Fort Worth and Denver Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* The Fort Worth and Denver Railway Company (FWD) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) as listed below for the purpose of serving industries located adjacent to such tracks.

(1) Terminal trackage at Amarillo, Texas, (milepost 754.1 to milepost 766.0) including all yard trackage within these points and including the spur tracks (old Liberal Line) to the Asarco Plant.

(2) Bowie, Texas (milepost 543.2) to North Fort Worth, Texas, (milepost 609.6).

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Similar applications have been received from Missouri-Kansas-Texas Railroad Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the FWD to conduct these temporary operations in the public interest as listed in paragraph (a). Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the FWD over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via FWD become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, FWD and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if FWD chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) Effective date. This order shall become effective at 12:01 a.m., March 24, 1980.

(i) Expiration date. The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9803 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1450]

Illinois Central Gulf Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1450.

SUMMARY: This order authorizes the Illinois Central Gulf Railroad Company (ICG) to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at Waterloo, Iowa, for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 18, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Illinois Central Gulf Railroad Company (ICG) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by ICG over tracks formerly operated by RI in the interest of the public; that notice and public procedure 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,

§ 1033.1450 Service Order No. 1450.

(a) *Illinois Central Gulf Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* The Illinois Central Gulf Railroad Company (ICG) is authorized to operate over tracks of the Chicago, Rock Island and

Pacific Railroad Company (RI) located at Waterloo, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123 (b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the ICG over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via ICG become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, ICG and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled *"Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association"* (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if ICG chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9805 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1439]

The Union Pacific Railroad Authorized To Operate Over Tracks Embargoed by Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1439.

SUMMARY: This order authorizes the Union Pacific Railroad to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at Beatrice, Nebraska; between Colby and Goodland, Kansas; approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to a point approximately 0.3 miles north of Hallam, Nebraska (RI M.P. 581.5) for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 18, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Union Pacific Railroad Company (UP) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by UP over tracks formerly operated by RI in the interest of the public; that notice and public procedure 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,

§ 1033.1439 Service Order No. 1439.

(a) *Union Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* The Union Pacific Railroad Company (UP) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

1. Beatrice, Nebraska.

2. Between Colby and Goodland, Kansas.

3. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska to RI Milepost 581.5 North of Hallam, Nebraska.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the UP over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such

traffic when routed via RI, until tariffs naming rates and routes specifically applicable via UP become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, UP and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled "*Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association*" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if UP chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9607 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Revised Service Order No. 1439]

Union Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Revised Service Order No. 1439.

SUMMARY: This order authorizes the Union Pacific Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) located at Topeka, Kansas, between RI milepost 88.99 and RI milepost 85.25 for the purpose of serving industries located adjacent to such tracks, and provides for continuation of serivce to shippers which would otherwise be deprived of essential railroad service.

1. Beatrice, Nebraska.

2. Between Colby and Goodland, Kansas.

3. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to a point approximately 0.3 miles north of Hallam, Nebraska (RI Milepost 581.5).

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 19, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Union Pacific Railroad Company (UP) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by UP over tracks formerly operated by RI in the interest of the public; that notice and public procedure are impracticable and contrary to the pubic interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1439 Service Order No. 1439.

(a) *Union Pacific Railroad Company Authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* The Union Pacific Railroad Company (UP) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

1. Beatrice, Nebraska.

2. Between Colby and Goodland, Kansas.

3. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 North of Hallam, Nebraska.

*4. At Topeka, Kansas between former RI milepost 88.99 to former milepost 85.25.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Similar applications have been received from Missouri-Kansas-Texas Railroad Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the UP to conduct these temporary operations in the public interest (a). Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the UP over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via UP become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, UP and all other common carriers involved shall proceed even though no

*Addition.

contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On March 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled "*Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organization operating through the Railway Labor Executives' Association*" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if UP chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

[FR Doc. 80-9800 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Third Revised Service Order No. 1439]

Union Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Third Revised Service Order No. 1439.

SUMMARY: This order authorizes the Union Pacific Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks, and provides for continuation of service to shippers which would otherwise be deprived of essential railroad service.

1. Beatrice, Nebraska
2. Between Colby and Goodland, Kansas
3. Approximately 36.5 miles of trackage extending from fairbury, Nebraska, to RI milepost 581.5 north of Hallam, Nebraska
4. Goodland, Kansas and Caruso, Kansas.

EFFECTIVE DATE: 12:01 a.m., March 24, 1980, and continuing in effect until 11:59 p.m., May 31, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: March 21, 1980.

The embargo of the lines of Chicago, Rock Island and Pacific Railroad Company (RI) is depriving shippers located adjacent to those tracks of essential railroad service. The Union Pacific Railroad Company (UP) connects with the RI and has consented to operate over these tracks in order to serve the industries.

It is the opinion of the Commission that an emergency exists requiring the operation by UP over tracks formerly operated by RI in the interest of the public; that notice and public procedure 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,

§ 1033.1439 Third Revised Service Order No. 1439.

(a) *Union Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* The Union Pacific Railroad Company (UP) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at the following locations for the purpose of serving industries located adjacent to such tracks.

1. Beatrice, Nebraska
2. Between Colby and Goodland, Kansas
3. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska
4. Goodland, Kansas to Caruso, Kansas.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Similar applications have been received from Missouri-Kansas-Texas Railroad Company to operate portions of RI tracks herein indicated. The Railroad Service Board has reviewed these applications and considered the recommendations of the Department of Transportation, and has approved the application of the UP to conduct these temporary operations in the public interest (a). Nothing herein shall be considered as a prejudgment of any application seeking permanent authority to operate over these tracks.

(d) Compensation will be on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 11123(b)(2) of the Interstate Commerce Act.

(e) *Rate applicable.* Inasmuch as this operation by the UP over tracks previously operated by the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable via UP become effective.

The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(f) In transporting traffic over these lines, UP and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority

conferred upon it by the Interstate Commerce Act.

(g) *Employees.* On march 4, 1980, a number of rail carriers and labor unions reached an agreement regarding the proper level of employee protection entitled "*Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations operating through the Railway Labor Executives' Association*" (Negotiated Labor Protection Agreement). We have reviewed the negotiated labor protection agreement and find that it adequately safeguards the interests of affected employees.

Accordingly, if UP chooses to exercise the authority granted by this decision, it shall afford affected employees the protection contemplated by the negotiated labor protection agreement and any subsequent amendments to it.

(h) *Effective date.* This order shall become effective at 12:01 a.m., March 24, 1980.

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

James H. Bayne,

Acting Secretary.

FR Doc. 80-9801 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Ruby Lake National Wildlife Refuge, Nev.; Public Entry and Use

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of portions of the Ruby Lake National Wildlife Refuge to the controlled use of boats is compatible with the objective for which the refuge was established and will provide additional recreational opportunity to the public. This document establishes special regulations for the upcoming boating season.

DATES: Effective May 1, 1980 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Forrest Cameron, Refuge Manager, Ruby Lake National Wildlife Refuge, Ruby Valley, NV 89833, telephone (702) 779–2237.

SUPPLEMENTARY INFORMATION: The primary author of this document is Patrick L. O'Halloran.

These special regulations are the same as those issued for the 1979 boating season. The special regulations are the result of two lawsuits (civil actions No. 78–1210 and No. 78–1332 filed in 1978, by the Defenders of Wildlife, et al., in United States District Court, Washington, D.C., against the Secretary of the Interior, Assistant Secretary for Fish and Wildlife and Parks, and the Director, Fish and Wildlife Service). The special regulations reflect the court's order to the Secretary of the Interior to issue regulations "which permit secondary uses of Ruby Lake only insofar as such usages are not inconsistent with the primary purposes for which the refuge was established".

General Conditions: Boating is permitted on national wildlife refuges in accordance with 50 CFR Part 26, all applicable State regulations and the following special regulations.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Ruby Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976, and the Service's Environmental Impact Assessment published in June 1976, public comment received on earlier proposed rules, public comment on the assessment, and the evidence presented during litigation of the court cases cited herein. Funds are available for the administration of the recreational activities permitted by these regulations.

As provided by 50 CFR 26.33, the Service hereby issues the following Special Regulations:

§ 26.34 Special regulations concerning public access, use and recreation for Ruby Lake National Wildlife Refuge, Nev.

Beginning on June 15, 1980, and continuing until December 31, 1980, motorless boats and boats with electric motors will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. Beginning on August 1, 1980, and continuing until December 31, 1980, boats propelled with a motor or combination of motors in aggregate not to exceed a 10 horsepower rating will also be permitted on the South Sump of the Refuge. Water skiing or the use of jet skis will not be permitted. Boats may be launched only from landings approved and so designated by the Refuge Manager.

Maps depicting the South Sump will be available from the Refuge Manager and will be posted at the boat landings. Copies of the maps can also be obtained from: (1) The Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232; and (2) the Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–2740, Sacramento, California 95825.

Dated: March 21, 1980.

William D. Sweeney,

Area Manager, California-Nevada, U.S. Fish and Wildlife Service.

[FR Doc. 80-9873 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 656

Fishery Management Plan for the Mackerel Fishery of the Northwest Atlantic Ocean; Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Emergency regulations.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved, with the exception of one provision, an amendment to the Fishery Management Plan for the Mackerel Fishery of the Northwest Atlantic Ocean (FMP). These regulations implement the management measures contained in the amendment which would (1) establish an initial level of harvest for United States vessels catching Atlantic mackerel and (2) establish a reserve from which mackerel may be distributed to the domestic and foreign fisheries. All regulations governing the foreign fishery for mackerel contained in 50 CFR Part 611 are continued in effect without change. The amendments to Part 656, which include technical changes to the Atlantic mackerel regulations now in effect, are promulgated as emergency regulations.

EFFECTIVE DATES: These emergency regulations are effective on April 1, 1980. They will remain in effect until May 15, 1980, unless they are terminated earlier or extended for an additional 45 days.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Mid-Atlantic Fishery Management Council (Council) and approved by the Assistant Administrator on July 3, 1979, in accordance with the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.* (Act). Final regulations implementing the FMP were published on February 21, 1980, (45 FR 11497). Those regulations establish annual quotas on a fishing year basis (April 1–March 31) for domestic vessels harvesting Atlantic mackerel (*Scomber scombrus*), as well as a mechanism for making in-season reallocations of mackerel between the domestic commercial and recreational fisheries. The FMP was to expire on March 31, 1980.

On March 17, 1980, the Assistant Administrator approved, with one exception, an amendment to the FMP. The approved provisions of the amendment: (1) Extend the FMP through March 31, 1981; (2) increase the optimum yield (OY) from 15,200 to 30,000 metric tons (mt); (3) increase domestic annual harvest capacity (DAH) from 14,000 to 20,000 mt; (4) increase the total allowable level of foreign fishing (TALFF) from 1,200 to 4,000 mt; and (5) establish a reserve of 6,000 mt, which is available for distribution to the domestic and foreign fisheries.

Optimum Yield

The 1979 mackerel stock assessment indicates an Atlantic mackerel stock size of 631,000 mt, a significant increase over the 1978 stock size (515,000 mt). This increase is primarily the result of an abundant 1978 year class. This year class has also helped rebuild the spawning stock size at the beginning of 1980 to a range of 421,000 to 488,000 mt; the size of the spawning stock at the beginning of 1979 was 358,000 mt. Because of the increased abundance of mackerel, the Council raised the OY for fishing year 1980–81 from 15,200 mt to 30,000 mt. The Council selected a conservative OY to assure preservation of the stock and to permit further stock rebuilding.

DAH and TALFF

With an increased abundance of mackerel, the Council expects recreational catches to rise. However, the Council does not have enough information to ascertain whether domestic commercial harvests will also expand. Therefore, the Council has set the domestic annual harvesting capacity (DAH) at 20,000 mt for fishing year 1980–81; this is a 6,000 mt increase over the previous fishing year. Unlike the original DAH, which "allotted" 9,000 mt to the recreational fishery and 5,000 mt to the commercial fishery, there is no distinction in the 20,000 mt DAH between recreational and commercial fisheries. The Council believes that the DAH plus the reserve provides enough mackerel for all domestic fishermen; therefore, apportioning mackerel among domestic recreational and commercial fishermen is unnecessary and would only complicate management and increase management costs.

Because of the increased abundance of mackerel, foreign vessels directing their fishing toward such species as squid are likely to catch greater incidental amounts of mackerel. To prevent restricting these directed foreign fisheries, TALFF has been increased from 1,200 mt to 4,000 mt.

Reserve

The Council's uncertainties as to the exact harvesting capacities of the domestic recreational and commercial fisheries, partially caused by the rapid increase in stock size, and its desire to provide an opportunity for expansion of the commercial mackerel fishery for export, resulted in the Council's establishment of a reserve at 6,000 mt. Should the increased abundance of mackerel allow the domestic fisheries to increase their harvest during the fishing year beyond DAH, mackerel in the reserve are available to the domestic fishery. Mackerel may be allocated from the reserve to TALFF only if projections indicate the fish will not be harvested by domestic recreational and commercial fishermen.

A reserve is used in situations of uncertainty regarding growth in the domestic fisheries. For an allocation procedure from reserve to TALFF to be acceptable, the procedure must allow, in practice, a reasonable opportunity for increasing TALFF and permitting foreign harvest. Otherwise, OY may not be achieved. This amendment's procedure and criteria for allocating mackerel from the reserve to TALFF would have provided for a review of domestic fishing activities after six months of the fishing year had passed. If the Assistant Administrator had determined that the estimated domestic harvest of mackerel for the fishing year would be less than 80 percent of the total of DAH and the reserve, only a portion of the reserve could have been allocated to TALFF.

However, the Assistant Administrator has found that this provision would prevent flexibility in making in-season adjustments to TALFF and allocating the entire reserve, even if domestic harvesters do not reach DAH. He has further determined that this provision is inconsistent with National Standard 1 of the Act, which requires that "Conservation and management measures shall prevent overfishing while achieving on a continuing basis, the optimum yield from each fishery." Consequently, he has disapproved this provision of the amendment. In accordance with Section 304(a) of the Act, he has notified the Council, in writing, of his partial disapproval. The Council has 45 days from the date of notification to resubmit the provision. Proposed regulations concerning the allocation of the Reserve will be published in the near future (see discussion below under "Proposed Regulations").

Proposed Regulations

Proposed amendments to the regulations which would implement the conservation and management measures contained in the amendment will be published in the **Federal Register.** These measures provide that: (1) an optimum yield of mackerel is established at 30,000 mt; (2) an initial level of domestic harvest is set at 20,000 mt; and (3) a reserve of 6,000 mt is established for distribution to the domestic and foreign fisheries as appropriate. In addition, the proposed regulations would revise the criteria for closing the fishery.

Technical changes to the regulations currently in effect are also reflected in the proposed amendments. These changes are intended to provide uniform language with the regulations implementing other fishery management plans prepared by the Council.

Two sections in the proposed regulations are "Reserved" and will be published in the near future. Section 656.22 ("Allocation") will be promulgated when the Assistant Administrator approves a mechanism which allocates mackerel from the reserve to TALFF in a manner which is consistent with the provisions of the Act. A regulatory procedure for reallocation from the reserve to DAH is unnecessary, since the entire reserve is implicitly available to the domestic fishery, if needed.

Section 656.5(b)(2) ("Domestic mackerel processing capacity"), which will implement a provision of the original FMP, will be promulgated when the National Marine Fisheries Service, after consultation with industry, develops a form and establishes a system to receive reports on capacity from mackerel processors.

One person who commented on the original FMP was concerned that the regulations could be applied to vessels which fish in the Gulf of Mexico. The FMP states that *Scomber scombrus* ranges from Labrador to North Carolina; therefore, these mackerel regulations would apply only to vessels fishing in that geographical area within waters subject to the exclusive fishery management jurisdiction of the United States. In § 656.2, the definition of "Atlantic mackerel or mackerel" has been amended to specify the range of this species.

Emergency Regulations

In accordance with the provisions of Section 305(e) of the Act, the proposed regulations are implemented as emergency measures. The Assistant Administrator has determined that this emergency action is necessary to provide conservation and management measures to govern fishing for mackerel until final regulations to implement the partially approved amendment are promulgated during May, 1980. A gap in the regulatory process during the early part of the 1980–81 fishing year might have jeopardized the credibility, continuity, and effectiveness of the entire management system for this newly regulated fishery.

Executive Order

Executive Order 12044 does not apply to these emergency regulations. The development and implementation to the amendment have been deemed a non-significant federal action which does not affect the quality of the human environment.

(16 U.S.C. 1801 *et seq.*).

Signed at Washington, D.C., this 27th day of March, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

1. It is proposed to retain those regulations in Part 611 governing foreign fishing for Atlantic mackerel.

2. Part 50 CFR 656 is amended by emergency regulation as follows:

§ 656.1 [Amended]

Add a new sentence at the end of paragraph (b) as follows: "The Appendix to 50 CFR 611.20 contains the TALFF for Atlantic mackerel."

§ 656.2 [Amended]

1. Add the words "ranging from Labrador to North Carolina." at the end of the definition of *Atlantic mackerel.*

2. Delete the definition of commercial fishing.

3. Delete the definition of recreational fishing.

§ 656.4 [Amended]

1. Delete paragraph (a) and substitute the following:

(a) *General.* Every fishing vessel which fishes for Atlantic mackerel under this Part must have a fishing permit issued under this section. Vessels are exempt from this requirement if they catch no more than 100 pounds of mackerel per trip.

2. Strike (vii) in paragraph (c)(2) and substitute the following: (vii) The permit number of any current or previous Federal fishery permit issued to the vessel.

§ 656.5 [Amended]

1. Strike paragraph (a)(1)(i) and substitute the following: (i) Maintain on board the vessel an accurate and complete fishing vessel record on forms supplied by the Regional Director.

2. Strike paragraph (a) (3) and substitute the following:

(3) Fishing vessel records shall contain information on a daily basis for the entirety of any trip during which mackerel or any other regulated species are caught. The information shall include dates of fishing, type and size of gear used, areas fished, duration of fishing time, time period of tow or gear set, and the estimated weight of each species taken.

3. Strike paragraph (b) and substitute the following:

(b) *Fish dealer and processor reports.* (1) Any person who receives Atlantic mackerel for a commercial purpose from a fishing vessel subject to this Part shall file a weekly report (Sunday through Saturday) within 48 hours of the end of the week in which mackerel is received. This report shall include information on all first purchases of mackerel and all other fish made during the week. Such information shall include date of transaction, name of the vessel from which mackerel was received, and the amount and price paid for mackerel and all other fish received.

4. Add new paragraphs (2), (3) and (4) to paragraph (b).

(2) *Domestic mackerel processing capacity.* [Reserved]

(3) Reports required by § 656(b) shall be made on forms supplied by the Regional Director and submitted to a location designed by him.

(4) Any person required by § 656.5(b) to file reports shall permit an Authorized Officer or an employee of the National Marine Fisheries Service designated by the Regional Director to make inspections, and to inspect or reproduce any records or books relating to information required to be contained in those reports. These inspections may take place at the principal place of business or at the location where these required records are regularly kept.

§ 656.6 [Amended]

1. The last sentence in paragraph (a) reads: "The Official Number is the documentation number issued by the U.S. Coast Guard for documented vessels or the registration number issued by a State of the U.S. Coast Guard for undocumented vessels". The word "of" which appears between "State" and "the" is stricken and the word "or" is substituted.

2. Paragraph (b)(2) is amended by striking the words "painted legibly in" which appears in the first sentence, so the sentence now reads:

"The Official Number shall be permanently affixed to or painted on the vessel and shall be block Arabic numerals in contrasting color."

§ 656.7 [Amended]

1. Delete slash which appears in paragraph (c), substitute the word "or".

2. Capitalize the word "Part" which appears in paragraph (e).

3. Strike the word "or" which appears between the words "control" and "ship" in paragraph (f), and substitute "of".

4. Delete slash between "fish dealer" and "processor reports" in paragraph (i) and substitute the word "or".

§ 656.8 [Amended]

1. Insert quotation marks in paragraph (b)(2) after "you" and before "and".

2. Strike words "Federal Law Enforcement" in subparagraph (c)(4) and substitute "Authorized".

§ 656.21 [Amended]

1. Strike paragraph (a) and substitute the following:

(a) *Harvest levels.* The allowed level of harvest of Atlantic mackerel on a fishing year basis is 30,000 metric tons (mt). The initial level of harvest by vessels of the United States is 20,000 mt.

(b) *Reserve.* A reserve of 6,000 mt is available for adjustments to the initial level of domestic harvest and for allocation to the total allowable level of foreign fishing. Allocations to the initial level of foreign harvest shall be made in accordance with the procedures set forth in § 656.22 of this Part.

2. Renumber (b) as (c)

3. Strike the word "limit" in the first sentence of new paragraph (c) and substitute "restrict".

§ 656.22 Allocation. [Deleted and Reserved]

Strike entire section, retitle "Allocation" [Reserved].

§ 656.23 [Amended]

1. Strike paragraph (b) and substitute the following:

(b) *Decision to close.* The Assistant Administrator shall close the domestic fishery when it has harvested 80 percent of the total of the initial level of domestic harvest plus the part of the reserve which has not been allocated to the initial level of foreign harvest.

2. Strike the words "recreational or commercial" in paragraph (c).

[FR Doc. 80-9875 Filed 3-31-80; 8:45 am]

BILLING CODE 3510-22-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflationary Pay and Price Standards, Interim Final Rules Amending Intermediate Price Limitations, Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final Rules amending intermediate price and gross-margin limitations, and questions and answers.

SUMMARY: The Council is revising the intermediate price standards to limit the size of increases that companies may implement during the third quarter of the second program year.

DATES: The effective date is March 27, 1980. Comments must be received on or before April 11, 1980.

ADDRESS: Written comments should be addressed to the Office of the General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Office of Price Monitoring, Energy, Chemicals, and Rubber, Larry Forest: 456-7747;
Health, Insurance, Regulated Industries, and Services, Arthur Corazzini: 456-7730;
Construction and Construction Materials, Joseph Lackey: 456-7156;
Food, Agriculture, and Trade, Stephen Hiemstra: 456-7740;
Metals, Machinery and Equipment, Eugene Roberts: 456-7784;
Exceptions, Walter Leibowitz/David Wagner: 456-7733;
Office of General Counsel, Alfred M. Wurglitz: 456-6286, George R. Johnson: 456-6286, Charles A. Samuels: 456-6286.

SUPPLEMENTARY INFORMATION: The Council is amending the price standards (Subparts 705A and 705C) to limit the price increases that companies may take during the third quarter of the second program year. The changes are designed to ensure that price increases are phased in gradually over the remainder of the second program year.

Although Section 705.3 imposes intermediate quarterly limitations on price increases during the second program year, the limitation during the third quarter of the second program year is equivalent to the two-year price limitation. Consequently, at the beginning of the third program quarter, a compliance unit technically could have implemented its full two-year allowable. The revised intermediate limitation in § 705.3 limits price increases during the first seven quarters to seven-eights of the two-year allowable increase.

Similar seven-quarter limitations are being added to the gross margin standard for food manufacturing and processing (§ 705.43) and the gross margin standard for petroleum refinery operations (§ 705.44).

An associated Question and Answer says that a compliance unit that can demonstrate that price increases in excess of the 21-month limitation (but no more than the two-year limitation) were implemented during its third program quarter and before March 27, 1980, will not be found out of compliance.

The Council discussed the possibility of imposing these seventh-quarter limitations in the preamble to its interim final price standards for the second program year (44 FR 56900, at 56904). At that time, the Council did not impose different limitations for each quarter of the second program year, and cast the standard as a semi-annual limitation to be met on a quarterly basis. The Council then noted, however, that if price developments "suggest the need for more restrictive quarterly limitations, the third quarter limitation might be adjusted downward." The level of inflation during the last several months demonstrates the need for a tightened standard. Accordingly, the Council is making these changes.

The Council is publishing these materials on an interim final basis since companies need to know these limitations immediately. The Council has provided a 10-day comment period rather than a customary 60-day comment period because of the imminence of the relevant period. These changes are issued in response to an inflation emergency and are therefore exempt from the requirements of Executive Order 12044.

(Council on Wage and Price Stability Act, Pub. L. 93-387 (August 24, 1974), as amended by Pub. L. 94-78 (August 9, 1975) and Pub. L. 95-121 (October 5, 1977), (12 U.S.C. 1904 note); as last amended by Pub. L. 96-10 (May 10, 1979); E.O. 12092 (November 1, 1978); E.O. 12161 (September 28, 1979).

Issued in Washington, D.C., March 28, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, Part 705 of Title 6 CFR is amended as set forth below:

1. Section 705.3 is amended to read as follows:

§ 705.3 Intermediate Price Limitations.

(a) A compliance unit complies with the 18-month and 21-month price limitations if the 18-month and 21-month price changes do not exceed three quarters and seven eighths, respectively, of the two-year price limitation. The 18-month price change is the sales-weighted average of the percentage changes of a compliance unit's product prices from the base quarter to the second quarter of the second program year. The 21-month price change is the sales-weighted average of the percentage changes of a compliance unit's product prices from the base quarter to the third quarter of the second program year.

(b) If a compliance unit was granted or properly self-administered a profit-margin exception during the first program year, it complies with the 18-month and 21-month price limitations, respectively, if the 18-month price change does not exceed the two-year price limitation less one half of the difference between the two-year price limitation and the price change realized during the first program year, and if the 21-month price change does not exceed the two-year price limitation less one-

quarter of the difference between the two-year price limitation and the price change realized during the first program year.

(c) The sales-weighted average price change from the base quarter to the first quarter of the second program year should not exceed the 18-month price limitation in paragraph (a) of this section or, if applicable, in paragraph (b) of this section. The sales-weighted average price change from the base quarter to the third quarter of the second program year should not exceed the 21-month price limitation in paragraph (a) of this section or, if applicable, in paragraph (b) of this section.

(d) A compliance unit may exceed the intermediate price limitations if it can demonstrate that its price increases

(1) Are justified on grounds of seasonal variations in business operations, business practices, or unusual business conditions, and

(2) Will not prevent compliance with the two-year price limitation by the end of the second program year.

2. Section 705.43 is amended by changing "13.5" in paragraph d(2) to "11.8." As amended, § 705.43(d) reads as follows:

§ 705.43 Gross-Margin Standard for Food Manufacturing and Processing.

* * * * *

(d) *Intermediate gross-margin limitations.* (1) A compliance unit complies with the intermediate gross-margin limitation in the first and second quarters of the second program year if its gross margin in each of those quarters does not exceed its base-quarter gross margin by more than 10 percent plus any positive percentage growth in physical volume over the base-quarter volume.

(2) A compliance unit complies with the intermediate gross-margin limitation in the third quarter of the second program year if its gross margin in that quarter does not
exceed its base-quarter margin by more than 11.8 percent plus any positive percentage growth in physical volume over the base-quarter volume.

* * * * *

3. Section 705.44 is amended by changing "13.5" in paragraph (e)(2) to "11.8." As amended, § 705.44(e) reads as follows:

§ 705.44 Gross-Margin Standard for Petroleum-Refinery Operations.

* * * * *

(e) *Intermediate gross-margin limitations.* (1) A refiner complies with the intermediate gross-margin limitation in the first and second quarters of the second program year if its gross margin per barrel in each of those quarters does not exceed its base-quarter gross margin per barrel by more than 10 percent.

(2) A refiner complies with the intermediate gross margin limitation in the third quarter of the second program year if its gross margin per barrel in that quarter does not exceed its base-quarter gross margin per barrel by more than 11.8 percent.

* * * * *

In addition, the Council is adopting the following Q & A, numbered I–E–5, to read as follows:

I–E–5Q. If a compliance unit implemented price increases in excess of the new 21-month intermediate limitation before the effective date of the limitation (March 27, 1980), will that compliance unit be found out of compliance with the new limitation?

A. Not if the compliance unit can demonstrate that it had begun its third program quarter and transactions had in fact occurred at prices in excess of the new intermediate limitation before the effective date of the new limitation.

[FR Doc. 80-10058 Filed 3-31-80; 9:07 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Gypsy Moth and Browntail Moth Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Public hearing; corrections of date.

SUMMARY: On March 11, 1980, a document was published in the Federal Register (45 FR 15505–15521) which, among other things, gave notice of a public hearing concerning the quarantining of Illinois and Ohio as emergency measures because of the gypsy moth, and designating certain areas as high-risk areas or low-risk areas within Connecticut, Illinois, Maine, Michigan, New Hampshire, New York, Ohio, Vermont, and Virginia as emergency measures because of the gypsy moth. The document inadvertently stated that the public hearing would be held on March 25, 1980. The document should have stated the public hearing was to be held on April 8, 1980. Accordingly, the public hearing to consider these emergency measures will be held at 10:00 a.m., on April 8, 1980, in the Federal Building, Room 418, 234 Summit, Toledo, Ohio.

FOR FURTHER INFORMATION CONTACT:
Mr. E. E. Crooks, (301) 436–8239.

E. E. Crooks,

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

[FR Doc. 80-10078 Filed 3-31-80; 12:24 pm]

BILLING CODE 3410-34-M

Proposed Rules

Federal Register
Vol. 45, No. 64
Tuesday, April 1, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

United States Standards for Grade of American Upland Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would revise the official cotton standards for grades of American upland cotton by amending the regulations under the United States Cotton Standards Act (7 CFR Part 28). This action would eliminate four descriptive cotton grade standards, change one physical grade to a descriptive standard, and revise the working on two descriptive standards. Cotton Standards for the Grade of American upland cotton would then consist of 13 physical and 20 descriptive standards.

DATE: Comments by June 2, 1980.

ADDRESS: Send comments to Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agriculture Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Telephone (202) 447–2167.

SUPPLEMENTARY INFORMATION: The present Official Cotton Standards for the Grade of American upland cotton consist of 14 physical standards and 23 descriptive standards. During the past 6 years there has been only a negligible volume of cotton produced in the grades Good Middling Light Spotted, Good Middling Spotted, Good Middling Light Gray, and Good Middling Gray. A total of only 58 bales has been classed of these grades in the last 6 years. The small volume of cotton produced in these grades does not justify continuance of standards for them.

The proposed revisions in standards will be considered at the 1980 Universal Cotton Standards Conference to be held at Memphis, Tennessee, on May 20–21. All overseas signatories to the Universal Cotton Standards Agreement and all segments of the domestic cotton industry interested in standards have been invited to send representatives to this conference.

The Department proposes to make the revisions in standards effective on July 1, 1981.

In order to effect these changes in standards the following revisions in 7 CFR Part 28, Subpart C are proposed:

1. Change the physical standard for Good Middling Cotton, § 28.402, to a descriptive standard, which would read as follows:

§ 28.402 Good Middling.

Good Middling is American upland cotton which in color, leaf, and preparation is better than Strict Middling.

§ 28.420 [Revoked]

2. Revoke the descriptive standard for Good Middling Light Spotted cotton, § 28.420.

3. Revise the wording for Strict Middling Light Spotted cotton, § 28.421, to read as follows:

§ 28.421 Strict Middling Light Spotted.

Strict Middling Light Spotted is American upland cotton which in color, leaf and preparation is better than Middling Light Spotted.

§ 28.430 [Revoked]

4. Revoke the descriptive standard for Good Middling Spotted cotton, § 28.430.

§ 28.460 [Revoked]

5. Revoke the descriptive standard for Good Middling Light Gray cotton, § 28.460.

6. Revise the wording for Strict Middling Light Gray cotton, to read as follows:

§ 28.461 Strict Middling Light Gray.

Strict Middling Light Gray is American upland cotton which in color is Strict Low Middling and which in leaf and preparation is Strict Middling or better.

§ 28.470 [Revoked]

7. Revoke the descriptive standard for Good Middling Gray cotton, § 28.470.

8. Add a new § 28.482 to read as follows:

§ 28.482 United States Cotton Futures Act.

The cotton standards contained in § 28.301 through § 28.603 of this part shall be effective for purposes of the United States Cotton Futures Act (7 U.S.C. 15b) and the regulations thereunder (7 CFR part 27).

§ 28.525 [Amended]

9. In paragraph (a) of § 28.525, delete the following from the table of Full grade name, Symbol, and Code No. (these deletions include some standards that were revoked effective July 1, 1975, 39 FR 22939).

Full grade name	Symbol	Code No.
* * * * *		
Strict Good Middling	SGM	01
Good Middling Light Spotted	GM Lt Sp	12
Good Middling Spotted	GM Sp	13
Good Middling Tinged	GM Tg	14
Good Middling Yellow Stained	GM YS	15
Good Middling Light Gray	GM Lt Gray	16
Good Middling Gray	GM Gray	17
* * * * *		

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.)

Note.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044, "Improving Government Regulations." A draft impact analysis is available from Harvin Smith, AMS, (202) 447–2167.

Dated: March 26, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-9619 Filed 3-31-80; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 19

Informal Conference During Inspection; Notice of Proposed Rulemaking

Correction

In FR Doc. 80–9272 appearing on page 1956 in the issue for Wednesday, March 26, 1980, in the second column, the last line, the phone number now reading "301–444–5975" should be corrected to read "301–443–5975".

BILLING CODE 1505-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Hearings and Review of SBA Size Standard for Federal Timber Sales

AGENCY: Small Business Administration.

ACTION: Notice of Public Hearing.

SUMMARY: Currently the Small Business Size Standard Regulations provide, among other things, that a concern is small for the purpose of bidding on a small business set-aside of Government timber, if that concern has less than 500 employees. The current 500 employee size standard was last reviewed by public hearing in 1975. Questions have arisen as to whether the 500 employee size standard is still appropriate. The SBA has decided to hold three factfinding hearings into the desirability of retaining, raising, or lowering the current size standard.

DATES: The hearings will be held on April 29, May 1 and May 6, 1980, from 9 a.m. to 5 p.m. each day.

ADDRESSES: The hearings will be held at the following locations:

April 29—722 Capitol Mall, Room 1098, Sacramento, California.
May 1—South Auditorium, New Federal Building, 915 Second Avenue, Seattle, Washington.
May 6—L. D. Strom Auditorium, Richard Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia.

Interested parties unable to attend may submit their comments for the record directly to: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, NW., Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Roland E. Berg, (202) 653–6078 or John D. Whitmore, Jr., (202) 653–6373.

SUPPLEMENTARY INFORMATION: Currently, paragraph 121.3–9(b) of the Small Business Size Standards Regulations (Part 121, Chapter I, Title 13, of the Code of Federal Regulations) provides that a concern is small for the purpose of bidding on a small business set-aside sale of Government timber if it meets the following definitions:

(b) Sales of Government-owned timber.

(1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (b)(1) of this section, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent of such timber or, in the case of timber from certain geographical areas set forth in Schedule E of this part, more than the percentage established therein for such area. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (b)(1) of this section, and

(ii) It agrees that, in manufacturing lumber or timber from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under paragraph (b)(1) of this section as a small business. This provision assumes that the successful bidder will remain a small business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or is merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timber by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timber.

Questions have been raised as to whether the 500-employee size standard in the above definition is still appropriate. Some interested parties have claimed that it should be raised, others feel it should be lowered, and some think it should remain the same.

The current 500-employee size standard was last reviewed by public hearings in 1975, prior to the start of the current 5-year share computation period. Because of the length of time since the last review and the number of inquiries regarding the 500-employee size standard, SBA has decided to hold three public hearings. The dates, time, and location of these hearings are as follows:

Place	Date	Time
722 Capitol Mall, Room 1098, Sacramento, California.	April 29, 1980	9 a.m. to 5 p.m.
South Auditorium, New Federal Building, 915 2nd Avenue, Seattle, Washington.	May 1, 1980	9 a.m. to 5 p.m.
L. D. Strom Auditorium, Richard Russell Federal Building, 75 Spring Street SW., Atlanta, Georgia.	May 6, 1980	9 a.m. to 5 p.m.

These hearings are factfinding in nature, thus SBA wishes that statements made at these hearings, address as a minimum, the following issues as they relate to the size standard.

1. The impact of the competitive aspects of the forest products industry to include:

a. Ease of entry.
b. Capital investment.
c. Consolidation/integration/mergers.
d. Specialization.
e. Private land holdings.
f. Changes in industry structure since 1975.

2. The impact of technological changes to include innovations that relate: Labor-intensive vs. capital-intensive actions, material utilization.

3. Impact of energy costs, log exports, and land withdrawal actions.

4. The impact of selling agencies' regulations and procedures upon participating firms.

5. The impact of all Government (Federal, State, and local) regulations on: Employee levels, products and procedures, industry and individual firm structure.

6. The current size standard and the impact upon industry of proposals to raise, lower, or retain the 500-employee level. Should there be more than one size standard and should geographic/regional differences in the industry, if they exist, be recognized?

Interested parties will be given a reasonable time for an oral presentation; however, if a large number of parties desires to make statements, it may be necessary to establish a time limitation on individual presentations.

This is only factfinding, not adversary, thus cross-examination of witnesses will not be permitted. Members of the panel may ask questions of the speaker, however.

Interested parties unable to attend may submit their comments for the record directly to: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street NW., Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Roland E. Berg, (202) 653–6078 or John D. Whitmore, Jr., (202) 653–6373.

Dated: March 26, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-9912 Filed 3-31-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 1

Procedures for Predetermination of Wage Rates; Further Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Further Extension of Comment Period.

SUMMARY: This document further extends the period for filing comments regarding a proposed rule intended to revise Part 1 of Title 29 of the Code of Federal Regulations (29 CFR Part 1) which concerns Procedures For Predetermination of Wage Rates. This action is taken to permit comments to be made in conjunction with comments on Parts 6 and 8 of this title.

DATE: Comments must be received on or before May 27, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202–523–8333.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 28, 1979 (44 FR 77026) the Department of Labor published a proposed rule intended to revise 29 CFR Part 1 which concerns Procedures for Predetermination of Wage Rates. Interested persons were requested to submit comments on or before February 26, 1980.

In the **Federal Register** of February 15, 1980 (45 FR 10374) the Department of Labor extended this period for comments until March 27, 1980.

To allow comments on proposed Part 1 together with procedural rules in proposed Parts 6 and 8, to be published in the immediate future, the agency believes that it is in the public interest to grant a further extension of the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 1 (Procedure For Predetermination of Wage Rates), is extended to May 27, 1980.

Signed at Washington, D.C., this 27th day of March, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc. 80-9884 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-27-M

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts; Further Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Further Extension of Comment Period.

SUMMARY: This document further extends the period for filing comments regarding a proposed rule intended to revise Part 4 of Title 29 of the Code of Federal Regulations (29 CFR Part 4) which concerns Labor Standards for Federal Service Contracts. This action is taken to permit comments to be made in conjunction with comments on Parts 6 and 8 of this title.

DATE: Comments must be received on or before May 27, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Room S–3502, 200 Constitution Ave., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, Room S–3502, 200 Constitution Ave., N.W., Washington, D.C., 20210. Telephone: 202–523–8333.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 28, 1979 (44 FR 77036) the Department of Labor published a proposed rule intended to revise 29 CFR Part 4 which concerns Labor Standards for Federal Service Contracts. Interested persons were requested to submit comments on or before February 26, 1980.

In the **Federal Register** of February 15, 1980 (45 FR 10375) the Department of Labor extended this period for comment until March 27, 1980.

Part 4 interrelates with a proposed revision to Part 6 of this title and a new proposed Part 8 of this title, which are to be published in the immediate future. To allow comments on proposed Part 4 together with proposed Parts 6 and 8, the agency believes that it is in the public interest to grant a further extension of the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 4 (Labor Standards for Federal Service Contracts), is extended to May 27, 1980.

Signed at Washington, D.C., this 27th day of March, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc. 80-9885 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-27-M

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act); Further Extension of Comment Period

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule; Further Extension of Comment Period.

SUMMARY: This document further extends the period for filing comments regarding a proposed rule intended to revise Part 5 of Title 29 of the Code of Federal Regulations (29 CFR Part 5) which concerns Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). This action is taken to permit comments to be made in conjunction with comments on Parts 6 and 8 of this title.

DATE: Comments must be received on or before May 27, 1980.

ADDRESS: Comments should be sent to Mrs. Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Ave., N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Ave., N.W., Washington, D.C., 20210. Telephone: 202–523–8333.

SUPPLEMNENTARY INFORMATION: In the **Federal Register** of December 28, 1979 (44 FR 77080) the Department of Labor published a proposed rule intended to revise 29 CFR Part 5 which concerns Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). Interested persons were requested to submit comments on or before February 26, 1980.

In the **Federal Register** of February 15, 1980 (45 FR 10275) the Department of Labor extended this period for comment until March 27, 1980.

Part 5 interrelates with a proposed revision to Part 6 of this title and a new proposed Part 8 of this title, which are to be published in the immediate future. To allow comments on proposed Part 5 together with proposed Parts 6 and 8, the agency believes that it is in the public interest to grant a further extension of the comment period for all interested persons. Therefore, the comment period for the proposed rule, revising 29 CFR Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)), is extended to May 27, 1980.

Signed at Washington, D.C., this 27th day of March, 1980.

Donald Elisburg,

Assistant Secretary of Labor, Employment Standards Administration.

[FR Doc. 80-9886 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1425

Role of the Mediation Assistance in the Federal Service

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Proposed Rule.

SUMMARY: As directed by Section 7134 of Title VII of the Civil Service Reform Act, Federal Mediation and Conciliation Service proposes the following regulations concerning its role in Federal Sector Labor Relations. These proposed regulation would supersede the existing regulations.

The regulations provide that FMCS may provide its services in negotiation disputes in the Federal Sector on its own motion or at the request of one or both parties. The Service may set time limits on its participation and may make recommendations to the parties for settlement where it determines such procedures to be appropriate. Any recommendations made may be forwarded to the Federal Service Impasses Panel.

The regulations require that the initiating party notify FMCS of negotiations at least 30 days prior to the termination or modification date of an existing agreement. In initial negotiation, the parties must notify FMCS within 30 days after commencing negotiations. These requirements do not apply to mid-term or impact bargaining. The parties have a duty to participate fully and promptly in meetings called by the Service. If the mediation process is unsuccessful, the Service or the parties may request consideration of the matter by the Federal Service Impasses Panel. However, the Service will not refer a case to the FSIP until the mediation process has been completed.

DATES: Comments must be received by June 2, 1980.

ADDRESSES: Send comments to: Office of the General Counsel, Federal Mediation and Conciliation Service, Washington, DC 20427. All comments received may be inspected during normal business hours.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, Assistant General Counsel, Office of the General Counsel, (202) 653–5305.

SUPPLEMENTARY INFORMATION: One purpose of Title VII of the Civil Service Reform Act, (5 U.S.C 7101 et. seq.) is to maximize the ability of the parties to the collective bargaining relationship to conclude an agreement on their own rather than to have it imposed on them from outside. The role of FMCS is to facilitate agreement between the parties.

The Service published an advance notice of proposed rulemaking (44 FR 40354, July 10, 1979) soliciting comment on the following options: (1) Establishing a notice requirement in cases of initial agreement negotiations as well as modification or termination of an existing agreement;

(2) Making explicit the Service's authority to set time limits for its participation and to make recommendations for settlement to the parties where appropriate; and

(3) Stating as FMCS policy that the Service will not refer a case to the Federal Service Impasses Panel until the mediation process has been exhausted. A number of comments were received and have been considered.

In response to the comments, the notice requirement was clarified to exempt mid-term impact bargaining. A number of comments requested this modification because mid-term bargaining occurs frequently, is informal, and often occurs under time constraints.

Another clarification involved the proposal that the Service would not refer cases to the FSIP until mediation had been exhausted. A number of commenters misinterpreted this to mean that the Service would refuse to allow parties to go to the Panel. The intent of the provision was to indicate to the parties that the Service is increasing its efforts to help them achieve a voluntary

settlement. The proposal did not attempt to bar the parties from going to the Panel, and the language of the proposed regulation makes this explicit.

The notices required of the parties are intended to assist the Service in carrying out its responsibilities under Title VII. By alerting the Service at an early stage in negotiations, the notices will allow the Service to play a more meaningful role in the process.

By imposing time deadlines, the Service would seek to establish the concentrated bargaining atmosphere frequently necessary for the parties to reach agreement. The proposed regulation would put the parties on notice that the Service may set time limits at the outset or at any time during the mediation process. The time limits could be tailored to each particular dispute.

If the time established were reached without a settlement, the Service could make recommendations for settlement to the parties. If the recommendations were not accepted within time limits set by the Service, the Service could refer the dispute to Federal Service Impasses Panel and could send the recommendations to the FSIP. FMCS has used these techniques in some federal sector cases. Specific language in the regulations would, however, put the parties on express notice of the intent of the Service to use such techniques in appropriate cases.

The possibility of recommendations and their potential transmittal to FSIP would underscore the significance of the deadline imposed by the mediator. The result would be more meaningful bargaining by the parties and a greater number of disputes resolved by the parties themselves.

In order to provide the fullest opportunity for the parties to reach agreement by negotiation, the Service will not refer a case to the Federal Services Impasses Panel until the mediation process has been exhausted.

It is proposed to revise 29 CFR Part 1425 to read as follows:

PART 1425—MEDIATION ASSISTANCE IN THE FEDERAL SERVICE

Sec.

1425.1 Definitions.
1425.2 Notice to the service of agreement negotiations.
1425.3 Functions of the service under Title VII of the Civil Service Reform Act.
1425.4 Duty of parties.
1425.5 Referral to FSIP.
1425.6 Use of third-party mediation assistance.

Authority: 5 U.S.C 7119, 7134.

§ 1425.1 Definitions.

As used in this part:

(a) "The Service" means Federal Mediation and Conciliation Service.

(b) "Party" or "Parties" means (1) any appropriate activity, facility, geographical subdivision, or combination thereof, of an agency as that term is defined in 5 U.S.C. 7103 (3), or (2) a labor organization as that term is defined in 5 U.S.C. 7103(4).

(c) "Third-party mediation assistance" means mediation by persons other than FMCS commissioners.

(d) "Provide its services" means to make the services and facilities of the Service available either on its own motion or upon the special request of one or both of the parties.

§ 1425.2 Notice to the service of agreement negotiations.

In order that the Service may provide assistance to the parties, the party initiating negotiations shall file a notice with the Regional Director of the region in which the negotiation will take place at least thirty (30) days prior to the expiration or modification date of an existing agreement. Parties entering negotiations for an initial agreement shall file such notice within 30 days after commencing negotiations. Parties engaging in mid-term or impact bargaining need not submit a notice. Form, FMCS Form F–53,[1] has been prepared by the Service for use by the parties.

§ 1425.3 Functions of the service under title VII of the Civil Service Reform Act.

(a) The service may provide its assistance in any negotiations dispute when earnest efforts by the parites to reach agreement through direct negotiation have failed to resolve the dispute. When the existence of a negotiation dispute comes to the attention of the Service through a specific request for mediation from one or both of the parties, through notification under the provisions of § 1425.2, or otherwise, the Service will examine the information concerning the dispute. If, in its opinion, the need for mediation exists, the Service will use its best efforts to assist the parties to reach agreement.

(b) The Service may, at the outset of negotiations or at any time in the dispute, set time limits on its participation. If no settlement of the dispute is reached by the expiration of the time limits, the Service may make recommendations to the parties for settlement of the dispute. If recommendations made by the Service are not accepted by the parties within time limits set by the Service, the matter may be referred to the Federal Services Impasses Panel (FSIP). Recommendations made by the Service may be sent to the FSIP.

[1] Filed as part of the original document. Copies of this form are available upon request to any office of the Service.

§ 1425.4 Duty of parties.

It shall be the duty of the parties to participate fully and promptly in any meetings arranged by the Service for the purpose of assisting the settlement of a negotiation dispute.

§ 1425.5 Referral to FSIP.

If the mediation process has been completed and the parties are at a negotiation impasse, the Service or the parties may request consideration of the matter by the Federal Services Impasses Panel. The Service shall not refer a case to FSIP until the mediation process has been exhausted and the parties are at a negotiation impasse.

§ 1425.6 Use of third-party mediation assistance.

If the parties should mutually agree to third-party mediation assistance other than that of the Service, both parties shall immediately inform the Service in writing of this agreement. Such written communication shall be filed with the regional director of the region in which the negotiation is scheduled, and shall state what alternate assistance the parties have agreed to use.

Dated at Washington, D.C., March 26, 1980.

Robert P. Gajdys,

Director of Administration.

[FR Doc. 80-9654 Filed 3-31-80; 8:45 am]
BILLING CODE 6732-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1918, 1926, and 1928

[Docket No. H-117]

Occupational Safety and Health Hazards in Grain Handling Facilities; Extension of the Comment Period

AGENCY: Occupational Safety and Health Administration (OSHA).

ACTION: Extension of the deadline for the submission of comments and information on the safety and health hazards associated with grain handling.

SUMMARY: This notice extends the comment period for written responses to the questions OSHA presented in the "Occupational Safety and Health Hazards in Grain Handling Facilities; Request for Comments and Information" (45 FR 10732).

DATES: Written responses to the notice must be submitted on or before June 30, 1980.

ADDRESS: The written information should be submitted, in quadruplicate, to the Docket Officer, Docket H–117, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210; (202) 523–7894.

FOR FURTHER INFORMATION CONTACT:

Health. Dr. Flo Ryer, Director, Office of Special Standards Programs, Directorate of Health Standards Programs, Room N3663, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210; (202) 523–7174.

Safety. Thomas Seymour, Director, Office of Fire Protection Engineering Standards, Directorate of Safety Standards Programs, Room N3463, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210; (202) 523–7216.

SUPPLEMENTARY INFORMATION: On February 15, 1980, OSHA published in the **Federal Register** (45 FR 10732) a "Request for Comments and Information" regarding the safety and health hazards associated with grain handling. In the notice, OSHA requested written responses to questions divided into twelve safety and health categories, and also announced the following schedule for informal public meetings: April 15–17 in Superior, Wisconsin; April 22–24 in Kenner, Louisiana; and April 29–May 1, Kansas City, Missouri. The written responses were to have been received by OSHA by May 5, 1980.

OSHA has received several requests to extend the comment period. In order to ensure that these interested parties have sufficient time to compile data and prepare responses to the issues raised in the notice, OSHA has decided to extend the written comment period to June 30, 1980. The schedule for the informal public meetings has not been changed.

Submission of Written Comments

Written responses to the "Occupational Safety and Health Hazards in Grain Handling Facilities; Request for Comments and Information" must be submitted, in quadruplicate, on or before June 30, 1980. The comments should be sent to the Docket Officer, Docket No. H–117, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

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

Signed at Washington, D.C., this 24th day of March, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–9826 Filed 3–31–80; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1452–5]

North Central Coast Air Basin Nonattainment Area Plan and Revised Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the North Central Coast Air Basin portion of the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of the revisions is to update the rules and regulations, and to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." However, based upon EPA's evaluation of the revisions, this notice proposes to disapprove the North Central Coast Air Basin nonattainment area plan for ozone with respect to the Part D requirements because the plan does not contains an adopted, legally enforceable New Source Review rule.

This notice provides a description of the proposed SIP revisions, summarizes the applicable nonattainment area requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and proposes a schedule for correction of plan deficiencies with respect to the Part D requirements.

The EPA invites public comments on these revisions, the identified issues, the suggested corrections and associated proposed deadlines, and whether the revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to May 1, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revision/Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file NAP–CA–14 and are available for public inspection during normal business hours the EPA Region IX Office at the above address and at the following locations:

Association of Monterey Bay Area Governments, 23845 Holman Highway, Suite 227, Monterey, CA 93940

Monterey Bay Unified Air Pollution Control District, 1270 Natividad Road, Salinas, CA 93906

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556–2938

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95–95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the attainment status for all areas within the state. The Administrator promulgated these lists with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required to develop, adopt and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38538, 50371, 53761, and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal. EPA's evaluation of the transportation portion of the plan is also guided by the EPA-Department of Transportation (DOT) Transportation-Air Quality Planning Guidelines and EPA's Office of Transportation and Land Use Policy SIP-Transportation Checklist.

The North Central Coast Air Basin is designated nonattainment for ozone. EPA considers the area rural for purposes of plan approvability, as discussed in the ISSUES SECTION below.

Description of Proposed SIP Revisions

On September 12, 1979 the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the North Central Coast Air Basin Control Strategy for Monterey, Santa Cruz, and San Benito Counties as an SIP revision. Preparation of the proposed SIP revision was coordinated by the Association of Monterey Bay Area Governments, the Monterey Bay Unified Air Pollution Control District, and the ARB. This nonattainment area plan for the North Central Coast consists of the following major components:

—A summary of the pollutant that exceeds the NAAQS, specifying the violations;
—A list of the Federal nonattainment area plan requirements;
—A discussion of the planning process including: How the plan was prepared, the agencies involved in the process, public participation, and intergovernmental consultation;
—A discussion of air quality trends;
—A analysis of the candidate air quality control measures that examines expected emission reductions, costs, resource impacts, social impacts, and enforcement aspects;
—A discussion of the specific strategy for ozone, which includes schedules for reasonable further progress, adopted stationary source control measures, and commitments to adopt additional stationary and mobile source control measures; and
—A discussion of the New Source Review provisions.

The plan demonstrates that attainment of the ozone standard by 1982 is not possible despite the implementation of all reasonably available control measures including:

For the entire North Central Coast Air Basin:

—California's motor vehicle standards for new vehicles;
—A vehicle emission control inspection and maintenance program, assuming the appropriate legal authority will be adopted by the California Legislature;
—A New Source Review program;

For Monterey and Santa Cruz Counties:

—Stationary source control measures; and
—Transportation measures to reduce the use of automobiles, including improved public transit, an area-wide carpool program, and expanded bicycle systems and facilities;

In addition, for Santa Cruz County:

—Preferential parking for carpools;
—Employer programs to encourage transit usage; and
—Controls on extended vehicle idling.

Based on this demonstration, the State requests an extension of the ozone attainment date until no later than December 31, 1987.

This notice includes nonattainment area plan related SIP revisions submitted by the Governor's designee prior to December 31, 1979. These SIP revisions include the September 12, 1979 plan revision and the rule revisions submitted on May 23, and December 17, 1979.

The rules being considered in this notice are listed below.

Monterey Bay Unified Air Pollution Control District

May 23, 1979
Rule 417—Storage of Organic Liquids
December 17, 1979
Rule 418—Transfer of Gasoline into Stationary Storage Containers
Rule 425—Use of Cutback Asphalt
Rule 426—Architectural Coatings

Criteria for Approval

The North Central Coast Air Basin Control Strategy must be evaluated to determine whether it is consistent with Part D of the Clean Air Act. The following list summarizes the Part D requirements for nonattainment area plans:

1. An accurate inventory of existing emissions.
2. A modeling analysis indicating the level of control needed to attain by 1982 and, in the case of an extension request, by 1987.
3. Emission reduction estimates for each adopted control measure.
4. A provision for expeditious attainment of the standards.
5. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act.
6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.
7. An identification of an emissions growth increment.
8. Provisions for annual reporting with respect to items (5) and (6) above.
9. A permit program for major new or modified sources consistent with Section 173 of the Clean Air Act.
10. An identification of and commitment to the resources necessary to carry out the plan.
11. Evidence of public, local government, and state involvement and consultation.
12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.
13. For ozone SIP revisions that provide for attainment of the primary standards later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and considerations of environmental and social costs.

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources.

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs.

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program.

14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines.

Issues

The paragraph numbers below correspond to the Part D nonattainment area plan requirements discussed in the preceding section, CRITERIA FOR APPROVAL. EPA policy for approval of nonattainment area plans submitted as 1979 SIP revisions differentiates between rural and urban nonattainment areas. EPA's policy including the definition of rural areas is discussed in the General Preamble. Based on the definition or rural areas and the policy, the North Central Coast Air Basin is considered a rural area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural ozone nonattainment area plan do not require that all of the fourteen CRITERIA FOR APPROVAL listed above be fully met. Each criteria is discussed in depth below. Where a plan deficiency is identified, recommendations for revision of the plan are specified. The citations in

the comments which follow refer to Sections 108, 110, and Part D, Sections 171–178, of the Clean Air Act, as amended.

There is one major deficiency with respect to the North Central Coast Air Basin nonattainment area plan for ozone (O_3) that causes the plan to be unapprovable with respect to Part D of the Clean Air Act (the Act). This major deficiency is the absence of an adopted, legally enforceable New Source Review (NSR) rule.

If the State does not submit an adequate, legally enforceable NSR rule, the plan for the North Central Coast Air Basin must be disapproved by EPA with respect to Part D of the Act. This overall plan disapproval would result in the continuation of the prohibition on certain major new source construction or modification as set forth in Section 110(a)(2)(I) of the Act and EPA's Interpretive Rule on Statutory Restriction of New Sources (44 FR 38471, July 2, 1979). In accordance with this statutory provision, certain major new or modified stationary sources are currently prohibited from being constructed in California nonattainment areas. This prohibition on construction will remain in effect in the North Central Coast Air Basin with respect to O_3 until the major deficiency discussed above is corrected and EPA approves the nonattainment area plan pursuant to Part D of the Act in a final rulemaking action.

When the State submits an adequate NSR rule, the major deficiency noted above may be resolved. Upon the State's submittal of this rule, EPA will consider the approval of this regulation as part of the plan for the North Central Coast Air Basin.

A full discussion of the North Central Coast Air Basin plan with respect to EPA's fourteen Criteria for Approval follows. EPA has identified certain portions of the plan that (1) are approvable, (2) contain minor deficiencies which could be remedied under conditions of plan approval subject to assurance by the State that corrections will be made by a specified date, or (3) contain a major deficiency which must be remedied prior to EPA's final approval of the entire plan with respect to Part D of the Act. Based on the approvability of the component parts of the plan, EPA will determine whether the plan as a whole is (1) approvable, (2) conditionally approvable, or (3) disapprovable.

Those portions of the plan which are consistent with Section 110 and/or Part D of the Act are proposed for approval and incorporation into the SIP, regardless of EPA's determination on whether the plan as a whole is ultimately approvable with respect to Part D. In addition, certain portions of the plan are noted as being approved even though they are expected to be refined in future plan updates.

Correction of the minor deficiencies contained in certain portions of the plan could be remedied under conditions of approval of the plan provided that the State provide assurance that the deficiencies will be corrected and submitted as an SIP revision by a specified date. Following the correction of the major deficiency discussed above, the plan could be approved or conditionally approved should minor deficiencies remain. Conditional approval of the plan would mean that the restriction on major new or modified stationary source construction would no longer apply unless the State failed to submit corrections by the specified date, or the submitted corrections were determined to be inadequate. Those portions of the plan which are conditionally approvable are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the overall plan is approvable with respect to Part D.

The NSR portion of the plan, which is deemed to be a major deficiency must be corrected and submitted as an SIP revision in order for EPA to either approve or conditionally approve the entire plan in a final rulemaking action with respect to Part D of the Act.

1. Emission Inventory

The plan includes an emission inventory for total organic gases (hydrocarbons) identifying emission source categories and their estimated emissions for the base year, 1977. This base year inventory includes the necessary emission estimates for stationary, mobile, and area sources. These estimates were based on emission factors cited in *AP–42, EPA compilation of Air Pollutant Emission Factors* as derived from source test data, localized data, actual usage data, computer models, and transportation studies. The inventory is reasonably comprehensive, current and accurate, and EPA proposes to approve it as part of the SIP.

The following technical aspects of the emissions inventory for O_3 must be addressed in the annual reports: Document and include emissions from all military activities in the Air Basin; update pesticide emissions.

2. Modeling

The State utilized the city-specific EKMA model with a design value of 0.14 ppm and a NMHC/NO_x ratio of 9.5 to 1 to calculate the allowable hydocarbon emission level to attain the 0.12 ppm O_3 standard. Based on this modeling, a 40% reduction in hydrocarbon emissions was determined to be necessary to demonstrate attainment of the O_3 standard. EPA proposes to approve the State's use of the EKMA model for purposes of the 1979 SIP revision to determine the allowable hydrocarbon emission level.

3. Emission Reduction Estimates

Annual emission reduction estimates are contained in the plan for each control measure for hydrocarbon reductions for the years 1979 through 1982.

The emission reduction estimate for the inspection and maintenance (I/M) program contained in the plan should be revised using the EPA computer program MOBILE–I method for calculating these emission reductions. The SIP should be revised to include the revised estimate, assuming that I/M is retained as a control measure.

The July 1980 Annual Report submitted to EPA by the State should include refined estimates of emission reductions based upon the annually updated emission inventory, any new analysis of control strategy effectiveness, and actual reductions being achieved through plan implementation.

4. Attainment Provision

The plan demonstrates that the O_3 standard cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures. Thus, EPA finds that the requested extension of the attainment date for O_3 is justified and proposes to grant the extension. The submitted plan does not specifically provide for attainment of the O_3 standard by December 1987. However, both the State and the local agencies involved are committed to a reanalysis of the O_3 air quality problem in the Air Basin and are committed to the adoption of any necessary additional measure, needed to attain the O_3 standard based on this reanalysis. EPA finds this approach acceptable for the 1979 SIP revision.

The plan does not contain local commitments to an emission reduction target for O_3 for the transportation sector. Since the emission inventory indicates that a significant portion of the hydrocarbon emissions are from mobile sources, the plan should contain evidence of a policy level commitment to an overall emission reduction target for hydrocarbon emissions from the transportation sector and this

commitment should be submitted by the State in the July 1980 Annual Report.

5. Reasonable Further Progress (RFP)

The RFP provision in the plan is acceptable for purposes of the 1979 SIP revision.

Since transportation control measures are contained in the plan, to demonstrate reasonable further progress with respect to the transportation sector, programs to directly monitor and report on the implementation progress and the emission reduction effectiveness of each transportation control measure should be developed, described, and committed to pursuant to the requirement in the EPA/DOT Transportation-Air Quality Planning Guidelines. The Annual Report should describe the contribution of transportation control measures to the incremental emission reductions required for standards attainment. Such a monitoring program should be in place and included in the July 1980 Annual Report.

6. Legally Adopted Measures

The SIP submittal does not indicate that all necessary control measures have been adopted in a legally enforceable form. The plan does not contain an adopted, legally enforceable New Source Review rule. While the plan contains regulations covering the required stationary source categories, EPA believes that one of the regulations does not fully reflect the application of reasonably available control technology (RACT). Additionally, the plan does not include in adopted form a vehicle emission control inspection and maintenance program since the State Legislature has not provided the necessary legal authority. Finally, the plan does not include in adopted form, all reasonably available transportation control measures identified in the plan for implementation, or schedules with commitments for development, adoption, submittal, implementation, and (where appropriate) enforcement of those measures.

New Source Review

The plan must include an adopted legally enforceable New Source Review rule. The lack of such a rule is a major deficiency and must be remedied in order for EPA to approve the plan with respect to Part D of the Act.

RACT

The Clean Air Act requires that minimum levels of control technology be provided for in the nonattainment area plan. For rural ozone nonattainment areas such as the North Central Coast Air Basin, the plan must include adopted, legally enforceable regulations which reflect the application of RACT for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Group I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTGs provide information on available air pollution control techniques and certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by the 11 Group I CTG documents) for which adopted regulations are required, only five exist in the nonattainment area. There are not bulk gasoline terminals, petroleum refineries, or surface coating operations for cans, coils, fabric, paper, large appliances, metal furniture, magnet wire, or automobiles. Of the five remaining source categories, there are no major sources in three source categories; Bulk gasoline plants, metal degreasing, and service stations. Thus, RACT regulations would be required for the two remaining sources: fixed-roof tanks and cutback asphalt.

Rule 417, Storage of Petroleum Products, was submitted by the State on May 23, 1979 and Rule 425, Use of Cutback Asphalt, was submitted by the State on December 17, 1979.

EPA has reviewed the submitted rules noted above in relation to the respective CTGs. Based on the information in the CTGs, EPA believes that the submitted rule for fixed and floating roof petroleum storage tanks represents RACT and EPA proposes to approve this regulation for inclusion in the SIP.

EPA proposes to approve under section 110 the submitted rule for cutback asphalt since the rule provides for a greater degree of control than the existing SIP. The rule does satisfy the requirement for RACT and therefore meets the requirements of Part D, based on information contained in the CTG, except for the three deficiencies noted below:

(1) The rule contains an exemption which allows the use of medium cure cutback asphalts during November through March.

(2) The rule does not limit the use of slow cure cutback asphalts.

(3) The rule does not limit the solvent content of emulsified asphalts used to replace the cutback asphalts.

None of these three provisions are supported by information contained in the CTG. While the monthly exemption may be appropriate based on the fact that temperatures typically do not exceed 50° F during these months, information has not been submitted to support this. The plan could be conditionally approved after correction of the NSR deficiency. On of the conditions of plan approval would be the State's submittal of one of the following by July 1, 1980:

(1) Adequate justification that this rule represents RACT,

(2) Amend the regulation to conform with the controls recommended in the CTG, or

(3) Adequate documentation that the regulation will result in emission reductions which are within 5% of the reductions achievable with the controls recommended in the CTG.

The State also submitted Rule 418, "Transfer of Gasoline into Stationary Storage containers," and Rule 426 "Architectural Coatings" on December 17, 1979. These rules implement control measures contained in the plan for which emission reduction credit is claimed. EPA proposes to approve these rules for inclusion in the SIP since they will strengthen the SIP by providing a greater level of control for these source categories than the existing SIP.

The plan contains a commitment to study and adopt, as necessary, all other reasonably available control measures. The plan further indicates that of the 9 "Group II" CTG source categories, one sources category (floating roof tanks) is sufficiently controlled to meet RACT requirements. This commitment is adequate provided the State submits adopted regulations for major sources for the following applicable source categories by July 1, 1980: refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry-cleaning, pharmaceutical manufacture, graphic arts, pneumatic rubber tire manufacture, the surface coating of flatwood paneling and the surface coating of metal parts and products.

Transportation Control Measures

Of the 17 transportation control measures identified in Section 108(f) of the Act, the plan contains 3 measures that are adopted. These three measures are (1) improved public transit, (2) bicycle lanes and storage facilities, and (3) areawide carpool programs. In addition, other transportation control measures are identified in the plan for implementation. A detailed schedule and commitment tor implementation and (where appropriate) enforcement of each of these adopted transportation control measures must be submitted in order for these measures to be approved as part of the SIP under Section 110 of the Act.

Inspection and Maintenance

Since the State Legislature has failed to provide the necessary legal authority for the inspection and maintenance (I/M) program included in the plan, EPA cannot approve the I/M program as part of the SIP as specified in 40 CFR 51.11 (Legal Authority).

40 CFR Part 52

In addition to the rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the North Central Coast Air Basin. The following Federally promulgated regulations are proposed to be rescinded or amended because they have been replaced by a revised set of control measures, regulations contained in the plan, and/or they have been invalidated by previous actions:

A. § 52.233 Review of new sources and modifications:

Subparagraphs (d)(3) and (g)(1)(iii) can be rescinded when the State adopts and officially submits approvable New Source Review regulations. Also, subparagraphs (h), (i), and (j) can be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

B. Section 52.238 Attainment dates for national standards:

The attainment dates in this Section are proposed to be changed in accordance with the submitted nonattainment area plan.

7. Emissions Growth

The State's proposed New Source Review rule (see Criteria 9, Permit Program, for further discussion) uses emissions offsets to limit emissions growth. This approach is approvable.

8. Annual Reporting

This portion of the plan is approvable since it provides a commitment to provide an annual report containing an evaluation of reasonable further progress, a description of the status of adoption and implementation of control measures, and updated emission inventory data.

To assure that the requirements of Sections 110(a)(3)(D) and 110(c)(5)(B) are met the plan should contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs should be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. Such commitments with respect to basic transportation needs are not included in the plan. These commitments should be submitted as an SIP revision by the State with the July 1980 Annual Report.

To assure that the requirements of Sections 176(c) and 176(d) of the Act are met, EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan. Section 176(c) prohibits the metropolitan planning organization from giving its approval to any project, program or plan that does not conform to the SIP. EPA policy also requires that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the primary NAAQS. EPA policy requires that these procedures be submitted with the July 1980 Annual Report.

9. Permit Program

The ARB has submitted its Model New Source Review Rule and two letters from the ARB to local districts (letters dated March 12, 1979 and May 7, 1979) as a draft rule for consideration as part of the North Central Coast Air Basin plan. Thus, the term draft rule used here refers to the model rule as clarified by the two letters. This draft rule is not adopted in a legally enforceable manner. Rather, it is a model upon which an adopted and legally enforceable rule could be based.

The lack of an adopted New Source Review (NSR) rule is a major deficiency which must be corrected before EPA can approve or conditionally approve the plan with respect to Part D of the Act because certain Part D requirements are not met.

At the request of the State, and assuming that an adopted rule equivalent and similar to the draft rule will be submitted, EPA has reviewed the substance of the draft rule against EPA's criteria for a new source permitting program. These criteria are contained in guidelines published in the preamble to EPA's revised Interpretative Ruling (IR) (44 FR 3274, January 16, 1979); EPA's General Preamble for Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas; and in the September 5, 1979 Federal Register (44 FR 51924).

As described in the September 5, 1979 notice, EPA policy generally is to approve any plan that would meet the January 16, 1979 Interpretative Ruling or the criteria set forth in the September 5, 1979 proposal.

EPA's review indicates that the draft rule is more stringent than EPA's criteria in certain respects including certain Lowest Achievable Emission Rate (LAER) and offset source cutoff levels. However, the draft rule deviates from EPA's current criteria by exempting modifications of existing sources under certain circumstances which the EPA criteria do not allow. If a modification were to result in a net increase in emissions of less than 250 pounds/day (46 tons/year), the draft rule would exempt the modification from the LAER requirement of Part D of the Act. EPA's Interpretive Ruling allows a State's rule to include such an exemption for a major modification only if there will be no net increase in emissions, and does not allow any exemption for reconstructions.

EPA's proposed regulations also prohibit any exemptions for reconstructions, and allow exemptions of other major modifications only if the net increase in emissions will be less than "de minimis" (cut-off) levels. The draft rule cut-off level is less stringent than the "de minimis" levels proposed by EPA for hydrocarbons.

Because the above-noted deviations to EPA's existing and proposed regulations are not deemed to be major deficiencies with respect to the Part D requirements of the Act, EPA could conditionally approve the plan when an adopted NSR rule equivalent to the draft rule is submitted in legally enforceable form. The condition of this approval would be that the State must modify the adopted rule so that the above

deficiencies are corrected to be consistent with the Clean Air Act and either: (1) The September 5, 1979 proposed regulations, or (2) final EPA regulations based on the September 5, 1979 proposal, or (3) the January 16, 1979 interpretative ruling, and submit it as an SIP revision by March 1, 1981.

(Although not a consideration under Part D of the Act, it should be noted that EPA could not fully approve, with respect to Part C of the Act, an adopted NSR rule containing language equivalent to Section B.3. of Model Rule I. This section would not meet the requirements of Part C because the model rule would not provide regulation of all the pollutants required to be regulated by Part C.)

10. Resources

The plan does not fully identify or commit to the financial and personnel resources necessary to implement and enforce the plan. These commitments should be obtained from each implementing agency. The State should submit, as an SIP revision, these commitments with the July 1980 Annual Report.

Some resource commitments, from certain implementing agencies, are contained in the plan (Appendix N). However, the plan fails to identify the level of resources required to fully implement those measures for which commitments are provided. Thus, these commitments do not provide assurance that the level of resources provided for is sufficient to carry out those portions of the plan.

11. Public and Government Involvement

Although the plan provides evidence of consultation with general purpose local governments, designated organizations of elected officials of local governments, and Federal Land Managers, the plan does not provide specific evidence of coordination with the continuing, cooperative, and comprehensive transportation planning process. However, the involvement by the Association of Monterey Bay Area Governments, the Monterey Transportation Commission, and the Santa Cruz Transportation Commission, who are the principal agencies of this transportation planning process in the development of the plan, would appear to satisfy this requirement.

The plan contains an adequate identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan along with a summary of public comment on those effects and the plan. EPA proposes to approve this portion of the plan.

12. Public Hearing

The plan contains documentation which indicates that the plan was adopted after reasonable notice and public hearing in accordance with 40 CFR 51.4. The plan was adopted by the State through ARB Executive Orders G–81 and G–83. Thus, the requirements of the Act appear to be satisfied and EPA proposes to approve this portion of the plan.

13. Extension Requirements for O_3

14. Extension Requirements for VOC RACT

As referenced in the General Preamble, the 1979 O_3 SIP revision for rural nonattainment areas need not contain a specific demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to this SIP revision.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

This proposal also includes a draft new source review rule which has been adopted as a model rule after public hearing by the State. This model rule has not yet been adopted and submitted to EPA by the State as a legally enforceable rule. However, the State has requested EPA to review the model rule and invite public comment on whether the draft rule meets the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State adopts and submits a rule equivalent to the model rule.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comment on the specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before May 1, 1980, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since October 29, 1979.

(2) EPA's notice published in the October 29, 1979 **Federal Register** (44 FR 61978) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))

Dated: February 8, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-9827 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1452-6]

Approval and Promulgation of Implementation Plans; South Coast Air Basin Nonattainment Area Plan and Revised Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the South Coast Air Basin portion of the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of the revisions is to update the rules and regulations, and to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan

Requirements for Nonattainment Areas." However, based upon EPA's evaluation of the revisions, this notice proposes to disapprove the carbon monoxide and ozone portions of the South Coast Air Basin Nonattainment Area Plan with respect to the Part D requirements, because the plan does not contain the necessary legal authority from the California State Legislature and a specific schedule to implement a vehicle emission control inspection and maintenance program. A plan for a major urban area such as the South Coast Air Basin that cannot demonstrate attainment of the carbon monoxide or ozone standard by 1982, and therefore requests an extension to 1987, must contain the necessary legal authority and a specific schedule to implement a vehicle emission control inspection and maintenance program.

This notice provides a description of the proposed SIP revisions, summarizes the applicable nonattainment area requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrections with respect to the Part D requirements.

The EPA invites public comments on these revisions, the identified issues, the suggested corrections and associated proposed deadlines, and whether the revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to May 1, 1980.

ADDRESSES: Comments may be sent to : Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revision/ Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file NAP–CA–9 and are available for public inspection during normal business hours at the EPA, Region IX office at the above address and at the following locations:

South Coast Air Quality Management District, 9150 East Flair Drive, El Monte, CA 91731.
Southern California Association of Governments, 600 South Commonwealth Avenue, Suite 100, Los Angeles, CA 90005.
California Air Resources Board, 1102 "Q" Street, Sacramento, CA 095812.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Techical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

New Provisions of the Clean Air Act, amended in August 1977, Pub. L. No. 95–95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372), EPA published a general Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761, and 67182). The General Preamble supplements this notice by identifying the major considerations that will guide EPA's evaluation of the plan submittal. EPA's evaluation of the transportation portion of the plan is also guided by the EPA-Department of Transportation (DOT) Transportation-Air Quality Planning Guidelines and the SIP-Transportation Checklist. The EPA–DOT Guidelines describe the acceptable elements that satisfy the Clean Air Act requirements for the transportation portion of an approvable SIP.

The South Coast Air Basin is designated nonattainment for total suspended particulate, nitrogen dioxide, carbon monoxide, and ozone.

Description of Proposed SIP Revision

On July 25, 1979, the Executive Officer of the California Air Resources Board, the Governor's official designee, submitted the South Coast Air Basin Control Strategy as an SIP revision. Preparation of the proposed SIP revision was coordinated by the South Coast Air Quality Management District, Southern California Association of Governments, and the California Air Resources Board, which were designated by the Governor as the air quality planning organizations for the South Coast nonattainment area. This nonattainment area plan for the South Coast Air Basin consists of the following major components:

—A summary of those pollutants that exceed the NAAQS, specifying the violations by pollutant;

—A list of the Federal nonattainment plan requirements and the plan elements fulfilling those requirements;

—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation, and intergovernmental consultation;

—An examination of air quality trends;

—An analysis of the candidate air quality control measures that examines expected emission reductions, costs, resource impacts, social impacts, and enforcement aspects;

—A discussion of the specific strategies for ozone, carbon monoxide, particulate matter, and nitrogen dioxide which includes schedules for reasonable further progress, adopted stationary source control measures, commitments to adopt additional control measures; and

—A discussion of the commitment to adopt new source review provisions.

The plan demonstrates that attainment of the ozone and carbon monoxide standards by 1982 is not possible despite the implementation of all reasonably available control measures. An extension of the ozone and carbon monoxide attainment dates until no later than December 31, 1987 has been requested. The control measures described in the plan include:

—California's motor vehicle standards for new vehicles;

—A vehicle emission control inspection and maintenance program, assuming the appropriate legal authority will be adopted by the California Legislature;

—Stationary source control measures;

—Transportation measures to reduce the use of automobiles, including modified work schedules, carpool preferential parking, increased bicycle/ pedestrian facilities, employee ridesharing programs, automatic traffic signal control systems, and reduction of nonrecurrent congestion; and

—A new source review program.

Based on this demonstration, the State requests an extension of the ozone and carbon monoxide attainment dates until no later than December 31, 1987.

The plan indicates that the total suspended particulate (TSP) problem is extremely complex. It is caused by industrial sources, windblown dust from both natural sources and human activities, and by the chemical coversion in the atmosphere of certain gaseous

pollutants such as sulfur dioxide to small particles called "secondary aerosols." The State and local agencies have determined that a complete, rational control strategy to solve this problem will require extensive additional analysis. The current plan includes implementation of all reasonably available control technology on traditional sources of TSP, a commitment to complete a revised control strategy by the end of 1981, and a commitment to attain the national standard by the end of 1982.

The plan indicates that the nitrogen dioxide problem is caused by industrial sources, such as power plants, and by motor vehicles. The State and local agencies have determined that the problem is very difficult and that additional technical analysis of the problem is necessary to develop a more effective control strategy and to evaluate the effect of nitrogen oxide controls on other pollutant problems. The State has made the commitment that a revised control strategy which contains the necessary analysis, rule implementation schedules, and commitments to achieve the nitrogen dioxide standard by the end of 1982 will be submitted by December 31, 1981.

This notice includes nonattainment area plan related SIP revisions submitted by the Governor's designee prior to November 1, 1979. These SIP revisions include the July 25, 1979 plan revision and the rule revisions submitted on January 2, 1979.

The rules being considered in this notice include new and amended VOC control rules for existing sources.

The rules and the appropriate submittal dates are listed below.

South Coast Air Quality Management District

Rules and Regulations

January 2, 1979:
- Rule 462, Organic Liquid Loading.
- Rule 481, Spray Coating Operations.
- Rule 1104, Wood Flat Stock Coating Lines.

July 25, 1979:
- Rule 461, Gasoline Transfer and Dispensing.
- Rule 1115, Automobile Assembly Line Coating Operations.
- Rule 1126, Magnet Wire Coating Operations.

Criteria for Approval

The South Coast Air Basin Control Strategy must be evaluated to determine whether it is consistent with Part D of the Clean Air Act. The following list summarizes the basic Part D requirements for nonattainment area plans:

1. An accurate inventory of existing emissions.

2. A modeling analysis indicating the level of control needed to be attain by 1982, and in the case of an extension request, by 1987.

3. Emission reduction estimates for each adopted control measure.

4. A provision for expeditious attainment of the standards.

5. Provisions for reasonable further progress, as defined in Section 171 of the Clean Air Act.

6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.

7. An identification of an emissions growth increment.

8. Provisions for annual reporting with respect to items (5) and (6) above.

9. A permit program for major new or modified sources consistent with Section 173 of the Clean Air Act.

10. An identification of and commitment to the resources necessary to carry out the plan.

11. Evidence of public, local government, and State involvement and consultation.

12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standards later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites, and consideration of environmental and social costs.

b. A provision for implementation of all reasonably available control measures for mobile and transportation sources.

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs.

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program.

14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines. For rural areas, only large sources (more than 100 tons/year emissions) must be so regulated.

Issues

The paragraph numbers below correspond to the Part D nonattainment area plan requirements discussed in the preceding section, CRITERIA FOR APPROVAL. Where a plan discrepancy is identified, recommendations for revision of the plan are specified. The citations and the comments which follow refer to Sections 108, 110, and Part D, Sections 171 to 178, of the Clean Air Act, as amended.

The most significant issue with respect to the South Coast Nonattainment Area Plan for ozone (O_3) and carbon monoxide (CO) is the lack of legal authority and a specific schedule to implement a motor vehicle inspection and maintenance (I/M) program. The adopted plan sets forth an annual I/M program as a necessary control tactic for the attainment of the National Ambient Air Quality Standards (NAAQS) for O_3 and CO, and contains local agency and California Air Resources Board (ARB) commitments to implement such a program.

Since the State Legislature, as of this date, has failed to authorize the legal authority necessary for implementation of the program, the plan for O_3 and CO cannot be approved with respect to Part D of the Clean Air Act (the Act). The Act requires that nonattainment area plans for areas such as the South Coast, which demonstrate that the NAAQS for O_3 and/or CO cannot be attained by December 1982, despite the implementation of all reasonably available control measures, must establish a specific schedule for implementation of an I/M program (Section 172(b)(11)(B)). A schedule for implementation is not contained in the plan due to the lack of legal authority to implement the I/M program. In addition, the Act requires that all reasonably available control measures be adopted in a legally enforceable manner and implemented as expeditiously as practicable (Section 172(b)(2) and 172(b)(10)). I/M is a reasonably available control measure but due to the lack of legal authority, the I/M program set forth in the plan has not been adopted in a legally enforceable manner. Moreover, without legislative authorization, the I/M program cannot be implemented as expeditiously as practicable.

If this major deficiency is not remedied by action of the State Legislature to authorize the implementation of an I/M program, the O_3 and CO plans for the South Coast area (as well as for the San Francisco

Bay area, San Diego area, Sacramento Area, Fresno Area and possibly other areas) by law must be disapproved by EPA with respect to Part D of the Act because certain requirements of Part D are not met. This overall plan disapproval would result in the continuation of the prohibition on construction of certain major new or modified sources in those areas, as set forth in Section 110(a)(2)(I) of the Act and EPA's Interpretive Rule on the Statutory Restriction on New Sources (44 FR 38471, July 2, 1979). In conformance with the Act and the Interpretive Rule, currently, certain major new or modified stationary sources are prohibited from being construced in California nonattainment areas.

At such time as the Legislature provides legal authority to implement an I/M program, and at such time as the State submits a State Implementation Plan (SIP) revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce the I/M program so authorized, (3) a commitment to achieve 25% reductions in both hydrocarbons and carbon monoxide exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress toward implementation, the deficiencies noted above may be resolved. Upon the State's submittal of the necessary documentation and assurances as an SIP revision, EPA will consider, and provide for public comment on, the approval of the I/M program for the South Coast nonattainment area.

A full discussion of the South Coast plan with respect to EPA's 14 CRITERIA FOR APPROVAL follows. EPA has identified certain portions of the plan that (1) are approvable, (2) are conditionally approvable subject to assurance by the State that corrections will be made by a specified deadline, or (3) contain major deficiencies which must be remedied prior to EPA's final approval of the plan with respect to Part D of the Act. EPA's evaluation using these three categories will determine whether the plan as a whole is (1) approvable, (2) conditionally approvable, or (3) disapprovable.

Those portions of the plan which are approvable have been determined to be consistent with Section 110 and/or Part D of the Act and are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the plan is ultimately approvable with respect to Part D. In addition, certain technological portions of the plan are noted as being approved even though they are expected to be refined in future plan updates.

Those portions of the plan which are conditionally approvable contain minor deficiencies which can be accepted on the condition that the State provide an assurance that the deficiency will be corrected and submitted as an SIP revision by a specified deadline. Conditional approval of the entire plan will be sufficient to lift the existing prohibition on new source construction described above. Conditional approval of the entire plan would mean that the restriction on new sources would not apply unless the State failed to submit corrections by the specified date, or unless the corrections were ultimately determined to be inadequate. Those portions of the plan which are conditionally approvable are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the overall plan is approvable with respect to Part D.

Those portions of the plan that are deemed to be major deficiencies must be corrected and submitted as SIP revisions in order for EPA to either approve or conditionally approve the entire plan with respect to Part D of the Act. As identified in the discussion which follows, the major deficiencies (with respect to the nonattainment pollutants) are the lack of: an I/M program (CO, O_3), a new source review program (CO, NO_2, O_3 and TSP), and certain volital organic compound regulations (O_3).

1. Emission Inventory

The plan includes an emission inventory for hydrocarbons (HC), CO, total suspended particulates (TSP), and nitrogen oxides (NO_x). The inventory is based on an average summer weekday, and includes a 1976 base year and projected inventories to 1982 and 1987. The plan also contains a summary inventory that includes emission estimates for sources located in Ventura County, which is adjacent to (not within) the South Coast nonattainment area. The emission estimates from Ventura County must be deleted from this inventory. Further, the inventories in the plan present two different base year emission totals. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of the emission inventories correcting the deficiencies noted above by July 1, 1980.

The use of average summer weekday emissions in the inventory is inappropriate for CO (for which the average winter day is more representative of worst case situations), and is inappropriate for NO_x (for which an annual average is more comparable with the NAAQS for NO_2). In addition, the TSP inventory does not categorize or enumerate non-traditional emissions sources. An emission inventory is needed, by source category, for traditional and nontraditional source categories for TSP emission sources. EPA recognizes that a completely comprehensive TSP inventory of this nature will require time to prepare; however, an improved inventory is needed for modeling purposes. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of the needed inventories by October 1, 1980.

The inventories for the base year do not include emission estimates for offshore fugitive hydrocarbon emissions from ballasting or tank cleaning operations. The base year and projected emission inventories do not include estimates for offshore oil production or ship lightering operations. Emission estimates for these sources must be developed and should be submitted to EPA by January 1, 1981.

2. *Modeling*

Ozone

The plan contains an estimate that attainment of the NAAQS for ozone will require approximately a 75% reduction in emissions of reactive organic gases. However, documentation of the modeling methodology and the procedures used to derive the estimated necessary reduction was not provided. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of this modeling documentation by May 1, 1980.

Carbon Monoxide

The plan uses linear rollback modeling to calculate the emission reductions required to meet the NAAQS for CO. Rollback is considered an acceptable modeling technique for the 1979 SIP revision. Emissions from 1974 were used in the modeling, rather than using 1976 emissions data consistent with the inventory. Nonetheless, modeling using the less severe 1974 emissions data still shows that the NAAQS for CO cannot be attained by 1982.

Total Suspended Particulates

Modified rollback modeling with background TSP values included was used in the plan. Rollback is considered an acceptable modeling technique. However, the emissions input data

needs to be improved such that modeling can determine a reasonable estimate of the allowable emissions necessary for attainment. Improvement is needed particularly in terms of data indicative of those portions of reentrained particulate, cleared and disturbed area windblown dust, and secondary aerosols which are contributing to the TSP problem. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of revised modeling results based on improved input data by January 1, 1981.

Nitrogen Dioxide

Linear rollback modeling was used in the plan to determine the percent reduction in emissions needed to demonstrate attainment of the NAAQS for NO_2. This modeling technique is acceptable. The plan provides for utilizing more sophisticated modeling techniques to develop additional emission limitations and further revisions to the NO_x control strategy. An accurate photochemical model is required to assess the interrelationships between O_3 and NO_x.

3. *Emission Reduction Estimates*

Estimated emission reductions resulting from control tactics in the plan are uncertain for three main reasons. First, because the emission inventory includes emissions from sources within Ventura County, the effectiveness of certain of the plan's control tactics appears to be exaggerated. The estimated emission reductions are obscured further by the ARB's deletion and revision of several control tactics contained in the locally adopted plan in a way that makes recalculation of the emission reductions difficult. Third, many control tactics lack documentation, and sometimes lack apparent feasibility, causing some uncertainty as to the emission reductions which can be expected to result from their implementation.

Annual emission reduction estimates per control tactic are necessary to justify a demonstration of attainment and to serve as a basis for a projection and tracking of reasonable further progress in emission reductions. EPA recognizes that emission reduction estimates may change as measures are more fully analyzed and implemented; as such estimates change, appropriate responses will be required to ensure that the plan remains adequate to provide for attainment and reasonable further progress. EPA also recognizes that resolution of the uncertainties surrounding many of the emission reduction estimates contained in the plan is dependent upon future planning activities for O_3 and CO and to the annual reports and plan refinements for TSP and NO_x.

Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal by July 1, 1980, of estimated annual reductions per pollutant, free from the uncertainties mentioned above, for each tactic / (including the new source review rule) in the plan for which implementation is scheduled to begin prior to July 1, 1982. Also, such estimated reductions for each tactic and must be submitted by the State in annual reports and future plan refinements. Each reduction estimate should be accompanied by the following documentation: (1) The amount and percentage of control that can be achieved under present district regulations (exemptions need to be documented and factored in when making this estimate); (2) the amount and percentage of control that can be achieved under new regulations and/or regulatory provisions that will achieve additional reductions, specifying the sources to be controlled; and (3) the amount and percentage of emissions in a given source category that will not be affected by the above regulations.

4. Attainment Provision

Section 172(a) of the Act requires that the plan shall provide for the attainment of the primary NAAQS for O_3, CO, TSP and NO_2 as expeditiously as practicable but not later than December 31, 1982. Where the State demonstrates that the standards for O_3 and/or CO cannot be attained by December 31, 1982, despite the implementation of all reasonably available control measures, an extension may be granted and the State must demonstrate attainment by no later than December 31, 1987. The plan does not quantitatively demonstrate attainment for any of the four nonattainment pollutants by December 31, 1982, nor does it quantitatively demonstrate attainment for O_3 or CO by December 31, 1987. Rather the plan calls for further study and analysis to provide a more accurate quantitative demonstration of attainment. The approach for each pollutant is discussed in detail below.

Ozone and Carbon Monoxide

The plan addresses the revised NAAQS for O_3 of 0.12 ppm which was promulgated by EPA on February 8, 1979 (44 FR 8202), and addresses the NAAQS for CO of 9.0 ppm. Justification in the plan for an extension beyond the 1982 deadline is based upon a demonstration that the O_3 standard and the CO standard cannot be achieved, despite expeditious implementation of reasonably available control measures.

The plan includes a graph representing aggregate emission reductions necessary to attain the O_3 and CO standards by 1987. The plan does not provide for a quantitative demonstration of such emission reductions necessary to attain the standard. Further air quality analysis and further emission reduction control strategy analysis will be required in order to accurately justify the demonstration of attainment. The plan includes a commitment to prepare the 1982 SIP revision which will provide for the attainment of the O_3 and CO standards by no later than December 1987.

The plan does not include a local commitment to an emission reduction target for the transportation sector. The commitment to such a target is an integral part of a demonstration of attainment. EPA policy requires that the commitment to an emission reduction target be submitted by the State by July 1, 1980, in the annual report.

Several planned highway and freeway projects are included in the plan's projected emission baseline without a demonstration that the emission impact of these projects has been fully considered, i.e., any adverse air quality impacts of the projects would be mitigated to the degree necessary consistent with attainment of the standards. Furthermore, the projects were included in the projected emission baseline in the absence of procedures, mandated by Section 176(c) and Section 176(d), needed to ensure their conformity with the SIP and to give priority to the implementation of plans and programs with air-quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. (See Criterion 13 for additional discussion.) Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be that by July 1, 1980 the State either: (1) Submit in the annual report an analysis of the estimated emissions associated with the projects, and a demonstration that such emissions will be mitigated consistent with attainment, or (2) delete the projects from the plan baseline.

Total Suspended Particulates

The plan demonstrates that despite the application of reasonably available control technology (RACT) to all traditional sources the annual geometric

mean (AGM) primary TSP standard cannot be attained by December 1982. However, the plan does not include a justification for the use of AGM data over 24-hour data. Since modeling must employ the design value which yields the lowest, most stringent allowable emission level capable of causing both primary standards to be attained, both design values should be included in the plan.

The plan indicates that the control of gaseous precursors of secondary particulates and control of fugitive dust, in addition to the control of traditional sources, will be necessary to attain the standards. In such cases it is EPA policy that the plan contain a commitment and a schedule to study nontraditional source control measures and a commitment to implement those measures necessary to attain the NAAQS by December 31, 1982. The plan contains a commitment to attain the standards by December 31, 1982, and calls for a work program for utilizing appropriate modeling techniques and for revision of the TSP control strategy. However, the plan does not contain a schedule to perform the needed studies. If the necessary schedule, a justification for employing the AGM and/or 24-hour standard, and the referenced work program (providing for the satisfaction of the requirements for modeling identified above in Criterion 2, Modeling, Total Suspended Particulates) were included in the plan, a demonstration of attainment could be approved based on future implementation of nontraditional particulate source control measures and of additional secondary particulate precursor source control measures. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of the schedule and work program by May 1, 1980. The selection of the standard used should be justified by May 1, 1980.

The provisions of 40 CFR 51.31, allowing an extension of up to 18 months (July 1980) for submittal of a plan showing attainment of the secondary TSP standard, appear to be satisfied, since the plan shows that attainment of this standard will require emission reductions greater than those that would result from the expeditious application of RACT.

Nitrogen Dioxide

The plan includes a graph representing aggregate emission reductions necessary to attain the NO_2 standard by 1982. However, further air quality analysis and further emission reduction control strategy analysis will be required in order to more accurately justify this demonstration of attainment. Such further analysis must be based upon the more accurate emission inventory, modeling, and emission reduction estimates per control tactic which are to be performed (see Criteria 1, 2, and 3). Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of (a) complete work programs (providing for the satisfaction of the requirements for modeling identified above in Criteria 2, Modeling, Nitrogen Dioxide) by May 1, 1980 and (b) by July 1, 1980, (1) the results of additional air quality analysis giving a preliminary quantification of the total emission reductions needed to attain the standard, and (2) a schedule for the submittal of results of detailed air quality analyses and quantification of needed total emission reductions.

5. Reasonable Further Progress

Ozone and Carbon Monoxide

Figures 18–1 and 18–2 of the plan represent the annual incremental reductions needed for attainment by 1987 of the ozone and carbon monoxide standards, respectively. This generalized representation is sufficient for the 1979 SIP revision, as it addresses the requirements of Sections 172(b)(3) and 171(1) of the Act with respect to reasonable further progress. The annual report of reasonable further progress to be submitted by the State on July 1 of each succeeding year is expected to refine the estimates of incremental reductions based upon updates of emission inventories, new analysis of control strategy effectiveness, and actual reductions being achieved through plan implementation. EPA policy requires that the July 1980, annual report submitted by the State include refined assessments of annual emission reduction estimates per control tactic to serve as a basis for projecting and tracking reasonable further progress in emission reductions.

To demonstrate reasonable further progress with respect to the transportation sector, programs to directly monitor and report on implementation progress and the emission reduction effectiveness of each transportation control measure must be developed, described, and committed to pursuant to the EPA/DOT Transportation-Air Quality Planning Guidelines, which call for an adequate description of the contribution of transportation source controls to the incremental mobile emission reductions for attainment. EPA policy requires that such a monitoring program be in place and included in the 1980 annual report.

The plan contains a resolution by ARB that wastewater treatment facilities in the South Coast nonattainment area which meet four conditions do not require additional analysis of regional air quality impacts or additional mitigation measures. EPA endorses and encourages the integration of air quality and water quality planning programs to aid in expediting progress toward the goals of each program, and to avoid compromising the needs of one program to the expediency of the other. However, until the details of the intergration policy (of which the four conditions appear to provide at least some foundation) are developed and committed to by the implementing agencies and approved by EPA after public notice and review, the requirements of reasonable further progress with respect to wastewater treatment facilities must be satisfied by current individual project review procedures.

Total Suspended Particulates

The provision of reasonable further progress in the plan appears to be consistent with the intent of Sections 172(b)(3) and 171(1) since the plan provides for regular incremental reductions needed for expeditious attainment based on future implementation of nontraditional and secondary particulate source control measures. Based on work to be performed in accordance with a work program noted above in Criterion 4, the July 1980, annual report submitted by the State must include refined assessments of reasonable further progress.

Nitrogen Dioxide

The provision of reasonable further progress in the plan appears to be consistent with the intent of Sections 172(b)(3) and 171(1) since the plan provides for regular incremental reductions needed for expeditious attainment based on the actions and commitments indicated above in Criterion 4, Attainment Provision, Nitrogen Dioxide, and below in Criterion 6, Legally Adopted Measures/Schedules, Nitrogen Dioxide.

6. Legally Adopted Measures/Schedules

The plan does not indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to show adoption in legally enforceable form of the necessary

reasonably available control technology (RACT) for volatile organic compound (VOC) sources, all reasonably available control measures including a motor vehicle emission inspection and a maintenance program and for all other measures, either adopted control strategies or schedules and commitments for strategy development, adoption, and implementation.

Ozone

The plan must include adopted regulations reflecting RACT for all applicable stationary source categories for which EPA had published a Control Techniques Guildine (CTG) document by January 1978. As discussed in detail in Criterion 14, adequately legally enforceable regulations for 9 of the 15 CTG categories have not been submitted by the State. This is a major deficiency and must be remedied in order for EPA to approve the O_3 plan with respect to Part D of the Act.

The plan contains (in Table 18–3) stationary source confrol measures for several source categories which are not addressed by the CTG documents published by EPA as of January 1978. These control measures are not adopted in legally enforceable form, although the plan contains a commitment that those measures deemed reasonably available will be adopted as rules by the South Coast Air Quality Management District (SCAQMD) and/or the California Air Resources Board (ARB). Upon the correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal by May 1, 1980, of a schedule providing for the adoption and submittal to EPA of all such control measure rules as expeditiously as practicable and not later than July 1, 1982. Such rules must be adopted and submitted in accordance with the schedule, and each annual report must provide a status of adoption of such rules. The plan must include adoption of reasonabley available control measures in legally enforceable form. A motor vehicle emisson inspection and maintenance program is a reasonably available transportation control measure and is provided for in the plan. However, due to the absence of legal authority to implement the I/M program set forth in the plan because of the lack of state authorizing legislation, I/M cannot be considered to be adopted in legally enforceable form. This is a major deficiency and must be remedied in order for EPA to approve the O_3 plan with respect to part D of the Act.

The plan contains 6 transportation control measures that are presently found to be reasonable in the South Coast nonattainment area, and that correspond to 4 of the 18 transportation control measures identified in Section 108(f). However, there is no evidence in the plan that any of the 6 transportation control measures are currently adopted or committed for implementation in legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed, and where appropriate, have adopted statutes, regulations, ordinances or other legally enforceable documents, to implement and (where appropriate) enforce the necessary transportation control measures, nor have they adequately identified the specific measures to be implemented and established implementation schedules with milestone dates for planning, programming, implementing, operating, enforcing and monitoring each transportation control measure consistent with a demonstration of reasonable further progress. Upon the correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of these commitments and schedules from the implementing agencies by July 1, 1980.

Sections 172(b)(11)(C), 172(b)(2), and 172(b)(10) require the identification and implementation of all other reasonably available control measures (including but not limited to those contained in Section 108(f) of the Act) necessary to provide for attainment. The plan does not contain commitments to implement expeditiously all measures found to be reaonably available after analysis performed in accordance with the schedule required in Criterion 13 below. Upon correction of the major deficiences, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of these commitments from the implementing agencies by July 1, 1980.

Carbon Monoxide

As discussed for O_3 the I/M program cannot be considered to be adopted in legally enforceable form and the CO plan cannot be approved with respect to Part D of the Act. As also discussed for O_3, the transportation control measures in the plan and other measures for further study are not supported by commitments and schedules. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of commitments and schedules by July 1, 1980.

Total Suspended Particulates

The plan lacks written evidence of schedules to study nontraditional and secondary particulate source control measures. Upon correction of the major deficiences, the plan could be conditionally approved; one the the conditions of approval would be the State's submittal of the schedules by May 1, 1980.

The plan contains (in Table 18–3) stationary source control measures for several source categories. These control measures are not adopted in legally enforceable form, although the plan contains a commitment that those measures deemed reasonably available will be adopted as rules by the SCAQMD and/or the ARB. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal by January 1, 1981, of a schedule providing for the adoption and submittal to EPA of all such control measure rules as expeditiously as practicable and not later than December 31, 1981. Such rules must be adopted and submitted in accordance with the schedule, and each annual report must provide a status of adoption of such rules.

Nitrogen Dioxide

The plan includes a commitment by the State to reanalyze the demonstration of attainment and to develop additional control measures necessary to attain the standard by December 31, 1982. This commitment must be supplemented by specific schedules for rule development, adoption, and submittal to EPA. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal by July 1, 1980 of the appropriate schedules to develop, adopt, and submit legally enforceable control measures which provide for attainment of the standard by no later than December 31, 1982.

The plan contains (in Table 18–3) stationary source control measures for several source categories. These control measures are not adopted in legally enforceable form, although the plan contains a commitment that those measures deemed reasonably available will be adopted as rules by the SCAQMD and/or the ARB. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal by July 1, 1980, of a schedule providing for the adoption and submittal to EPA of all such control

measure rules as expeditiously as practicable and not later than December 31, 1981.

Such rules must be adopted and submitted in accordance with the schedule, and each annual report must provide a status of adoption of such rules.

Supporting Regulations

The State has submitted Rule 481, Spray Coating Operations. EPA believes this regulation should be approved for inclusion in the SIP, since it will strengthen the SIP by implementing control tactics included in the plan.

40 CFR Part 52

In addition to the proposed rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the South Coast nonattainment area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they have been replaced by the revised set of control measures/regulations contained in this plan and/or they have been invalidated by previous legal action:

A. § 52.233 *Review of new sources and modifications:* Subparagraphs (d)(2) and (g)(1)(ii) can be rescinded when the State adopts and officially submits approvable new source review regulations; also, subparagraphs (h), (i), and (j) should be rescinded since they have been invalidated by the Clean Air Act Amendments of 1977.

B. § 52.238 *Attainment dates for national standards:* The attainment dates in this section are proposed to be changed in accordance with the submitted plan.

C. The sections below should be rescinded in their entirety since they have been invalidated by the court action of *Brown vs. EPA*. 521 F2d 827 (1975):

§ 52.242 *Inspection and maintenance program;*
§ 52.243 *Motorcycle limitation;*
§ 52.244 Oxidizing catalyst retrofit;
§ 52.247 *Definitions for parking management regulations;*
§ 52.251 *Management of parking supply;*
§ 52.257 *Computer carpool matching;*
§ 52.263 *Priority treatment for buses and carpools;*
§ 52.266 *Monitoring transportation mode trends.*

D. § 52.256 *Control of evaporative losses from the filling of vehicular tanks:* This regulation applies throughout the Metropolitan Los Angeles, Sacramento Valley and San Joaquin Valley Intrastate Air Quality Control Regions. The regulations has not, however, been implemented, since final compliance with its provisions was indefinitely deferred on May 31, 1977 (42 FR 27674). The State of California has developed a program for the control of these sources, and district regulations have previously been approved for inclusion in the SIP for some of the areas originally subject the the Federal regulation. It is proposed that Section 52.256 be rescinded, since it is an absolete provision of the State Implementation Plan. No relaxation of emission controls is anticipated as a result of such action.

E. § 52.229 *Control strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intrastate Region:* Subparagraph (a) should be rescinded due to the revised attainment dates in the plan and in accordance with the Clean Air Act Amendments of 1977.

7. Emissions Growth

The plan must include either (1) an express identification and quantification of an emission growth increment for the construction and operation of major new or modified stationary sources, or (2) provisions to offset the emissions from such sources in a new source review rule. The plan does not contain an express identification and quantification of a reserved increment of emissions growth for major new or modified sources. As an alternative, the requirements of Section 172(b)(5) should be satisfied by the adoption and submittal of a new source review rule which requires emission offsets. (See Criterion 9 below for further discussion.)

8. Annual Reporting

The plan must contain a commitment for annual reporting on (a) the progress toward meeting the schedules discussed in Criterion 6 above, (b) the anticipated increase in emissions from mobile sources, minor new stationary sources, and major new or modified stationary sources, (c) the reduction in emissions from existing sources to provide for reasonable further progress as discussed in Criterion 5 above, and (d) an updated emission inventory. A commitment to submit annual reports of reasonable further progress, including an updated emission inventory, is included in the plan. However, the commitment does not expressly include subjects (a), (b), and (c). EPA policy requires that information on all four subjects be included in each annual report.

9. Permit Program

The ARB has submitted its Model New Source Review Rules and two letters from the ARB to local districts (letters dated March 12, 1979 and May 7, 1979) as draft rules for the purpose of meeting the requirements of Section 173. Thus, the term draft rules used here refers to the model rules as clarified by these two letters. These draft rules are not adopted in a legally enforceable manner as required by Section 172(b)(10) of the Act. Rather they are a model upon which an adopted and legally enforceable rule would be based.

The lack of an adopted new source review (NSR) rule is a major deficiency which must be corrected before EPA can approve the overall plan. The permit program is required by Sections 172(b)(6) and 173 of the Act. Without an approved permit program, the O_3, CO, TSP, and NO_2 plans cannot be approved or conditionally approved with respect to Part D of the Act because certain Part D requirements are not met.

At the request of the State, and assuming that an adopted rule equivalent and similar to the draft rules will be submitted, EPA has reviewed the substance of the draft rules against EPA's criteria for a new source permitting program. These criteria are contained in guidelines as published in the preamble to EPA's revised Interpretative Ruling (IR) (44 FR 3274, January 16, 1979); EPA's General Preamble for Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas; and in the September 5, 1979 **Federal Register** (44 FR 51924). As described in the September 5, 1979 notice, EPA policy is generally to approve any plan that would meet the January 16, 1979 Interpretative Ruling or the criteria set forth in the September 5, 1979 proposal.

EPA has reviewed the draft rules against both the January 16 and September 5, 1979 criteria. EPA's review indicates that the draft rules are more stringent than EPA's criteria in certain respects including broader application of lowest achievable emission rate (LAER) and offset criteria. However, the draft rules are less stringent than EPA's criteria in several respects:

1. The draft rules deviate from EPA's January 16, 1979 criteria by exempting modifications of existing sources under certain circumstances which EPA criteria would not allow. If a modification were to result in a net increase in emissions of less than 250 pounds/day (46 tons/year), the draft rules would exempt the modification from all Part D NSR requirements. EPA's January 16, 1979 criteria allow such an

exemption for a major modification only if there will be no net increase in emissions, and does not allow any exemption for reconstructions.

EPA's September 5, 1979 criteria also rule out any exemptions for reconstructions and allow exemptions of other major modifications only if the net increase in emissions will be less than "de minimis" levels. The draft rules cut-off level is less stringent than the "de minimis" levels contained in the September 5, 1979 criteria for three of the four nonattainment pollutants.

2. The draft rules do not require offsets of SO_x, TSP and CO if modeling shows that the increased emissions will not contribute to any violation of NAAQS. Though this is consistent with the January 16, 1979 criteria, it is not consistent with EPA's September 5, 1979 criteria, which require offsets of emissions from any major sources constructed in nonattainment areas. EPA's September 5, 1979 requirements specify that such offsets should provide a "net air quality benefit," in order to avoid increases in emissions, and to reduce emissions.

3. The draft rules also exempt from LAER and offset criteria sources of CO which will not cause violations of NAAQS. This exemption is less stringent than EPA's September 5, 1979 criteria. The September 5, 1979 criteria provide that all new major CO sources and modifications which will exceed the "de minimis" levels must meet LAER and offset criteria.

4. The draft rules allow offsets to be made anywhere in a large area, without necessarily being upwind or near the source of increased emissions. This weakness results in large part from the definition of "upwind". Both sets of EPA criteria call for offsets to be made in the immediate vicinity of the site of increased emissions, though deviations are possible under some circumstances if modeling demonstrates a net air quality benefit or if the offset ratio is increased.

5. The draft rules allow for offsetting increased emissions of one precursor of a pollutant with another precursor of the same pollutant. Both sets of EPA criteria specify that all offsets must be made for the same pollutant as the increased emissions.

The deficiencies in the draft rules described above are not deemed to be major deficiencies with respect to Part D requirements of the Act. Therefore, EPA could conditionally approve the plan upon submission of an adopted NSR rule equivalent to the draft rules and upon correction of the major deficiencies. A condition would be that the State must modify the adopted rule so that the above deficiencies are corrected to be consistant with the Clean Air Act and either: (1) the September 5, 1979 proposed regulations, or (2) final EPA regulations based on the September 5, 1979 proposal, or (3) the January 16, 1979 interpretative ruling, and submit it as an SIP revision by March 1, 1981. (Although not a consideration under Part D of the Act, it should be noted that EPA could not fully approve—with respect to Part C of the Act—an adopted NSR rule containing language equivalent to Section B.3. of Model Rule I. This section would not meet the requirements of Part C of the Act because the model rule does not require regulation of all the pollutants which Part C requires to be regulated.)

10. Resources

The plan identifies annualized costs of control tactics as a sum of capital, operating, maintenance, administrative, and regulatory costs. The plan also identifies sources of available funding. However, the plan neither specifically identifies the personnel and financial resources to which the implementing agencies must commit, nor provides commitments on the part of all implementing agencies to the resoures necessary for plan implementation. The plan must provide such identifications and commitments to satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7). Upon correction of the major deficiences, the plan could be conditionally aproved; one of the conditions of approval would be the State's submittal of these identifications and commitments by July 1, 1980.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The plan identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments and the tapes of the ARB hearing held on the plan.

Therefore, the plan meets the requirements of Section 172(b)(9).

12. Public Hearing

The plan meets the requirements of Section 172(b)(1) and 40 CFR 51.4 since it includes evidence that the plan was adopted by the State after reasonable notice and public hearing.

13. Extension Requirements

Since the State has demonstrated that the NAAQS for O_3 and CO cannot be attained by December 1982, despite the application of reasonably available control measures, and has requested an extension of the attainment date beyond December 1982, for O_3 and CO, the plan must meet the requirements of Sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the State must submit, in conjunction with the NSR permit program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrate that the benefits of a major emitting facility outweigh environmental costs. While the State has adopted a policy that the California Environmental Quality Act (CEQA) procedure is equivalent to that required by Section 172(b)(11)(A) of the Act, official submittal of relevant portions of CEQA as part of the plan is needed to satisfy the requirements of Section 172(b)(11)(A). Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of the relevant portions of CEQA by May 1, 1980.

Under Section 172(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to authorize the legal authority to implement such a program. At such time as the Legislature provides legal authority to implement an I/M program, and at such time as the State submits an SIP revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce the I/M program so authorized, (3) a commitment to achieve 25% reductions in both hydrocarbons and CO exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress toward implementation, this requirement would be satisfied. This major deficiency must be remedied in order for EPA to approve the O_3 and CO plans with respect to Part D of the Act.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. The plan provides a

commitment to develop a plan to meet basic public transportation needs in the June 1980 Regional Transportation Improvement Plan update, but does not commit to the use of Federal grants and State and local funds as necessary to meet basic transportation needs. Upon the correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of the needed commitment by January 1, 1981.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. Although the plan identifies a number of measures, no schedules are included for the study of alternative packages of measures. Additionally, several Section 108(f) measures have not been fully analyzed; these should be included in the plan for further study. Specifically these are programs to: Control extended idling of vehicles; convert fleet vehicles to cleaner engines or fuels; institute road user charges, tolls, or differential rates to discourage single occupancy automobile trips; and limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place.

Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of an expanded list of measures, including those specified above, and a schedule for analysis of the alternative packages of measures, by May 1, 1980.

To assure that the requirements of Section 176(c) and 176(d) are met, EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan over which the metropolitan planning organization has approval authority, and that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintenance of the NAAQS. EPA policy requires that these procedures be submitted by July 1, 1980 in the annual report.

The plan appears to reject the prioritization of Federal funds for implementation of transportation control measures as mandated by Section 176(d). Furthermore, the plan includes a policy of programming an equal proportion of "air quality projects" and capital highway projects. These provisions of the plan appear to be in direct conflict with Section 176(d). Upon the correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be that by May 1, 1980, the State either: (1) submit a justification that these plan provisions are consistent with Section 176(d), or (2) delete these provisions from the plan.

14. Extension Requirements for VOC RACT

Since the State has demonstrated that attainment of the 0.12 ppm ozone standard is not possible by December 1982, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories of volatile organic compounds (VOC) which exist within the South Coast nonattainment area for which EPA had published a Control Techniques Guideline (CTG) document by January 1978 (i.e., Category I CTGs). In addition, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques, and certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that all of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required exist in the nonattainment area. For 5 of the 15 categories, adopted regulations have been submitted. For 9 of the 15 categories, model rules have been submitted for review in lieu of final adopted rules which are forthcoming. For 1 of the 15 categories, EPA has already approved the regulation as part of the SIP. The following paragraphs discuss these regulations or model rules in detail.

The following regulations contain control requirements for 5 of the 15 categories (service station Stage I gasoline vapor recovery (GVR), bulk gasoline plants, bulk gasoline terminals, automotive coating operations, and magnet wire coating operations):

Rule 462, Organic Liquid Loading (submitted January 2, 1979);
Rule 461, Gasoline Transfer and Dispensing (submitted July 25, 1979);
Rule 1115, Automobile Assembly Line Coating Operations (submitted July 25, 1979);
Rule 1126, Magnet Wire Coating Operations (submitted July 25, 1979).

These regulations have been submitted to EPA for inclusion in the SIP. Based on information contained in the CTGs and on material submitted by the State, EPA believes that the submitted regulations satisfy the requirement for RACT and are approvable, except for the service station Stage I GVR source category. Exemptions contained in Rule 461 for tanks with offset fill pipes and tanks with less than 550 gallons constructed prior to March 1, 1977, are not supported by information in the CTGs, or otherwise available to EPA. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of one of the following by July 1, 1980: an adequate demonstration that the regulations for service station Stage I GVR represents RACT, an amended regulation to be consistent with the CTG, or a demonstration that the regulation (Rule 461) will result in VOC emission reductions which are insignificantly different (within 5 percent of controlled emissions) from the reductions which would be achieved through implementation of the CTG recommendations for service station Stage I GVR sources.

Rule 1115 allows for the use of alternative control methods for automobile assembly-line coating operations. This rule requires that any alternative control methods must provide for emission reductions which are equivalent to those achievable with the categorical emission limits of the rule; that the control methods must be

approved by the Executive Officer; and that the source apply for new operating permits. EPA policy for alternative proposals requires that these alternative proposals be submitted by the State as SIP revisions, as discussed in EPA's policy statement, "Recommendations for Alternative Emission Reduction Options within the State Implementation Plans" (44 FR 71780, December 11, 1979). Until these alternative proposals are approved as a revision to the SIP, EPA would continue to enforce the categorical emission limits and compliance Schedules of Rule 1115.

The submitted regulations for bulk gasoline plants apply to sources also regulated by the Federal regulation 40 CFR 52.255, "Gasoline Transfer Vapor Control." Since the submitted District regulations adequately control those sources covered by the Federal regulations, and since compliance is currently required by the District regulations the Federal regulation should be rescinded applicable to these sources. Similarly, the submitted regulations for automobile assembly line and magnet wire coating operations apply to sources regulated by the Federal regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." Since the submitted regulation for automobile assembly line coating is future effective, the Federal regulation should be retained applicable to this source category until such sources achieve full compliance with the District regulation (Rule 1115). The Federal regulation should be rescinded for sources subject to Rule 1126 (Magnet Wire Coating Operations), since the provisions of Rule 1126 are immediately effective.

The District's regulations for automobile assembly line coating and magnet wire insulation coating (Rules 1115 and 1126) exempt methyl chloroform (1, 1, 1 trichloroethane) and methylene chloride. These compounds, while not appreciably affecting ambient ozone levels, are potentially harmful. Both compounds have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity. EPA does not intend to disapprove the submitted regulations if, after due consideration, the State chooses to retain these exemptions. However, EPA is concerned that this policy not be interpreted as encouraging the increased use of these compounds. Furthermore, state officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install a control system as a consequence of these future regulatory actions.

Regulations have not been submitted for 9 of the 15 applicable source categories (solvent metal cleaning; cutback asphalt; surface coating of cans, coils, paper, and fabric; large appliances; metal furniture; and miscellaneous refinery processes). The absence of such required regulations is considered a major deficiency. However, the State has submitted model rules applicable to each of these categories. The State has requested that EPA regard the ARB model rules as "draft rules" for review for consistency with EPA requirements. The State has indicated that they will submit adopted regulations which are as effective as the model rules. Such adopted and legally enforceable regulations must be submitted before EPA can approve or conditionally approve the O_3 plan with respect to Part D, since these are significant emission sources in the South Coast nonattainment area.

Based on information in the CTGs and on material submitted by the State, EPA believes the 9 ARB model rules contain control requirements sufficient to fulfill the requirement for RACT. One minor problem exists with respect to the model rules. The model rules do not all contain compliance schedules which fulfill the requirements of 40 CFR 51.15. Although the model rules need not contain such schedules, final adopted rules must do so. If the State submits adopted rules (after appropriate public hearings) similar and equivalent to the model rules with this problem corrected, the regulations for the above-mentioned 9 categories would be fully approvable. If the State submits adopted rules similar and equivalent to the model rules without these problems corrected, EPA could conditionally approve the plan with respect to Part D of the Act, upon the correction of the major deficiencies of the plan. One of the conditions of approval would be the State's submittal of fully corrected rules by July 1, 1980. Several of the model rules evaluated have control requirements for sources which are presently subject to the following two Federal regulations: 40 CFR 52.252, "Control of Degreasing Operations" and 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer." If the State submits adequate regulations for sources subject to these regulations, the Federal regulations applicable to such sources would only remain in effect until such time as the newly revised regulations become effective and the source achieves full compliance with their provisions.

For 1 of the 15 categories, fixed roof tanks, the SCAQMD Rule 463, "Storage of Organic Liquids," also contains control requirements sufficient to fulfill the requirement for RACT for floating roof tanks, which is covered by a Category II CTG. This rule has been approved previously by EPA for inclusion in the SIP.

Another Category II CTG source category—wood flat stock coating—is covered by District Rule 1104, "Wood Flat Stock Coating Lines." Rule 1104 contains control requirements which are adequate to fulfill the requirements for RACT for this source category. However, this rule contains both immediate and future effective provisions. Upon correction of the major deficiencies, the plan could be conditionally approved; one of the conditions of approval would be the State's submittal of a revised Rule 1104 providing for compliance schedules in accordance with 40 CFR 51.15, by July 1, 1980.

As stated above, the plan must contain a commitment to adopt RACT regulations of source categories to be covered by future CTG documents. The plan contains a resolution to adopt all other reasonably available control measures needed to attain the standards as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following 7 applicable source categories (Category II CTGs): refinery fugitive leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, miscellaneous metal parts and products, graphic arts, and pneumatic rubber tire manufacture.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. This proposal also includes draft volatile organic compound and draft new source review rules which have been adopted as model rules after public hearing by the State. These model rules have not yet been adopted and submitted to EPA by the State as legally enforceable rules. However, the State has requested EPA to review these model rules and invite public comment on whether these draft rules meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State adopts and submits rules equivalent to these model rules. The Regional Administrator hereby issues

this notice setting forth the revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office.

The EPA Region IX office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received within 30 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comment is adequate because:

(1) The plan has been available for inspection and comment since August 16, 1979;

(2) EPA's notice published in the August 16, 1979 **Federal Register** (44 FR 47959), indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant," and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 129, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. § 7410, 7429, 7501, to 7508, and 7601(a)).)

Dated: February 8, 1980.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 80-9842 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1452-7]

Approval and Promulgation of Implementation Plan; San Francisco Bay Area Air Basin Nonattainment Area Plan and Revised Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the San Francisco Bay Area Air Basin portion of the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of the revisions is to update the rules and regulations, and to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." However, bases upon EPA's evaluation of the revisions, this notice proposes to disapprove the San Francisco Bay Area Air Basin nonattainment area plan with respect to the Part D requirements because the plan does not contain the necessary legal authority form the California State Legislature and a specific schedule to implement a vehicle emission control inspection and maintenance program, and the plan does not contain a legally enforceable New Source Review (NSR) rule.

A plan for a major urban area such as the San Francisco Bay Area, that cannot demonstrate attainment of the carbon monoxide or ozone standard by 1982, and therefore requests an extension to 1987, must contain the necessary legal authority and a specific schedule to implement a vehicle emission control inspection and maintenance program. All plans must contain a legally enforceable NSR rule.

This notice provides a description of the proposed SIP revisions, summarizes the applicable nonattainment area requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and proposes a schedule for correction of plan deficiencies with respect to the Part D requirements.

The EPA invites public comments on these revisions, the identified issues, the suggested corrections and associated proposed deadlines, and whether the revisions should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted by May 1, 1980.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revision/Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file NAP-CA-01 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Association of Bay Area Governments, Hotel Claremont, Berkeley, CA 94705.

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, CA 95812.

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable.

On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, EPA published Supplements to the General Preamble on July 2, August 28, September 17, and November 23, 1979 (44 FR 38538, 50371, 53761, and 67182). The General Preamble supplements this notice by identifying

the major considerations that will guide EPA's evaluation of the plan submittal. EPA's evaluation of the transportation portion of the plan is also guided by the EPA-Department of Transportation (DOT) Transportation-Air Quality Planning Guidelines and EPA's Office of Transportation and Land Use Policy SIP Transportation Checklist. The EPA–DOT Guidelines describe the acceptable elements that satisfy the Clean Air Act requirements for the transportation portion of an approvable SIP.

The San Francisco Bay Area is designated nonattainment for ozone and carbon monoxide. For total suspended particulates, Contra Costa, Santa Clara, and San Francisco Counties are designated nonattainment for the secondary standard.

Description of Proposed SIP Revisions

On July 25, 1979 the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted the San Francisco Bay Area Air Basin Control Strategy as an SIP revision. Preparation of the proposed SIP revision was coordinated by the Association of Bay Area Governments and the ARB. This nonattainment area plan for the San Francisco Bay Area consists of the following major components:

—A summary of those pollutants that exceed the NAAQS, specifying the violations by pollutant;
—A list of the Federal nonattainment area plan requirements;
—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation, and intergovernmental consultation;
—A discussion of air quality trends;
—An analysis of the candidate air quality control measures that examines expected emission reductions, costs, resource impacts, social impacts, and enforcement aspects;
—A discussion of the specific strategies for ozone, carbon monoxide, and particulate matter which includes schedules for reasonable further progress, adopted stationary source control measures, and commitments to adopt additional stationary and mobile source control measures; and
—A discussion of the new source review provisions.

The plan demonstrates that attainment of the ozone and carbon monoxide standards by 1982 is not possible despite the implementation of all reasonably available control measures including:

—California's motor vehicle standards for new vehicles;
—A vehicle emission control inspection and maintenance program, assuming the appropriate legal authority will be adopted by the California Legislature;
—Stationary source control measures;
—Transportation measures to reduce the use of automobiles, including improved public transit, car/vanpooling programs, expanded bicycle systems and facilities, ramp metering, and high occupancy vehicle lanes; and
—A New Source Review program.

Based on this demonstration, the State requests an extension of the ozone and carbon monoxide attainment dates until no later than December 31, 1987.

The plan indicates that past exceedances of the total suspended particulate (TSP) standards were only temporary due to windblown dust from construction in the area of the TSP monitor located in Livermore, Alameda County. A formal request for redesignation of Alameda County to attainment for both the primary and secondary TSP standards was received on August 14, 1979. EPA took final action to approve this redesignation in the December 28, 1979 **Federal Register** (44 FR 76787). In addition, the plan requests an extension to complete a plan for attainment of the secondary TSP standard for San Francisco, Santa Clara, and Contra Costa Counties.

This notice includes nonattainment area plan related SIP revisions submitted by the Governor's designee prior to December 31, 1979. These SIP revisions include the July 25, 1979 nonattainment area plan and the rule revisions submitted on May 7, May 23, and November 6, 1979.

The rules being considered in this notice are listed below and include vapor recovery and other volatile organic compound control rules. The regulations and the appropriate submittal dates are listed below.

Bay Area Air Quality Management District—Rules and Regulations

5/7/79

Regulation 3: Reactive Organic Gas Emissions.
3101.1

5/23/79

Regulation 2: Emissions of Certain Air Contaminants from Incineration, Salvage, Heat Transfer, General Combustion, and General Operations.
1302.2

Regulation 3: Reactive Organic Gas Emissions.
1221, 1224; 3102.1, 3102.2, 3102.3, 3102.4, 3102.11

Regulation 13: Regulations for Control of Organic Compound Emissions from Terminals and Bulk Plants.
100, 101, 110, 111, 112, 113, 114, 115; 200, 201, 202, 202.1, 202.2, 202.3, 202.4, 203, 204, 205, 205.1, 205.2, 206, 207; 300, 301, 302, 303, 304, 305, 306, 307; 400, 401, 401.1, 401.2, 401.3

Regulation 16: For Control of Volatile Organic Compound Emissions from Paper, Fabric and Film Coating Operations.
100, 101, 110, 111, 112, 113, 114, 115, 116; 200, 201, 202, 203, 204, 205, 206; 300, 301, 302

11/6/79

Regulation 3: Reactive Organic Gas Emissions.
1200, 1222, 1223, 1225, 1226, 1227, 1228

Regulation 10: Valves at Petroleum Refinery Complexes.
100, 101, 110, 111, 112; 200, 201, 202, 203, 204, 205, 206, 207, 208; 300, 301, 301.1 301.2, 301.3, 301.4, 301.5; 400, 401, 401.1, 401.2, 401.3, 401.4, 402, 402.1, 402.2, 402.3, 402.4; 500, 501

Regulation 14: For Control of Volatile Organic Compound Emissions from Metal Container and Closure Coating and Coil Coating.
100, 101; 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212; 300, 301, 302, 303, 304, 305, 305.1, 305.2, 305.3, 305.4, 305.5, 305.6, 306; 400, 401, 401.1, 401.2, 401.3

Regulation 17: For Control of Volatile Organic Compound Emissions from Light- and Medium-Duty Motor Vehicle Assembly Plants.
100, 101, 110; 200, 201, 202, 203, 204, 205, 206, 207, 208; 301, 301.1, 301.2, 302, 303, 304, 304.1, 304.2, 304.3, 304.4, 304.5, 304.6, 304.7; 400, 401, 401.1, 401.2, 401.3, 401.4, 401.5, 402, 402.1, 402.2, 402.3, 403, 403.1, 403.2, 403.3

Regulation 18: For the Control of Organic Compound Emissions From a Petroleum Refinery Complex.
100, 101, 110, 111, 112; 200, 201, 202, 203, 204, 205, 206; 300, 301, 302, 303, 304; 400, 401, 401.1, 401.2, 401.3

Regulation 19: Control of Volatile Organic Compound Emissions from Surface Coating of Large Appliances and Metal Furniture.
100, 101, 110, 111, 112; 200, 201, 202, 203, 204, 205, 206, 207, 208, 209; 300, 301, 302, 303; 400, 401, 401.1, 401.2, 401.3

Regulation 20: Control of Cutback Asphalts.
100, 101, 110, 111, 112, 113; 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210; 300, 301, 302, 303

Regulation 21: For Control of Organic Compound Emissions from Solvent Metal Cleaning Operations.

100, 101, 110, 111, 111.1, 111.2, 111.3, 112; 200, 201, 202, 203, 203.1, 203.2, 203.3, 204, 205, 206, 207; 300, 301, 301.1, 301.2, 301.3, 301.4, 302, 302.1, 302.2, 302.3, 303, 303.1, 303.2, 303.3, 304, 304.1, 304.2, 304.3, 304.4, 304.5, 304.6, 305, 305.1, 305.2, 306, 306.1, 306.2, 306.3, 306.4, 307, 307.1, 307.2, 307.3; 400, 401, 401.1, 401.2, 401.3

Criteria for Approval

The San Francisco Bay Area Basin Control Strategy must be evaluated to determine whether it is consistent with Part D of the Clean Air Act. The following list summarizes the basic Part D requirements for nonattainment area plans:

1. An accurate inventory of existing emissions.

2. A modeling analysis indicating the level of control needed to attain by 1982 and, in the case of and extension request, by 1987.

3. Emission reduction estimates for each adopted control measure.

4. A provision for expeditious attainment of the standards.

5. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act.

6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.

7. An identification of an emissions growth increment.

8. Provisions for annual reporting with respect to items (5) and (6) above.

9. A permit program for major new or modified sources consistent with Section 173 of the Clean Air Act.

10. An identification of and commitment to the resources necessary to carry out the plan.

11. Evidence of public, local government, and state involvement and consultation.

12. Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing.

13. For carbon monoxide and ozone SIP revisions that provide for attainment of the primary standard later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs.

b. A provision for implementaton of all reasonably available control measures for mobile and transportation sources.

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs.

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program.

14. For ozone nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound stationary sources for which EPA has published a Control Techniques Guidelines by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines. For rural areas, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Issues

The paragraph numbers below correspond to the Part D nonattainment area plan requirements discussed in the preceding section, *Criteria for Approval.* Where a plan deficiency is identified, recommendations for revision of the plan are specified. The citations in the comments which follow refer to Sections 107, 108, 110, and Part D, Sections 171–178, of the Clean Air Act, as amended.

The San Francisco Bay Area nonattainment area plan for ozone (O_3) and carbon monoxide (CO) is unapprovable with respect to Part D since certain Part D requirements are not met. Specifically there are two major deficiencies: (1) lack of legal authority and a specific schedule to implement a motor vehicle emission control inspection and maintenance (I/M) program, and (2) lack of an adopted, legally enforceable New Source Review (NSR) rule.

As discussed in more detail below, EPA proposes either to approve or conditionally approve the emission reduction estimates, the demonstration of attainment, and the demonstration of reasonable further progress for O_3 and CO as meeting EPA requirements. However these criteria and the above major deficiencies are strongly interrelated; the emission reductions claimed and the demonstrations of attainment and reasonable further progress will not be achieved in their current form without correction of the major deficiencies discussed above.

If the lack of legal authority to implement an I/M program is not remedied by the action of the State Legislature to authorize the implementation of an I/M program, and if an adequate, legally enforceable NSR regulation is not submitted by the State, the entire plan for the San Francisco Bay Area must be disapproved by EPA with respect to Part D of the Act since these Part D requirements are not met. This overall plan disapproval would result in the continuation of the prohibition on construction of certain major new or modified sources as set forth in section 110(a)(2)(I) of the Act and EPA's Interpretive Rule on Statutory Restriction of New Sources (44 FR 38471, July 2, 1979). In accordance with the statutory requirement, certain major new or modified stationary sources are currently prohibited from being constructed in California nonattainment areas.

At such time as the Legislature provides legal authority to implement and I/M program, and at such time as the State submits a State Implementation Plan (SIP) revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce an I/M program, (3) a commitment to achieve a 25% reduction in both hydrocarbon and carbon monoxide exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress toward implementation, the I/M deficiency may be remedied. At such time as the State submits an NSR regulation, this major deficiency may be resolved. Upon the State's submittal of the above, EPA will consider (and provide for public comment) the approval of these elements for the San Francisco Bay Area plan.

A full discussion of the San Franacisco Bay Area plan with respect to EPA's *Criteria for Approval* follows. EPA has identified certain portions of the plan that (1) are approvable, (2) contain minor deficiencies which could be remedied under conditions of plan approval if the State provides an assurance that corrections of the minor deficiencies will be made by a specified date, or (3) are disapprovable due to a major deficiency which must be remedied prior to EPA's final approval of the entire plan. Based on the approvability of the component parts of the plan, EPA will determine whether the plan as a whole is (1) approvable, (2) conditionally approvable, or (3) disapprovable with respect to Part D of the Act.

EPA is proposing to approve and incorporate into the SIP those portions of the plan which are consistent with Section 110 and/or Part D of the Act. The plan, as a whole, can only be approved or conditionally approved

under Part D of the Act when all of the major deficiencies are corrected. In addition, certain portions of the plan are noted as being approved even though they are expected to be refined in future plan updates.

Those portions of the plan which contain minor deficiencies could be remedied under the conditions of plan approval if the State provides an assurance that the deficiencies will be corrected and submitted as an SIP revision by a specified date. Conditional approval of the plan in a final rulemaking action would mean the restriction on major new or modified stationary source construction would not apply unless the State failed to submit corrections by the specified date, or the corrections were determined to be inadequate. Those portions of the plan which are conditionally approvable are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the overall plan is approvable with respect to Part D.

Those portons of the plan deedmed to be major deficiencies must be corrected and submitted as SIP revisions in order for EPA to either approve or conditionally approve the plan with respect to Part D of the Act in a final rulemaking action. Thus, EPA is proposing disapproval of the plan with respect to Part D since certain Part D requirements are not met. The two major deficiencies are the lack of legal authorization for I/M and the lack of an NSR rule.

1. *Emission Inventory*

The plan includes an emission inventory for hydrocarbons (HC), CO, nitrogen oxides (NO_x), sulfur dioxide (SO_2), and total suspended particulates (TSP) identifying emission source categories and their estimated emissions for the base year, 1975. This base year inventory includes the necessary emission estimates for stationary, mobile, and area sources. These estimates were based on factors cited in *AP–42, EPA Compilaton of Air Pollutant Emission Factors* or derived from source test data, localized data, actual usage data, cumputer models, and transportaton studies. The inventory is reasonable compehensive, current, and accurate, and EPA proposes to approve it as part of the SIP.

The following technical aspects of the emission inventories for O_3 and CO must be addressed in the annual reports. For TSP, these technical aspects must be addressed in the July 1980 Annual Report.

—Provide documentation of the emission factors and assumptions used to calculate the emissions
—Use consistent methodologies for computing the base emission inventories and the emission reduction estimates (preferably the trip end-link for the mobile sector)
—Develop CO emission inventories for worst case (winter) conditions
—Provide annual projections of the base year emission inventory
—Include emission inventories for wineries, pesticide applications, and weed oil usage
—Include TSP emission inventories specifically for TSP nonattainment areas (i.e., San Francisco, Santa Clara, and Contra Costa Counties)
—Include TSP emission inventories for nontraditional sources (i.e., unpaved roads, agricultural tilling, reentrainment, construction, etc.)
—Provide TSP emission inventories for stationary sources based on ambient temperatures (not in-stack temperatures).

2. *Modeling*

Ozone

On February 8, 1979, the 0.08 ppm standard for photochemical oxidants was revised by the promulgation of the 0.12 ppm standard for ozone (44 FR 8202). The LIRAQ photochemical dispersion model was utilized to calculate the allowable emission level to attain the former 0.08 ppm standard. Based on this calculation, an allowable emission level to achieve the 0.12 ppm ozone standard was estimated.

EPA proposes to approve the Bay Area's use of the LIRAQ photochemical dispersion model to arrive at an estimate of the allowable emission level for attainment of the ozone standard.

Carbon Monoxide (CO)

The plan utilizes basin-wide rollback modeling to calculate the allowable emission level. EPA proposes to approve the use of the rollback model for the 1979 plan as an acceptable method for estimating required emission reductions.

3. *Emission Reduction Estimates*

Emission reduction estimates are set forth in the plan for each control measure for hydrocarbons (ozone precursors) and carbon monoxide for the years 1985 and 2000. The plan indicates that linear interpolation should be assumed to derive emission reduction estimates for the statutory attainment years of 1982 and 1987.

The plan contains an emission reduction estimate of 32 tons/day in hydrocarbon emissions that will result from emission offsets obtained through the permitting of major new or modified stationary sources (Action 2 of the plan). The plan does not provide adequate documentation and justification for this emission reduction credit. "Banked" emission offsets and permit "denials" cannot be credited as actual, enforceable emission reductions. The plan could be conditionally approved upon correction of the major deficiencies. One of the conditions of approval would be to define and implement by July 1, 1980 a system to track the emission reductions that are being achieved through the permitting of major new and modified stationary sources. This tracking system must assure (1) that emission reductions credited as offsets are not part of the emission reduction credits taken for Action 1 of the plan (Application of Available Control Technology to existing sources), and (2) that the emission offsets credited are actual, enforceable emission reductions.

Annual emission reduction estimates per control tactic are necessary to justify the demonstration of attainment and to serve as a basis for a projection of reasonable further progress. It is recognized that emission reduction estimates may change as measures are more fully analyzed and implemented. As such estimates change, appropriate responses will be required, including the adoption of additional control measures when the original emission reduction estimates are not being achieved, to ensure that the plan remains adequate to provide for attainment and for reasonable further progress. The State must provide EPA with estimated annual reductions per tactic per pollutant. EPA could conditionally approve the plan upon correction of the major deficiencies. One of the conditions of approval would be the State's submittal of such estimated reductions by July 1, 1980.

Additionally, the hydrocarbon emission reduction estimates for the transportation control measures contained in the plan are not consistent. Table 24 indicates that a 7 tons per day emission reduction for hydrocarbons is being attributed to these transporation control measures, while Table 28 indicates that only 5.3 tons per day are attributed to these same controls. This should be clarified in response to the emission reduction target deficiency discussed below under Criteria 4, Attainment Provision.

4. Attainment Provision

Section 172(a) of the Act requires that the plan shall provide for attainment of the National Ambient Air Quality Standards for O_3, CO, and TSP as expeditiously as practicable but not later than December 31, 1982. Where the State demonstrates that the standards

for O_3 and/or CO cannot be attained by 1982, despite the implementation of all reasonably available control measures, an extension of the attainment date may be granted and the State must demonstrate attainment by no later than December 31, 1987.

The plan demonstrates that the O_3 and CO standards cannot be achieved by December 31, 1982 despite the implementation of all reasonably available control measures. Thus, EPA finds that an extension of the attainment date for O_3 and CO is justified and proposes to grant an extension.

Ozone (O_3) and Carbon Monoxide (CO)

The sumnitted plan provides for attainment of the O_3 and CO standards by the statutory attainment date of December 31, 1987. This provision is consistent with the requirements of the Act, and EPA proposes to approve the attainment demonstration for O_3 and CO.

The plan does not contain local commitments to emission reduction targets for O_3 and CO for the transportation sector. EPA policy requires the plan to contain evidence of policy level commitments to an overall emission reduction target for HC and CO emissions and requires that these commitments to emission reduction targets for the transportaton sector be submitted with the July 1980 Annual Report.

Total Suspended Particulates (TSP)

The plan for the TSP standards contains no control strategy demonstration. The plan includes data which indicate that the primary and secondary TSP standards are now being attained in the nonattainment area (Alameda County). The State, on August 14, 1979, requested EPA to redesignate Alameda County from nonattainment to attainment for both the primary and secondary TSP standards. EPA took final action to approve this redesignation in the December 28, 1979 **Federal Register** (44 FR 76787).

The plan requests an 18 month extension of the deadline for sumbission of a plan to attain the secondary TSP standard pursuant to 40 CFR 51.31. (San Francisco, Santa Clara, and Contra Costa Counties are currently designated nonattainment for the secondary TSP standard.) 40 CFR 51.31(c) requires that such a request shall show that attainment of the secondary TSP standard will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology to traditional sources. The plan does not contain such a demonstration and EPA cannot grant the 18 month extension request until a demonstration consistent with 40 CFR 51.31(c) is submitted. Since the plan for the secondary TSP standard would be due July 1, 1980, if such a request were granted, this demonstration must be sumitted by the State immediately.

The plan to attain the secondary TSP standard must control traditional sources of TSP (stationary sources) to a level that represents application of reasonably available control technology (RACT) to such sources.

EPA does not consider the present Bay Area Air Quality Management District's (the District) particulate regulations as representing RACT. The plan must contain an adequate demonstration that current regulations represent RACT, or amend the regulations to be consistent with the following:

—EPA could consider the District's currently approved process weight rule, Regulation 2, Section 6112.2, as representing RACT if the regulation applied to a "source" rather than an "emission point".

—EPA would consider the District's currently approved grain loading rule, Regulation 2, Section 6112.3, as representing RACT only if sources are required to comply with both the process weight *and* grain loading rule. Currently, the grain loading rule exempts sources able to meet this regulation from the process weight rule requirements.

5. Reasonable Further Progress (RFP)

Ozone and Carbon Monoxide

The provision of reasonable further progress for O_3 and CO in the plan appears to be consistent with sections 172(b)(3) and 171(1) of the Act since the plan provides for regular incremental reductions needed for expeditious attainment. EPA proposes to approve the RFP demonstration for O_3 and CO contained in the plan.

To demonstrate reasonable further progress with respect to the transportation sector, EPA requires that programs to directly monitor and report on implementation progress and the emission reduction effectiveness of each transportation control measure be developed, described, and committed to pursuant to the requirement in the EPA–DOT Transportation-Air Quality Planning Guidelines that the Annual report describe the contribution of transportation controls to the incremental emission reductions required for standards attainment. EPA policy requires such a monitoring program to be in place and included in the July 1980 Annual Report.

EPA policy requires that the July 1980 Annual Report of reasonable further progress submitted by the State include refined assessments of reasonable further progress based upon updated emission inventories, new analysis of control strategy effectiveness, and actual reductions being achieved through plan implementation.

6. Legally Adopted Measures

The SIP submittal does not indicate that all necessary control measures have been adopted in a legally enforceable form, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan does not contain an adopted, legally enforceable New Source Review regulation, and the plan does not include adoption, in a legally enforceable form, of all reasonably available control measures, including a vehicle emission control inspection and maintenance program. For all other measures, including reasonably available transportation controls, either adopted measures or schedules and commitments for development, adoption, submittal, and implementation must be provided.

Ozone

The plan contains (Table 29B) stationary source control measures for several source categories which are not addressed by the Control Techniques Guideline (CTG) documents published by EPA as of January 1979. These control measures are not adopted in legally enforceable form, although the plan contains a commitment from the Bay Area Air Quality Management District to adopt regulations for these source categories. EPA could conditionally approve the plan upon correction of the major deficiencies. One of the conditions of approval would be the State's submittal by May 1, 1980 of a detailed schedule providing for adoption and submittal to EPA of these regulations by no later than December 31, 1982.

The plan must include an adopted New Source Review rule. The lack of such a rule is a major deficiency and must be remedied in order for EPA to approve the plan with respect to Part D of the Act.

The plan must include adoption of reasonably available control measures in legally enforceable form. A vehicle emission control inspection and maintenance (I/M) program is a reasonably available control measure and is provided for in the plan. However, due to the lack of State

legislation providing the legal authority to implement the program, I/M cannot be considered to be adopted in a legally enforceable form. This is a major deficiency and must be remedied in order for EPA to approve the O_3 with respect to Part D of the Act.

Carbon Monoxide

As discussed for O_3, since the I/M program cannot be considered to be adopted in a legally enforceable form and the plan lacks an adopted, legally enforceable NSR rule; the CO plan cannot be approved with respect to Part D of the Act.

As also discussed for O_3, the transportation control measures in the plan are not supported by commitments and schedules. The plan could be conditionally approved upon correction of the major deficiencies. One of the conditions of approval would be that the above mentioned commitments and schedules from the responsible implementing agencies be submitted by the State as part of the plan by May 1, 1980.

40 CFR Part 52

In addition to the rulemaking actions discussed in this section, this notice proposes to remove certain Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, which concern (in part) the San Francisco Bay Area. The following Federally promulgated regulations or specified portions are proposed to be rescinded or amended because they will be replaced by the revised set of control measures/regulations contained in this plan and/or they have been invalidated by previous legal action.

A. § 52.222 *Extensions:* Revise dates in accordance with the submitted plan.

B. § 52.233 *Review of new sources and modifications:* Rescind subsections (d)(9) and (g)(1)(x) which will be replaced by a revised new source review regulation; additionally rescind subsections (h), (i), and (j) which have been invalidated by the Clean Air Act Amendments of 1977.

C. § 52.238 *Attainment dates for national standards:* Revise dates in accordance with the submitted plan.

D. § 52.242 *Inspection and maintenance program;*

§ 52.243 *Motorcycle limitation;*

§ 52.244 *Oxidizing catalyst retrofit;*

Of the 17 transportation control measures identified in Section 108(f), the plan contains 6 measures (I/M, car/vanpooling, high occupancy vehicle lanes, ramp metering, improved public transit, and improved bicycle systems/facilities) that are identified for implementation at this time. However, there is no evidence in the plan that any of these 6 transportation control measures are currently adopted or committed for implementation in a legally enforceable form. The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have formally committed, and where appropriate, have adopted statutes, regulations, ordinances, or other legally enforceable documents, to implement and (where appropriate) enforce the necessary transportation control measures, nor have they adequately identified the specific measures to be implemented and established implementation schedules with milestone dates for planning, programming, implementing, operating, enforcing, and monitoring each transportation control measure contained in the plan. The plan could be conditionally approved upon the correction of the major deficiencies. One of the conditions of approval would be that the above mentioned commitments and schedules from the responsible implementing agencies be submitted by the State as part of the plan by May 1, 1980.

§ 52.247 *Definitions for parking management regulations;*

§ 52.251 *Management of parking supply;*

§ 52.257 *Computer carpool matching;*

§ 52.261 *Preferential bus/carpool lanes, San Francisco Bay Area;*

§ 52.262 *Submittal of studies—San Francisco Bay Area;*

§ 52.266 *Monitoring transportation mode trends:* Rescind the above regulations entirely because they have been invalidated by previous court action (*Brown v. EPA*, 521 F2d 827 (1975)).

E. § 52.269 *Control strategy and regulations; Photochemical oxidants (hydrocarbons) and carbon monoxide:* Rescind subparagraph (a) due to the revised attainment dates in the plan and in accordance with the Clean Air Act Amendments of 1977.

7. *Emissions Growth*

The plan does provide for tracking emissions growth rates through the review and updating of emission projections consistent with the requirements of Sections 172(b) (4) and (5). Specifically, the requirements of Section 172(b)(5) are met through the identification of no net increase in emissions from major new or modified sources for three years (1979–1981), and through the reservation of 25 tons/day in hydrocarbon emissions as a growth allowance to be utilized beginning in 1982 on the condition that three years of reasonable further progress have been demonstrated.

Thus, at least until 1982, the NSR program must include provisions for enforceable emissions offsets for nonattainment pollutants (see Criteria 9, Permit Program, for further discussion). In addition, since a growth allowance is only identified for hydrocarbon emissions, provisions for enforceable emissions offsets must remain in effect after 1982 for the other nonattainment pollutants.

EPA proposes to approve the above identification of emissions growth as meeting the requirements of Section 172(b)(5) of the Act for O_3 and CO.

8. *Annual Reporting*

The requirements of Sections 110(a)(2)(F) and 172(b)(4) appear to be adequately satisfied since the plan does include a commitment to a Continuing Planning Process that has, as one of its products, the development of an annual report that will include reporting of reasonable further progress (RFP), progress made in the adoption and implementation of control measures contained in the plan, and updated emissions inventory data, including projections. However, the commitment to provide annual updated emissions inventories is not explicit.

EPA proposes to approve this portion of the plan. It is EPA policy that the July 1980 Annual Report contain updated emissions inventory data as well as a detailed commitment outlining the specific content of the Annual Report.

9. *Permit Program*

The plan does not contain an adopted, legally enforceable New Source Review (NSR) rule for new or modified major stationary sources. The lack of an adopted NSR rule is a major deficiency which must be corrected before EPA can approve the plan. The plan must contain an adopted, legally enforceable NSR rule that meets the requirements of Sections 172(b)(6) and 173 of the Act. Upon receipt of a NSR rule from the State, EPA will review and solicit public comments on whether the NSR rule should be approved for the San Francisco Bay Area.

10. *Resources*

Cost estimates are included in the plan for both the private and public sectors. These estimates do not satisfy the requirements of Sections 110(a)(2)(F) and 172(b)(7) since there is no evidence that the financial and personnel resources necessary to implement and enforce the plan have been committed by the responsible implementing

agencies. EPA could conditionally approve the plan upon correction of the major deficiencies. One of the conditions of approval would be that the State submit these commitments by July 1, 1980.

11. *Public and Government Involvement*

The requirements of Section 172(b)(9) are partially met through the description of the process provided for in the plan for consultation and involvement of general purpose local governments, the State, the public, and organizations of elected officials of local governments. This process must provide for the involvement of Federal Land Managers. The requirements of Section 172 concerning public notification and public participation are not specifically addressed in the plan but appear to be generally met through the commitment to the annual report as discussed in Criteria 8.

The plan does contain evidence of coordination with the continuing, cooperative, and comprehensive transportation planning process required by Section 174(b). The plan also contains an adequate identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan along with a summary of public comment on those effects and the plan as required by Section 172(b)(9).

EPA proposes to approve this portion of the plan. However, the state must submit by July 1, 1980 evidence of an amended planning process that includes involvement of Federal Land Managers.

12. *Public Hearing*

The California State Legislature in 1978 added Article 5.5 (commencing with Section 53098) to the Government Code which established the procedure for State adoption of the San Francisco Bay Area Environmental Management Plan of which the Nonattainment Area Plan under Part D of the Act is a part. According to Article 5.5, the Air Resources Board (ARB) shall submit the plan to EPA without change following the adoption of the plan by the Association of Bay Area Governments (ABAG). ABAG held public hearings after reasonable notice and adopted the plan by resolution. The ARB transmitted the plan to EPA without change. While this procedure under state law is unique to the San Francisco Bay Area, the requirements of Section 172(b)(1) appear to be satisfied and EPA proposes to approve this portion of the plan.

13. *Extension Requirements for O_3 and CO*

Since the State has requested extension of the attainment date beyond December 1982 for O_3 and CO, the plan must meet the requirements of sections 172(b)(11), 110(a)(3)(D), and 110(c)(5)(B).

Under Section 172(b)(11)(A) the plan must provide, in conjunction with the NSR program, a procedure and requirement for an analysis of alternative sites, sizes, processes, and controls, which demonstrates that the benefits of a major emitting facility outweight the environmental costs. The plan does not contain procedures for such an analysis. The plan could be conditionally approved upon correction of the major deficiencies. One of the conditions of approval would be the submittal of a procedure and requirement for such analysis by the State by July 1, 1980.

Under section 172b(b)(11)(B) the plan must establish a specific schedule for the implementation of a vehicle emission control inspection and maintenance program. The requirement of Section 172(b)(11)(B) has not been met since the State Legislature has failed to provide the legal authority to implement such a program. Following passage of authorizing legislation, the State must submit an SIP revision containing (1) certification of such legal authority, (2) a commitment to implement and enforce an I/M program, (3) a commitment to achieve a 25% reduction in both hydrocarbon and carbon monoxide exhaust emissions from light duty vehicles by December 31, 1987, and (4) a specific schedule with milestones of progress towards implementation. This deficiency must be remedied in order for EPA to approve the O_3 and CO plan with respect to Part D of the Act.

Sections 110(a)(3)(D) and 110(c)(5)(B) require that the plan contain commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants, State, and local funds to implement public transportation programs. Such commitments, with respect to basic transportation needs, are not included in the plan. EPA could conditionally approve the plan upon correction of the major deficiencies. One of the conditions of approval would be that the State submit such commitments by July 1, 1980.

Section 172(b)(11)(C) requires that other measures (including but not limited to those listed in Section 108(f) of the Act) that may be necessary to provide for attainment of the NAAQS no later than December 31, 1987, must be identified in the plan. The plan does contain a preliminary analysis of a large number of transportation control measures, including most of those measures listed in Section 108(f) of the Act. Several transportation control measures were rejected based on this preliminary analysis. However, this preliminary analysis has failed to establish the technical infeasibility or low emission reduction potential of the measures since the analysis only examined the journey-to-work portion of the total travel occurring in the nonattainment area. the plan could be conditionally approved upon correction of the major deficiencies. One of the conditions of approval would be the submittal by the State, by May 1, 1980, of commitments and schedules to further analyze the Section 108(f) transportation control measures not yet included in the plan as applied to the total transportation system of the nonattainment area, and a commitment to initiate implementation of those measures shown to be reasonably available.

To assure that the requirements of Section 176(c) and 176(d) of the Act are met, EPA policy requires that the plan contain procedures for the determination of conformity with the SIP of any project, program, or plan. Section 176(c) prohibits the metropolitan planning organization from giving its approval to any project program, or plan, that does not conform to the SIP. EPA policy also requires that the plan contain procedures to ensure that priority is given to the implementation of those portions of any plan or program with air quality related transportation consequences that contribute to the attainment and maintenance of the primary NAAQS. Specifically, these procedures should address the granting of priority to projects in the Transportation Improvement Program which contribute to the attainment and maintance of the primary NAAQS. EPA policy requires that these procedures be submitted with the July 1980 Annual Report.

14. *Extension Requirements for VOC RACT*

The ozone nonattainment area plan for the Bay Area indicates that attainment of the 0.12 ppm ozone standard is not possible by December 1982, despite the application of all reasonably available control measures. Therefore, the plan must contain adopted legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories for which EPA had published a Control Techniques Guideline (CTG) by January 1978 (i.e., Group I CTGs). In

addition, the plan is required to contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents.

The CTGs provide information on available air pollution control techniques and certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for EPA's decision to approve a regulation as satisfying the Act's requirement for RACT consists of the applicable CTG document, any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that, of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only 14 exist in the nonattainment area (there are no magnet wire insulators). Regulations have been recently submitted for each of the 13 applicable source categories. The service station Stage I gasoline vapor recovery (GVR) regulations have already been approved as part of the SIP.

EPA has reviewed the regulations submitted on May 7, May 23, and November 6, 1979, listed previously, to determine whether or not they should be approved for inclusion in the SIP. These regulations, along with the previously approved regulations for service stations have also been reviewed in relation to the respective CTG for each of the 14 categories.

EPA proposes to approve the District's regulations submitted by the State with respect to Section 110 of the Act, since they contain control requirements which will strengthen the SIP. Based on the information in the CTGs, and on the material submitted by the State, EPA believes that the submitted regulations, along with the previously approved regulations, satisfy the RACT requirements for the 14 categories noted above and meet the requirements of section 172(b)(3) of the Act, except for the following:

1. The regulations for service station Stage I GVR (Sections 1302.2 through 1302.23 of Regulation 2) contain an exemption for storage containers serviced by bulk plants with daily throughputs less than 25,000 gallons. This exemption is not supported by information contained in the CTGs or by information otherwise available to EPA. The State should either provide an adequate demonstration that these regulations represent RACT, amend the regulations to be consistent with the CTGs and EPA policy guidance, or demonstrate that the regulations will result in emission reductions which differ insignificantly (within 5% of controlled emissions) from the reductions which would be achieved through implementation of the CTG recommended controls. In addition, the Bay Area's Stage I regulation should be revised to require use of the control equipment by fuel deliverers. Without such a requirement, the regulation is not fully enforceable.

2. Regulation 13, *Regulation for Control of Organic Compound Emissions from Terminals and Bulk Plants,* does not contain a compliance schedule for certain bulk plants which are required to comply with the regulations by 1983, and therefore does not fulfill the requirements of 40 CFR 51.15. The State must submit, for inclusion in the SIP, acceptable compliance schedules.

3. Regulation 20, *Control of Cutback Asphalts,* allows the use of medium cure cutback asphalt from November through March. Allowance for the use of medium cure cutback asphalt may be appropriate if the ambient temperatures during those months do not typically exceed 50° F. The State must supply information to justify using cutback asphalt during these months or amend the regulation to prohibit its use.

4. Regulation 14, *Control of Volatile Organic Compound Emissions from Metal Container and Closure Coating and Coil Coating,* allows sources to comply with the regulation by an alternative emission control plan which would reduce emissions to the same level as the categorical emission limits, but which would be calculated on a "Daily Weighted Average" basis. EPA recognizes that such a plan may be desirable for can coating operations due to their unique problems. It has not been demonstrated that such an alternative plan is necessary for coil coating operations. The regulation must be amended to limit the applicability of a "Daily Weighted Average" compliance scheme to can coaters, or the State must justify the necessity for applying such an alternative plan to coil coaters.

5. Regulation 17, *Control of Volatile Organic Compound Emissions from Light- and Medium-Duty Motor Vehicle Assembly Plants,* contains a compliance schedule with interim compliance dates that exceed one year. 40 CFR 51.15 and 51.1(q) require that compliance schedules extending beyond one year be accompanied by additional increments of progress. These increments can take the form of progress reports required to be sent at intervals of 9 months or less.

EPA could conditionally approved the plan upon correction of the major deficiencies. One of the conditions of approval would be that the State submit the following by July 1, 1980: (1) an acceptable compliance schedule for Regulation 13, (2) and adequate demonstation that its Regulation 2 represents RACT for Stage I GVR, or amend the regulation to be consistent with the above comments, (3) a justification for the use of cutback asphalt from November through March, or amend Regulation 20 to prohibit its use, (4) a justification for applying an alternative plan to coil coaters, or amend Regulation 14 to limit applicability of an alternative plan only to can coaters, and (5) a compliance schedule for progress reports be submitted at intervals of 9 months or less.

Regulations 14 and 17 allow for the use of alternative control plans for can, coil, and automobile assemblyline coating operations. These regulations require that alternative control plans must provide for emission reductions which are equivalent to those achievable with the categorical emission limits, and these plans must be approved by the Air Pollution Control Officer. EPA policy for alternative proposals requires that these alternatives proposals be submitted by the State as SIP revisions, as discussed in EPA's policy statement, "Recommendations for Alternative Emission Reduction Options within the State Implementation Plans" (44 FR 71780, December 11, 1979). Until these alternative proposals are approved as revisions to the SIP, EPA would continue to enforce the categorical emission limits and the compliance schedules of the regulations.

Regulation 21, *Control of Organic Compound Emissions from Solvent Metal Cleaning Operations,* applies to sources also regulated under the Federal Regulation 40 CFR 52.252, "Control of Degreasing Operations." The Federal Regulation applies to highly-reactive solvents such as trichloroethlene and requires 85% reduction in emissions. EPA proposes to retain the Federal Regulation since it requires a greater degree of control than the District's Regulation 21, which will only reduce emissions by aproximately 50%.

A number of submitted regulations apply to sources which are currently subject to Federal Regulations. The

Federal Regulation 40 CFR 52.253, "Metal Surface Coating Thinner and Reducer" applies to sources subject to the District's Regulations 14, 17, and 19, which apply to the surface coating of cans, coils, automobiles, large appliances, and metal furniture. The Federal Regulation 40 CFR 52.254, "Organic Solvent Usage," applies to the same sources subject to 40 CFR 52.253, and also applies to the surface coating of paper, fabric, and film, which is regulated by District Regulation 16. All of the District regulations are future-effective, and should provide for more control of total VOC emissions than the respective Federal Regulations. Since Regulations 14, 16, and 19 (for control of can, coil, paper, fabric, film, large appliances, and metal furniture coaters) are future-effective, EPA proposes that Federal Regulations 40 CFR 52.253 and 52.254 be retained until final compliance with the emission limits contained in Regulations 14, 16, and 19 is achieved.

Regulation 17 applies to automotive coating lines, and contains several interim limits of control. The ultimate emission limits are effective January 1, 1985, and should provide for more control than the 3,000 pound/day emission limit currently in effect under Federal Regulation 40 CFR 52.254. However, it is not clear whether the interim emission limits as stringent as the 3,000 pound/day emission limit. EPA proposes to retain the 3,000 pound/day emission limit contained in 40 CFR 52.254 until final compliance with the ultimate emission limits contained in Regulation 17 is achieved. EPA proposes that Federal Regulation 40 CFR 52.253 and the emission limits other than the 3,000 pound/day limit contained in 40 CFR 52.254 be rescinded for sources subject to Regulation 17, when these sources achieve compliance with the first applicable interim limits of Regulation 17. Rescission of these Federal Regulation requirements should not result in a loss of total VOC control.

As stated above, the plan must contain a commitment to adopt RACT regulations for source categories to be covered by future CTG documents. The plan contains a local resolution to adopt all other reasonably available control measures needed to attain the standards as expeditiously as practicable. The State must submit adopted regulations by July 1, 1980 for the following applicable source categories (Group II CTGs): petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, miscellaneous metal parts and products, graphic arts, pneumatic rubber tire manufacture, and flatwood paneling.

One of the Group II CTG source categories, floating roof tanks, is already controlled by the District's Regulation 3, Section 3102.4, *Storage of Organic Liquids*. This regulation provides for a level of control sufficient to fulfill the requirement for RACT for floating roof tanks (as well as for fixed roof tanks). Therefore, no additional control requirements are needed for this source category.

The State also submitted Regulation 3, *Reactive Organic Gas Emissions*, Section 3304 and Regulations 10, *Valves at Petroleum Refinery Complexes*, on November 6, 1979, which implement a control tactic contained in the plan. RACT regulations for this source category (a Group II CTG source category) are required to be submitted by the State by July 1, 1980. While EPA, is proposing to approve these regulations for inclusion in the SIP under Section 110 at this time, the regulations are not adequate to fulfill the requirement for RACT under Part D for refinery fugitive leaks (as contained in the Group II CTG) since these regulations do not contain control requirements for flanges, pumps, and compressors. Additional regulations or amendments to these regulations will need to be submitted to fully meet the RACT requirement for this Group II CTG source category.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revisions, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether to conditionally approve the items identified in this notice as deficiencies in the nonattainment area plan. EPA is further interested in receiving comment on the specified deadlines for the State to submit the corrections, in the event of conditional approval.

Comments received on or before May 1, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions/scheduled revisions meet the requirements of Section 110(a)(2) and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

EPA believes the available period for comments is adequate because:

(1) The plan has been available for inspection and comment since August 16, 1979.

(2) EPA's notice published in the August 16, 1979 **Federal Register** (44 FR 47959) indicated that the comment period would be 30 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sections 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: February 12, 1980.

Paul De Falco, Jr.,

Regional Administrator.

[FR Doc. 80-9874 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1451-6]

Approval and Promulgation of Implementation Plans; Alabama: Proposed Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Reproposed rule.

SUMMARY: Alabama has revised its air pollution control regulations by revoking the provisions for the preconstruction review of complex sources—parking facilities, roads, and airports. These are also known as "indirect" sources since they may indirectly increase emissions by causing increased motor vehicle traffic where they are built. EPA today reproposes approval of this revision.

DATES: To be considered, comments must be received on or before May 1, 1980.

ADDRESSES: The Alabama submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308

In addition, the Alabama revisions may be examined at the offices of the Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36104. Comments should be addressed to:

Mr. Roger Pfaff, EPA Region IV, Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30308

FOR FURTHER INFORMATION:

Mr. Roger Pfaff, EPA Region IV, Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30308, 404/881-3286 or FTS 257-3286

SUPPLEMENTARY INFORMATION: Pursuant to the decision by the District of Columbia Circuit Court of Appeals in *NRDC* v. *EPA*, 475 F. 2d 968, the Agency on June 18, 1973 (38 FR 15834) promulgated changes in 40 CFR 51.18 requiring State Implementation Plans to provide for preconstruction review of indirect sources of air pollution. Alabama was one of the few States to respond within the deadline set by EPA for the submittal of an indirect source plan. The Alabama plan, set forth as Chapter 10 of the State's air pollution control regulations, was approved by the Administrator, except for inadequate provisions for public comment, on February 25, 1974 (39 FR 7270). Also at that time, a Federal regulation was promulgated for States which had failed to submit an acceptable indirect source plan.

These Federal regulations have never been implemented and were suspended indefinitely in 1975. See 40 CFR 52.22(b)(16)(1978). Consequently, Alabama has never implemented its own indirect source regulations and EPA has not enforced those Alabama regulations. The State believed that these regulations were unnecessary since Part D requirements of the Clean Air Act (concerning the State attainment strategy for nonattainment areas) could be met for vehicle related pollutants by more effective and reliable means. Therefore, on November 27, 1978, Alabama revoked its indirect (complex) source regulations, following public notice in conformity with 40 CFR 51.4. This change was submitted to EPA's Region IV office as a proposed implementation plan revision on December 6, 1978.

In the Federal Register of March 15, 1979 (44 FR 15741), EPA announced the revision as proposed rulemaking and solicited public comment on it. One comment was received, supporting the Agency's proposal to approve the revision. In the notice of proposed rulemaking, the Agency stated that it proposed to approve the Alabama revision on the grounds that it is authorized by Section 110(a)(5) of the Clean Air Act; that Alabama is proceeding to revise its SIP to provide for the attainment and maintenance of the National Ambient Air Quality Standards for ozone as required by Part D of Title I of the Act; and that in all other respects the State's ozone plan meets the requirements of Section 110(a) of the Act.

On April 3, 1979, the Alabama Air Pollution Control Commission officially adopted implementation plan revisions designed to assure the attainment of the National Ambient Air Quality Standards for ozone in the five counties officially designated in 40 CFR Part 81 as nonattainment for that pollutant. An advance copy of the revisions was submitted to EPA on April 5, 1979. This contains a control strategy demonstration that the ozone standards will be met by December 1982 through the Federal Motor Vehicle Control Program (FMVCP) and newly adopted regulations representing RACT for stationary sources of volatile organic compounds. There are no nonattainment areas for CO or NO_2 (the other motor vehicle-related pollutants for which there are national ambient standards) in Alabama. Recently, the case of *Manchester Environmental Coalition* v. *United States Environmental Protection Agency*, —— F.2d —— (No. 79-4062, 2d Cir. dec. Dec. 6, 1979) was decided. That case involved EPA approval of a State's request to revoke its indirect source review program which was part of the State Implementation Plan (SIP). The Court held that before deciding whether to approve such a revocation EPA must consider whether revocation would render the SIP inadequate to attain and maintain the national ambient air quality standards.

EPA proposed approval of the Part D plan for attaining the ozone standard in Alabama on July 19, 1979 (44 FR 42242). The strategies for attaining the ozone standard were found to represent reasonable further progress toward attainment and to meet the other requirements under Part D. As mentioned, the only public comment submitted was in favor of EPA's proposed approval and this action was finalized on November 26, 1979 (44 FR 67375).

Since EPA has approved the Part B plan for attainment of the ozone standard, use of an additional strategy of indirect source review is not needed to meet attainment requirements of the Clean Air Act. EPA concludes that revocation would not render the SIP inadequate to attain those standards.

The second inquiry is whether revocation would render the SIP inadequate to maintain air quality standards. At the outset, it must be recognized that indirect source review is no longer one of the requisite elements of SIPs in general, under 40 CFR 51.11 (a)(1978). (See 44 FR 15741 [Mar. 15, 1979] and *Manchester Environmental Coalition*, cited earlier in this notice.) Also, the Alabama indirect source review regulations have never been implemented, either by the State or EPA. Therefore, revocation of those regulations cannot adversely affect present air quality in Alabama. Concerning future maintenance of air quality standards, all States, including Alabama, will be required to submit as SIP revisions, additional regulations implementing Prevention of Significant Deterioration (PSD) requirements of Part C of the Clean Air Act (as revised by the 1977 Amendments). Those SIP revisions will have to be submitted in the near future when EPA promulgates new regulations conforming to the directives of the recent decision of *Alabama Power Corp. et al. v. Costle*, —— F.2d —— (No. 78-1006, D.C. Cir. dec. Dec. 14, 1979). If SIP revisions in addition to the new PSD regulations prove to be necessary to maintain air quality standards in Alabama, such revisions will be required by EPA when the necessity becomes evident. For the foregoing reasons, EPA concludes that revocation of the indirect source regulations would not render the Alabama SIP inadequate to maintain national ambient air quality standards.

EPA thus concludes that revocation of the indirect source review would not render the Alabama SIP inadequate to attain and maintain national ambient standards. On this basis, EPA proposes approval of the revocation and solicits comment on that proposal and its basis as described in this notice.

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

Dated: March 14, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-9748 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1451-7]

State of Maryland; Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a proposed revision of the State Implementation Plan (SIP) consisting of a Secretarial Order for the Chalk Point Unit #3 Generating Station of the Potomac Electric Power Company (PEPCO) at Prince George's County, Maryland. The revision consists of a relaxation of allowable particulate emissions, relaxation of the no visible emissions requirement, and a waiver of the regulations requiring particulate control equipment.

The revision applies to Chalk Point Unit #3 only and resticts particulate emissions to 0.05 gr./s.c.f.d. (0.10 lbs./MBTU heat input), allows a maximum visible emission of 20% opacity and waives the requirement for particulate control equipment.

DATE: Comments must be submitted on or before May 1, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets Philadelphia, PA 19106, attn: Ben Mykijewycz

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston St., Baltimore, MD 21201, attn: George Ferreri

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted within 30 days of the publication of this notice will be considered and should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, attn: AH017MD

FOR FURTHER INFORMATION CONTACT: Ben Mykijewycz (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597-8181.

SUPPLEMENTARY INFORMATION: On August 13, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III a proposed revision of Maryland State Implementation Plan. The proposed revision consisted of a Secretarial Order for Chalk Point Unit #3 Generating Station of the Potomac Electric Power Company (PEPCO), Prince George's County, Maryland. In the letter, the State of Maryland certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR, Part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Secretarial Order as a revision of the State Implementation Plan. The Order relaxes the allowable particulate emissions to 0.05 gr./s.c.f.d. (0.10 lbs./10^6 Btu heat input), (COMAR 10.18.05.03B2). The present no visible emission limitation will be relaxed to allow a maximum visible emission limitation of 20% opacity, (COMAR 10.18.05.02A). No particulate control equipment shall be required, thereby waiving COMAR 10.18.05.03B1. Modeling studies submitted by PEPCO demonstrated that air quality standards for both sulfur dioxide and particulate matter will not be violated. Furthermore, the applicable PSD increments will not be exceeded by granting this revision.

Therefore, it is the tentative decision of the Administrator to approve the proposed revision of the Maryland State Implementation Plan.

The public is invited to submit to the address stated above, comments on whether the Chalk Point Secretarial Order should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: March 19, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-9747 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1451-2]

Approval and Promulgation of Implementation Plans; Nevada State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Nevada State Implementation Plan (SIP) were submitted to the Environmental Protection Agency (EPA) by the Governor on September 18, 1979. The SIP revisions consist of one regulation affecting particulate matter, one regulation affecting sulfur dioxide, control strategy revisions, and a variance which affect the Kennecott Copper Corporation copper smelter located at McGill, Nevada. The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. EPA is only taking action on the particulate portions of the revisions. Action on the sulfur dioxide portations will be taken in a separate Federal Register notice. EPA is proposing to disapprove the revisions since they do not provide for the attainment and maintenance of the National Ambient Air Quality Standards. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 2, 1980.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105

Copies of the proposed revisions and EPA's evaluation report are contained in document file NV-KCC-2 and are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the follow locations:

Nevada Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710

Public Information Reference Unit, Room 2040 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:
Wallace Woo, Chief, Engineering Section, Air Technical Branch, Air & Hazardous Materials Divsion, Environmental Protection Agency, Region IX (415) 556–8063

SUPPLEMENTARY INFORMATION:

Background

The Governor submitted the following control strategy revisions, regulations, and variance on September 18, 1979.

Control strategy revisions—Section 5: 5.2.2, Table 5.2 B, and emission inventory;

Nevada Air Quality Regulations (NAQR), Article 7—Particulate Matter: 7.2.7, and Article 14—Allowable Emissions from an Existing Copper Smelter; and

A variance from Articles 7 and 8 of the NAQR and Sections 4 and 5 of the control strategy.

One October 7, 1976, the State of Nevada submitted and SIP revision concerning similar rules. EPA published a Final Rulemaking Notice on the revision in the February 6, 1980 **Federal Register** (45 FR 8009). Please refer to that notice for background information on past EPA actions concerning the smelter at McGill, Nevada.

Criteria

EPA has reviewed the revisions for compliance with the following criteria as required by Section 110(a)(3) of the Clean Air Act, EPA's implementing regulations in 40 CFR Part 51, and EPA policy:

1. "Each plan shall include * * * a detailed inventory of emissions from point sources and area sources * * *" [40 CFR 51.13(f)(1)(i)].

2. "* * *the plan shall set forth a control strategy which shall provide for the degree of emission reduction necessary for attainment and maintenance of such national standards * * *." (40 CFR 51.12(a)).

3. "The adequacy of a control strategy shall be demonstrated by means of a proportional model or diffusion model, or other procedure which is shown to be adequate and appropriate for such purpose." (40 CFR 51.13(e)(1).)

4. "The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this title shall not be affected in any manner by:

(1) So much of the stack height of any source as exceeds good engineering practice * * * or

(2) Any other dispersion technique." (Section 123, Clean Air Act.)

5. "Each plan shall show that the State has legal authority to carry out the plan, including authority to adopt emission standards and limitations, and any other measures necessary for attainment and maintenance of national standards." (40 CFR 51.11(a)(1).)

6. "Each plan shall contain legally enforceable compliance schedules setting forth the dates by which all stationary and mobile sources or categories of such sources must be in compliance with any applicable requirement of the plan." (40 CFR 51.15(a)(1).)

"The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing, and that * * * it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard * * *." (Section 110(a)(2)(B), the Clean Air Act.)

Discussion

Control Strategy Revisions

1. The emission inventory does not accurately describe the particulate emissions in the vicinity of the McGill smelter, as required under 40 CFR 51.13(f)(1)(i).

The State has submitted a revised particulate matter emission inventory for the Steptoe Valley, which is presented in summary Table "Emission Inventory, Air Quality Basin, Central Region, Steptoe Valley No. 179." Stack emissions for the McGill smelter are presented in Table "KCC—McGill Stack Emissions" and area source emissions for the McGill smelter are presented in Table "Area Source Emission Estimates—KCC." EPA has reviewed the revised emission inventory, and finds that it contains a number of inconsistencies and other deficiencies.

The solid particulate stack emissions reported for the McGill smelter during 1975 are taken directly from the analysis for the 1972 operating permit (see "KCC—McGill Stack Emissions"). Rather than reporting emissions which were calculated prior to 1972, the State should have recalculated the emissions using more refined methods which have been developed since then.

The emissions from the crushers which are reported for 1975 are also taken from the 1972 permit analysis. The State has neglected to account for the addition of baghouses at the crushing operation between 1972 and 1976. Assuming a baghouse efficiency of 99% (Table 8.20–1 AP–42), and using the maximim production rate allowed in the permit, EPA has calculated the emissions to be 13,140 tons/year less than reported by the State.

In calculating the particulate emissions from the reverberatory furnaces, the State has apparently assumed a 75% control efficiency for the electrostatic precipitator (ESP), which was the rated efficiency when newly installed in 1926. This control efficiency is considered to be too high for calculating the emissions in 1975 because:

1. The State has provided no documentation that the ESP has been maintained in "like new" condition.

2. During a pre-source test survey conducted by EPA at the McGill smelter on November 6, 1979, Kennecott officials estimated that the ESP was operating at 50% removal efficiency, and only recently has been upgraded from 30% removal efficiency.

3. Emission factors in "Compilation of Air Pollution Emission Factors," Third Edition, USEPA, May 1978 ("AP–42") for uncontrolled green feed reverberatory furnaces (such as the McGill smelter) and for the same controlled by an ESP indicate that a control efficiency of approximately 40% can be expected from an ESP.

Using a 40% control efficiency, EPA has calculated the emissions from the reverberatory furnances during 1975 to be an additional 5,900 tons/year at the maximum production rate allowed in the permit.

The particulate emissions from the converters have also been significantly underestimated. Kennecott has estimated the particulate removal efficiency of the multiclones to be 50% in a report presented to EPA entitled, "An Emission Iventory and Assessment of the Particulate Control Strategy for the McGill Operations of Kennecott Copper Corporation, August 7, 1979." Using emission factors for uncontrolled converters found in Table 7.3–2 of AP–42, and the 50% removal efficiency, the emissions are calculated by EPA to be an additional 4,773 tons/year, or a total of 4,888 tons/year at the maximum production rate allowed in the permit.

Smelter fugitive emissions have been reported by the State to be 6,314 tons/year in 1975, and 3,157 tons/year in 1979, and are projected to remain at that level through 1982. A note at the bottom of the Table, "KCC-McGill Stack Emissions," indicates that the smelter fugitive emissions are 721 pounds/hour. This hourly emission rate has apparently been used to calculate the yearly emisions of 3,157 tons. The State has profided no documentation concerning the fugitive emission calculations for 1975 or 1979. Due to the lack of documentation, EPA cannot determine whether fugitive sources such as the reverberatory feed bins have been

included in this category or neglected entirely.

The emission inventory for particulate emissions from auto exhaust, and fugitive emissions from streets and unpaved roads, showed a slight increase from 1975 to 1979. This appears to conflict with the fact that there has been a 22% decrease in population for the Steptoe Valley since 1974. This significant decrease in population should result in less anthropogenic activity within the Steptoe Valley, and would be expected to be reflected in decreased emissions from such lessened activity. The State should document the reason for this apparent inconsistency.

The emission inventory indicates that particulate emissions from the tailings pond were 8,888 tons/year in 1979, and are projected to be 1,512 tons/year in 1982. Additional information made available to the Agency indicates that a tailings control program has reduced emissions from over 10,000 tons/year to less than half, and when the program is complete, emissions will be reduced to less than a quarter of the 1972 emissions. This implies that the 1979 tailings pond emissions are less than 5,000 tons/year, while the emission inventory in the 1979 SIP revision states that they are almost 9,000 tons/year. These descrepancies cannot be resolved by EPA because the State has not provided sufficient documentation concerning the emission factors and control efficiencies used to develop the emissions from the tailings pond.

In particular, the State has assumed a control efficiency of 93% for deep-furrowing and vegetation which Kennecott has applied to a portion of the tailings pond. The State has provided no documentation that the 93% control efficiency has been achieved. In fact, emission factors for tailings ponds indicate that the best control efficiency that can be expected is 90% when chemical-vegetative stabilization is employed (PEDCo-EPA–450/3–74–036a, "Investigation of Fugitive Dust, Volume I—Sources and Control", June 1974). The State must provide documentation justifying the use of the 93% control efficiency.

In addition, the State has not provided adequate documentation concerning the sizes of the active, inactive, controlled, and uncontrolled areas of the tailings pond. This documentation must be provided before EPA can verify the emission estimates calculated by the State.

Table 5.2(B), "Summary of Control Strategy by Year," indicates that when only manmade emissions are considered for 1975–1977, the allowable emissions for attaining the annual total suspended particulate (TSP) standard are 55,721 tons/year. The same table shows that the allowable manmade emissions in 1978 for attaining the annual TSP standard are 33,147 tons/year. The State has apparently concluded that, since the annual TSP standard was attained in the Steptoe Valley from 1975–1978, (as indicated in the same table), the total manmade emissions actually represent the allowable manmade emissions for those years. Between 1977 and 1978, manmade emissioins in the Steptoe Valley are shown to have decreased by 22,574 tons/year. However, the production of copper actually increased at the McGill smelter from 31,448 tons of copper produced in 1977 to 38,302 tons in 1878 (letter from Dean Kerr, Plant Manager, to Clyde Eller, Director, Enforcement Division, June 11, 1979). Since no additional particulate control equipment was installed at the McGill smelter between 1977 and 1978, the emissions would be expected to increase rather than decrease, as shown by the Nevada emission inventory.

In addition, the emission inventory indicates that the emissions from the tailings pond remained constant from 1975–1979 at 8,888 tons/year. It is therefore not clear what is responsible for the 1977–1978 emission reductions. It appears that the 22,574 tons/year emission reductions from 1977 to 1978 actually occurred from 1974 to 1975, when the McGill smelter reduced production from a two-reverberatory furnace operation to a one-furnace operation. This is reflected in the production figures for tons of copper produced, which decreased from 53,147 tons in 1974 to 21,000 tons in 1975. The production decrease would be expected to produce a sizable reduction in smelter stack and fugitive emissions. The State must clarify the inconsistencies noted.

The net effect of the deficiencies and inconsistencies noted cannot be fully determined by EPA because the State has not adequately documented the emission inventory. In particular, while the reverberatory furnace and converter emissions reported under "Solid Stack Emissions" for 1975 and 1979 are underestimated, it is not certain whether the associated fugitive emissions are accurately reported since they are not documented.

The reductions in stack emissions projected for 1982 do not appear to be real reductions in actual emissions since they represent the difference between the emissions allowed in the 1977 operating permits (listed as 1979 emissions in the emission inventory) and the calculated actual emissions during 1977 (listed as 1982 projected emissions). Since the emission levels projected for 1982 appear to have been achieved in 1977, no actual reductions would occur.

2. The air quality design value used in the control strategy is incorrect, and thus the requirements of 40 CFR 51.12(a) and 51.13(e)(1) are not met.

EPA notes that in the selection process for a "design value," the State has not considered monitoring data from the most recent three years of complete data as required by EPA policy (see "Workshop on Requirements for Nonattainment Area Plans," page 131). A review of Table 5.2(b) in the State's submittal shows that the highest of the second high readings from 1976, 1977, and 1978 occurred on September 22, 1977 (291 ug/m^3 recorded at the McGill School Monitor). EPA has reviewed ambient TSP data from Kennecott's North Flat Monitor and meteorological data from Yelland Field in Ely on this date and finds that ther is no apparent reason for eliminating the 1977 data.

In addition to the data found in Table 5.2(b), EPA has reviewed other ambient TSP data from Kennecott's North Flat Monitor, and the McGill School Monitor. Based on this information, even higher values were excluded from consideration when determining the design value. The State must demonstrate to EPA why these values were not considered in selecting a design value.

Further, the State has not demonstrated that the monitors have been located at the points of predicted maximum impact as required under 40 CFR Part 58 Appendix D.

3. The control strategy calculations of the emission reductions necessary to attain the National Ambient Air Quality Standards (NAAQS) for TSP are unreliable because of the deficiencies noted above in 1 and 2. Valley Modeling performed by Kennecott and verified by EPA, indicates that the allowable emissions predicted by Rollback Modeling are not sufficient to demonstrate attainment of the NAAQS for TSP. The requirements of 40 CFR 51.12(a) and 51.13(e)(1) therefore are not met.

On March 15, 1979 (44 FR 15735), EPA proposed action on the October 7, 1976 Nevada SIP revision. EPA promulgated final action with regard to the total suspended particulate matter portions of the October 7, 1976 SIP revision on February 6, 1980 (45 FR 8009). In the May 10, 1979 comments on this Notice of Proposed Rulemaking, Kennecott suggested a conference with the Administrator and the State to resolve the issues raised in the notice. In response to Kennecott's request, EPA,

Region IX, met with representatives of Kennecott on May 31, July 30, August 7, and August 10, 1979, to discuss the deficiencies in the October 7, 1976 SIP revision. During these meetings, Kennecott and the State of Nevada submitted additional information to EPA. Among this information were Valley Modeling results performed by Kennecott at EPA's request. EPA subsequently verified the Valley Modeling results. EPA had specified the use of the Valley Model because of the complex terrain features in the vicinity of the McGill smelter. The use of the Valley Model in this situation is consistent with EPA policy for sources located in complex terrain (see EPA, OAQPS, "Guideline on Air Quality Models," April 1978, and Memorandum from Walter C. Barber to David G. Hawkins entitled, "Complex Terrain Models," June 5, 1979).

Although the Valley Modeling results were not submitted as part of the September 18, 1979 SIP revision, they are discussed below because they provide an independent check on the validity of the State's control strategy.

EPA's computer modeling results using the Valley Model indicate that a stack emission rate of 2100 pounds/hour (the emission rate included in the State's revised NAQR Article 7.2.7) would be sufficient to cause violation of the primary 24-hour standard for TSP on the hills to the east of the smelter. In conjunction with other emissions (smelter fugitive, tailings pond, and background), the stack emission rate of 2100 pounds/hour is also sufficient to cause violations of the 24-hour primary and secondary standards for TSP in the Steptoe Valley as well.

Table 4 of EPA's "Analysis of the Kennecott Copper Corporation, McGill, Nevada, Paraticulate Control Strategy," dated August 20, 1979, is a summary of the Valley Modeling results. When contributions from the smelter stack, smelter fugitive, tailings pond, and background are considered, Table 4 shows that the Valley Model predicts readings as high as 1888 $\mu g/m^3$ of TSP on a 24-hour average on the hills to the east of the smelter, and readings as high as 270 $\mu g/m^3$ in other areas of the Steptoe Valley.

Tables 1–4 show that the main smelter stack emissions account for 93% of the 1888 $\mu g/m^3$, and 74% of the 270 $\mu g/m^3$ Valley Model predicitions. Ambient air quality monitors are currently located in the Steptoe Valley, but not on the hills to the east of the smelter.

A main stack emission rate of 1684 pounds/hour (the emission rate included in the State's control strategy demonstration for 1982 (3,876 + 3,504 = 7,380 tons/year)), would reduce these predicted air quality values to 1514 $\mu g/m^3$ on the hills and 216 $\mu g/m^3$ in the Valley. The results indicate that violations of the primary standard would still occur on the hills to the east of the smelter, and that violations of the secondary standard would still occur in the Steptoe Valley itself. Furthermore, the State has failed to submit any regulations requiring the smelter to operate at a rate of 1684 pounds/hour.

The State has used Rollback Modeling to demonstrate attainment of the 24-hour secondary standard for TSP. A background concentration of 25 $\mu g/m^3$ was assumed, which EPA finds acceptable. The modeling predicts that the 1979 total manmade emissions of 33,147 tons/year must be reduced to a level of 22,540 tons/year to attain the secondary 24-hour TSP standard (the most stringent condition). Although the emissions projected for 1982 are 22,549 tons/year, the control strategy does not demonstrate attainment of the NAAQS for TSP, because the emission inventory is not accurate and an incorrect design value was selected. In addition, dispersion modeling results show that the emission limit of 2100 pounds/hour from the stack in the State's control strategy, is not sufficiently stringent to demonstrate attainment of the NAAQS for TSP.

4. The State has not demonstrated that the 750-foot stack represents good engineering practice as required under Section 123 of the Clean Air Act.

The particulate matter control strategy revision is based on ambient air quality data collected after the McGill smelter began to use its 750-foot stack on October 1, 1974. Section 123 prohibits the degree of emission limitation for a source to be affected by use of a stack in excess of good engineering practice (GEP) that was not in existence before December 31, 1970. Since the data relied on by the State reflect the use of the 750-foot stack (they were collected while Kennecott was discharging from the 750-foot stack), the calculated emission limitations could give improper credit for the effect of this disperson technique.

Kennecott has previously asserted in the comments submitted on EPA's Notice of Proposed Rulemaking concerning the October 7, 1976 SIP revision, that the comments submitted in response to EPA's Notice of Proposed Regulatory Revisions, 1977 Clean Air Act Amendments for Stack Heights (44 FR 2608, January 12, 1979), provide the required demonstration that the 750-foot stack represents GEP. EPA has reviewed Kennecott's comments, and has determined that they do not constitute a demonstration that the 750-foot stack represents GEP (Notice of Proposed Rulemaking, January 12, 1979, 44 FR 2608, and draft "Technical Support Document for Determination of Good Engineering Practice Stack Height," July 1978). The comments lack a field study or a fluid modeling study which must be made if there is terrain influence, as found at the McGill smelter. Therefore, unless the State demonstrates that the 750-foot stack at the McGill smelter represents GEP in accordance with Section 123, a design value must be determined by dispersion modeling using the appropriate GEP stack height.

However, in this particular case it is not necessary to reach a final conclusion as to the stack height credit to which the McGill smelter is entitled. Air quality data and computer modeling results show that NAQR Article 7.2.7, submitted by the State, is insufficient to attain the NAAQS for TSP, even if full credit is given to Kennecott's 750-foot stack.

5. There are no regulatory requirements for the emission reductions claimed for 1982 at the smelter stack or the tailings pond as required under 40 CFR 51.11(a)(1) and Section 110(a)(2)(B) of the Clean Air Act.

The State's control strategy shows that the stack emissions from all sources must be reduced to 4,446 tons/year for attainment of the NAAQS for TSP 1982. The proposed revision to NAQR Article 7.2.7 would limit the "Solid Particulate Emissions" from the smelter stack to 1,300 pounds/hour or 5,694 tons/year. It is evident that even if the State's control strategy is correct, the proposed revision is not sufficiently stringent to produce the required emission reductions for attainment of the NAAQS for TSP.

The proposed revision to NAQR Article 7.2.7 would also limit total particulate emissions from the stack to 2100 pounds/hour or 9,198 tons/year. The State's projected 1982 total stack emissions are the sum of the "Stack Emission Solid" and "Stack Emission Aerosol" (4,446 + 3,504 = 7,950 tons/year). It again appears that the proposed revision is not sufficient to produce the emission reduction which the State's control strategy predicts is required for attainment of the NAAQS for TSP. Therefore, the proposed control measures do not meet the requirements of 40 CFR 51.11(a)(1) and Section 110(a)(2)(B) of the Clean Air Act.

The largest emission reductions claimed by the State are the result of the tailings control program conducted by Kennecott. The State projects that emissions from the tailings pond will be reduced from 8,888 tons/year in 1979 to 1,512 tons/year by 1982. However, the State has proposed no regulations for

the emission reductions claimed from the tailings control program as required under 40 CFR 51.11(a)(2) and Section 110(a)(2)(B) of the Clean Air Act.

6. The State has submitted no compliance schedules to implement the emission reductions claimed for 1982 at the smelter stack or the tailings pond as required under 40 CFR 51.15(a)(1) and Section 110(a)(2)(B) of the Clean Air Act.

For the reasons discussed above, EPA is proposing to disapprove the control strategy revisions.

NAQR, Article 7.2.7

Article 7.2.7, submitted on September 18, 1979, revises the State's process weight regulation as it applies to the McGill smelter. The revision establishes an emission limit for "Solid Particulate Matter" of 1300 pounds/hour (590 kg/hour) averaged over 24 hours for the McGill smelther. It also establishes an emission limit for "Total Particulate Matter" of 2100 pounds/hour (950 kg/hour) averaged over 24 hours, as measured by EPA Method 5 (40 CFR, Part 60, Appendix A).

Compliance with the emission limitations would be determined by conducting three independent sets of measurements consisting of twelve consecutive two-hour measurements using test procedures approved by the Director of the Nevada Department of Conservation and Natural Resources. The three independent tests must be conducted within a five-day period. The effect of the revised regulation is to relax the applicable SIP particulate emission limitation for the McGill smelter by approximately a factor of 11 with respect to the 1300 pounds/hour limit, and by approximately a factor of 18 with respect to the 2100 pounds/hour limit. Due to the deficiencies previously noted, the control strategy does not demonstrate that this relaxation of the SIP will not interfere with the attainment and maintenance of the NAAQS for TSP.

Thus, the proposed rule revision does not meet criteria 1, 2, 3, 4, and 6 identified earlier in this notice, and is provided to be disapproved.

Further, the 1300 pounds/hour limit pertains only to "Solid Particulate Matter." The regulation does not define "Solid Particulate Matter," or specify a compliance test method. This allows the State unlimited discretion in defining "Solid Particulate Matter," and in selecting a test method. Since the amount of particulate matter measured at the source depends on the definition of "Solid Particulate Matter," and the selection of a test method, the 1300 pounds/hour emission limit is rendered unenforceable by these deficiencies.

The 2100 pounds/hour emission limit applies to "Total Paticulate Matter," and thus includes particulate matter in aerosol form in addition to solid particulate matter. The State has specified EPA Method 5 as the applicable source test method for determining compliance with this emission limit. Method 5 is an appropriate test for use in the measurement of total particulate matter, and can be used as the compliance test procedure. However, the purpose and the need to average emissions over a 24-hour period is unclear. The completion of three such 24-hour tests within five days would require several sampling teams with no apparent increase in test accuracy to be derived. The practical difficulties of conducting such a test are a serious impediment to the collection of reliable data. Further, the specification of three such 24-hour tests within a 5 day period would hamper the use of source testing as a viable enforcement tool. In addition, the State has failed to provide any documentation that the 24-hour test can be adequately performed in place of one or two-hour tests for either the 1300 pounds/hour limit or the 2100 pounds/hour limit.

In summary, neither the 1300 pounds/hour nor the 2100 pounds/hour emission limit has been demonstrated to result in attainment of the NAAQS for TSP (see control strategy discussion), and both limits are rendered unenforceable either by the lack of an appropriate test method, or by a 24-hour averaging period, or both. For the reasons discussed above, EPA is proposing to disapprove Article 7.2.7.

Variance

The September 18, 1979 revisions also included a one year variance to Kennecott Copper Corporation from Articles 7 and 8 of the NAQR and Sections 4 and 5 of the Nevada control strategy portion of the SIP.

As noted earlier, EPA does not propose to take any action regarding emissions of sulfur compounds at this time. Therefore, Article 8 of the NAQR and those portions of Sections 4 and 5 of the Nevada SIP which involve that pollutant are not addressed in this notice.

Section 110(i) of the Clean Air Act (the Act) sets out the mechanisms by which a state can modify any requirement of a SIP with respect to any stationary source. Of those, a state's variance to a source may be allowable if it complies with the requirements for a SIP revision under Section 110(a)(3) of the Act.[1]

Those requirements, which determine the approvability of a variance as a SIP revision, include:

(a) Section 51.4 requires 30 days notice and public hearings on the revision.

(b) Section 51.15(a) requires a compliance schedule with a final compliance date.

(c) Section 51.32(f) provides that a SIP revision may be approved only if the revised SIP continues to provide for attainment and maintenance of the NAAQS. Section 51.13(a) requires the SIP to contain a control strategy for attainment and maintenance of the primary standard for particulate matter and sulfur oxides. Section 51.13(e) requires that there be a demonstration, by proportional model, diffusion model, or other adequate procedure, that the control strategy is adequate for attainment and maintenance of the NAAQS.

The variance is not approvable as a SIP revision because the requirements of 40 CFR 51.13 are not met since there is no demonstration that the SIP, as modified by the variance, will continue to provide for attainment and maintenance of the NAAQS for particulate matter.

(a) The requirement of 40 CFR 51.4 is met since the State indicated in its September 18, 1979 submittal that the notice and hearing requirements had been satisfied.

(b) The requirement of Section 51.15 for a compliance schedule specifying a final compliance date is not met. The only element in the variance resembling a compliance timetable is the recitation

[1] Section 113(d)(1) of the Act authorizes delayed compliance orders (DCO) and sets out the requirements for their approval by EPA under Section 113(d)(2). Any DCO must:

(a) Have been issued after notice and public hearing;

(b) Contain a compliance schedule;

(c) Require compliance with increments of progress leading to ultimate compliance as expeditiously as practicable;

(d) Require the source to use the best practicable system of emissions reduction, and to follow interim requirements to include at a minimum:

(i) Measures to avoid imminent endangerment to health, and;

(ii) The requirement that the source comply with the SIP as best it can;

(e) Require emission monitoring and reporting;

(f) Provide for final compliance with the SIP no later than July 1, 1979 or three years after the final compliance date in the SIP; and

(g) Notify the source (in the case of a major stationary source, in which category the Kennecott smelter falls) of the possibility of noncompliance penalties under Section 120 of the Act.

Nevada's variance, which was not submitted as a DCO under Section 113, does not fulfill any of these criteria.

of its one year duration. Since this is the third Kennecott variance granted by the State of Nevada there is no reason to believe, nor is there any indication expressed, that there will not be another variance after this one has expired. In this regard there is no intention expressed, either in the variance or in the submittal letter, that the source will actually be required to comply with the exempted provisions by a specific date.

The primary standard against which EPA judges the approvability of a state-submitted variance is whether or not it will interfere with the attainment and maintenance of the NAAQS. As discussed above, 40 CFR 51.13(e) requires that the SIP revision be accompanied by a demonstration that the control strategy, as modified by the revision, will continue to provide for attainment and maintenance of the NAAQS.

(c) Nevada's September 18, 1979 SIP revision included a control strategy demonstration. As explained in detail earlier in this notice, the documentation is inadequate to demonstrate that the control strategy, including the Kennecott variance, will provide for attainment and maintenance of the NAAQS for particulate matter, regardless of whether the Article 7 and Sections 4 and 5 revisions are included or not.

Therefore, EPA is proposing to disapprove the variance.

Public Comments

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before June 2, 1980, will be considered.

Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

Sec. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a))

Dated: March 17, 1980.

Paul DeFalco, Jr.,

Regional Administrator.

[FR Doc. 80-9759 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1451-1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision: Imperial County Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the California State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977 (the Act), "Plan Requirements for Nonattainment Areas." This Notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrections.

DATES: Comments may be submitted up to May 1, 1980.

ADDRESSES: Comments may be sent to:

Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4-2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105

Copies of the proposed revision/Nonattainment Area Plan (NAP) and the EPA's associated Evaluation Report are contained in Document File No. NAP-CA-06 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Imperial County Board of Supervisors, Imperial County Courthouse, 939 Main Street, El Centro, Calif. 92243.

California Air Resources Board, 1102 "Q" Street, Sacramento, Calif. 95812

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX (415) 556-2938

SUPPLEMENTARY INFORMATION:

Background

New provisions, enacted in August 1977, of the Act, Pub. L. No. 95-95, require states to revise their SIP's for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required to develop, adopt, and submit to the EPA revisions to their SIP's for these designated nonattainment areas by January 1, 1979, which revisions meet the requirements of Part D of the Act and provide for the attainment of the NAAQS as expeditiously as practicable.

Imperial County is designated as nonattainment of ozone (O_3).

On April 4, 1979 (44 FR 20372) the EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. In addition, the EPA published four Supplements to the General Preamble on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). The General Preamble supplements this proposal by identifying the major considerations that will guide the EPA's evaluation of the submittal. The EPA invites public comments on these revisions, the identified issues, the suggested corrections, and the question of whether the revisions should be approved or disapproved, especially with respect to the requirements of Part D of the Act.

Description of Proposed SIP Revisions

On October 11, 1979 the Governor's designee submitted the NAP for O_3 for Imperial County to EPA as a revision to the California SIP. Preparation of the proposed SIP revision was coordinated by the Imperial County Board of Supervisors which was designated by the California Air Resources Board (ARB) as the lead planning agency for the preparation of the Imperial County NAP. That plan, which is addressed in

this notice, consists of the following major components:

A discussion of governmental involvement, including intergovernmental consultation and the division of responsibility among various agencies.

A general description of Imperial County, including topography, meteorology, population, and economic activity.

A discussion of current air quality, accompanied by an organic gas emission inventory (present and projected) and a description of past and present activities of the Imperial County Air Pollution Control District (APCD).

An identification of some of the possible control strategies, including a brief description and reasons for selecting or rejecting each.

A schedule for adoption of rules, and a statement concerning resources to implement the Plan.

The NAP identifies certain control strategies, as follows:

1. State and Federal controls on motor vehicles. (No action required locally)

2. Architectural coatings rule.

In addition to the October 11, 1979 plan submittal, this notice considers amendments to the Imperial County APCD's rules and regulations submitted to the EPA by the Governor's designee prior to December 1, 1979 as SIP revisions. In order to expedite the EPA's review of the Imperial County NAP, this notice addresses only those District regulations which appear to relate to applicable Part D requirements, and thus support the NAP. Those rules, which were submitted on October 15, 1979, are listed below.

Imperial County Air Pollution Control District Rules

Rule 415.1—Gasoline Loading into Tank Trucks and Trailers.
Rule 424—Architectural Coatings.

Criteria for Approval

The Imperial County control strategy must be evaluated to determine if it is consistent with Part D of the Act. The following list summarizes the basic Part D requirements for nonattainment area plans:

1. An accurate inventory of existing emissions.

2. A modeling analysis indicating the level of control needed to attain by 1982.

3. Emission reduction estimates for each adopted control measure.

4. A provision for expeditious attainment of the standards.

5. Provisions for reasonable further progress as defined in section 171 of the Act.

6. Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.

7. An identification of an emissions growth increment.

8. Provisions for annual reporting with respect to items (5) and (6) above.

9. A permit program for major new or modified sources consistent with section 173 of the Act.

10. An identification of and commitment to the resources necessary to carry out the plan.

11. Evidence of public, local government, and state involvement and consultation.

12. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

13. For O_3 SIP revisions that provide for attainment of the primary standards later than 1982:

a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs.

b. A provision for implementaion of all reasonably available control measures for mobile and transportation sources.

c. A commitment to establish, expand, or improve public transportation to meet basic transportation needs.

d. In addition to the above, for major urbanized areas, a specific schedule and legal authority for implementation of a vehicle emission control inspection and maintenance program.

14. For O_3 nonattainment areas requiring an extension beyond 1982, the revision must also provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) stationary sources for which EPA has published a Control Techniques Guideline (CTG) by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines.

Issues

The paragraph numbers below correspond to the Part D NAP requirements discussed in the preceding section, CRITERIA FOR APPROVAL. EPA policy for approval of O_3 nonattainment area plans submitted as 1979 SIP revisions differentiates between rural and urban nonattainment areas. EPA's policy, including the definition of rural areas, is discussed in the General Preamble. Based on the definition of rural areas and the policy, Imperial County is considered a rural area. As referenced in the General Preamble, EPA's minimum requirements for an approvable 1979 rural O_3 nonattainment area plan do not provide that all of the CRITERIA FOR APPROVAL listed above be fully met. Each criterion is discussed in depth below. Where a plan deficiency is identified, recommendations for revision of the plan are specified. The citations in the comments which follow refer to sections 108, 110, and Part D, sections 171–178, of the Act.

There is one major deficiency with respect to the Imperial County NAP for O_3 that causes the plan to be unapprovable with respect to Part D of the Act. The major deficiency is the absence of an adopted, legally enforceable New Source Review (NSR) rule.

If the State does not submit an adequate, legally enforceable NSR rule, the plan for Imperial County must be disapproved by EPA with respect to Part D of the Act. This overall plan disapproval would result in the continuation of the prohibition on certain major new source construction or modification as set forth in section 110(a)(2)(I) of the Act and EPA's Interpretive Rule on Statutory Restriction on New Sources (44 FR 38471, July 2, 1979). In accordance with this statutory provision, certain major new or modified stationary sources are currently prohibited from being constructed in California nonattainment areas. This prohibition on construction will remain in effect in Imperial County with respect to O_3 until the deficiency discussed above is corrected and EPA approves the NAP pursuant to Part D of the Act in a final rulemaking action.

EPA has identified certain portions of the plan that (1) are approvable, (2) contain minor deficiencies which could be remedied under conditions of plan approval, subject to assurance by the State that corrections will be made by a specified date, or (3) contain a major deficiency which must be remedied prior to EPA's final approval of the entire plan with respect to Part D of the Act. EPA's evaluation using these three standards will determine whether the plan as a whole is (1) approvable, (2) conditionally approvable, or (3) disapprovable. Those portions of the plan which are approvable have been determined to be consistent with section 110 and/or Part D of the Act and are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the plan is ultimately

approvable with respect to Part D. In addition, certain technical portions of the plan are noted as being approved even though they are expected to be refined in future plan updates.

Those portions of the plan which are conditionally approvable contain minor deficiencies which can be accepted on the condition that the State provide an assurance that the deficiencies will be corrected and submitted as an SIP revision by a specifed deadline. Conditional approval of the entire plan will be sufficient to lift the existing prohibition on new source construction described above. Conditional approval of the entire plan would mean that the restriction on new sources would not apply unless the State failed to submit corrections by the specified date, or unless the corrections were ultimately determined to be inadequate. These portions of the plan which are conditionally approvable are proposed to be incorporated into the SIP, regardless of EPA's determination on whether the overall plan is approvable with respect to Part D.

The NSR portion of the plan which is deemed to be a major deficiency must be corrected and submitted as an SIP revision in order for EPA to either approve or conditionally approve the entire plan with respect to Part D of the Act.

1. *Emission Inventory.*—The plan includes an emission inventory for hydrocarbons (HC), identifying emission source categories and their estimated emissions for the 1977 base year and projected emissions for 1982 and 1987.

A review of the base year inventory indicates that it includes the necessary emission estimates for stationary, mobile, and area sources. These estimates are based on emission factors listed in EPA's *Compilation of Air Pollutant Emission Factors* (AP–42), localized data, actual usage, computer models, and transportation studies. The inventory is reasonably comprehensive, current, and accurate, and the EPA proposes to approve it as part of the SIP.

Certain technical aspects of the emission inventory for O_3 should be addressed in the July 1980 Annual Report. The State should:

(1) Update pesticide emissions based on the results of studies currently in progress.

(2) Reconcile the estimates of the agricultural burning source category in the Plan with those given by the ARB for the same year.

(3) Include cutback asphalt emissions as a separate subcategory of organic solvent emissions.

2. *Modeling.*—The Plan does not contain an air quality model that allows calculation of emission needed to project attainment of the 0.12 parts per million primary O_3 standard by 1982. However, EPA policy does not require a specific demonstration of attainment by rural areas in the 1979 SIP revisions. Thus, the absence of such a model is not considered a deficiency, and EPA proposes approval of the Imperial County Plan with respect to the Modeling Requirements.

3. *Emission Reduction Estimates.*—Emission reduction estimates are contained in the plan for each control measure for HC reductions. Certain of these estimates are for the years 1976, 1982, and 1987.

The July 1980 Annual Report submitted to EPA by the State should include refined estimates of emissions reductions based upon the annually updated emission inventory, additional control tactics, and actual reductions being achieved through plan implementation.

4. *Attainment Provision.*—The plan does not quantitatively provide for attainment of the primary O_3 standard by the statutory dates. However, EPA policy for rural O_3 plans does not require such a demonstration.

5. *Reasonable Further Progress.*—The plan does not contain a demonstration of reasonable further progress for attainment of the O_3 standard. As referenced in the General Preamble, the 1979 O_3 SIP revision for rural areas need not provide for annual incremental reductions in emissions which would demonstrate reasonable further progress.

6. *Legally Adopted Measures.*—The present SIP submittal does not indicate that all required plan elements have been adopted at either the State or local level. Specifically, these are:

A New Source Review rule.

A VOC RACT rule for Cutback Asphalt.

The plan must include an adopted, legally enforceable NSR rule. The lack of such a rule is a major deficiency which must be remedied in order for EPA to approve the plan with respect to Part D of the Act. This deficiency is discussed in greater detail in Criterion #9, *Permit Program.*

As discussed below, the lack of a cutback asphalt rule is a minor deficiency and the subject of conditional approval. The absence of a cutback asphalt rule is considered a minor deficiency in view of the minimal emission reductions that are likely to occur with the implementation of such a rule in Imperial County.

The plan must also provide for the minimum levels of control technology that are required by the Act. For rural O_3 nonattainment areas such as Imperial County, the plan must include adopted, legally enforceable regulations which reflect the application of RACT for those major stationary source categories (i.e., those with over 100 tons/year potential emissions) for which EPA had published a CTG Document by January, 1978 (i.e., Category I CTG's). In addition, the plan must contain a commitment to adopt RACT regulations for major sources in categories to be addressed by future CTG documents.

The CTG's provide information on available air pollution control techniques, and certain recommendations of what EPA calls the "presumptive norm" for RACT, based on EPA's current evaluation of the capabilities and problems general to an industry. The State may develop case-by-case RACT requirements, independent of EPA's recommendation, for any source or group of sources. Therefore, the basis for an EPA decision to approve a regulation as satisfying the requirements of the Act for RACT consists of the applicable CTG document any material submitted by the State justifying that the regulation satisfies the requirements of the Act for RACT (based on the economic and technical circumstances of the particular sources being regulated), and public comment on the submitted regulation and supporting material.

The plan indicates that of the 15 source categories (addressed by 11 CTG documents) for which adopted regulations are required, only six exist in the nonattainment area. There are no petroleum refineries or surface coating operations for cans, coils, paper, fabric, automobiles, large appliances, metal furniture, or magnet wire. The source categories that do exist in the nonattainment area include service stations, bulk plants, bulk terminals, fixed-roof tanks, degreasing, and cutback asphalt. Major sources do not exist in the area for the following source categories: service stations, bulk plants, and degreasing. Major sources may exist for three of these categories: bulk terminals, fixed-roof tanks, and cutback asphalt.

Rule 415.1, "Gasoline Loading into Tank Trucks and Trailers," was submitted on October 15, 1979, to cover bulk gasoline terminals. Rule 413, "Storage of Petroleum Products," was submitted November 4, 1977, for fixed-roof tanks, and approved for inclusion in the SIP.

Based on information contained in CTG's EPA believes that Rules 415.1 and 413 contain control requirements which are adequate to fulfill the requirement

for RACT for bulk terminals and fixed-roof tanks.

The State has not submitted a regulation for cutback asphalt, and therefore the plan does not contain regulations sufficient to fulfill the requirement for RACT. The State has developed a model rule for control of this source category, and submitted it to EPA (with the San Diego Nonattainment Area Plan). EPA has evaluated the model rule, and believes it contains control requirements which are adequate to fulfill the requirement for RACT for this source category.

The plan could be conditionally approved upon correction of the major deficiency, the absence of an NSR rule. One of the conditions of approval would be the State's submittal by July 1, 1980 of (1) the certification that there are no major sources of cutback asphalt in Imperial County or (2) an adopted regulation which is similar and equivalent to the model rule.

In addition, the State has submitted Rule 424 for architectural coatings. EPA is recommending approval of Rule 424 for inclusion in the SIP, as it strengthens the SIP, and is consistent with the Act and EPA policy.

As stated earlier, the plan should contain a commitment to adopt regulations that are consistent with future CTG documents.

The plan contains a resolution committing to implement all other reasonable available control measures needed to attain the O_3 standard as expeditiously as possible. This commitment is adequate provided that the State submits adopted regulations by July 1, 1980 for major sources in the following applicable source categories: Petroleum refinery leaks, gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, miscellaneous metal parts and products, graphic arts, pneumatic rubber tire manufacture, flatwood paneling, and floating roof-tanks (i.e., Category II CTG's). If no major sources exist for a particular category, the State must so certify.

In addition to the proposed rulemaking action, the following Federally promulgated regulations from the Code of Federal Regulations, 40 CFR Part 52, are proposed to be rescinded or amended because they have been replaced by a revised set of control measures or regulations contained in the plan, and/or they have been invalidated by previous legal action:

A. *52.233 Review of new sources and modifications.* Subparagraphs (h), (i), and (j) have been invalidated by the Clean Air Act amendments of 1977.

B. *52:238 Attainment dates for national standards.* The attainment dates in this section are proposed to be changed in accordance with the submitted nonattainment plan.

7. *Emmissions Growth.*—The State's proposed NSR Rule (see Criterion #9, *Permit Program,* for further discussion) uses emissions offsets to limit emissions growth. This approach is approvable.

8. *Annual Reporting.*—The plan needs to contain a provision for annual reporting regarding (1) the progress of adoption and implementation of control measures, (2) the status of futher studies that would provide a basis for further action direction towards attainment and maintenance of the national standards, and (3) an updated emission inventory. The first report is due in July, 1980.

9. *Permit Program.*—The ARB has submitted its Model NSR Rule and two letters from the ARB to local districts (letters dated March 12, 1979 and May 7, 1979) as a draft rule for consideration as part of the Imperial County Plan. Thus, the term "draft rule" used here refers to the model rule as clarified by the two letters. This draft rule has not been adopted in a legally enfoirceable manner. Rather, it is a model upon which an adopted and legally enforceable rule could be based.

The lack of an adoped NSR rule is a major deficiency which must be corrected before EPA can approve or conditionally approve the plan with respect to Part D of the Act, because certain Part D requirements are not met.

At the request of the State, and assuming that an adopted rule equivalent and similar to the draft rule will be submitted, EPA has reviewed the substance of the draft rule against EPA's criteria for a new source permitting program. These criteria are contained in guidelines published in the preamble to EPA's revised Interpretative Ruling (44 FR 3274, January 16, 1979); EPA's General Preamble for Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas; and in the proposed amendments to EPA's regulations for Prevention of Significant Deterioration and Review of New Sources (44 FR 51924, September 5, 1979).

As described in the September 5, 1979 notice, EPA policy generally is to approve any plan that would meet the January 16, 1979 Interpretative Ruling or the criteria set forth in the September 5, 1979 proposal.

EPA's review indicates that the draft rule is more stringent than EPA's criteria in certain respects including certain Lowest Achievable Emission Rate (LAER) and offset source cutoff levels. However, the draft rule deviates from EPA's current criteria by exempting modifications of existing sources under certain circumstances which the EPA criteria do not allow. If a modification were to result in a net increase in emissions of less than 250 pounds/day (46 tons/year), the draft rule would exempt the modification from the LAER requirement of Part D of the Act. EPA's Interpretative Ruling allows a State's rule to include such an exemption for a major modification only if there will be no net increase in emissions, and does not allow any exemption for reconstructions.

EPA's proposed regulations also prohibit any exemptions for reconstructions, and allow exemptions of other major modifications only if the net increase in emissions will be less than "de minimis" (cut-off) levels. The draft rule cut-off level is less stringent than the "de minimis" levels proposed by EPA for HC.

Because the deviations noted above to EPA's existing and proposed regulations are not deemed to be major deficiencies with respect to the Part D requirements of the Act, EPA could conditionally approve the plan when an adopted NSR rule equivalent to the draft rule is submitted in legally enforceable form. The condition of this approval would be that the State must modify the adopted rule so that the above deficiencies are corrected to be consistent with the Clean Air Act and either: (1) The September 5, 1979 proposed regulations, or (2) final EPA regulations based on the September 5th proposal, or (3) the January 16, 1979 Interpretative Ruling, and submit it as a SIP revision by March 1, 1981.

10. *Resources.*—The plan defines the manpower resources of the Imperial County APCD and further states that these should be adequate to implement the adopted stationary source controls. The State should submit a more detailed description of and commitment to the financial resources to implement all individual control measures by the responsible agencies in the July, 1980 Annual Report.

11. *Public and Government Involvement.*—The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and documents the process used in designating responsible entities for preparing and implementing the plan.

The official SIP submittal also identifies air quality, health, welfare, economic, energy and social effects of the plan provisions. In addition, the plan contains a summary of public comments.

EPA proposes to approve this portion of the plan.

12. *Public Hearing.*—The plan meets the requirements of section 172(b)(1) and 40 CFR 51.4, since it includes evidence that the plan was adopted by the local lead agency on October 31, 1978 and by the State on February 21, 1979, after reasonable notice and public hearing.

13. *Extension Requirements for O_3*

14. *Extension Requirements for VOC RACT.*—As referenced in the General Preamble, the 1979 O_3 SIP revision for rural nonattainment areas need not contain a demonstration of attainment. Therefore, the extension requirements of Criteria 13 and 14 identified above do not apply to this SIP revision.

Public Comments

Under section 110 of the Act, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State.

This proposal also includes a draft volatile organic compound regulation and a draft new source review regulation which have been adopted as model rules after public hearing by the State. These model rules have not yet been adopted and submitted to EPA by the State as legally enforceable regulations. However, the State has requested EPA to review these model rules and invite public comment on whether these draft regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking without providing further opportunity for public comment if the State adopts and submits regulations equivalent to these model rules. The Regional Administrator hereby issues this notice setting forth the revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office.

The EPA Region IX Office specifically invites public comment on whether or not to conditionally approve the items identified in this notice as deficiencies in the NAP. The EPA is further interested in receiving comment on specified dates for the State to submit the corrections, in the event of conditional approval.

Comments received on or before May 1, 1980 will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the ADDRESSES Section of this notice.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of section 110(a)(2) and Part D of the Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The EPA believes the available period for comments is adequate because:

(1) The plan has been available for inspection and comment since December 4, 1979;

(2) The EPA's notice published in the December 4, 1979 **Federal Register** (44 FR 69684) indicated that the comment period would be 30 days; and

(3) The EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

Under Executive Order 12044 the EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. The EPA labels these other regulations "specialized". The EPA has received the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: March 4, 1980.

Sheila M. Prindiville

Acting Regional Administrator.

[FR Doc. 80-9798 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 58

[FRL 1448-8]

Montana: Approval and Promulgation of State Implementation Plans; Air Quality Surveillance and Data Reporting

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Montana's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air quality surveillance; plan content.

DATES: Comments due May 1, 1980.

ADDRESSES: Comments on this modification should be directed to: Kenneth L. Alkema, Coordinator, Air, Pesticides & Solid Waste, Environmental Protection Agency, 301 S. Park, Drawer 10096, Helena, MT 59601.

Copies of the materials submitted by the Governor of Montana and comments received on this proposal may be examined during normal business hours at: Environmental Protection Agency, Montana Office, Room, 292, Federal Building, 301 South Park, Helena, MT 59601.

FOR FURTHER INFORMATION CONTACT: Ken L. Alkema (406) 449-5414.

SUPPLEMENTARY INFORMATION: In a May 10, 1979, **Federal Register** notice, EPA required that by January 1, 1980, states shall adopt a revision to their plan which meets the requirements of 40 CFR Part 58, Subpart C, Paragraph 58.20. On February 21, 1980, the Governor of Montana submitted a revision to the Montana State Implementation Plan concerning compliance with these Federal Monitoring Regulations. EPA has reviewed the State's submittal and finds that it meets the requirements of part 58.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of section 319 of the Clean Air Act as amended.

Dated: March 17, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-9764 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 58

[FRL 1448-7]

Utah: Approval and Promulgation of State Implementation Plans; Air Quality Surveillance and Data Reporting

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: On November 5, 1979, the Governor of Utah submitted a revision to the State Implementation Plan concerning compliance with the Federal Monitoring Regulations. EPA is proposing to approve revisions to Utah's State Implementation Plan to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality surveillance; plan content.

DATES: Comments due May 1, 1980.

ADDRESSES: Comments on this modification should be directed to:

Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the materials submitted by the Governor of Utah and comments received on this proposal may be examined during normal business hours at: Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Robert DeSpain, 303–837–3471.

SUPPLEMENTARY INFORMATION: In a May 10, 1079, **Federal Register** notice, EPA required that by January 1, 1980, states shall adopt a revision to their plan which meets the requirements of 40 CFR Part 58, Subpart C, Paragraph 58.20. On November 5, 1979, the Governor of Utah submitted a revision to the State Implementation Plan concerning compliance with these Federal Monitoring Regulations. EPA has reviewed the State's submittal and finds that it meets the requirements of Part 58.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 319 of the Clean Air Act as amended.

Dated: March 19, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-9858 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 60

[FRL 1451-4]

Standards of Performance of New Stationary Sources: Adjustment of Opacity Standard for Fossil Fuel Fired Steam Generator

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposed to adjust the NSPS opacity standard applicable to Interstate Power Company's Lansing Unit No. 4, in Lansing, Iowa. The proposal is based on Interstate's demonstration of the conditions that entitle it to such an adjustment under 40 CFR 60.11(e).

DATE: Comments must be received on or before May 1, 1980.

ADDRESSES: Comments should be submitted in writing to Director, Enforcement Division, EPA, Region VII, 324 E. 11th Street, Kansas City, Missouri 64106. Background information and comments on the proposed standard will be available for public inspection and copying (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Peter J. Culver or Henry R. Rompage, Enforcement Division, EPA, Region VII, 324 E. 11th Street, Kansas City, Missouri, 64106, telephone 816/374–2576.

SUPPLEMENTARY INFORMATION: The Standards of Performance for fossil fuel-fired steam generators as promulgated under Subpart D of Part 60 on December 23, 1971 (36 FR 24876) and amended on December 5, 1977 (42 FR 61537) allow emissions of up to 20 percent opacity, except that 27 percent opacity is allowed for one six-minute period in any hour. This standard also requires reporting as excess emissions all hourly periods during which there are two or more six-minute periods when the opacity exceeds 20 percent.

On January 18, 1980, Interstate Power Company of Dubuque, Iowa, petitioned EPA under 40 CFR 60.11(e) to adjust the New Source Performance Standard (NSPS) 20% opacity standard applicable to its Lansing Station Unit No. 4 in Lansing, Iowa. EPA proposes to grant the petition for adjustment, as Interstate has demonstrated the presence at its Landing Station Unit No. 4 of the conditions that entitle it to such relief, as specified in 40 CFR 60.11(2)(3).

On the basis of performance tests conducted on August 15–22, August 30, October 4–5, 1977 and July 25, 1978, EPA determined that Unit No. 4 was in compliance with all applicable new source performance standards except opacity. Opacity readings during the performance testing were as high as 32%. EPA notified Interstate Power Company of the results and the right to petition for adjustment of the opacity standard.

In its petition for adjustment of the opacity standard, Interstate made the following showing: (a) The affected facility and associated air pollution control equipment were operated and maintained in a manner to minimize the opacity of emissions during the performance test; (b) the tests were performed under the conditions established by the Administrator, and (c) the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.

As described in the March 8, 1974 **Federal Register** (39 FR 9308), the Agency utilizes opacity standards as a means to ensure proper operation and maintenance of control systems on a day to day basis. Opacity standards are regulatory requirements, just like the concentration/mass standards. They are separate standards and it is not necessary to show a violation of the mass standard to support enforcement of the opacity standard. Where opacity and concentration/mass standards are applicable to the same source, the opacity standard is not more restrictive than the concentration/mass standard. The concentration/mass standard is established at a level which will result in the design, installation, and operation of the best adequately demonstrated system of emission reduction (taking costs into account) for each source.

The control method used by Interstate at Lansing Unit No. 4 is 44 section electrostratic precipitator. Due to continued mechanical and equipment problems the source has been able to operate 43 of the 44 sections of the precipitator. The company completed a technical evaluation of the impact of operating 43 of the 44 units. Using a modified Deutsch equation, the theoretical effect of energizing the 44th section would be to lower the opacity by 1.2 percent. EPA has reviewed and has no disagreement with the company's technical evaluation. Since the facility can meet all NSPS emission limitations except opacity with the current control equipment, it does not appear the requiring of large additional expenditures and control equipment are warranted.

In view of the above, EPA proposes that Interstate's Lansing Station Unit No. 4 be excused from compliance with the 20% opacity standard of 40 CFR 60.42(a)(2). As an alternative, it is proposed that Interstate shall not cause to be discharged into the atmosphere from Lansing Station Unit No. 4 any gases which exhibit greater than 32 percent opacity, except that a maximum of 39 percent opacity shall be permitted for not more than one six-minute period in any hour. The adjustment will not relieve Interstate of its obligation to comply with any other federal, state, or local opacity requirements.

Authority: This amendment is proposed under the authority of Sections 111 and 301(a) of the Clean Air Act, as amended (42 USC 7411 and 7601(a)).

Dated: March 20, 1980.

William Rice,

Acting Regional Administrator.

In consideration of the foregoing, it is proposed to amend Part 60 of 40 CFR Chapter I as follows:

Subpart D—Standards of Performance for Fossil Fuel-Fired Generators

§ 60.42 [Amended]

1. Section 60.42 is amended by adding paragraph (b)(2):

* * * * *

(b) * * *

(2) Interstate Power Company shall not cause to be discharged into the atmosphere from its Lansing Station Unit No. 1 in Lansing, Iowa, any gases which exhibit greater than 32% opacity, except that a maximum of 39% opacity shall be permitted for not more than six minutes in any hour.

(Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601)).

2. Section 60.45(g)(1) is amended by adding Paragraph (ii) as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(g) * * *
(1) * * *
(i) * * *

(ii) For sources subject to the opacity standard of § 60.42(b)(2), excess emissions are defined as any six-minute period during which the average opacity of emissions exceeds 32 percent opacity, except that one six-minute average per hour of up to 39 percent opacity need not be reported.

[FR Doc. 80-9758 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 125

[FRL 1452-3]

Ocean Discharge Criteria; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of Comment Period.

SUMMARY: On February 12, 1980, EPA proposed ocean discharge criteria under Section 403(c) of the Clean Water Act (45 FR 9548–9555). EPA is extending the period for comment on the proposed regulation from March 28, 1980, until April 28, 1980.

DATES: Comments on the proposed ocean discharge criteria must be submitted to EPA by April 28, 1980.

ADDRESS: Send comments to: the Deputy Assistant Administrator (WH–586), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kenneth Farber, Office of Water Planning and Standards (WH–586), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–472–5746.

SUPPLEMENTARY INFORMATION: On February 12, 1980, EPA proposed ocean discharge criteria under Section 403(c) of the Clean Water Act (45 FR 9548–9555). Section 403(c) provides that the EPA Administrator is to promulgate "guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans," with reference to seven statutory criteria. The requirements of Section 403 are among those which a discharger into these waters must meet before an NPDES permit will be issued under Section 402(a)(1). The February 12, 1980, proposed regulation stated that the deadline for submitting comments was March 28, 1980. Numerous requests to extend the comment period were submitted to the Agency. These requests primarily sought additional time to evaluate the impact of the regulation on offshore oil and gas operations and coastal power plants. Accordingly, EPA is extending the public comment period an additional 30 days through April 28, 1980. This extension will result in a subsequent delay in publishing final guidelines. Pending final guidelines, the current Agency policy in reviewing, issuing, or denying NPDES permits for discharges to the territorial seas, the contiguous zone, or the oceans in contained in the interim permitting guidelines which were published in the Federal Register on November 15, 1979, (44 FR 65751).

Dated March 26, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-9794 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 100a, 100b

Direct Grant Programs, State-Administered Programs, and General

AGENCY: Education Office, HEW.

ACTION: Notice of proposed regulations.

SUMMARY: The Education Division, HEW, proposes regulations setting forth procedures for the collection of debts that grantees and contractors owe to the United States under programs administered by the Education Division. These proposed regulations are designed to encourage debtors to make prompt and full payment voluntarily. They also describe alternative collection methods that the Education Division may use if a debtor fails to pay voluntarily.

These proposed regulations will be incorporated into the final version of the Education Division General Administrative Regulations (EDGAR), which were published as a notice of proposed rulemaking on May 4, 1979 (44 FR 26308).

DATES: All comments on these proposed regulations must be received on or before June 2, 1980.

ADDRESSES: Comments should be addressed to Mr. William Ward, Director of the Finance Division, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3105, FOB–6), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. William Ward, telephone: (202) 245–8360.

SUPPLEMENTARY INFORMATION:

A. *Overview.*

The purpose of these proposed regulations is to establish uniform procedures that the Education Division will use for the collection of debts. Some provisions are based on the regulations (Standards for the Administrative Collection of Claims, 4 CFR Parts 101 through 105) issued by the Comptroller General and the Attorney General to implement the Federal Claims Collection Act (31 U.S.C. 952 *et seq.*).

In pursuing collection of Federal funds, officials of the Education Division have found that the current debt collection procedures in 4 CFR Part 101 through 105 are not always adequate. Those regulations fail to prescribe some procedures in sufficient detail, particularly the charging of interest and collection through voluntary and involuntary offset.

The current practice of the Education Division concerning the charging of interest and collection through offset is to treat each debt on a case-by-case basis.

These proposed regulations would expand on the policies contained in 4 CFR Parts 101 through 105 by providing in more detail the methods for the payment and collection of debts. They would address not only debts arising out of audit exceptions, but, also, all debts arising out of programs administered by the Education Division. Furthermore,

they would apply to debts of both contractors and grantees, and to certain debts for which demand for payment has been made prior to the effective date of the proposed regulations.

B. *Summary of the Major Provisions.*

1. *Methods for Collection of a Debt.*—These proposed regulations would provide for direct payment in whole or installments, or, alternatively, payment by offset of funds, either voluntary or involuntary.

Voluntary Offset of Funds

Under § 100a.906 the voluntary offset method of payment would work as follows: A debtor agrees to have the funds provided under a current Federal grant or contract reduced by the amount of the debt. The debtor must also agree to replenish these funds with non-Federal funds or with Federal funds for which the debtor is not accountable to the Federal Government.

Involuntary Offset of Funds

Under §§ 100a.910 and 100a.911 the involuntary offset method of payment would work as follows: If a debtor does not voluntarily pay a debt, the appropriate official of the Education Division may remove the debtor from the letter of credit method of payment or from a payment system under the Departmental Federal Assistance Financing System.

Once the debtor is removed from one of these financing systems, the appropriate official could place the debtor on either a direct advance payment system or a direct reimbursement payment system. Under the direct advance payment system a recipient obtains Federal funding in advance of program expenditures. Under the direct reimbursement payment system a recipient obtains reimbursement for past program expenditures.

Once the debtor is placed on either a direct advance or direct reimbursement payment system, the appropriate official of the Education Division reduces, by the amount of the debt, the payment of funds to which the debtor as a recipient is otherwise entitled.

As under the voluntary offset system of payment, a debtor who is placed on a direct advance payment system would be required to replenish the offset funds with non-Federal funds or with Federal funds for which the debtor is not accountable to the Government.

Under a direct reimbursement payment system, the debtor would not need to replenish the funds that are reduced by an offset since program expenditures would have already been made from non-Federal funds.

A fuller understanding of the terminology in § 100a.910 can be obtained by reading this section in conjunction with the Department-wide regulations on grant payment requirements, Subpart K of 45 CFR Part 74. Part 74 will become applicable to programs administered by the Education Division when EDGAR is published in final form. In the meantime, the reader can look to the applicable grant payment requirements in 45 CFR 100a.60 *et seq.* and 100b.60 *et seq.*

2. *Installment Payments.*—Section 100a.908 would establish a maximum period of three years in which a State educational agency (SEA) could pay a debt in installments. This is the same time limit prescribed by statute for final audit determinations in cases involving Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2385). If the debtor is not an SEA, the appropriate official of the Education Division would have discretion to determine the length of time in which the debt must be paid. Nevertheless, consistent with 4 CFR 102.9, only under extenuating circumstances would the appropriate official permit a non-SEA debtor to pay a debt over a period of more than three years.

If the appropriate official agrees to authorize payment in installments for more than a six-month period, the terms of settlement must be evidenced by a formal written agreement. The appropriate official may also require that the settlement terms be evidenced by a promissory note.

3. *Interest Charges.*—Section 100a.909 would establish a uniform practice of charging interest on all debts under programs administered by the Education Division. If a debt is paid in one lump sum, the interest rate would be the prevailing rate prescribed in Part 6 of the Treasury Fiscal Requirements Manual. (Currently, the rate is ¾ of 1 percent per month.) This manual is published by the Department of the Treasury to guide Federal agencies in fiscal matters.

If a debt is paid in installments, the interest rate would be the rate determined by the Treasury Department in the "Schedule of Certified Interest Rates with Range of Maturities."

To encourage a debtor to make payment within 30 days, § 100a.909 would exempt the debtor from interest charges for a 30-day period from the date of the first demand letter. If, however, the debtor pursues judicial review and files suit before the expiration of the 30-day period, interest would accrue from the date of the filing of the suit.

C. *Incorporation into EDGAR.*

The proposed regulations would apply to both direct grant programs covered under part 100a of EDGAR and State-administered programs covered under part 100b. All but one section will be located in the final subpart of part 100a (Subpart G—"What Procedures Does the Education Division Use To Get Compliance?").

The one section not included in part 100a will be located in the final subpart of part 100b (Subpart H—"What Procedures Does the Commissioner Use To Get Compliance?"). This section will make applicable all the other debt collection provisions in part 100a to programs covered under part 100b.

D. *Invitation To Comment.*

The Education Division invites all interested persons to submit comments concerning these proposed regulations to the address at the beginning of this document.

E. *Citation of Legal Authority.*

These proposed regulations are issued under section 408 (a)(1) of the General Education Provisions Act, as amended (20 U.S.C. 1221e–3(a)(1)), and Section 3 of the Federal Claims Collection Act (31 U.S.C. 952(a)).

Any additional citations authorizing a particular section of the regulations are given in parentheses following that section.

Dated: January 28, 1980.

Peter D. Relic,

Acting Assistant Secretary for Education.

February 13, 1980.

William L. Smith,

Commissioner of Education.

February 6, 1980.

Michael Timpane,

Acting Director of the National Institute of Education.

February 12, 1980.

Lee Kimche,

Director of the Institute of Museum Services.

February 11, 1980.

Approved: March 21, 1980.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

The Education Division proposes to amend 45 CFR Part 100a by adding new provisions in Subpart G as follows:

PART 100a—DIRECT GRANT PROGRAMS

Subpart G—What Procedures Does the Education Division Use To Get Compliance?

* * * * *

Debt Collection Procedures

Sec.

100a.904 Applicability of these rules.
100a.905 Other regulations that apply to the collection of debts.
100a.906 Payment by cash or offset.
100a.907 Funds that must be used to pay debt.
100a.908 Payment in installments.
100a.909 Charging of interest.
100a.910 Removal of debtor from system of financing.
100a.911 Collection by involuntary offset.
100a.912 Referral to Comptroller General and Justice Department.
100a.913 Application to pre-existing debts.

Authority: Sec. 408(a)(1) of Pub. L. 90–247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e–3(a)(1)) and sec. 3 of Pub. L. 89–508, 80 Stat. 309 (31 U.S.C. 952(a)).

Subpart G—What Procedures Does the Education Division Use To Get Compliance?

* * * * *

§ 100a.904 Applicability of these rules.

Sections 100a.906 through 100a.913 apply to the collection of all debts that contractors and grantees owe to the United States under programs covered by this part.

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a))

§ 100a.905 Other regulations that apply to the collection of debts.

In addition to §§ 100a.906 through 100a.913, the following regulations apply to the collection of debts of the United States under programs covered by this part:

(a) 45 CFR 74.95 ("Withholding of Payments").

(a) 45 CFR 100a.64 and 100b.64 ("Withholding of Paymentsl").

(a) 45 CFR Part 30 ("Claims Collection").

(a) 4 CFR Parts 101–105 ("Standards for the Administrative Collection of Claims").

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a))

§ 100a.906 Payment by cash or offset.

(a) A debtor shall pay a debt covered under this part by—

(1) Cash; or

(2) Offset.

(b) To pay the debt by offset, the debtor shall agree to—

(1) Have the funds that are provided under a current grant or contract award from the Education Division reduced by the amount of the debt; and

(2) Use funds described in § 100a.907 in an amount equal to the debt to replenish the funds reduced by the offset.

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a); 20 U.S.C. 1226a–1; 4 CFR 102.3)

§ 100a.907 Funds that must be used to pay debt.

A debtor shall use only non-Federal funds or Federal funds for which the debtor is not accountable to the Federal Government to—

(a) Pay a debt in cash; or

(b) Replenish the funds reduced by an offset.

(20 U.S.C. 1231e–3(a)(1); 31 U.S.C. 952(a); 20 U.S.C. 2835)

§ 100a.908 Payment in installments.

(a) A debtor shall pay a debt in a single payment, except as provided in paragraph (b) of this section.

(b) If the debtor submits satisfactory evidence to the appropriate official of the Education Division that it is unable to pay the debt in a single payment, the appropriate official may authorize payment in installments over a period—

(1) Not to exceed three years if the debtor is an SEA; or

(2) To be determined by the appropriate official if the debtor is not an SEA.

(c)(1) If the appropriate official of the Education Division agrees to authorize payment in installments for more than a six-month period, the appropriate official requires that the terms of settlement be evidenced by a formal written agreement signed by the debtor and an authorized official of the Education Division.

(2) The appropriate official may also require that—

(i) The terms of settlement be evidenced by a promissory note; and

(ii) The debtor provide security for the note.

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a); 20 U.S.C. 2835; 4 CFR 102.9)

§ 100a.909 Charging of interest.

(a) If a debt is paid in one lump sum, the appropriate official of the Education Division charges interest on the debt at the prevailing rate prescribed by Section 6–8020 of the Treasury Fiscal Requirements Manual, unless a different rate is prescribed by statute, contract, or regulations.

(b) If a debt is paid in installments, the appropriate official of the Education Division—

(1) Charges interest on the debt at the rate determined by the Treasury Department in the monthly "Schedule of Certified Interest Rates with Range of Maturities" in effect at the time the official requests payment in installments; and

(2) Applies the installment payments first to the payment of the accrued interest and then to the principal, unless a different rule is prescribed by statute, contract, or regulations.

(c) Interest begins to accrue 30 days from the date of the first demand letter, except as provided in paragraph (d) of this section.

(d) If a debtor seeks judicial review of a determination that a debt is due, and if the debtor loses that appeal, the appropriate official of the Education Division charges interest on the debt until paid. The interest charge begins to accure on the earlier of the following—

(1) The date the debtor files the suit; or

(2) Thirty days from the date of the first demand letter.

(e) For purposes of this part, "demand letter" means a formal written notice from the delegated collection office demanding that a debtor pay a debt by a given date. Where a debtor pursues an administrative appeal provided by regulation, the demand letter is the first notice issued after the conclusion of the appeal.

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a); 4 CFR 102.11)

§ 100a.910 Removal of debtor from system of financing.

(a) If a debtor fails to pay in accordance with the requirements of § 100a.906 and if that debtor is financed by the letter of credit method of payment or a payment system under the Departmental Federal Assistance Financing System, the appropriate official of the Education Division may remove the debtor from one of these financing systems and place the debtor on a—

(1) Direct advance payment system, under which a recipient obtains Federal funding in advance of program expenditures; or

(2) Direct reimbursement payment system, under which a recipient obtains reimbursement for past program expenditures.

(b) If a debtor fails to pay in accordance with the requirements of § 100a.906, and if that debtor is financed under a direct advance payment system, the appropriate official of the Education Division may remove the debtor from that method of financing and place the debtor on a direct reimbursement payment system.

(20 U.S.C. 1221e–3(a)(1); 31 U.S.C. 952(a))

§ 100a.911 Collection by involuntary offset.

(a) If the appropriate official of the Education Division places the debtor on either a direct advance payment system or a direct reimbursement payment system as described in § 100a.910, the

appropriate official recovers the indebtedness by offsetting the amount of the debt against the payment of funds to which the debtor—as a recipient—is otherwise entitled under the appropriate payment system.

(b) In the event of an offset under the direct advance payment system, the debtor shall replenish the funds reduced by the offset in accordance with § 100a.906(b)(2).

(20 U.S.C. 1221e-3(a); 31 U.S.C. 952(a); 20 U.S.C. 1226a.1; 4 CFR 102.3)

§ 100a.912 Referral to Comptroller General and Justice Department.

If all other methods for collecting a debt are unsuccessful, the appropriate official of the Education Division may recommend that the matter be referred to—

(a) The Comptroller General to pursue collection action or to initiate action to bar the debtor from future participation in Federal programs; or

(b) The Department of Justice to initiate suit to recover the debt; or

(c) Both.

(20 U.S.C. 1221e-3(a)(1); 31 U.S.C. 952(a); 4 CFR 105.1; 45 CFR 76.10 (proposed))

§ 100a.913 Application to pre-existing debts.

(a) Except as provided in paragraph (b), §§ 100a.904 through 100a.912 apply to the collection of a debt for which the United States has made demand for payment prior to the effective date of these regulations. These sections apply beginning on the date the debtor receives a new demand letter for payment of that debt.

(b) Sections 100a.904 through 100a.912 do not apply if, prior to the effective date of these sections, the debtor has met one of the following conditions:

(1) Entered into a formal, written agreement with an authorized official of the Education Division to pay the debt.

(2)(i) Entered into negotiations with an authorized official of the Education Division for settlement of the debt; and

(ii) Following the effective date of these sections, the negotiations are successfully concluded within a reasonable time as determined by the appropriate official of the Education Division.

(3) Sought judicial review of a determination that a debt is due.

(20 U.S.C. 1221e-3(a)(1); 31 U.S.C. 952(a))

PART 100b—STATE-ADMINISTERED PROGRAMS

The Education Division proposes to amend 45 CFR Part 100b by adding a new provision in Subpart H as follows:

Subpart H—What Procedures Does the Commissioner Use To Get Compliance?

Sec.

100b.904 Debt collection procedures.

Authority: Sec. 408(a)(1) of Pub. L. 90-247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e-3(a)(1)) and sec. 3 of Pub. L. 89-508, 80 Stat. 309 (31 U.S.C. 952(a))

Subpart H—What Procedures Does the Commissioner Use To Get Compliance?

* * * * *

§ 100b.904 Debt collection procedures.

Sections 100a.904 through 100a.913 govern the collection of debts to the United States under programs covered by this part.

(20 U.S.C. 1221e-3(a)(1); 31 U.S.C. 952(a))

[FR Doc. 80-9766 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22

[CC Docket No. 79-318]

Amending Rules Relative to Cellular Communications Systems; Order Extending Time in Part

AGENCY: Federal Communications Commission.

ACTION: Extension of Comment Period.

SUMMARY: This Order extends the deadline for comments in CC Docket 79-318, concerning rules and standards for Cellular Mobile Communication Systems.

DATE: Comments must be filed on or before May 1, 1980.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael D. Sullivan, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry into the use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, CC Docket No. 79-318, See 45 FR 14074, March 4, 1980.

Adopted March 20, 1980.

Released March 24, 1980.

1. Before the Chief, Common Carrier Bureau, is a motion for extension of time filed by Telocator Network of America. Telocator asks that the time for filing comments in the captioned proceeding be extended from April 1, 1980, to June 2, 1980. Motorola, Inc., has filed comments in support of Telocator's motion.

2. Telocator's reasons for requesting the 62-day extension are: to permit its consultants to complete an analysis of certain statistical and economic data; to complete certain unspecified "extraordinary internal review procedures"; and to make the comment period comparable in length to the period in other proceedings.

3. We are not convinced at this time that an extension of over two months is necessary. In the interest of compiling a full record, however, we are persuaded to extend the comment period by one month. This is in accord with the Commission's clearly stated intent to proceed with this rulemaking expeditiously. *See Notice of Inquiry and Notice of Proposed Rulemaking*, 45 F.R. 2859, 2861 (January 15, 1980); *id.* at 2870 (additional statement of Chairman Ferris; separate statement of Commissioner Fogarty, joined by Commissioners Quello and Jones). We have previously observed that "a *brief* extension of the comment period may be necessary." [1] We will therefore extend the date for filing comments to May 1, 1980. As the Commission has stated in its *Notice*, the date for filing reply comments will be announced after we are able to judge the number and complexity of the comments.

4. Accordingly, pursuant to delegated authority contained in 47 CFR 0.291, it is ordered that Telocator's motion for extension of time is granted to the extent indicated above and is otherwise denied.

5. The Secretary shall cause a copy of this Order to be printed in the Federal Register.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-9688 Filed 3-31-80; 8:45 am]

BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 49

Termination of Contracts

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

[1] Letter from Philip L. Verveer to Larry S. Solomon, Esquire, dated February 25, 1980 (Mimeo 26747) (emphasis added).

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment, a segment of the draft Federal Acquisition Regulation regarding termination of contracts.[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before May 30, 1980.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Deputy Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 49—TERMINATION OF CONTRACTS

Subpart 59.1—General Principles

This subpart deals with the authority and responsibility of contracting officers to terminate contracts in whole or in part for the convenience of the Government or for default. It also covers the duties of the contractor and the contracting officer after issuance of a notice of termination, general procedures for the settlement of termination contracts and settlement agreements.

Subpart 49.2—Additional Principles for Fixed-Price Contracts Terminated for Convenience

This subpart provides policies and procedures for termination for convenience of fixed price contracts including coverage of the following: profit, adjustments in the amount of settlement when contractor is in a loss situation, sale or retention by contractor of termination inventory, lost or destroyed inventory, disposition of completed end items, submission and content of settlement proposals, limitation on settlements, and equitable adjustment in contract price after partial termination.

Subpart 49.2—Additional Principles for Cost-Reimbursement Contracts Terminated for Convenience

This subpart covers those policies and procedures unique to termination of cost-reimbursement contracts including discontinuance of vouchers, audit of settlement proposals, adjustment of indirect costs, and adjustment of fee.

Subpart 49.4—Termination for Default

This subpart deals with the procedures, rights, and liabilities of the Government and the contractor in default termination cases including reprocurement against the defaulted contractor's accounts, liquidation of liability, and surety-takeover agreements.

Dated: March 27, 1980.

LeRoy J. Haugh,

Budget Management Officer.

[FR Doc. 80-9881 Filed 3-31-80; 8:45 am]

BILLING CODE 3110-01-M

[1] Filed as part of original document with the office of the Federal Register.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 657

Atlantic Butterfish Fishery; Approval of Amendment

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of plan amendment approval; proposed regulation; request for comments.

SUMMARY: The Fishery Management Plan (FMP) for the Butterfish Fishery of the Northwest Atlantic Ocean was prepared by the Mid-Atlantic Fishery Management Council (Council) under authority of the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *eq seq.* (the Act). The FMP was published on February 6, 1980 (45 FR 8030). The Assistant Administrator for Fisheries, NOAA, has approved an amendment to the FMP which extends the plan, with no changes, from April 1, 1980, through March 31, 1981.

The proposed regulations to implement the management measures contained in the FMP would provide: (1) annual catch quotas for domestic fishermen; (2) a fishing year for Atlantic butterfish from April 1 through March 31; (3) domestic vessel registration, recordkeeping and reporting requirements; and (4) criteria for reallocating portions of the domestic annual harvest (DAH) to the total allowable level of foreign fishing (TALFF).

All regulations governing the foreign fishery for Atlantic butterfish contained in 50 CFR Part 611 are adopted by reference in the FMP. Those regulations will be retained to implement the FMP. Therefore, these proposed regulations in Part 657 pertain only to the domestic fishery for Atlantic butterfish (*Peprilus triacanthus*) within the fishery conservation zone of the United States (FCZ).

DATE: Comments on the FMP and the amendment, the proposed regulations, and the draft regulatory analysis (RA) relating to this proposed action are invited for a 60-day period. These comments must be submitted, in writing, on or before May 31, 1980.

ADDRESSES: All comments on the FMP, the amendment, and the proposed regulations should be sent to: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

Mark "Comments on Butterfish FMP" or "Comments on proposed butterfish regulations" on the outside of the envelope.

Copies of the draft RA required under provisions of Executive Order 12044 may be obtained by writing to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

All comments on the draft RA should be sent to the Assistant Administrator for Fisheries at the above address. Mark "Comments on draft RA for butterfish fishery" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA, under authority of the Act, approved, with one exception, the FMP for Atlantic Butterfish on November 9, 1979. The FMP covers both the domestic

and foreign butterfish fisheries in the FCZ. When implemented through final regulations, it will supersede that portion of the Preliminary Fishery Management Plan for the Foreign Trawl Fisheries of the Northwest Atlantic (PMP) which has controlled the butterfish fishery conducted by foreign vessels since March 1, 1977.

One provision of the FMP was not approved and will not be implemented. The disapproved portion of the FMP would have prohibited fishing for butterfish in two areas used to dispose of municipal and industrial waste in the Atlantic Ocean. The FMP contains no information demonstrating that the proposed area closures were necessary or appropriate management measures, as required by § 303 of the Act.

The FMP will terminate on April 1, 1980. On March 5, 1980, the Assistant Administrator approved an amendment to the FMP which extended the plan through March 31, 1981, with no other changes. Therefore these proposed regulations will implement the FMP, as amended. That amendment is published below.

A. Optimum Yield, Domestic and Foreign Allocations

The FMP, as amended, sets forth five objectives to be achieved through management of the domestic and foreign butterfish fisheries in the FCZ: (1) to promote the growth of the domestic butterfish export industry; (2) to minimize the costs of harvesting butterfish; (3) to increase employment opportunities for domestic commercial fishermen; (4) to prevent exploitation of butterfish beyond that level which produces the maximum sustainable yield; and (5) to minimize the costs of management and enforcement. In order to achieve these goals, the Council specified an optimum yield (OY) for butterfish of 11,000 metric tons (mt) for the fishing year (April 1–March 31). The Council determined that 7,000 mt of the OY was to be allocated to the domestic fleet and 4,000 mt was to be apportioned to foreign fishermen.

Section 3(18)(B) of the Act requires that OY be based on a fishery's maximum sustainable yield (MSY) "as modified by any relevant economic, social, or ecological factor." To ensure maintenance of the spawning stock, the Council established MSY at 16,000 mt. Experiences in the 1978 Atlantic butterfish fishery under the PMP and in other fisheries, such as tanner crab and Pacific salmon, have indicated that as foreign allocations of fish have decreased, domestic exports have increased. In addition, Japan, the primary market for U.S. exports of butterfish, has been dependent upon imports to keep up with its domestic demand for all species of fish. Since one of the FMP's objectives is to promote the growth of the U.S. butterfish export industry, the Council used this economic information to justify its specification of OY for butterfish at 11,000 mt. By establishing the OY below MSY, it is probable that the mean weight of butterfish and domestic catch per unit of effort will increase while harvesting costs drop.

From this OY, the Council ascertained the domestic harvest of butterfish to be 7,000 mt. Since domestic processors in the New England and Mid-Atlantic regions contacted by the Council indicated plans to enter the export market, the Council determined that the domestic allocation would satisty domestic food and industrial needs and provide fish for export to the Japanese markets.

Butterfish is caught incidentally to harvesting *Loligo* squid. By setting the total allowable level of foreign fishing (TALFF) at 4,000 mt, foreign nations can catch their full allocations of *Loligo*, yet the amount of butterfish incidentally taken will not drastically hinder the development of the U.S. butterfish export industry.

B. Alternative Optimum Yields

The Council considered an OY of 16,000 mt, a domestic allocation of 7,000 mt, and a TALFF of 9,000 mt. However, the Council believed that it was likely that all or part of the 5,000 mt increase in TALFF would be apportioned to the Japanese fishing fleet. If this were done, the Council felt that there would be no incentive or need for the Japanese to purchase butterfish from domestic processors. Consequently, such levels of fishing would not meet one of the primary objectives of the FMP—promotion of the growth of the U.S. butterfish export industry. In addition, the Council estimated that such allocations would result in a $4.4 million loss in revenues to domestic fishermen.

The Council also examined the effects of lowering the OY to less than 11,000 mt. If the TALFF remained at 4,000 mt and the OY were lowered, U.S. catches would be constrained. If the TALFF were established at a level below 4,000 mt, foreign fleets would be unable to catch their allocations of *Loligo* squid. Therefore the Council rejected this alternative.

The information on which the Council based the OY, domestic allocations, and TALFF is contained in the FMP and the draft Regulatory Analysis.

C. Proposed Regulations

In the FMP, the Council specified conservation and management measures designed to achieve the plan's objectives and be consistent with the National Standards contained in § 301 of the Act. These measures are the bases for the proposed regulations.

Under the proposed regulations, all fishing vessels, including party and charter boats, fishing for butterfish in the FCZ are required to have a permit. Vessels which catch no more than 100 pounds of butterfish per trip, such as private recreational craft and vessels which catch small amounts of butterfish for bait, are exempt from the permit requirement.

The operators of vessels which have permits are required to keep, on a daily basis, accurate and complete fishing vessel records on trips where butterfish or any other species regulated under the Act are caught. The vessel's owner or operator must submit this record to the National Marine Fisheries Service within 48 hours after the end of any fishing week or trip, whichever period is longer.

The regulations require negative reporting (i.e., that no regulated species were taken over the reporting period). Without such a provision, it is impossible to determine whether all permitted vessels are complying with the recordkeeping requirements. Exemptions from negative reporting may be granted for periods of two to ten months for vessels permitted under this Part which are not catching butterfish for that period of time. This exemption is intended to accommodate those vessels catching butterfish on a seasonal basis only, or vessels under repair.

Weekly reports are required to be filed with the National Marine Fisheries Service by fish dealers and processors. These reports must include information on all first transfers, purchases, or receipts of butterfish and all other fish made during that week.

The proposed regulations establish an annual butterfish quota of 7,000 mt for domestic fishermen. The fishing year begins on April 1 and ends on March 31 of the following year.

The proposed regulations establish specific procedures to be followed in reallocating butterfish from the domestic quota to the foreign quota during the fishing year. After reviewing data from the first seven months of the fishing year, the Assistant Administrator for Fisheries may consider a reallocation only of the reported domestic harvest for that period of time is less than 40 percent of the annual domestic quota. No more than 50 percent of the

difference between the reported domestic harvest and the annual domestic quota may be reallocated. The public will be afforded an opportunity to comment on the proposed reallocation. The proposed regulations set forth certain criteria that the Assistant Administrator must consider before reallocating butterfish to the foreign quota.

The fishery management plan amendment follows:

Amendment No. 1 to the Atlantic Butterfish Fishery Management Plan

Abbreviations and Definitions Used in This Document

CFR—Code of Federal Regulations
cm—centimeter
DAH—Domestic Annual Harvest—the capacity of US fishermen to harvest butterfish and their intent to use that capacity
DAP—Domestic Annual Processing—the capacity of US processors to process butterfish and their intent to use that capacity
EIS—Environmental Impact Statement
FRG—Federal Republic of Germany
FCMA—Fishery Conservation and Management Act
FCZ—Fishery Conservation Zone
fishing year—the 12 month period beginning April 1
FMP—Fishery Management Plan
fork length—length of a fish as measured from the most anterior point to the end of the median rays of the tail.
g—gram
GDR—German Democratic Republic
GIFA—Governing International Fishery Agreement
ICNAF—International Commission for the Northweat Atlantic Fisheries
kg—killogram
mm—millimeter
MSY—Maximum Sustainable Yield
mt—metric ton=2204.6 pounds
NMFS—National Marine Fisheries Service
NOAA—National Oceanic and Atmospheric Administration
Nautical mile—approximately 1.15 statute miles
OY—Optimum Yield
PMP—Preliminary Fishery Management Plan
RA—Regulatory Analysis
R/V—Research Vessel
SA—Subarea or Statistical Area
Secretary—Secretary of Commerce
SEIS—Supplemental Environmental Impact Statement
TALFF—Total Allowable Level of Foreign Fishing
U.S.C.—United States Code
USSR—Union of Soviet Socialist Republics
<—less than
≤—less than or equal to
>—greater than
≥—greater than or equal to

The Fishery Management Plan (FMP) for Atlantic Butterfish was approved by the Mid-Atlantic Fishery Management Council on 14 June 1979 and approved by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA) on 8 November 1979. The FMP is for fishing year 1979–1980 (1 April 1979–31 March 1980). The purpose of Amendment #1 is to extend the FMP through the end of fishing year 1980–1981.

The objectives of the FMP are to: 1. Promote the growth of the US butterfish export industry; 2. Minimize cost of harvesting butterfish; 3. Increase employment opportunities for commercial fishermen; 4. Prevent exploitation of the resource beyond that level producing the maximum sustainable yield; and 5. Minimize costs of enforcement and management of the resource.

The management unit for the FMP is all butterfish under US jurisdiction north of Cape Hatteras.

The following management measures are included in the FMP:

1. The fishing year 1979–1980 Optimum Yield (OY) for butterfish is 11,000 metric tons (mt). US harvesting capacity (estimated Domestic Annual Harvest) (DAH) and US processing capacity (estimated Domestic Annual Processing) (DAP) for butterfish for the 1979–1980 fishing year has been estimated to be 7,000 mt. Foreign fishermen, therefore, have been allocated an initial surplus (Total Allowable Level of Foreign Fishing) (TALFF) of 4,000 mt of butterfish.

2. Any owner/operator of a vessel (foreign or domestic) desiring to catch butterfish within the FCZ (other than individual US fishermen for their own use), or transport or deliver for sale any butterfish caught within the FCZ, must possess a valid registration issued by the NMFS.

3. Foreign fishing for butterfish is governed by part 611 of Title 50, Code of Federal Regulations (the Foreign Fishing Regulations).

4. Weekly catch reports must be filed by domestic fishermen possessing a valid registration for the butterfish fishery, and domestic dealers and processors must submit weekly reports on transactions involving butterfish.

5. Any significant fraction of the US butterfish capacity not harvested by US fishermen may be reallocated to foreign fishermen.

Alternatives for Amendment #1 are:

1. Take No Action At This Time—This alternative would mean that the FMP would lapse at the end of fishing year 1979–1980, unless extended by a Secretarial amendment. The National Marine Fisheries Service (NMFS) could be required to prepare a Preliminary Management Plan (PMP) to regulate the foreign fishery.

2. Continue The Current FMP Through Fishing Year 1980–1981 With No Other Changes—The following values would apply to fishing year 1980–1981: OY=11,000 mt, DAH=DAP—7,000 mt and TALFF mt 4,000.

3. Increase/Decrease Optimum Yield, Domestic Annual Harvest, Domestic Annual Processing, and/or Total Allowable Level of Foreign Fishing—The probable biological consequences of a wide range of OYs are described in Section V–4 of the original FMP [as updated by the most recent butterfish stock assessment (Appendix I of Amendment #1)]. The MSY for this species, given the present mix of fishing gear, both domestic and foreign, is about 16,000 mt. The stock currently appears able to sustain an annual harvest of that magnitude, barring any significant declines in future recruitment. It is recognized that, if the predominant mesh sizes used in the fishery change significantly, the estimate of MSY will probably require adjustment. The estimates of Domestic Annual Harvest and Domestic Annual Processing were reviewed in June of 1979 and are considered reasonable for fishing year 1980–1981.

It is recommended that Alternative 2 be adopted as the preferred management option for Amendment #1. The alternatives are discussed in Section XII of Amendment #1.

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IV. Introduction

This Amendment #1 to the Atlantic Butterfish FMP is designed to extend the

FMP to the end of fishing year 1980–1981 (31 March 1981). The basic data on the fishery has not changed since the revised FMP was adopted by the Mid-Atlantic Fishery Management Council in June, 1979.

Because the original FMP will be implemented near the end of the fishing year, the Council, recommendation for Amendment #1 is to extend the management regime in the original FMP through fishing year 1980–1981. This will provide time for an evaluation of that regime before any changes are made to it.

V. Description of Stocks

The most recent stock assessment is reproduced as Appendix I to Amendment #1. No data are presented therein which would warrant any changes to this section or to any management measure.

VI. Description of Habitat

No data are available which would necessitate a change to this section of the FMP.

VII. Fishery Management Jurisdiction, Laws, and Policies

No data are available which would necessitate a change to this section of the FMP.

VIII. Description of Fishing Activities

No data are available which would necessitate a change to this section of the FMP.

IX. Description of Economic Characteristics of the Fishery

No data are available which would necessitate a change to this section of the FMP.

X. Description of Businesses, Markets, and Organizations Associated With the Fishery

No data are available which would necessitate a change to this section of the FMP.

XI. Description of Social and Cultural Framework of Domestic Fishermen and Their Communities

No data are available which would necessitate a change to this section of the FMP.

XII. Determination of Optimum Yield

XII–1. Specific Management Objectives

The Mid-Atlantic Council adopted the following objectives to guide management and development of the butterfish fishery in the northwestern Atlantic, They are: 1. Promote the growth of the US butterfish export industry; 2. Minimize cost of harvesting butterfish; 3. Increase employment opportunities for commercial fishermen; 4. Prevent exploitation of the resource beyond that level producing the maximum sustainable yield, and 5. Minimize costs of enforcement and management of the resource.

XI–2. Description of Alternatives and XII–3. Analysis of Beneficial and Adverse Impacts of Potential Management Options

Alternatives for Amendment #1 are:

1. *Take No Action At This Time.*—This alternative would mean that the FMP would lapse at the end of fishing year 1979–1980 unless extended by a Secretarial amendment. If there were no Secretarial amendment, the NMFS would be required to prepare a PMP for this fishery.

A PMP would annually set OY and estimate US capacity and, thus TALFF. A PMP, however, regulates foreign, but not domestic, harvesting. Given the rapdily developing US butterfish fishery, this alternative might benefit US interests in the short-term by allowing free growth of this industry. Within the next few years, however, the US fishery will probably grow if unrestricted to annual levels in excess of the estimated MSY. This would have an adverse impact on US interests in the long-term.

Another effect of reversion to PMP management would be that data on the domestic harvesting and processing industries that would be collected as a result of recordkeeping provisions included in the FMP could not be collected, or could not be collected as effectively. This would seriously limit assessments of the scope and development of the US industry, and would eliminate other fishery and biological information needed to assess optimum yield, US harvesting and processing capacity, condition of the stock, etc.

A reversion to PMP management might also result in relatively large annual reallocations of butterfish to foreign fisheries. The Council believes, for the reasons specified in Section XII–5 of the original FMP, that this would seriously retard the development of the US butterfish (export) fishery.

A Secretarial amendment to extend the FMP would be a reasonable procedure if the Council were to proposing an amendment that would change substantially the management regime for the butterfish fishery. Given the late approval of the basic Butterfish FMP, such a major amendment could not be reviewed and approved prior to the end of the fishing year. Thus, a Secretarial amendment would be required to extend the management regime until the review and approval process could be completed.

2. *Continue The Current FMP Through Fishing Year 1980–1981 With No Other Changes.*—Under this alternative, the values of OY, DAH, DAP, and TALFF would remain the same as those specified in the original FMP (11,000 mt, 7,000 mt, 7,000 mt, and 4,000 mt, respectively). Given the late approval of the basic FMP, this seems to be the only reasonable alternative. It would permit the basic regime to operate for enough time so it could be evaluated before any change is developed. Changing the regime only a few months after implementation would lead to confusion in the fishery by changing the rules almost as soon as fishermen learn what they are.

3. *Increase/Decrease Optimum Yield, Domestic Annual Harvest, Domestic Annual Processing, and/or Total Allowable Level of Foreign Fishing.*—The probable biological consequences of a wide range of OYs are described in Section V–4 of the original FMP (as updated by the most recent butterfish stock assessment, which is Appendix I to this Amendment). The 'practical' MSY for this species (see Section V of the original FMP), given the present mix of fishing gear in this (domestic and foreign) fishery, is about 16,000 mt. The stock currently appears able to sustain an annual harvest of that magnitude, barring any significant declines in future recruitment. It is recognized that if the predominant mesh sizes used in the fishery change significantly in the future, the estimate of MSY will probably require adjustment. The estimates of DAH and DAP were reviewed in June of 1979 and are considered valid for fishing year 1980–1981.

XII–4. Tradeoffs Between the Beneficial and Adverse Impacts of the Preferred Management Option

It is recommended that Alternative 2 be adopted as the preferred management option for fishing year 1980–1981. Since the basic FMP will be implemented close to the end of the current fishing year, the regime in that FMP should operate for enough time to permit an evaluation of its effectiveness before it is amended. It is recognized that, during the public hearing and review process on this draft, additional information may be brought forward that would justify changes to the estimates of DAH and/or DAP. For the butterfish fishery, DAP is defined to include icing and freezing since these are the primary processor functions. Available information from a limited survey of processors indicates that there

are no technical constraints on DAP up to the MSY level at this time.

Alternative 2 would have no more impact on foreign nations than the original FMP since the initial TALFF would continue at 4,000 mt and the real location provision of the original FMP would be continued. This provision continues the basic policy of the original FMP to provide a butterfish TALFF of a size adequate to permit the harvest of the probable *Loligo* TALFF.

XII–5 Specification of Optimum Yield

No changes are required to this section as a result of Amendment #1 except to extend for fishing year 1980–1981 the specification of Optimum Yield and the estimates of Domestic Annual Harvest, Domestic Annual Processing, and Total Allowable Level of Foreign Fishing established in the original FMP. Those quantities are set forth in Table 1.

Table 1.—Butterfish MSY, OY, DAH, DAP, and TALFF

	Metric tons
"Theoretical" MSY	21,635
"Practical" MSY[1]	16,000
Optimum yield	11,000
Domestic annual harvest	7,000
Domestic annual processing	7,000
TALFF	4,000

[1] Given the mesh sizes currently in use in the fishery.

XIII. Measures, Requirements, Conditions, or Restrictions Proposed To Attain Management Objectives

XIII–1. Permits and Fees

No changes are required as a result of Amendment #1.

XIII–2. Time and Area Restrictions

No changes are required as a result of Amendment #1.

XIII–3. Catch Limitations

The fishing year for butterfish shall be the twelve (12) month period beginning 1 April.

The initial Total Allowable Level of Foreign Fishing for butterfish for fishing year 1980–1981 is 4,000 mt.

The initial domestic quota for butterfish for fishing year 1980–1981 is 7,000 mt.

No other changes are required to this section as a result of Amendment #1.

XIII–4. Types of Gear

No changes are required to this section as a result of Amendment #1.

XIII–5. Incidental Catch

No changes are required to this section as a result of Amendment #1.

XIII–6. Restrictions

No changes are required to this section as a result of Amendment #1.

XIII–7. Habitat Preservation, Protection, and Restoration

No changes are required to this section as a result of Amendment #1.

XIII–8. Development of Fishery Resources

No changes are required to this section as a result of Amendment #1.

XIII–9. Management Costs and Revenues

It is expected that the costs of implementing the recommended option in Amendment #1 should be essentially the same as the cost of implementing the original FMP.

XIV. Specifications and Sources of Pertinent Fishery Data

No changes are required by Amendment #1.

XV. Relationship of the Recommended Measures to Existing Applicable Laws and Policies

No changes are required as a result of Amendment #1.

XVI. Council Review and Monitoring of the Plan

No changes are required as a result of Amendment #1.

XVII. References

All requests for information upon which this FMP has been based should be directed to the offices of the Mid-Atlantic Fishery Management Council. References in addition to those in the original FMP are:

Mid-Atlantic Fishery Management Council. 1979. Final environmental impact statement/fishery management plan for the butterfish fishery of the northwest Atlantic Ocean. 114 p.

Waring, Gordon T., Status of the northwestern Atlantic butterfish stock, July 1979. NMFS, Northeast Fisheries Center, Woods Hole Lab., Lab. Reference No. 79–33, July 25, 1979 (revised November 20, 1979).

App I: Status of the Northwestern Atlantic Butterfish Stock, July 1979 [1]

Introduction

The NW Atlantic butterfish population was assessed by Murawski and Waring (1978). The assessment indicated good recruitment of the 1978 year-class based on preliminary findings from US-USSR juvenile hake surveys and US commercial catch statistics. Autumn 1977, and spring 1978 survey data indicated that total mortality estimates (Z) had declined from previous years and mean weights of the fish had increased. Preliminary findings did not indicate that the optimum yield (OY) of 11,000 mt should be adjusted.

This paper presents updated survey and commercial catch information reported in Murawski and Waring (1978) as well as new age/length data from US research vessels. The implications of this additional information is discussed.

Survey Abundance Indices

Autumn offshore (>27 m) bottom trawl survey data between Cape Hatteras and Southern New England (Figure 1, Table 1) has been found to provide the most consistent and reliable information on the relative abundance of butterfish (Murawski and Waring, 1978). The linear catch per tow index (in numbers) from the autumn 1978 survey declined 15% from the previous year, and was 29.52% below the 11-year average of 114.32. This is the second consecutive decline (Table 1). Likewise linear weight per tow decreased 33.2% to 4.59 kg/tow. Autumn mean weights per fish were 81.0 g, a 16% decrease from the autumn 1977 mean (73.3g, Figure 2). The retransformed weight per tow index, however, increased 2.16% to 3.31 kg/tow in 1978 (Table 1, Figure 3).

The autumn 1978 catch per tow index in numbers was partitioned into age classes using research vessel age/length keys (Tables 6 & 7). The autumn estimate of age 0+ relative abundance (Table 2) was 48.73 fish/tow, 45% above the 1977 estimate but 43% below the 11-year average of 85.01 and 62% below the high 1976 year class index.

Spring linear catch per tow estimates have been used to assess total mortality of various year classes by regressing $\log_e$ catch/tow on age (Murawski and Waring, 1978). The 1979 data is given in Table 3. The decline in the value of Z since the 1976 year class recruited can be attributed to reduced exploitation under FCMA. The spring 1979 catch per tow indices in numbers indicates the abundance of all ages has increased.

Commercial Catch Data

The US commercial harvest of butterfish increased 146.0% from 1977 to 1978, and is the highest observed since 1963 (Table 4). Nominal distant water fleet (DWF) catches, however, declined 69.2% in 1978. The total landings in 1978 of 4,478 mt were the smallest since 1965, and 48.5% below the 16-year average nominal catch of 8,688 mt.

Total distant water fleet catches in 1978 were only 1,324.1 mt, or 33.9% of the total allocation of 3,911 mt (Table 5). Restrictions on by-catch and time and

[1] Waring, Gordon T., NMFS, Northeast Fisheries Center, Woods Hole Lab., Lab. Reference No. 79–33, July 25, 1979 (revised November 20, 1979).

area of fishing were probably at least in part responsible.

The age composition of the catch was determined by applying US and distant water fleet length frequency data to research vessel age/length keys (Tables 5 & 6). In the US food fishery the harvesting was primarily on age 2 (1976 year class) fish.

The US industrial fishery took mostly age 0 (1978 year class) fish. This is not suprising since the industrial fishery uses a small mesh, 66 mm versus 114 mm mesh, in the food fishery. The DWF's catch consisted mainly of age 1 fish followed by age 2 fish (1977 and 1976 year classes, respectively).

Discussion

The 1978 autumn and 1979 spring survey data do not indicate any trend in butterfish abundance. The current abundance is still within the range of values used earlier to calculate maximum average yield (16,000 tons). The total mortality rate of the population has been drastically reduced. As a result of the decline in fishing mortality in recent years the numbers of age 2+ and 3+ fish have increased (Table 3). The sharp decline in total catches in 1977 and 1978 combined with increasing numbers of older fish should maintain or increase spawning potential.

Table 1.—*Autumn U.S.A. Survey Butterfish Catch Per Tow, Strata 1-12, 61-76, 1968-77*

Year	Catch per tow in numbers			Catch per tow in weight (kg)		
	Linear	Log_e	Re-trans-formed	Linear	Log_e	Re-trans-formed
1968	121.09	1.99	47.28	10.44	0.66	2.91
1969	76.93	2.16	57.25	5.32	.66	2.72
1970	48.29	1.13	10.74	3.07	.34	1.06
1971	242.17	2.19	112.00	5.45	.58	2.29
1972	86.67	1.36	20.11	3.21	.36	1.16
1973	178.03	2.35	124.08	8.39	.75	3.70
1974	116.32	1.95	77.52	5.12	.66	2.66
1975	52.47	1.69	36.19	2.94	.58	1.80
1976	160.31	2.32	156.60	6.71	.86	4.15
1977	94.69	1.99	69.33	6.87	.70	3.24
1978	80.57	2.16	94.33	4.59	.76	3.31

Table 2.—*Estimates of Relative Juvenile (Age 0 +) Abundance From NMFS Autumn Offshore Bottom Trawl Surveys, and Total 0 + Stock Size for Year Classes 1968-77*

Year class	Autumn catch per tow index (X Number per tow age 0 +)	Estimate off 0 + population size from VPA ($\times 10^6$)
1968	46.19	1,684.2
1969	44.61	823.3
1970	30.06	847.5
1971	231.58	1,215.3
1972	79.59	1,976.8
1973	135.02	1,168.8
1974	92.02	1,024.0
1975	29.95	368.1
1976	127.50	.....
1977	33.60	.....
1978	48.73	.....

Table 3.—*Calculation of Total Instantaneous Mortality (Z) Utilizing Number per Tow by Age for NMFS Spring Surveys, 1968-78*

	Stratified number per tow at age				Regression coefficients for log_e number per tow versus coded age[1]		
	Class						
	0+	1+	2+	3+	r^2	a	b (=−Z)
Year:							
1968	11.66	2.96	1.30	20.01	0.980	3.462	−1.097
1969	10.04	2.36	1.24	0.31	0.981	3.322	−1.108
1970	26.36	4.22	8.00	0.33	0.768	4.546	−1.250
1971	313.31	40.17	[2]3.78	[2]0.17	1.000	7.801	−2.054
1972	44.09	9.05	1.89	0.18	0.989	5.745	−1.607
1973	22.12	6.88	1.82	0.02	0.972	4.918	−1.576
1974	162.24	5.12	0.62	0.01	0.981	7.650	−2.785
1975	36.40	5.32	20	0.17	0.913	5.310	−1.936
1976	3.80	2.07	1.85	.....	0.861	1.617	−0.360
1977	4.25	4.26	.....	.....	.....	.....	.....
1978	6.89	.....	.....	.....	.....	.....	.....

[1] Coded Ages $A_i = 1, 2, 3, \ldots n$ for Ages O+, 1+, 2+....N+.
[2] Not included in regression.

Table 4.—*Nominal Landings (mt, ICNAF SA 4-6) by Country, and Adjusted Total Catches*[a], 1963-78

Year	U.S.A.	Japan	U.S.S.R.	Poland	Bulgaria	German Democratic Republic	Romania	Others	Nominal total	Adjusted catch
1963	4,513	.....	2,285	.....	.....	.....	.....	.....	6,798	6,798
1964	2,461	.....	748	.....	.....	.....	.....	.....	3,209	3,209
1965	3,340	.....	749	.....	.....	.....	.....	.....	4,089	4,089
1966	2,615	.....	3,865	.....	.....	.....	.....	.....	6,480	6,480
1967	2,452	146	2,170	.....	.....	.....	.....	.....	4,768	4,768
1968	1,804	3,526	1,911	.....	.....	.....	.....	.....	7,241	7,241
1969	2,438	3,930	11,107	.....	36	.....	.....	.....	17,511	17,816
1970	1,869	8,624	404	.....	.....	.....	.....	.....	10,897	14,319
1971	1,570	5,771	486	.....	26	.....	.....	.....	7,853	10,483
1972	819	3,675	1,848	.....	114	34	.....	.....	6,490	13,040
1973	1,557	12,172	2,334	2,804	239	196	152	.....	19,454	33,236
1974	2,528	5,457	1,372	3,508	.....	.....	.....	.....	12,865	17,993
1975	2,088	3,624	789	3,754	298	1	.....	[b]612	11,166	14,852
1976	1,528	7,884	420	1,518	4	3	62	.....	11,419	15,837
1977	1,447	1,750	419	280	.....	.....	16	[c]381	4,293	4,293
1978	3,563	651	14	.....	.....	.....	56	[d]603	.....	.....

[a] Adjusted to account for discards of countries not reporting butterfish catches from the Loligo fishery.
[b] Ireland.
[c] Spain = 105, Italy = 60, Cuba = 111, Canada = 105.
[d] Spain = 156, Italy = 354, Mexico = 93.

Table 5.—*Total Reported Landings (Metric Tons) of Butterfish From U.S. Waters and Allocations for 1978*

Country	Catch to date	1978 allocation	Percent taken
Bulgaria	0	0	0
France	0	2	0
FRG	0	105	0
GDR	0	185	0
Italy	354.0	501	70.7
Japan	651.2	672	96.9
Mexico	93.0	1,263	7.4
Poland	0	67	0
Romania	56.0	150	37.3
Spain	156.0	1,053	14.8
U.S.S.R.	14.0	100	14.0
Subtotal	1,324.2	3,911	33.9
U.S.A.	3,563.3		
Total	4,887.5		

Table 6.—*1978 Spring Age Per Length Key for Butterfish From R/V Data Collected in Southern New England—Mid-Atlantic Sampling Strata (1–12, 61–76)*

Fork length (cm)	Ages 0+	1+	2+	3+	Total
1					
2					
3					
4					
5					
6					
7					
8					
9	2				2
10	10				10
11	14				14
12	18				18
13	13				13
14	9	1			10
15	3	5			8
16	1	18			19
17	1	26			27
18		17	8		25
19		11	3	2	16
20		1	3		4
21		1	2		3
Total	71	80	16	2	169
Average length	12.1	17.2	18.9	19.0	15.2

Table 7.—*1978 Autumn Age Per Length Key for Butterfish From R/V Data Collected in Southern New England—Mid-Atlantic Sampling Strata (1–12, 61–76)*

Fork length (cm)	Ages 0	1	2	3	4	Total
1						
2						
3		1				1
4		12				12
5		12				12
6		23				23
7		22				22
8		26				26
9		21				21
10		55				55
11		41	1			42
12		34	12			46
13		19	21			40
14		9	35	2		46
15		2	57	5		64
16			58	25		83
17			30	65		95
18			24	84	1	109
19			9	52	2	63
20				23	1	24
21				6	1	7
22				2		2
Total	277	247	264	5		793
Average length	9.4	15.4	18.0	19.4		14.2

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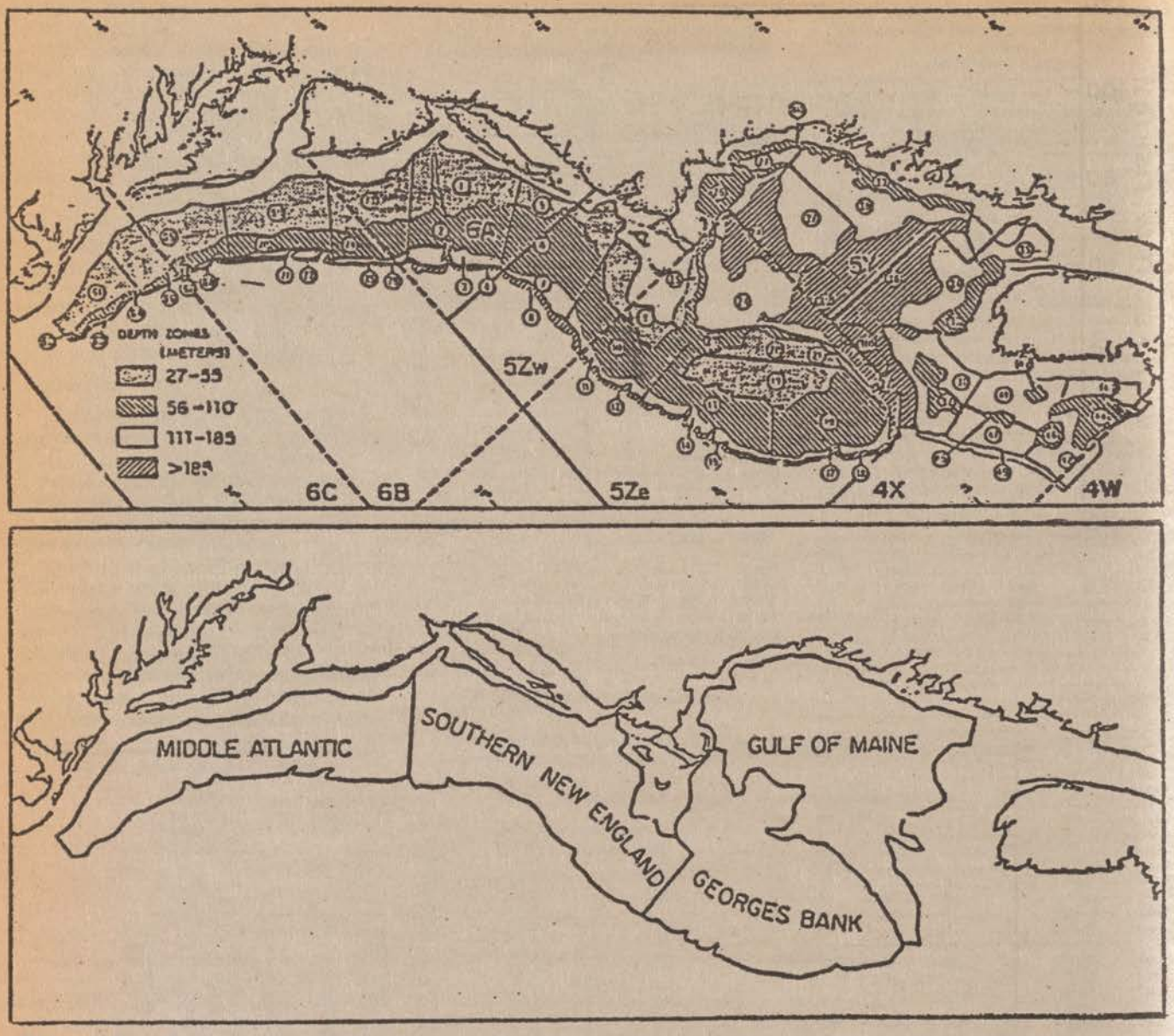


Figure 1. International Commission for the Northwest Atlantic Fisheries (ICNAF) Subareas 4W-5Zw; and Statistical Areas 6A-6C, with USA bottom trawl survey strata (A); and regional designations of strata sets (B).

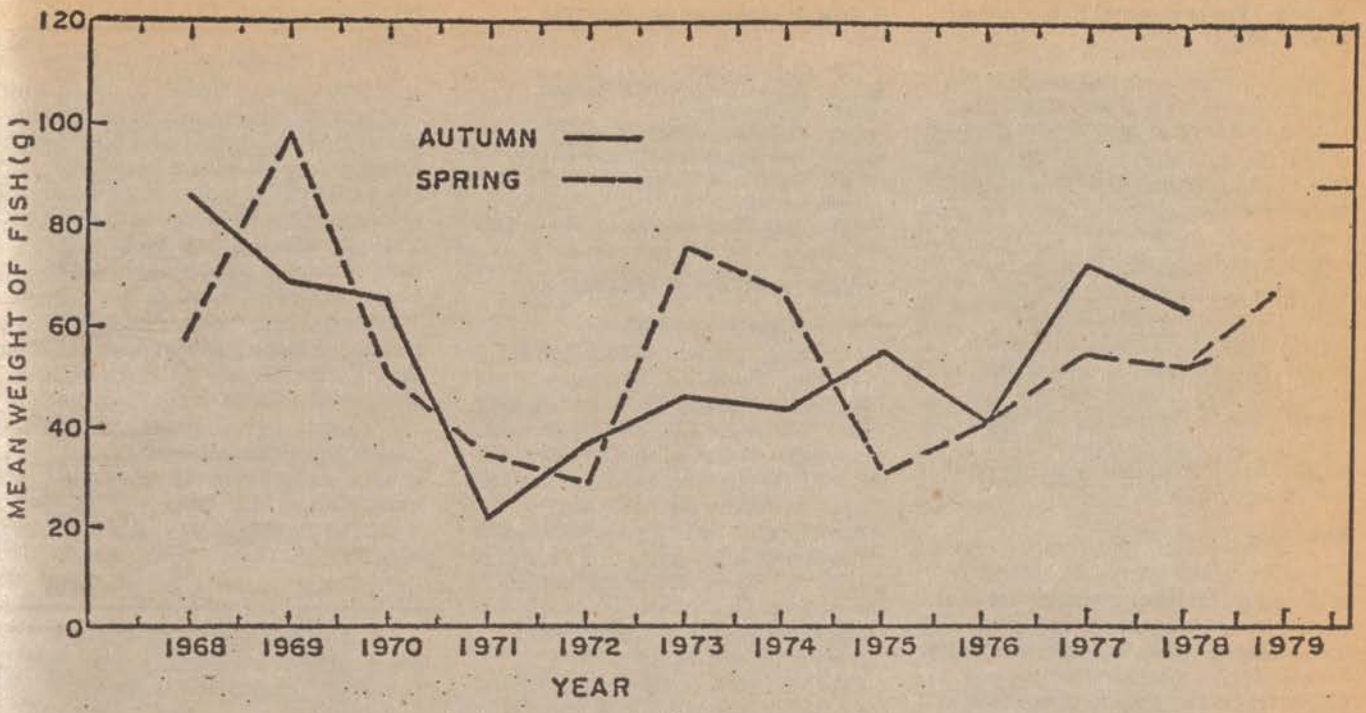


Figure 2. Mean weight of butterfish (g) taken from the Southern New England and Middle Atlantic areas during USA research vessel surveys, 1968–1977.

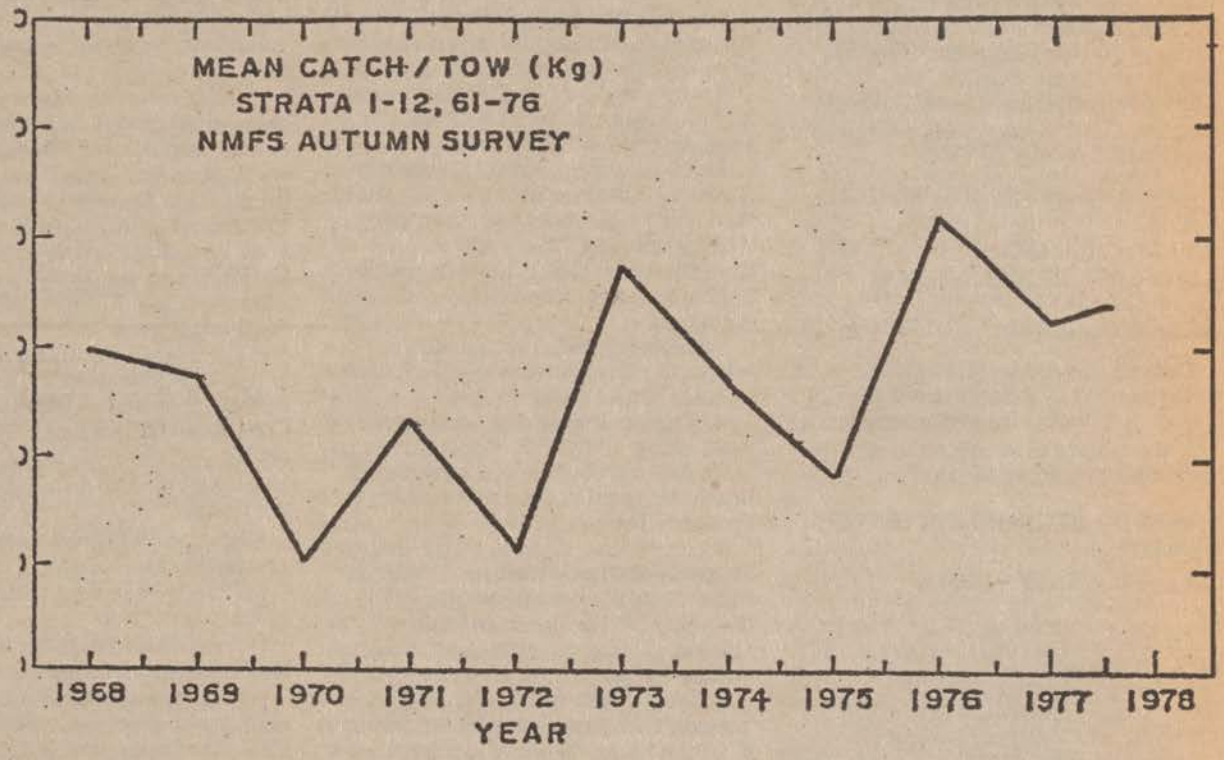


Figure 3. Retransformed catch per tow (kg) from the Southern New England and Middle Atlantic areas during autumn USA research vessel surveys 1968–1977.

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National Environmental Policy Act of 1969 (NEPA)

In accordance with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* (NEPA), a final Enviromental Impact Statement (EIS) for the original FMP was filed with the Environmental Protection Agency on December 15, 1978.

The Assistant Administrator for Fisheries has determined that the amendment to the FMP will not significantly affect the quality of the human environment. A copy of the Environmental Assessment and the Assistant Administrator's finding of "no significance" may be obtained by writing to the Assistant Administrator at the above address.

Executive Order 12044

The Assistant Administrator has made an initial determination that the proposed regulations are significant under the provisions of NOAA Directive 21–24, which implements Executive Order 12044. The proposed regulations are subject to the RA requirements of the NOAA Directive. A draft RA has been prepared and may be obtained from the Assistant Administrator at the above address. Comments from Federal agencies and from the public are solicited on this draft analysis. A final RA will be prepared and made available to the public upon issuance of the final regulations. Amendment of the Butterfish FMP did not necessitate any changes to the proposed regulations to implement the original FMP.

Signed at Washington, D.C., this 26th day of March, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

1. It is proposed to retain those sections of 50 CFR Part 611 which govern foreign fishing for butterfish.

2. It is proposed to add a new Part 657 to 50 CFR to read as follows:

PART 657—ATLANTIC BUTTERFISH FISHERY

Subpart A—General Provisions

Sec.

657.1 Purpose and Scope.
657.2 Definitions.
657.3 Relation to Other Law.
657.4 Vessel Permits and Fees.
657.5 Recordkeeping and Reporting Requirements.
657.6 Vessel Identification.
657.7 Prohibitions.
657.8 Enforcement.
657.9 Penalties.

Subpart B—Management Measures

Sec.

657.20 Fishing Year.
657.21 Allowable Levels of Harvest.
657.22 Reallocation.
657.23 Closure of Fishery.
657.24 Size Restrictions [Reserved].
657.25 Gear/Vessel Equipment Restrictions [Reserved].
657.26 Area/Time Restrictions [Reserved].

Authority. 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 657.1 Purpose and scope.

(a) The regulations in this Part: (1) implement the Fishery Management Plan for the Atlantic Butterfish Fishery of the Northwest Atlantic Ocean, which was prepared and adopted by the Mid-Atlantic Fishery Management Council and approved by the Assistant Administrator; and (2) govern fishing for Atlantic butterfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority.

(b) The regulations governing fishing for Atlantic butterfish by foreign vessels in the fishery conservation zone are contained in 50 CFR Part 611. The Appendix to § 611.20 contains the total allowable level of foreign fishing for butterfish.

§ 657.2 Definitions.

In addition to the definitions in the Act, the terms used in this part shall have the following meanings:

Act means the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*

Assistant Administrator means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Atlantic butterfish or *butterfish* means the species *Peprilus triacanthus.*

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in mortality to any butterfish or in bringing any butterfish on board a vessel.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Atlantic Butterfish Fishery of the Northwest Atlantic Ocean.

Fishing includes any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of butterfish;

(b) The attempted catching, taking, or harvesting of butterfish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of butterfish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing week means the weekly period beginning 0001 hours Sunday and ending 24000 hours Saturday.

Operator, with respect to any fishing vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any fishing vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charter, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by a person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Person who receives Atlantic butterfish for a commercial purpose means any person (excluding governments and governmental entities) engaged in commerce who is the first purchaser of butterfish. This term includes, but is not limited to, dealers, brokers, processors, cooperatives, and fish exchanges. It does not include a person who only transports butterfish between a fishing vessel and a first purchaser.

Regional Director means the Regional Director, Northeast Region, National Marine fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone (617) 281–3600; or a designee.

Regulated species means any species for which fishing by a vessel of the United States is regulated pursuant to the Act.

United States harvested butterfish means butterfish caught, taken, or harvested by vessels of the United States under this Part, whether or not such butterfish is landed in the United States.

Vessel of the United States means:

(a) Any vessel documented or numbered by the United States Coast Guard under United States law; or

(b) Any vessel under five net tons registered under the laws of any State.

§ 657.3 Relation to other law.

(a) Persons affected by these regulations should be aware that other federal and State statutes and regulations may apply to their activities.

(b) All fishing activity, regardless of species sought, is prohibited pursuant to 15 CFR Part 924 on the *U.S.S. Monitor* Marine Sanctuary, which is located off the coast of North Carolina, approximately 15 miles southwest of Cape Hatteras (35°00'23" N., 75°24'32" W.).

§ 657.4 Vessel permits and fees.

(a) *General.* Every fishing vessel, including party and charter boats, fishing for Atlantic butterfish under this Part must have a permit issued under this section. Vessels are exempt from this requirement if they catch no more than 100 pounds of butterfish per trip.

(b) *Eligibility.* [Reserved]

(c) *Application.* (1) An application for a permit under this Part must be submitted and signed by the owner or operator of the vessel on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants shall provide all the following information:

(i) The name, mailing address including ZIP code, and telephone number of the owner of the vessel;

(ii) The name of the vessel;

(iii) The vessel's United States Coast Guard documentation number or the vessel's State registration number if the vessel is not required to be documented under Title 46 of the United States Code;

(iv) The home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) The engine horsepower of the vessel and year the vessel was built;

(vi) The approximate fish hold capacity of the vessel;

(vii) The type and quantity of fishing gear used by the vessel;

(viii) The average size of the crew, which may be stated in terms of a normal range; and

(ix) Any other information concerning vessel and gear characteristics requested by the Regional Director.

(3) Any change in the information specified in paragraph (c)(2) of this section shall be submitted by the applicant in writing to the Regional Director within 15 days of the change.

(d) *Fees.* No fee is required for any permit issued under this Part.

(e) *Issuance.* The Regional Director shall issue a permit to the applicant not later than 30 days from the receipt of a completed application.

(f) *Expiration.* A permit shall expire upon any change in vessel ownership, registration, name, length, gross tonnage, fish hold capacity, home port, or the regulated fisheries in which the vessel is engaged.

(g) *Duration.* A permit shall continue in effect until it expires or is revoked, suspended, or modified pursuant to 50 CFR Part 621.

(h) *Alteration.* No person shall alter, erase, or mutilate any permit. Any permit which has been intentionally altered, erased, or mutilated is invalid.

(i) *Replacement.* Replacement permits may be issued by the Regional Director when requested in writing by the owner or operator. An application for a replacement permit shall not be considered a new application.

(j) *Transfer.* A permit issued under this Part is not transferable or assignable. A permit shall be valid only for the fishing vessel and owner for which it is issued.

(k) *Display.* A permit issued under this Part must be carried on board the fishing vessel at all times. The operator of a fishing vessel shall present the permit for inspection upon the request of any Authorized Officer.

(l) *Sanctions.* Subpart D of 50 CFR Part 621 (Civil Procedures) governs the imposition of sanctions against a permit issued under this Part. As specified in that Subpart D, a permit may be revoked, modified, or suspended if the permitted fishing vessel is used in the commission of an offense prohibited by the Act or these regulations, or if a civil penalty or criminal fine imposed under the Act is not paid.

§ 657.5 Recordkeeping and reporting requirements.

(a) *Fishing vessel records.* (1) The operator of any fishing vessel issued a permit to fish for butterfish under this Part shall:

(i) Maintain on board the vessel an accurate and complete fishing vessel record on forms supplied by the Regional Director, according to the requirements of § 657.5(a)(2);

(ii) Make the fishing vessel record available for inspection or reproduction by an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections, at any time during or after a fishing trip;

(iii) Keep each fishing vessel record for one year after the date of the last entry in the fishing vessel record; and

(iv) Submit fishing vessel records, as specified in § 657.5(a)(2).

(2) The owner or operator of any fishing vessel conducting any fishing operation subject to this Part shall:

(i) Submit a complete fishing vessel record to a location designated by the Regional Director within 48 hours after the end of any fishing week or trip (whichever time period is longer) during which any regulated species were taken; or

(ii) Submit a statement to a location designated by the Regional Director 48 hours after the end of any calendar week, that fishing for any regulated species did not occur during that week.

(3) Fishing vessel records shall contain information on a daily basis for the entirety of any trip during which butterfish or any other regulated species are caught, and shall contain information for all fish which are caught.

(4) A request for exemption from the provisions of § 657.5 (a)(2)(ii) of this section shall be submitted, in writing, to

the Regional Director. Such request shall state the reason for the request and the period of time for which the exemption is to apply. The Regional Director may issue an exemption for a period of greater than two months and less than ten months. If an exemption is issued, the Regional Director must be notified in writing of the operator's intent to resume fishing before fishing may be resumed.

(5) The Assistant Administrator may revoke, modify, or suspend the permit of a fishing vessel whose owner or operator falsifies or fails to submit the records and reports prescribed by this section, in accordance with the provisions of 50 CFR Part 621.

(b) *Fish dealer or processor reports.* Any person who receives Atlantic butterfish for a commercial purpose from a fishing vessel subject to this Part shall:

(1) File a weekly report (Sunday through Saturday) to a location designated by the Regional Director on forms supplied by the Regional Director within 48 hours of the end of any week in which butterfish is received. This report shall include information on all first transfers, purchases, or receipts of butterfish and all other fish made during that week; and

(2) Permit an Authorized Officer, or an employee of the National Marine Fisheries Service designated by the Regional Director to make inspections, to inspect or reproduce any records or books relating to any first transfers, purchases, or receipts of butterfish. These inspections may take place at the principal place of business or at the location where these required records regularly are kept.

§ 657.6 Vessel identification.

(a) *Official Number.* Each fishing vessel subject to this Part and over 25 feet in length shall display its Official Number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The Official Number is the documentation number issued by the U.S. Coast Guard for documented vessels or the registration number issued by a State or by the U.S. Coast Guard for undocumented vessels.

(b) *Numerals.* (1) The Official Number shall be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels over 25 feet in length.

(2) The Official Number must be in block Arabic numerals in contrasting color to the background.

(3) The Official Number shall be permanently affixed to or painted on the vessel. However, charter or party boats may use non-permanent markings to display the Official Number whenever the vessel is fishing for butterfish.

(c) *Vessel length.* The length of a vessel, for purposes of this section, is that length set forth in U.S. Coast Guard or State records.

(d) *Duties of operator.* The operator of each fishing vessel shall:

(1) Keep the Official Number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, or its fishing gear obstructs the view of the Official Number from any enforcement vessel or aircraft.

§ 657.7 Prohibitions.

It is unlawful for any person to:

(a) Use any vessel for the taking, catching, harvesting, or landing of any Atlantic butterfish (except as provided for in § 657.4(a)), unless the vessel has a valid permit issued pursuant to this Part on board the vessel;

(b) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application for a vessel;

(c) Falsify or fail to make, keep, maintain, or submit any fishing vessel record or fish dealer/processor report, or other record or report required by this Part;

(d) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, landing, purchase, sale, or transfer of any Atlantic butterfish;

(e) Fail to affix and maintain vessel markings as required by § 657.6;

(f) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land any Atlantic butterfish taken in violation of the Act, this Part, or any other regulation promulgated under the Act;

(g) Fish for, take, catch, or harvest any Atlantic butterfish from the FCZ after the fishery has been closed pursuant to § 657.23;

(h) Transfer directly or indirectly, or attempt to so transfer, any United States harvested butterfish to any foreign fishing vessel, while such vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit, under section 204 of the Act, which authorizes the receipt by such vessel of United States harvested butterfish;

(i) Refuse to permit an Authorized Officer or an employee of the National Marine Fisheries Service designated by the Regional Director to make such inspections, to inspect any fishing vessel record, fish dealer/processor reports, or other records relating to the taking, catching, harvesting, landing, first purchase, or sale of Atlantic butterfish;

(j) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this Part, or any other regulation promulgated under the Act;

(k) Fail to comply immediately with enforcement and boarding procedures specified in § 657.8;

(l) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with an Authorized Officer in the conduct of any search or inspection under the Act;

(m) Resist a lawful arrest for any act prohibited by this Part;

(n) Interfere with, obstruct, delay, or prevent by any means the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part;

(o) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Part;

(p) Violate any other provision of this Part, the Act, or any regulation promulgated pursuant thereto.

§ 657.8 Enforcement.

(a) *General.* The operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing vessel record, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft authorized to enforce provisions of the Act, the operator of the fishing vessel shall be alert for communications conveying enforcement instructions. VHF–FM radiotelephone is the normal method of communicating between vessels. Should radiotelephone communication fail, however, other methods of communication, including visual signals, may be employed. The following signals extracted from the International Code of Signals are amog those which may be used, and are included here for the safety and information of fishing vessel operators:

(1) "L" meaning "You should stop your vessel instantly;"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc.," which is the call to an unknown station, to which the signaled vessel shall respond by illuminating the vessel's Official Number required by § 657.6.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his/her party to come aboard;

(2) Provide a safe ladder for the authorized officer and his/her party;

(3) When necessary to facilitate the boarding and/or when requested by an Authorized Officer provide a man rope, safety line, and illumination for the ladder; and

(4) Take such other actions as are necessary to ensure the safety of the Authorized Officer and his/her party to facilitate the boarding.

§ 657.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act and to 50 CFR Part 620 (Citations) and Part 621 (Civil Procedures).

Subpart B—Management Measures

§ 657.20 Fishing year.

The fishing year for Atlantic butterfish is the 12-month period beginning on April 1 and ending on March 31 of the following year.

§ 657.21 Allowable levels of harvest.

(a) *Catch Quotas.* The allowed level of harvest on a fishing year basis for Atlantic butterfish is 11,000 metric tons (mt). The annual butterfish catch quota for vessels of the United States is 7,000 mt.

(b) *Territorial waters.* These regulations do not limit harvests of Atlantic butterfish in the waters landward of the FCZ. Harvests from these waters, however, shall be subtracted from the annual domestic quota set forth in paragraph (a).

§ 657.22 Reallocation.

(a) *General.* This section establishes a procedure which will be followed to make reallocations to foreign fishing vessels of part of the domestic quota which will not be harvested by domestic fishermen during the fishing year.

(b) *Criteria.* The Assistant Administrator shall determine the domestic harvest of butterfish by reviewing fishing vessel record and fish dealer/processor record data and any other relevant landings statistics for the first seven months of the fishing year (April 1–October 31). If reported domestic harvest (including off-loadings at sea) is equal to or greater than 40 percent of the annual domestic quota of 7,000 mt, no reallocation shall be made. If the reported domestic harvest for the first seven months of the fishing year is less than 40 percent of the annual domestic quota, the Assistant Administrator may reallocate up to one-half the difference between the reported domestic harvest and the annual domestic quota.

(c) *Notice of intent.* If the Assistant Administrator determines that a reallocation may be made, he shall publish in the **Federal Register** a notice of intent to reallocate a specified amount of the unharvested portion of the domestic annual quota to the annual quota established for foreign nations. Notice of an intent to reallocate shall be sent to holders of permits issued under this Part, and to agents of foreign fishing vessels permitted to fish for butterfish under 50 CFR Part 611, on or before the date of publication of the notice in the **Federal Register.**

(d) *Public comment.* The public shall be given no less than 15 days from the date of publication of the notice of intent to submit written comments concerning the amount of Atlantic butterfish to be reallocated. Comments shall be sent to the Regional Director.

(e) *Consultation.* During the 15-day public comment period, the Assistant Administrator or a designee shall consult with the appropriate committee of the Mid-Atlantic Fishery Management Council to assist his determination whether the proposed reallocation of Atlantic butterfish is consistent with the objectives contained in the FMP.

(f) *Final determination.* The Assistant Administrator shall make a final determination of the amount of Atlantic butterfish to be reallocated after taking into account:

(1) The intent and capability of U.S. fishing vessels to harvest Atlantic butterfish during the remainder of the fishing year;

(2) The consistency of any reallocation with the objectives contained in the FMP;

(3) The current harvest of Atlantic butterfish by foreign nations as allowed pursuant to 50 CFR Part 611;

(4) The most current information available concerning the biological status of Atlantic butterfish; and

(5) Any other information determined by the Assistant Administrator to be relevant.

(g) *Publication of reallocations.* The Assistant Administrator shall publish in the **Federal Register** any reallocation of Atlantic butterfish pursuant to paragraph (f) of this section approximately 15 days prior to the effective date of the reallocation. Comments received during the public comment period, all relevant information used by the Assistant Administrator in making a final determination on reallocation, and the most recent catch statistics for domestic and foreign harvest of Atlantic butterfish shall be summarized in the **Federal Register.**

(h) *Effective dates.* Any reallocation of butterfish shall be effective on January 1 and remain in effect to the end of the fishing year on March 31.

§ 657.23 Closure of fishery.

(a) *General.* The Regional Director shall periodically monitor catches and landings of butterfish.

(b) *Decision to close.* When 80 percent of the annual domestic quota specified in § 657.21 has been harvested, the Assistant Administrator shall close the fishery.

(c) *Notice of closure.* If the Assistant Administrator determines that a closure of the butterfish fishery is necessary, he shall:

(1) Notify in advance the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils of the closure;

(2) Mail notifications of the closure to all holders of permits issued under § 657.5, at least 72 hours prior to the effective date of the closure; and

(3) Publish a notice of closure in the **Federal Register.**

(d) *Incidental catch.* During a period of closure, fishing vessels may catch, take, or harvest butterfish incidental to fishing for other species of fish, provided that the amount of butterfish constitutes no more than 10 percent by weight of the total catch of all other fish on board the vessel at the end of any fishing trip.

§ 657.24 Size restrictions. [Reserved]

§ 657.25 Gear/vessel equipment restrictions. [Reserved]

§ 657.26 Area/time restrictions. [Reserved]

[FR Doc. 80-9645 Filed 3-31-80; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 64
Tuesday, April 1, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Federal Employees Part-Time Career Employment Act of 1978; Proposed ACTION Internal Implementation Rules

AGENCY: ACTION.

ACTION: Notice.

SUMMARY: ACTION is proposing internal rules to implement the Federal Employees Part-Time Career Employmet Act of 1978.

COMMENT DATE: Comments will be considered if received on or before June 2, 1980.

ADDRESS: Written comments should be addressed to the Director of Personnel, ACTION, 806 Connecticut Avenue, NW, Room 306, Washington, D.C. 20525.

SUPPLEMENTARY INFORMATION: Pub. L. 95–437; the Federal Employees Part-Time Career Employment Act of 1978, requires Federal agencies to publish proposed internal rules in the **Federal Register** for public comment. After comments are received, considered, and necessary changes are made, ACTION will adopt these rules as ACTION Order 340.1 of the ACTION Directives System.

Part-Time Career Employment

1. *Purpose.* This order implements Pub. L. 94–427, the Federal Employees Part-Time Career Employment Act of 1978, by establishing a continuing program in ACTION to provide career part-time employment opportunities.

2. *Background.* The introductory section of this law contains the following statement; "Congress finds that:

a. Many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

b. Part-time permanent employment:

(1) Provides older individuals with a gradual transition into retirement;

(2) Provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(3) Provides parents opportunities to balance family responsibilities with the need for additional income;

(4) Benefits students who must finance their own education or vocational training;

(5) Benefits the Government, as an employer, by increasing productivity and job satisfaction; while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(6) Benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

3. *References:*

a. Pub. L. 95–437, the Federal Employees Part-Time Career Employment Act of 1978.

b. 5 U.S.C. 3401–3408

c. 5 CFR, Part 340 and Part 890

4. *Definition of Part-Time Career Employment:*

Part-Time Career Employment is regularly scheduled work of from 16 to 32 hours per week performed by an employee whose career or career-conditioned employment or such part-time basis was effective on or after April 8, 1979. The prearranged schedule may consist of an equal or varied number of hours per day and may pertain to a position which could be part-time without regard to this Order, or one established to allow job-sharing or comparable arrangements. Part-time career employment does not include employment on a temporary or intermittent basis.

5. *Policy:*

It is the policy of ACTION to provide part-time career employment opportunities in GS–1 through GS–15 positions subject to agency resources and mission requirements.

6. *Scope:*

a. All permanent General Schedule positions at grade 15 and below are to be considered for filling by part-time career employment in accordance with guidelines in paragraph 11.

b. Employees holding Foreign Service Unlimited appointments in ACTION support offices are eligible for part-time career employment.

7. *Exceptions*

a. Although part-time career employess may not be appointed to a regular schedule of more than 32 hours a week, the Director of ACTION has the authority to approve part-time schedules of less than 16 hours a week as an exception.

b. An employee on a permanent part-time schedule before April 8, 1979, may work any schedule of less than 40 hours per week so long as the employee remains in that or any other permanent part-time position without a break in part-time service. A detail or temporary promotion to a full-time position does *not* count as a break in part-time service.

8. *Program Coordination*

The Director of Personnel is designated as Part-Time Career Employment Coordinator with responsibility for:

—Overseeing the development and implementation of part-time employment goals and timetables;

—Consulting on the part-time employment program with interested parties, e.g., Equal Employment Opportunity, and Federal Women's Program officials, handicapped program coordinator, representatives of employee unions etc.;

—Responding to requests for advice and assistance on part-time employment with ACTION;

—Maintaining liaison with with groups interested in promoting part-time employment opportunities; and

—Preparing reports on part-time employment for transmittal to the Office of Personnel Management and the Congress.

9. *Part-Time Carrer Employment Goals and Timetables*

The long-range goal for part-time career employment in ACTION is to have at least 5% of the authorized ceiling filled by part-time career employees. The timetable for achieving this goal is to increase the part-time career employment in ACTION at an annual rate of at least 1% of the authorized ceiling for permanent full-time employees.

10. *Evaluation and Reports*

The part-time career employment program shall be reviewed under the regular internal personnel management evaluation process. Reports shall be

made by the Director of Personnel to the Office of Personnel Management twice a year (as of March 31 and September 30) on the agency's progress in meeting its part-time career employment goals. These reports shall indicate the extent to which part-time career employment opportunities have been extended to older persons, the handicapped, persons with family responsibilities, and students and shall specify measures taken to overcome any impediments in achieving these goals.

11. *Part-Time Employment Practices*

Implementation of Pub. L. 95–437, imposes certain new requirements on day-to-day personnel management operations:

a. *Reviewing vacant positions.* Each vacant position shall be reviewed by the supervisor for the feasibility of filling the position on a part-time basis. Each "Recruit" SF–52 shall contain a certification in the Remarks section as to whether the review found the position suitable or unsuitable for part-time occupancy, based on the following criteria:

(1) Workload fluctuation—(Do regular or peak workloads lend themselves to part-time schedules?).

(2) Adaptability or flexibility of the work to be performed.

(3) Space and equipment—(Can part-time employment provide adequate utilization?).

(4) Overtime record—(Does it indicated need for part-time employment?).

(5) Affirmative action.

(6) Benefits to employees—(Would part-time employment alleviate child care problems for parents, lessen pressure of full day's work on those with health problems, or allow those near retirement to gradually decrease workload?).

(7) Need for continuity of coverage in the position.

(8) Scarce job skills or monotonous work—(Would part-time employment alleviate these problems?).

b. *Ceiling control.* Effective October 1, 1980, positions filled by part-time career employees shall be counted on the basis of the fractional part of the 40-hour week actually worked, e.g., two 20-hour a week employees shall count as one full-time employee.

c. *Notifying the public of part-time vacancies.* Part-time career employment vacancies shall be publicized in Merit Promotion Program Vacancy Announcements, on the Dial-a-Job recordings, and/or in special notices to the U.S. Employment Service and special interest groups as appropriate.

d. *Conversion of full-time positions to part-time.* Permanent employees may request conversion of their appointment from full-time to part-time in accordance with the provisions of paragraph 13.

e. *Flexibilities of part-time appointments.* As a management prerogative, part-time career employees may be required, as are full-time employees, for short periods of time, to work longer hours than the tour of duty specified on the SF–50, "Notice of Personnel Action." However, any change to fewer hours than scheduled on the Notice of Personnel Action must be handled under adverse action procedures, unless the employee requests such action on a purely voluntary basis. Part-time employees are not eligible for overtime pay until they have been directed to, and actually perform work for more than 8 hours a day or 40 hours a week.

12. *Limitations*

a. The agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

b. No person employed by the agency on a full-time basis shall be required to accept part-time employment as a condition of continued employment.

13. *Procedures for Filling Career Part-Time Positions*

Career part-time positions may be filled by any of the following Methods

a. *Request by full-time incumbent for conversion to part-time in current position.* An employee may, at any time, request that his/her appointment be changed from permanent full-time to permament part-time in his/her current position by completing ACTION Form A–1025 and submitting the request to the immediate supervisor. The supervisor shall make a recommendation to the next higher management official and that official must make a decision within 15 calendar days of the date of the employee's request.

Prior to requesting a conversion to part-time, an employee should read paragraph 14 of this Order Effects of Converting from Full-Time Permanent to Career Part-Time Employement.

b. *Vacancy announcements.* Employees interested in part-time positions should apply under the appropriate Merit Promotion Vacancy Announcement. A vacant position may be advertised as part-time, as full-time, or as "Either part-time or full-time." Under vacancy announcements that invite both full-time and part-time applicants, the selecting official is to be provided two lists of candidates from which to choose. Applicants in such cases must specify which type of appointment they are interested in; no candidates may appear on both lists.

c. *Other sources of applicants for part-time positions.* Other sources of applicants for part-time positions include:

(1) Persons within reach on Civil Service Registers;

(2) Persons eligible for reinstatement;

(3) Status employees of other agencies desiring to transfer to a position at no higher grade or promotion potential than their current positions;

(4) Persons who can be hired on direct-hire appointment authorities when such authorities have been granted by OPM; and

(5) Former ACTION and Peace Corps volunteers and former Peace-Corps staff members with non-competitive eligibility.

14. *Effects of Converting From Full-Time Permanent To Career Part-Time Employment*

a. *Tenure.* There is no effect on your protection against removal during or after the probationary period. The probationary period and conversion from Career-Conditional to Career Status are computed on the basis of calendar time, the same as full-time employment. Your Service Computation Date is undisturbed by part-time work. Since part-time employment, you would compete only with other part-time employees during a Reduction in Force (RIF). Therefore, retention status will depend on which competitve level, in the judgement of management, requires a RIF.

b. *Earnings.* The rate of pay is proportionate to the time scheduled to work. Waiting periods for within-grade increases or eligibility for promotion are not affected; they are based on calendar weeks of creditable service.

c. *Crediting experience for promotion weights and factors.* Part-time work is prorated to determine experience for meeting qualification requirements in accordance with Civil Service Handbooks, X–118, Qualification Standards.

d. *Overtime.* Under Title 5 U.S.C., hours of work must be in excess of 40 hours in an administrative workweek or 8 hours in a day to be considered overtime. Under the Fair Labor Standards, Act, overtime begins after you have completed 40 "hours of work" in a week, excluding holidays and paid leave.

e. *Leave.* Annual leave is earned according to the number of hours worked per pay period. For example, a part-time employee with less than 3 years of service would earn 1 hour of annual leave for each *20* hours worked. With from 3 to 14 years of service, the part-time employee would earn 1 hour of annual leave for each *13* hours worked.

All part-time employees earn 1 hour of sick leave for each *20* hours worked. Any balance in excess of these multiples is carried over to the next pay period. No leave (annual or sick) is earned for hours worked in excess of 80 in a pay period. Other leave categories (e.g., Absence Without Leave, Leave Without Pay, Court Leave, Funeral Leave, Excused Absences) are not affected. For all categories of leave to which part-time employees are eligible, leave is charged only for absences during those hourse the employee is scheduled to work.

f. *Holidays.* If a holiday falls on a day the part-timer is scheduled to work, the employee would be paid for the number of hours he/she was scheduled to work.

g. *Life insurance coverage.* Permanent part-timers are eligible for the Federal Employees Group Life Insurance Program. The actual amount of insurance for which an employee is eligible is based on annual salary, but in any case not less than $10,000. A part-timer's annual salary is the amount of hours scheduled to work times pay rate.

h. *Health insurance coverage.* Permanent part-timers are eligible to participate in the Federal Employee's Health Benefits Program. The coverage is the same as that provided for full-time employees but the employee cost for the premiums is greater for people who became permanent part-time employees on or after April 8, 1979. For these employees the Government contribution is prorated according to the number of hours the part-timer is scheduled to work. For example, a part-timer scheduled for 20 hours a week will pay the employee's share of the premiums *plus* one half the Government's share. Part-timers on board before April, 8, 1979, can continue to received the same Government contributions as full-time employees for as long as they remain part-time without a break in service.

i. *Retirement.* Retirement benefits are computed in the same way for all career employees both full time and part time. Annuities are based on an employee's length of service and the highest average annuity will be affected to the extent earnings were limited in those years.

j. *Returning to full-time duty.* If the position you held immediately before converting to parttime or a different position of equal or lower grade is vacant, and you meet the basic requirements for the job, you can be placed in the job non-competitively if selected by the selecting official and approved by the Director of Personnel. If the position being sought is a promotion or has promotion potential, you must compete with other applicants as well as meet the basic requirements for the job.

k. *Adverse actions.* Part-timers can appeal serious disciplinary actions taken against them including removals, suspensions of more than 30 days, furloughs with pay, and reductions in rank or pay. Specifically included in the list of appealable actions is any involuntary reduction in the scheduled number of hours of duty per week for a part-time employee.

Dated at Washington, D.C., this 26th day of March, 1980.

Robert S. Currie,

Executive Officer, ACTION.

[FR Doc. 80-9773 Filed 3-31-80; 8:45 am]

BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

White Mountain National Forest Land and Resource Management Plan; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on the proposed Land and Resource Management Plan for the White Mountain National Forest in Maine and New Hampshire.

The plan is being prepared in accordance with requirements of the Secretary's regulations developed pursuant to the National Forest Management Act of 1976. It will propose management direction for the natural and human resources on the White Mountain National Forest.

The planning process will begin with identification of public issues, management concerns, and resource use and development opportunities. Planning criteria will be developed and data will be collected and analyzed to determine how the identified issues and concerns can be resolved. An assessment of the capability of the land to produce resource outputs and a determination of the public's future demands for these outputs will be made. Methods for resolving the identified public issues will be developed from this information and will be used to formulate alternatives.

Alternatives will display a range of resource outputs at several expenditure levels. Each alternative will represent a cost-effective combination of management practices which can best meet the objectives of the alternative. In addition, each identified major public issue will be addressed; each alternative will specify methods to restore renewable resources and a no-change alternative will be included.

A preferred alternative will be selected by ranking the alternatives according to their physical, biological, social, and economic effects. It will include the best combination of resource uses on the Forest and will also provide for a continuous monitoring and evaluation process.

A draft environmental impact statement will be released around April 1982. The final land and resource management plan and environmental impact statement will be released approximately 8 months later.

Public participation will be an integral part of the planning process. A response form, meetings, and other public involvement tools will be used to identify issues early in the planning process. Each public involvement activity will be announced through the news media and mailings to interested agencies, organizations, and individuals. In addition, a scoping session will be held in mid 1980 with State and other Federal agencies to determine the scope and significant issues to be analyzed in depth in the environmental impact statement.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official and James R. Jordan, Forest Supervisor of the White Mountain National Forest is the person in charge of the project.

Further information about the planning process or written comments on this Notice of Intent should be directed to: Forest Supervisor, White Mountain National Forest, 719 Main St., P.O. Box 638, Laconia, New Hampshire 03246, (603) 524-6450.

James H. Freeman,

Director, Planning Programming and Budgeting

March 19, 1980.

[FR Doc. 80-9839 Filed 3-31-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Cajun Electric Power Coop., Inc.; Sam Rayburn G & T, Inc.

Notice is hereby given that the Rural Electrification Administration (REA) has issued a Draft Supplemental Environmental Impact Statement (DSEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance to Cajun Electric Power Cooperative, Inc., (Cajun), P.O. Box 578, New Roads,

Louisiana 70760 and to Sam Rayburn G & T, Inc. (Sam Rayburn), c/o Jasper-Newton Electric Cooperative, Inc., 812 South Margaret Avenue, Kirbyville, Texas 75956.

This possible financing assistance would provide for undivided ownership by Cajun of 30 percent (282 MW) and by Sam Rayburn of 7 percent (66 MW) in the 940 MWe (net) River Bend Nuclear Power Station Unit 1, presently under construction in West Feliciana Parish, Louisiana. Cajun also proposes to own an as yet undetermined portion of the associated transmission facilities.

The U.S. Atomic Energy Commission (currently the Nuclear Regulatory Commission-NRC) issued a Final Environmental Statement (FES) related to the River Bend Nuclear Power Station Units 1 and 2 in September 1974. It is REA's decision to adopt the previously issued NRC–FES and to issue a DSEIS to provide information on certain environmental aspects of the project which are normally addressed by REA but were not included in the NRC–FES. REA's DSEIS also provides information related specifically to the proposed financing assistance to Cajun and Sam Rayburn for participation in Unit 1.

Additional information may be obtained by request submitted to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particulary invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies, having jurisdiction by law or special expertise with respect to any environmental impact, from which comments have not been requested specifically.

Copies of the REA DSEIS have been sent to various Federal, State and local agencies. The DSEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 5835, or at, the headquarters of Cajun, Highway 1, New Roads, Louisiana, or Sam Rayburn at the address given above. Limited supplies of the DSEIS and the NRC–FES are available for mailing, upon request to REA.

Comments concerning the environmental impact of the proposed REA financing assistance should be addressed to the Assistant Administrator—Electric, at the address given above. Comments must be received by 45 days from the date the Environmental Protection Agency (EPA) announces availability of the document in accordance with 40 CFR 1506.10 to be considered in connection with the proposed financing assistance.

Any financing assistance which may be made pursuant to this proposal will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and other environmentally related statutes, regulations, Executive Orders and Secretary's Memoranda normally considered by REA.

Dated at Washington, D.C. this 20th day of March, 1980.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 80-9892 Filed 3-31-80; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

Performance Review Boards

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards.

DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Riley, Jr., Performance Appraisal System Unit, Civil Service Reform Act Implementation Group, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 (202–447–6905).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c) (1) through (5) requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. These boards shall review and evaluate the initial appraisal of a senior executive's performance; the response, if any, by the senior executive; the review of the initial appraisal by the higher level executive; and recommend the final scale and adjective rating for the performance of the senior executives. These boards will recommend the position coefficient for each SES position and make recommendations concerning retention, rewards, rank or removal of individual senior executives. In addition, the Secretary's Performance Review Board will monitor the recommendations made by the program boards.

Bob Bergland,

Secretary.

March 26, 1980.

The names and membership of the Performance Review Boards are:

I. Secretary's

1. Jim Williams, Deputy Secretary, Chairperson
2. Dale E. Hathaway, Under Secretary, International Affairs and Commodity Programs
3. Alex P. Mercure, Assistant Secretary for Rural Development
4. Carol Tucker Foreman, Assistant Secretary for Food and Consumer Services
5. P. R. Smith, Assistant Secretary for Marketing and Transportation Services
6. M. Rupert Cutler, Assistant Secretary for Natural Resources and Envrionment
7. Joan S. Wallace, Assistant Secretary for Administration
8. Thomas F. McBride, Inspector General
9. Howard W. Hjort, Director of Economics, Policy Analysis and Budget
10. Anson R. Bertrand, Director of Science and Education
11. James C. Webster, Assistant Secretary for Governmental and Public Affairs
12. James H. Starkey, Deputy Under Secretary for International Affairs
13. Sally H. Greenberg, Associate Director, Executive Personnel and Management Development Office, Office of Personnel Management
14. Daniel Marcus, General Counsel
15. Director of Personnel, Executive Secretary

II. Office of the Secretary and Administration

1. Jim Williams, Deputy Secretary, Chairperson
2. Joan S. Wallace, Assistant Secretary for Administration
3. James C. Webster, Assistant Secretary for Governmental and Public Affairs
4. John W. Fossum, Acting Director of Personnel
5. Dean K. Crowther, Director, Office of Operations and Finance
6. James Frazier, Director, Office of Equal Opportunity
7. Daniel Marcus, General Counsel
8. Thomas F. McBride, Inspector General
9. OP Representative, Executive Secretary

III. Economics, Policy Analysis and Budget

1. Susan Sechler, Deputy Director of

Economics, Policy Analysis and Budget, Chairperson
2. Kenneth R. Farrell, Administrator, Economics, Statistics, and Cooperatives Service
3. Stephen B. Dewhurst, Director, Office of Budget, Planning and Evaluation
4. J. Dawson Ahalt, Chairperson, World Food and Agricultural Outlook and Situation Board
5. Jerome A. Miles, Deputy Chief, Administration, Forest Service
6. Dean K. Crowther, Director, Office of Operations and Finance
7. Charles A. Bucy, Deputy Director of Personnel
8. Margaret J. Gates, Deputy Inspector General
9. OP Representative, Executive Secretary

IV. Rural Development

1. Alex P. Mercure, Assistant Secretary for Rural Development, or Henrietta M. Singletary, Deputy Assistant Secretary for Rural Development, Chairperson
2. Gordon Cavanaugh, Administrator, Farmers Home Administration
3. Robert W. Feragen, Administrator, Rural Electrification Administration
4. Weldon Barton, Director, Office of Energy
5. John S. Bottum, Assistant Deputy Director for Community and Rural Development, Science and Education Administration-Extension
6. William T. Cherry, Executive Assistant to the Administrator, Agricultural Stabilization and Conservation Service
7. Richard L. Fowler, Assistant General Counsel, Community Development and Natural Resources
8. Clare I. Harris, Acting Associate Deputy Director, Cooperative Research, Science and Education Administration
9. OP Representative, Executive Secretary

V. Food and Consumer Services

1. Sydney J. Butler, Deputy Assistant Secretary for Food and Consumer Services, Chairperson
2. Donald L. Houston, Administrator, Food Safety and Quality Service
3. Bob Greenstein, Administrator, Food and Nutrition Service
4. John G. Stovall, Director, Commodity Economics Division, Economics, Statistics, and Cooperatives Service
5. Lawrence Wachs, Deputy Director for Program Review, Office of Budget, Planning and Evaluation
6. William T. Manley, Deputy Administrator, Marketing Programs Operations, Agricultural Marketing Service
7. Pierre A. Chaloux, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service
8. David R. Galliart, Deputy Administrator, Program Operations, Federal Grain Inspection Service
9. OP Representative, Executive Secretary

VI. Marketing and Transportation Services

1. Jerry Hill, Deputy Assistant Secretary for Marketing and Transportation Services, Chairperson
2. Barbara L. Schlei, Administrator, Agricultural Marketing Service
3. James O. Lee, Jr., Associate Administrator, Animal and Plant Health Inspection Service
4. Leland E. Bartelt, Administrator, Federal Grain Inspection Service
5. Ronald F. Schrader, Director, Office of Transportation
6. J. B. Penn, Deputy Administrator, Economics, Statistics, and Cooperatives Service
7. Eddie F. Kimbrell, Deputy Administrator, Commodity Services, Food Safety and Quality Service
8. Luverne L. Gast, Deputy Administrator, Compliance, Food Safety and Quality Service
9. OP Representative, Executive Secretary

VII. International Affairs and Commodity Programs

1. James H. Starkey, Deputy Under Secretary for International Affairs, Chairperson
2. James Michael Kelly, Assistant General Counsel, Legislative Litigation, Research and Operations
3. Ray Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service
4. Thomas R. Hughes, Administrator, Foreign Agricultural Service
5. James D. Deal, Manager, Federal Crop Insurance Corporation
6. Kelly M. Harrison, General Sales Manager and Associate Administrator, Foreign Agricultural Service
7. Quentin M. West, Special Assistant for International Scientific and Technical Cooperation and Director, Office of International Cooperation and Development
8. Thomas C. Nelson, Deputy Chief, National Forest System, Forest Service
9. OP Representative, Executive Secretary

VIII. Science and Education

1. Anson R. Bertrand, Director of Science and Education, Chairperson
2. Keith Shea, Associate Deputy Chief for Research, Forest Service
3. Thomas N. Shiflet, Director, Ecological Sciences and Technology Division, SCS
4. Douglas R. Leisz, Associate Chief, Forest Service
5. Melvin Cotner, Director, Natural Resource Economics Division, Economics, Statistics, and Cooperatives Service
6. David G. Unger, Associate Chief, Soil Conservation Service
7. Robert E. Buckman, Deputy Chief, Research, Forest Service
8. Ronello M. Davis, Special Assistant to Under Secretary for International Science and Education
9. OP Representative, Executive Secretary

IX. Natural Resources and Environment

1. Ned D. Bayley, Acting Deputy Assistant Secretary for Natural Resources and Environment, Chairperson
2. James M. Neilson, Deputy Director for Joint Planning and Evaluation, Science and Education Administration
3. R. Max Peterson, Chief, Forest Service
4. Barry Flamm, Director, Office of Environmental Quality
5. Weldon B. Denny, Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
6. Norman A. Berg, Chief, Soil Conservation Service
7. Ralph J. McCracken, Associate Director of Science and Education
8. Edward L. Hastey, Associate Director, Bureau of Land Management, Department of Interior
9. OP Representative, Executive Secretary

[FR Doc. 80-9857 Filed 3-31-80; 8:45 am]
BILLING CODE 3410-01-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

NAME: Joint Council on Food and Agricultural Sciences.

DATES AND TIMES: April 16, 17, 18, 1980: 1 p.m. to 5 p.m. (April 16); 8:30 a.m. to 5 p.m. (April 17); 8:30 a.m. to noon (April 18).

PLACE: Hospitality House, 2000 Jefferson Davis Highway, Arlington, Va.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before and after the meeting with the contact person below.

PURPOSE: Review ongoing activities of various Council committees and work groups, including those concerned with program structure, marketing coordination, manpower, crop losses and others; to formulate actions arising

out of recent reports, including the 1979 Annual Report, reports on human nutrition, small farms and areas of emphasis in the food and agricultural sciences for the early 1980's; to conduct an evaluation workshop; and to formulate further plans and actions to foster coordination and planning in public and private research, extension and teaching in food and agricultural science.

CONTACT PERSON: Dr. Alan R. Bird, Acting Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 18th day of March 1980.

John Stovall,

Acting Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80–9854 Filed 3–31–80; 8:45 am]

BILLING CODE 3410–03–M

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

NAME: Executive Committee of the Joint Council on Food and Agricultural Sciences.

DATE AND TIME: April 16, 1980, 8:30 a.m.—12 noon.

PLACE: Hospitality House, 2000 Jefferson Davis Highway, Arlington, Va.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before or after the meeting with the contact person below.

PURPOSE: To conduct ongoing Council business relating to the Quarterly Meeting, to review work group and committee activities and assignments, interrelationships with regional coordinating activities and other thrusts to foster coordination and planning in public and private research, extension and teaching in food and agricultural science.

CONTACT PERSON: Dr. Alan R. Bird, Acting Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room, 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 18th day of March, 1980.

John Stovall

Acting Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80–9855 Filed 3–31–80; 8:45 am]

BILLING CODE 3410–03–M

National Agricultural Research and Extension Users Advisory Board Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

NAME: National Agricultural Research and Extension Users Advisory Board.

DATE: April 9–11, 1980.

TIME AND PLACE: April 9, 1980, 8:00 a.m.—5:00 p.m.; April 10, 1980, 8:00 a.m.—3:00 p.m., 7:00 p.m.—8:30 p.m.; April 11, 1980, 8:00 a.m.—12:00 noon; Marriott Inn, 200 Marina Boulevard, Berkeley, California.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: Time will be made for non-member statements on April 10 (12:30—3:00 p.m. and 7:00—8:30 p.m.), or the public may file written comments before or after the meeting with the contact person below.

PURPOSE: On April 10 the Board will hold an open forum to hear statements by food and agriultural research and extension users regarding their priorities and needs for research and extension programs. On April 9 and 11, the Board will be reviewing general program policy and other new issues it intends to inquire about this year. The Board will also be reviewing USDA research and extension plans and the USDA response to its 1979 report as well as discussing non-Federal research and extension programs.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Dr. James Meyers, Executive Secretary of the Users Advisory Board, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3684.

Done at Washington, D.C., this 18th day of March, 1980.

John Stovall,

Acting Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 80–9856 Filed 3–31–80; 8:45 am]

BILLING CODE 3410–03–M

Cooperative Forestry Research Advisory Board and Advisory Committee

Correction

In FR Doc. 80–9307, published at page 20145, on Thursday, March 27, 1980, in the third column on page 20145, the heading and information under **PLACE** should be corrected to read:

PLACE: Hobcaw Barony, Georgetown, South Carolina
Committee and Joint Sessions—Conference Room
Board—Library

BILLING CODE 1505–01–M

Office of the Secretary

Meat Import Limitations; Second Quarterly Estimate

Public Law 88–482, approved August 22, 1964 as amended by the Meat Import Act of 1979 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated quantity of meat articles prescribed by Section 2(c) of the Act.

In accordance with the requirements of the Act, the following second quarterly estimates for 1980 are published.

1. The estimated aggregate quantity of meat articles prescribed by Section 2(c) of the Act during the calendar year 1980 is 1,516 million pounds.

2. The estimated aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1980 is 1,571 million pounds.

Since the estimated quantity of imports is less than 110 percent of the estimated quantity prescribed by Section 2(c) of the Act, no limitations for the calendar year 1980 on the importation of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61 and 107.62), are required under the Act.

Done at Washington, D.C., this 28th day of March 1980.

Tm Williams,

Acting Secretary.

[FR Doc. 80-10071 Filed 3-31-80; 11:38am]

BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

[Docket 37575]

Central Zone—Caracas/Maracaibo, Venezuela Case; Postponement of Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference scheduled to be heard on March 31, 1980 (45 FR 12859, dated February 27, 1980), is hereby postponed until April 3, 1980, at 9:30 a.m. (local time) in Hearing Room 1003 A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 26, 1980.

Henry M. Switkay,

Administrative Law Judge.

[FR Doc. 80-9633 Filed 3-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37575]

Central Zone-Caracas/Maracaibo, Venezuela Case; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Marvin H. Morse to Administrative Law Judge Henry M. Switkay.

Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., March 26, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-9634 Filed 3-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37931; Order 80-3-169]

Skip-Stop Restriction Removal

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-3-169, Skip-Stop Restriction Removal Subpart Q Proceeding, Docket 37931.

SUMMARY: The Board is proposing to eliminate Conditions (4) and (5) from the certificates of the seven local service carriers—Frontier Airlines, Hughes Airwest, Ozark Air Lines, Piedmont Aviation, Republic Airlines, Texas International Airlines, and USAir—which require them to provide two daily round trips at each intermediate point on their routes. There would continue to be such requirements as Service Incentive Payments (SIP) points, however, for Frontier, Airwest, Ozark, Piedmont, and Republic, which carriers receive Federal subsidy (see Appendix A).

An order making final the tentative findings and conclusions will be issued if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by May 5, 1980, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed in Appendix A.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 37931, which we have entitled the *Skip-Stop Restriction Removal Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on the parties listed in Appendix A.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5198.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-3-169 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-3-169 to that address.

By the Civil Aeronautics Board: March 26, 1980.

Phyllis T. Kaylor,

Secretary.

Appendix.—List of SIP Points

Frontier

Alamosa, Cheyenne, Cody, Cortez, Durango, Farmington, Fayetteville, Ark., Ft. Leonard Wood, Fort Smith, Gallup, Grand Island, Gunnison, Harrison, Hayden, Jackson, Wyo., Joplin, Kalispell, Laramie, Lawton, Liberal, Manhattan, Minot, Montrose, North Platte, Pueblo, Riverton, Rock Springs, Salina, Scottsbluff, Topeka, Vernal.

Airwest

Eureka, Idaho Falls, Kalispell, Klamath Falls, Lewiston, Idaho, Pasco, Pocatello, Redding, Redmond, Twin Falls, Yakima, Grand Canyon.

Ozark

Bloomington, Ill., Burlington, Cape Girardeau, Columbia, Mo., Decatur, Ill., Dubuque, Fort Dodge, Joplin, Marion, Mason City, Mattoon, Mount Vernon, Paducah, Quincy, Rockford, Sioux City.

Piedmont

Beckley, Bluefield, Charlottesville, Florence, Greenbrier, Hickory, Jacksonville, N.C., Kinston, Lynchburg, Myrtle Beach, Staunton, Wilmington, N.C., Winston-Salem.

Republic

Aberdeen, Albany, Ga., Alpena, Anniston, Athens, Bemidji, Benton Harbor, Brainerd, Brookings, Columbus, Miss., Devils Lake, Dothan, Eau Claire, Eglin, Escanaba, Fairmont, Gadsden, Grand Forks, Greenville, Miss., Greenwood, Gulfport, Hibbing, Houghton, Huron, International Falls, Iron Mountain, Ironwood, Jackson, Tenn., Jackson, Mich., Janesville, Kalamazoo, La Crosse, Laurel-Hattiesburg, Manistee, Manitowoc, Mankato, Marquette, Menominee, Meridian, Minot, Mitchell, Monroe, Moultries, Muscle Shoals, Muskegon, Norfolk, Nebr., Oshkosh, Panama City, Pellston, Pierre, Rhinelander, Sault Ste. Marie, Sioux City, Thief River Falls, Traverse City, Tupelo, Tuscaloosa, University/Oxford, Valdosta, Watertown, Wausau, Worthington, Yankton.

[FR Doc. 80-9632 Filed 3-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 36473, 36715; Order 80-3-145]

Qantas Airways, Ltd., Excess Baggage Charges; Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of March, 1980.

On August 10, 1979, Qantas Airways Limited (Qantas) filed tariff revisions proposing an excess-baggage charge of $6 per piece between Honolulu and San Francisco, effective September 9, 1979.[1] The charge applied solely to passengers making a stopover in Honolulu, en route from Sydney to San Francisco on Qantas. On August 15, the carrier requested special tariff permission to amend that filing on short notice.[2] This

[1] Revisions to Rule 16(v)(3)(h)(1)(iii) of Tariff C.A.B. No. 55, issued by Air Tariffs Corporation, Agent.

[2] The broader, amended rule would have specified that the $6 charge applies between Honolulu and San Francisco in both directions, for passengers traveling on a through Qantas ticket to or from points outside the United States.

request was denied by the Chief, Tariffs Section, under delegated authority, and the original, unamended filing took effect on September 9, 1979. On September 12, Qantas filed a second amendment of the tariff for effectiveness October 12, 1979, making it applicable to Honolulu stopover passengers traveling on a through Qantas ticket to or from any point in Australia, not merely eastbound from Sydney.

Pan American World Airways, Inc. (Pan American) filed a complaint on August 28, 1979, urging the Board to reject or suspend the Qantas filings and set the matter for investigation. The DHL Corporation (DHL) and Qantas submitted answers to the complaint on September 4 and 6, respectively. On September 26, 1979, Pan American filed a complaint against the September 12 tariff filing, and Qantas and DHL filed answers to the complaint on October 4.

In its complaints, Pan American contends that Qantas could use its revised excess baggage provisions to accommodate courier shipments as well as passenger baggage; that Qantas has transported courier shipments between Hawaii and the West Coast in the past, in violation of its foreign air carrier permit; that the movement of courier traffic between U.S. points constitutes cabotage; that Qantas cannot rely on U.S.-flag carriers' tariffs as authority for handling courier shipments between U.S. points; and insofar as the current tariff revisions are intended to authorize such transportation, they are unlawful.

In response, Qantas maintains that transporting excess baggage between U.S. points incident to a *bona fide* journey to or from a foreign point is clearly lawful and does not constitute cabotage; the revised tariff provisions establish a fair and reasonable rate for excess baggage on the Honolulu-West Coast leg of an international trip; there is no way to distinguish between couriers and other passengers with excess baggage who make a stopover in Honolulu en route to or from the West Coast, on a through Qantas ticket; and suspension of Qantas' tariff would not only deny Qantas the right to carry the excess baggage of *bona fide* stopover passengers, but could leave those passengers in the position of paying the full West Coast-Sydney rate for excess baggage carried only on the West Coast-Hawaii leg of the journey.

In support of Qantas' tariff, DHL argues that there are no statutory grounds for suspending Qantas' tariff; that the revisions merely restructure the price of an existing service, and in no way involve cabotage; that a tariff complaint is an inappropriate means for investigating the lawfulness of conduct that might occur in the course of providing service pursuant to a tariff; and that the practice of accepting and transporting courier shipments as baggage is legal, engaged in by Pan American and all other carriers, and necessary to preserve the inherent advantages of air transportation and meet the communication needs of international commerce.

Upon consideration of the pleadings and all relevant facts, we find that the Qantas revised excess-baggage tariff may be unlawful and should be investigated. Since the public will benefit from these lower excess baggage charges pending our investigation, we decided not to suspend the tariff.

The principal issue to be decided is whether the Qantas tariff violates section 1108(b) of the Act.[3] That section provides that foreign air carriers shall not take on at any point within the United States, persons, property, or mail carried for compensation or hire and destined for another point within the United States. If the baggage were considered "property" for purposes of § 1108(b), then it would be cabotage when carried by Qantas. However, if the baggage were identified with "passenger" movement, then it would not be cabotage, as Qantas' passengers all move in foreign air transportation. Pan American appears to believe that only a certain type of baggage, *i.e.*, courier shipments, should be considered "property", and that Qantas does not violate section 1108(b) when it carries a passenger's personal property solely between two domestic points. Thus, the primary issue to be resolved is whether the tariff permits air transportation in violation of section 1108(b) of the Act. If the answer to this question is yes, then the Board must decide whether the violation exists only with respect to the carriage of courier shipments.[4]

Since these questions are legal in nature and there do not appear to be any material issues of fact in dispute, we see no reason to convene an oral evidentiary hearing. Therefore, this investigation will be decided on the basis of written pleadings addressed directly to the Board, absent a showing that an oral hearing is necessary. Briefs on the issues described above and any other matters relating to the lawfulness of the Qantas tariff should be filed two months from the date of adoption of this order and reply briefs should be filed one month thereafter. Any person requesting an oral evidentiary hearing should file a motion within 14 days stating in detail why such hearing is considered necessary and what relevant and material facts would be established in such hearing that could not be resolved in written pleadings. The Chief, Legal Division, Bureau of International Aviation, is delegated authority to regulate the course and conduct of the investigation and to resolve all procedural motions and requests.[5]

Accordingly, pursuant to sections 102, 204(a), 403, 404 and 1002 of the Federal Aviation Act of 1958, as amended:

1. We institute an investigation to determine whether the provisions of Revision to Rule 16(v)(3)(h)(1)(iii) of A.T.C. CAB No. 55, and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Any interested person may file a brief concerning the lawfulness of the Qantas tariff within 60 days of adoption of this order; reply briefs will be due 30 days thereafter;

3. Motions for an oral evidentiary hearing should be filed within 14 days of adoption of this order;

4. We delegate to the Chief, Legal Division, Bureau of International Aviation, authority to regulate the course and conduct of this investigation and to resolve motions and requests;

5. Except to the extent granted herein, the complaints of Pan American World Airways, Inc., in Dockets 36473 and 36715 are dismissed;

6. Copies of this order shall be filed with the tariff and shall be served on Qantas Airways, Ltd., Pan American World Airways, Inc., and DHL Corporation, which are hereby made parties to the investigation instituted above.

This order will published in the **Federal Register.**

By the Civil Aeronautics Board (all members concurred).

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-9835 Filed 3-31-80; 8:45 am]

BILLING CODE 6320-01-M

[3] 72 Stat. 798, 49 U.S.C. 1508.

[4] The $6 charge may be presumed reasonable and will not be placed in issue since it matches the existing excess baggage charges in the market.

[5] Of course motions for an oral evidentiary hearing will be considered by the Board.

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on April 29, 1980, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents associated with agricultural production; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4:00 p.m., is: (1) Introductory remarks by the Director of the Census Bureau; (2) current Bureau activities and legislative situation; (3) review of the status of 1978 Census of Agriculture publications; (4) Standard Industrial Classification (SIC) changes proposed; (5) 1980 census of population—rural and farm demographic characteristics and undercount; (6) 1982 Census of Agriculture plans, including: (a) content and publications, (b) research plans and projects, and (c) concepts; and (7) Committee recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Charles E. Rogers, Acting Chief, Agriculture Division, Bureau of the Census, Room 3019, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233.) Telephone (301) 763–5538.

Dated: March 26, 1980.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 80-9797 Filed 3-31-80; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

National Radio Astronomy Observatory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79–00458. Applicant: National Radio Astronomy Observatory Associated Universities Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Repair of Varian Klystron Type VRB–2112A SN 70299. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended Use of Article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency (84 gigahertz (GHz) in the range between 80–100 GHz. The National Bureau of Standards advises in its memorandum dated January 16, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-9755 Filed 3-31-80; 8:45 am]

BILLING CODE 3510-25-M

University of Florida; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735), Washington, D.C.

Docket Number: 79–00361. Applicant: University of Florida, College of Pharmacy, Box J–4, J. Hillis Miller Health Center, Gainesville, FL 32610. Article: JASCO Model MCD–1B Electromagnet with Power Supply and Accessories. Manufacturer: JASCO, Japan. Intended use of article: The foreign article is intended to be used in two main areas: (a) development of the magnetic circular dichroism technique as an analytical tool and (b) to understand drug macromolecule interactions. A variety of drugs alone and in conjuction with albumin, mucleic acid and other macromolecules will be examined. Application received by Commissioner of Customs: July 27, 1979. Advice submitted by the Department of Health, Education and Welfare: December 5, 1979. Article ordered: May 25, 1979.

Docket Number: 79–00369. Applicant: University of Oregon, Department of Biology, Eugene, Oregon 97403. Article: Camera and Microscope Objectives, Condenser. Manufacturer: Leitz and Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of cell division with stress on the mitotic spindle in order to control e.g., uncontrolled growth (cancer). Application received by Commissioner of Customs: August 9, 1979. Advice submitted by the Department of Health, Education and Welfare: December 5, 1979. Article ordered: May 7, 1979.

Docket Number: 79–00420. Applicant: Purdue University, FREH Bldg., W. Lafayette, IN 47907. Article: Electron Microscope Accessories consisting of Specimen Cooling Holder, Heating Holder and Power Control Unit. Manufacturer: JEOL, Ltd., Japan. Intended use of Article: The article is intended to be used for a wide range of research projects including: the study of crystallographic aspects in solid electrolytes of beta alumina-type compounds, a study related to the understanding and control of the polytypical behavior in a silicon carbide and related materials, studies involving multiply periodic structures of compounds of Magneli phases and materials such as TaS_2, $TaSe_2$, $NbSe_2$, $TiSe_2$ and $LaGe_2$. Other studies involving geological samples include research on sulfide minerals for which transmission electron microscopy would allow the identification of inverison mechanism, twinning faults, analysis of small grain inclusions, and the ability to have sufficient resolution to observe effects of ion omission in minerals. Further geological studies will include the mechanism and kinetics of exsolution in pyroxenes where high analytical capabilities are needed to determine coherent phase boundaries. Application received by Commissioner of Customs: September 27, 1979. Advice submitted by the National Bureau of Standards: December 12, 1979. Article ordered: August 6, 1979.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education and Welfare and the National Bureau of Standards in their respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that they know of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–9754 Filed 3–31–80; 8:45 am]

BILLING CODE 3510–25–M

Mallory Institute of Pathology Foundation; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5 P.M. at 666 11th Street NW., Room 735, Washington, D.C.

Docket Number: 79–00427. Applicant: Mallory Institute of Pathology Foundation, 784 Massachusetts Avenue, Boston, Mass. 02118. Article: LKB 14800–3 Cryokit complete. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of radioactive lung samples from experimental animals. Samples 1 mm cubed will be frozen and sectioned very thinly for examination in the electron microscope. Experiments will consist of instillation of radioactive drugs into the trachea of hamsters to discover the route of drug absorption and clearance in the trachea and lung. Advice submitted by the Department of Health, Education, and Welfare: January 3, 1980.

Docket Number: 79–00448. Applicant: Washington University School of Medicine, Department of Physiology and Biophysics, 660 South Euclid, St. Louis, Missouri 63110. Article: Goniometer for Model EM 10A Transmission Electron Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is an accessory to an existing electron microscope being used by several groups of investigators. In general, these involve transmission electron microscopy of thin sections of biological material with the need for high resolution and for the ability to examine material at varying angles of tilt as provided by a goniometer. Research to be conducted will include studies of the following:

(1) Sensory receptors especially muscle spindles.

(2) Fine structure of synapses, of muscle and of epithelial cells in lamprey.

(3) Electron microscopic studies will be carried out in conjunction with research on the mechanisms determining the establishment and maintenance of synapses in sympathetic neurons.

(4) Mechanisms of uptake of lysosomal enzymes by macrophages utilizing ferritin-coupled ^{125}I-ligands as probes for transmission and radioautographic electron microscopy.

Advice submitted by the Department of Health, Education, and Welfare: January 3, 1980.

Docket Number: 79–00457. Applicant: National Radio Astronomy Observatory, Associated University, Inc., 2010 N. Forbes Blvd., Suite 100, Tuscon, Arizona 85705. Article: Two (2) each, Varian VAT–2002 B14 Water Cooled Heat Sink; and Varian VAB–2001 B13 Water Cooled Heat Sink. Manufacturer: Varian Associates Canada, Ltd. Canada. Intended use of article: The articles are accessories to existing klystron systems which are being used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver that is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Advice submitted by the National Bureau of Standards: January 24, 1980.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare and the National Bureau of Standards in their respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that they know of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily

adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-9753 Filed 3-31-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: Fishery Management Plan (FMP) Development for Scallops and Lobster; Silver Hake Allocations; Multispecies Task Force; Georges Bank Workshop on short and long-term monitoring programs; and other committee business.

DATES: The meeting will convene on Wednesday, April 23, 1980, at 10 a.m. and will adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the John F. Kennedy Building, Room 307, Government Center, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, One Newbury Street, Peabody, Massachusetts, Telephone: (671) 535-5450.

Dated: March 26, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-9845 Filed 3-31-80; 8:45 am]

BILLING CODE 3510-22-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Change in Meeting Date

Authority of Committee: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Place of Meeting: On Wednesday, March 19, 1980, the Council on Wage and Price Stability announced that the next meeting of its Pay Advisory Committee would be April 2, 1980, at 2:00 p.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503 (45 FR 17627). The date and time of the meeting have been changed to April 8, 1980, at 10:00 a.m.; the meeting will take place in Room 2008 at the above address.

Purpose of the Meeting: The purpose of the meeting will be to continue unfinished business from the Committee's earlier meetings.

Public Participation: The meeting of the Pay Advisory Committee will be open to the public. Public attendance will, however, be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: March 28, 1980.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 80-10060 Filed 3-31-80; 9:56 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Notification of Meeting Change

The Wednesday and Thursday portions of the agenda for the Defense Advisory Committee on Women in the Services (DACOWITS) Spring Meeting (21-25 April 1980) as published in the **Federal Register** (Volume 45, No. 59, Tuesday, March 25, 1980, FR Doc 80—p. 19295) have been changed to the following:

Wednesday, 23 April 1980—OSD Conference Room, 1E801, the Pentagon

9:00 a.m. to 9:45 a.m.—Official opening.
10:00 a.m. to 12:00 noon—OSD/Service briefings.
12:00 noon to 1:30—Luncheon (by invitation only).
1:30 p.m. to 4:30 p.m.—Subcommittee meetings.
7:00 p.m. to 10:30 p.m.—Official Department of Defense formal reception and dinner (by invitation only).

Thursday, 24 April 1980—OSD Conference Room, 1E801, the Pentagon and Hotel Washington

9:00 a.m. to 12:00 noon—OSD/Service briefings.
12:00 noon to 1:30 p.m.—"No-Host" luncheon.
1:30 p.m. to 5:00 p.m.—Subcommittee meetings.
7:00 p.m.—Executive Committee and military representatives to DACOWITS meeting.

Dated: March 27, 1980.

O. J. Williford,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-9862 Filed 3-31-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

National Petroleum Council; Task Group of the Committee on Unconventional Gas Sources

Notice of Meeting

Notice is hereby given that the Committee on Unconventional Gas Sources will meet in April 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Uncoventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the meeting follows:

The second meeting of the Committee on Unconventional Gas Sources will be held on Tuesday, April 8, 1980, starting at 9:00 a.m., Concourse B, Whitehall Hotel, 1700 Smith Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review and discuss three draft volumes for issuance as an interim report:
   - Coal Seams
   - Devonian Shale
   - Geopressured Brines
3. Progress report of the Tight Gas Reservoirs Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Committee on Unconventional Gas Sources.

The meeting is open to the public. The Chairman of the Committee is

empowered to conduct the meeting in fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 17, 1980.

J. Lisle Reed,

Acting Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

March 17, 1980.

[FR Doc. 80-9737 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Office of the Assistant Secretary for Policy and Evaluation

Request for Assistance in Developing a Plan to Reduce U.S. Vulnerability to An Oil Import Disruption

AGENCY: Department of Energy.

ACTION: Request for Ideas and Suggestions To Assist in Developing a Plan For Substantially Reducing by 1985 U.S. Vulnerability to an Oil Import Disruption.

In July 1979, the President set a goal of reducing U.S. oil imports by one-half by 1990. The President set a goal of reducing U.S. oil imports by one-half by 1990. The President also initiated major legislative proposals to accomplish this goal.

The President's program included measures to conserve energy, to increase domestic oil production, and to accelerate development of alternative sources of energy including liquids and gas from coal, oil shale, biomass, unconventional gas, and increased use of direct solar energy. Because of the long lead times for implementing many of these proposals, the Department of Energy projects oil imports in 1985, without further action, to be about the same as they are now; the effects of the President's program would come primarily between 1985 and 1990. Thus, the United States will continue to be highly dependent on imported oil for at least the next 5 years.

Among the consequences of the U.S. dependence on imported oil are high prices, uncertainty about the long-run price and availability of oil, and the vulnerability of our economy to supply disruptions. Indeed, the events of the past year have significantly increased the risks of our dependence on large quantities of imported oil from insecure sources.

Secretary of Energy Duncan has asked the Assistant Secretary for Policy and Evaluation in the Department of Energy (DOE) to develop proposals for accelerating the schedule for meeting the President's import reduction goal. DOE will develop a plan for substantially reducing by 1985 our vulnerability to an oil import disruption. The plan would consist of proposed actions which would (1) reduce the overall level of imports by 1985, and (2) provide hedges against the effects of a disruption occurring between now and 1985. This work will extend over several months and will likely provide the foundation for the third National Energy Plan due in March 1981.

The next couple months will be spent consulting widely inside and outside the Government to gather ideas about actions that should be taken to reduce our vulnerability. In this connection, any suggestions about measures we should consider in preparing this plan would be welcome.

The 1979 U.S. energy consumption diagram below highlights several ways in which imports and vulnerability could be reduced. Conservation efforts in the major final demand sectors could reduce oil use directly or could free up other fuels, such as gas, to substitute for oil Reduction in demand for electricity may also result in oil savings. Increased domestic production, both of oil and of other fuels that could substitute for oil (e.g. coal), would reduce imports. In the plan discussed above, we will identify the specific types of energy production and consumption that could be changed in the near term and the specific steps required to make those changes. To design a policy that makes sense, we also need to understand the economic and noneconomic costs of making those changes.

The following formats may be helpful in providing the DOE with sufficient information so that we may analyze the proposals. Please note any information that may be proprietary.

Actions to Reduce Imports by 1985

1. Description of action.

2. Estimated savings in oil imports in 1985 and 1990 with explanation of methodology used to estimate savings.

3. Exoncomic impact of the action with costs compared to economic benefits of the associated import reduction.

4. Evaluation of other factors, including consideration of effects on the environment, income distribution, international relations, etc.

5. Steps and possible schedule for implementation.

Actions that Provide Responses to Counteract Oil Import Disruption

1. Economic cost of the actions compared to the benefits under a supply disruption with the size, length, and probability treated under various assumptions.

2. Evaluation of noneconomic factors.

3. Specific steps needed to acquire the hedge.

4. Additional steps that would be taken during a supply disruption to obtain the benefits of the hedge.

As our work schedule is very tight, please submit written suggestions/ideas by April 30, 1980 to the Assistant Secretary for Policy and Evaluation, Room 7E–088, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585

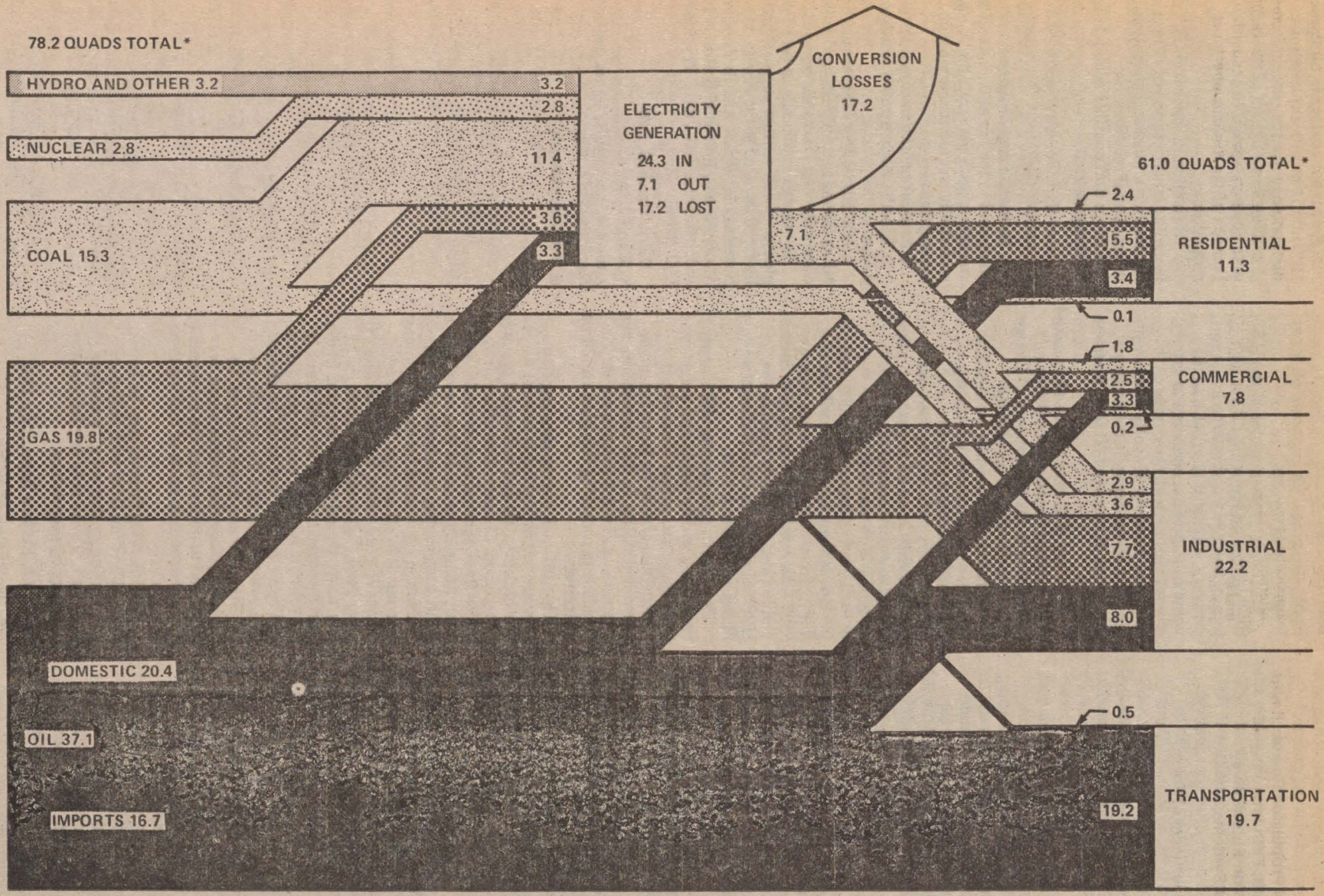
Dated: March 26, 1980.

William W. Lewis,

Assistant Secretary, Policy and Evaluation, Department of Energy.

BILLING CODE 6450-01-M

1979 U.S. ENERGY CONSUMPTION
(QUADRILLION BTUS)



*EXCLUDES 1.8 QUADS OF BIOMASS USED IN THE PULP AND PAPER INDUSTRY NOT CURRENTLY ACCOUNTED FOR IN DOE STATISTICS.

[FR Doc. 80-9847 Filed 3-31-80; 8:45 am]
BILLING CODE 6450-01-C

Office of Conservation and Solar Energy

Automotive Propulsion Research and Development; Fifth International Symposium on Automotive Propulsions Systems; Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy will hold the Fifth International Symposium on automotive propulsion systems, and members of the public are hereby invited to attend as observers. Papers solicited from the worldwide technical community will be presented on the current state of research and development on automotive propulsion systems and on alternative fuels.

DATES: April 14–18, 1980, 9 a.m. to 5 p.m.

ADDRESS: Hyatt Regency Dearborn Hotel, Dearborn, Michigan.

FOR FURTHER INFORMATION CONTACT: Ms. Terry M. Levinson, CS–81, U.S. Department of Energy, Mail Station 5H–044, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone (202) 252–8067.

SUPPLEMENTARY INFORMATION: Today's notice follows through on a statement in the notice of proposed regulations (43 FR 31929, (July 24, 1978) under section 304(f) of the Department of Energy Act of 1978—Civilian Applications (Act), 15 U.S.C. 2703(f), in which the Department of Energy (DOE) announced its intention to open meetings to public attendance. Section 304(f) requires the DOE to issue administrative regulations prescribing procedures, standards, and criteria for review and certification of automotive propulsion research and development to be funded by new grants, cooperative agreements, or contracts, or as new DOE or agency projects under the Act. The purpose of the review and certification process is to insure that research and development newly funded under the Act will supplement rather than supplant, duplicate, displace, or lessen the same activities in the private sector.

The final regulations (43 FR 55228, November 24, 1978) provide for notice to the public of proposed research and development and an opportunity to file written objections. To enable the public to avail itself of the opportunity to participate in the review and certification process, the DOE stated in the notice of the proposed regulations that it would give notice of meetings, such as the one announced today, since relevant information is to be presented.

Below is a preliminary agenda:

Date, Topic, and Session

April 14—General Session, morning; Applications and Market Trends, afternoon.

April 15—Automotive Gas Turbine Systems *and* Engine-Fuel Relationships (Concurrent Sessions), morning; Heavy-Duty Gas Turbine Upgrading and Commercialization *and* Data Measurements and Projections (Concurrent Sessions), afternoon.

April 16—Stirling Engine Systems, Part 1, *and* Diesel Advances (Concurrent Sessions), morning; Stirling Engine Systems, Part 2, *and* Advanced Spark Ignition Engines (Concurrent Sessions), afternoon.

April 17—Alternative Fuels, Part 1, *and* Vehicle Systems (Concurrent Sessions), morning; Alternative Fuels, Part 2, *and* Materials Technology (Concurrent Sessions), afternoon.

April 18—Symposium Summary, morning.

Registrants at the meeting pay a $125 registration fee which includes a symposium banquet, refreshments, preprints, and subsequently a copy of the report of the proceedings. Members of the public may register and pay the fee if they wish to avail themselves of these services and materials. However, if they do not, they are free simply to attend meeting sessions and listen to the proceedings. Members of the public intending to respond to this notice are requested to so advise the information contact named above in advance so that appropriate seating arrangements can be made.

Issued in Washington, D.C. March 26, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

[FR Doc. 80-9846 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed concerning selling prices alleged to be in excess of the maximum lawful selling price for motor gasoline. The Consent Orders do not address or limit any liability with respect to the consenting firm's prior compliance with the Mandatory Petroleum Price and Allocation Regulations. Among other matters, the consenting firms agree to reduce prices for each grade of gasoline to no more than the maximum lawful selling price, make a proper posting as required by law, and otherwise comply with applicable law. For further information regarding these Consent Orders, please contact Leon Snead, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW, Washington, DC 20461, telephone number 202–653–3569.

Issued in Washington, DC on the 25th day of March, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Station name	Address	Date
NORTHEAST DISTRICT		
Overseas Motors (Mobil).	337 Pleasant St., Belmont, MA.	2-01-80
Quillard Bros. Garage.	75 Tyler St. (Texaco), Pittsfield, MA.	2-01-80
Lavoie's Garage	604 Boston Road, Springfield, MA.	2-08-80
Peterson's Country Store.	G Center St. (Mobil), Canterbury Center, NH.	2-08-80
Bowlby's Gulf Service.	13 So. Broadway, Salem, NH.	2-06-80
Village Market (Texaco).	Main Street, Fremont, NH.	2-08-80
Florian R. Svitak T/A Linthicum Exxon.	Belle Grove & Old Annapolis Roads, Linthicum, MD 21090.	2-05-80
J. A. Whitelock T/A Whitelock's Exxon.	400 Ritchie Highway, Baltimore, MD 21225.	2-05-80
Texas Gas Station, Nick Tserkis, Pres.	1500 Eastern Avenue, Baltimore, MD.	2-06-80
Edward Hughes T/A Hughes' Texaco.	York & Seminary Avenues, Lutherville, MD 21093.	2-07-80
Lew Shields T/A Cherry Hill Amoco.	2920 Waterview Avenue, Baltimore, MD 21230.	2-07-80
West End Automotive Service, Inc. James Moray, Pres.	2081 West Street, Annapolis, MD 21401.	2-07-80
Frank Schumaker T/A Schumaker's Exxon.	3529 Annapolis Rd., Baltimore, MD 21227.	2-08-80
Cleodell E. Johnson T/A Johnson's Exxon.	Broad & Christian Sts., Philadelphia, PA 19147.	2-05-80
Cunningham Park Service Station.	79–10 Springfield Blvd., Bayside, NY 11364.	1-30-80
Leslie & Gabor Service Station.	38–15 Queens Boulevard, Long Island City, NY 11101.	12-31-79
Cherry Valley Service Station.	600 Merrick Road, Rockville Centre, NY 11570.	1-31-80
Parkway Auto Service.	3239 Sunrise Highway, Islip Terrace, NY 11752.	2-04-80
Hillside Service Station.	1098 Richmond Road, Staten Island, NY 10314.	2-04-80
B&P Service Station....	104 Franklin Avenue, Valley Stream, NY 11580.	1-21-80
Myrtlewood Service Station.	90–05 Myrtle Avenue, Glendale, NY 11385.	2-04-80
Ted's Service Center..	1278 Hempstead Turnpike, Elmhurst, NY 11003.	1-10-80
Alpat Service Ltd.....	3644 Jerome Avenue, Bronx, NY 10467.	2-05-80

Station name	Address	Date
NORTHEAST DISTRICT		
Thomas G. Davis	4632 Lake Shore Road, Hamburg, NY 14075.	2-07-80
Anthony R. Cheff Exxon Servicenter.	1202 Hyde Park Blvd., Niagara Falls, NY 14301.	2-07-80
Mangat Auto Care	549 Old Country Road, Westbury, NY 11590.	2-11-80
Annandale Service Station.	5103 Amboy Road, Staten Island, NY 10312.	2-01-80
J&V Service Station	6202 New Utrecht Avenue, Brooklyn, NY.	1-28-80
Steven Toth, Professional Towing.	3174 Delaware, Kenmore, NY 14217.	2-11-80
South Windsor Automotive.	718 Ellington Road, So. Windsor, CT.	2-14-80
Wyoming Exxon	Route 138, Wyoming, RI.	2-13-80
Ron's Texaco	190 Amherst Street, Nashua, NH.	2-15-80
George's Exxon	1200 Brighton Avenue, Portland, ME.	2-12-80
Pete's Maine Mall	417 Maine Mall Road, So. Portland, ME.	2-12-80
Bearde's Exxon	447 Southern Artery, Quincy, MA.	2-12-80
William's Auto	313 Boston Road, Billerica, MA.	2-12-80
Fred's Friendly Sunoco.	Route 44, Raynham, MA 02767.	2-13-80
Thomas Conway T/A Conway Exxon.	2111 York Road, Timonium, Maryland 21093.	2-21-80
Michael Miron T/A Miron's Mobil.	915 Chesapeake Avenue, Annapolis, MD 21043.	2-21-80
Michael Miron T/A Eastport Shell.	6th Street & Severn Ave., Annapolis, MD 21403.	2-21-80
Laurence L. Stiltz T/A Stiltz's Exxon.	Waugh Chapel Road and Rt. 3, Gambrills, MD 21054.	2-22-80
George A. Feld T/A Seminary Hill Exxon.	1420 York Road, Lutherville, MD 21093.	2-25-80
Horace E. Pugh T/A Pugh's Arco.	758 N. Dupont Highway, Dover, DE 19901.	2-19-80
Raymond P. Lewis T/A Ray's Texaco.	426 N. Dupont Highway, Dover, DE 19901.	2-19-80
Allen R. Gaines	136 N. Dupont Blvd., Dover, DE 19901.	2-20-80
Robert Jenkins T/A Dover Exxon.	11 N. Dupont Highway, Dover, DE 19901.	2-20-80
Gene Jones T/A Gene's Mobil.	1565 S. Dupont Blvd., Dover, DE 19901.	2-21-80
James Sollaway T/A Sollaway's Exxon.	Dupont Highway and Monrovia St., Smyrna, DE 19977.	2-22-80
G. E. Rose, T/A Rosey's Exxon.	Rt. 13 & Commerce St., Smyrna, DE 19977.	2-22-80
Quinn's Sunoco	260 Newbury Street, Peabody, MA.	2-20-80
Stanley Street Chevron.	Stanley & Long Streets, New Britain, CT.	2-21-80
College Service Station.	1707 Stanley Street, New Britain, CT.	2-22-80
First Stop Service Station.	32-32 Queens Boulevard, Long Island City, NY.	2-21-80
Garson Automotive Center.	185-25 No. Conduit Ave., Springfield Gardens, NY 11413.	2-21-80
Parkside Service Station.	340 4th Avenue, Brooklyn, NY 11215.	2-21-80
Harmel Service Station.	270 Sunrise Highway, Valley Stream, NY 11581.	12-26-79
NORTHEAST DISTRICT		
Vittas Service Station	8775 Bay Parkway, Brooklyn, NY 11214.	2-25-80
A & M Chevron	275 Glen Street, Glen Cove, NY 11542.	2-25-80
Smith's Service Station.	465 Broad, Kingston, NY 12401.	2-25-80
Edward Yeno Service Station.	Route 22, Dover Plains, NY 12522.	2-25-80
K. N. Cho Co	Grand Central Parkway, Queens, NY.	2-20-80
Phil's Gulf	185 Main Street, Binghamton, NY 13905.	11-28-79
Little Reb Auto Corporation.	117-27 Farmers Boulevard, St. Albans, NY 11412.	2-25-80
Ronjo Service Station.	31 Northern Boulevard, Great Neck, NY 11021.	2-26-80
Freda's Service Center.	3260 Broadway, New York, NY 10027.	2-26-80
Four Star Service Station.	36-20 Queens Boulevard, Long Island City, NY 11101.	2-27-80
Creeden Service Station.	Albany Post Road, Hyde Park, NY 12538.	2-26-80
J. R. J. Service Station.	1 Railroad Avenue, Roslyn, NY 11576.	2-28-80
Sabar Service Station.	1810 Utica Avenue, Brooklyn, NY 11234.	2-28-80
H&L Service Station	46-08 Kissena Boulevard, Queens, NY.	2-11-80
WASHINGTON, D.C. METROPOLITAN AREA		
Freestate Exxon	800 2nd Street, Laurel, MD 20810.	2-05-80
Westlawn Citgo	3040 Annandale Road, Falls Church, VA 22042.	2-08-80
Blair Park Exxon	7825 Georgia Avenue, NW, Washington, DC 20012.	2-12-80
Inces Texaco	1100 Eastern Avenue, NE, Washington, DC 20019.	2-13-80
Wheaton Manor Shell	2201 University Blvd., Wheaton, MD 20902.	2-15-80
Saya, Inc. Exxon	3128 Duke Street, Alexandria, VA 22314.	2-20-80
Merrifield Texaco	8413 Lee Highway, Fairfax, VA 22030.	2-26-80
Chapel Oaks Exxon	5830 Sheriff Road, Chapel Oaks, MD 20007.	2-28-80
SOUTHEAST DISTRICT		
I-10 Chevron Svc. Station.	Rt. 1, Box 723, Grand Bay, AL 36541.	1-15-80
Club Village Service Station.	100 Euclid Avenue, Mountain Brook, AL 35213.	2-08-80
Armstrong Gulf	3101 Cahaba Heights Rd., Birmingham, AL 35243.	2-07-80
Sarrels Texaco	1715-31st Street, Birmingham, AL 35221.	2-14-80
Petry's Texaco	4130 McFarland Blvd., Tuscaloosa, AL 35401.	2-19-80
Crawford's 15th Street Amoco.	1500 McFarland Blvd., Tuscaloosa, AL 35401.	2-19-80
Leo's Fina	315 S. Orange Blossom Trail, Orlando, FL 32805.	2-22-80
Carter's Chevron	P.O. Box V, Dundee, FL 33838.	2-21-80
SOUTHEAST DISTRICT		
Doug Carter Shell	Hwy. 27 & Oak St. S., Lake Wales, FL 33853.	2-21-80
George's Union 76	7601 E. Colonial Dr., Orlando, FL 32807.	2-20-80
Lake Wales Mobil	Hwy. 27 & Central Ave., Lake Wales, Fl.	2-21-80
T&S Amoco	5730 Johnson Street, Hollywood, FL 33021.	1-15-80
Mike's Fina	401 S. Dixie Hwy., Casselberry, FL 32707.	2-19-80
Miller's Gulf Service	4360 Henderson Blvd., Tampa, FL 33609.	2-13-80
Hughes & West Shell	2000 Drew Street, Clearwater, FL 33515.	2-14-80
Sunset Point Chevron.	1900 U.S. Hwy. 19 W., Clearwater, FL 33515.	2-14-80
Kendrick Shell Service	1920 U.S. 19 N., Clearwater, FL 33515.	2-14-80
Bill's Amoco	3304 S. Florida Avenue, Lakeland, FL 33803.	2-12-80
Harter's Texaco	198 U.S. 19 N., Clearwater, FL 33515.	2-14-80
Dale Mabry Standard	1001 S. Dale Mabry, Tampa, FL 33609.	2-13-80
Russ Thatcher's Chevron.	3320 Cortez Road W., Bradenton, FL 33505.	2-15-80
Circus World Shell	I-4 and U.S. 27, Davenport, FL 33837.	2-21-80
Paxou Amoco	3157 W. 5th Street, Jacksonville, FL 32205.	2-13-80
Arlingwood Exxon Service.	8237 Arlington Expressway, Jacksonville, FL 32211.	2-13-80
Howard's Exxon	640 Stockton Street, Jacksonville, FL 32204.	2-12-80
Ed Geis Exxon Service.	3460 Manatee Avenue, Bradenton, FL 33505.	2-15-80
Bob & John's Union	4607-14th Street W, Bradenton, FL 33507.	2-15-80
East Bay Exxon	15970 US Hwy 19 S., Clearwater, FL 33516.	2-14-80
Bill's 434 Mobil	Rt. 2 Box 589, Longwood, FL 32750.	2-20-80
Florida & Beacon Gulf	2101 S. Florida Ave., Lakeland, FL 33803.	2-12-80
Scotty's Standard Service.	1305 S. Florida Avenue, Lakeland, FL 33803.	2-12-80
Foley's Amoco Food Store.	Hwy 17/92 & Button Road, Casselberry, FL 32707.	2-19-80
Bradenburg's Amoco	1147 S. Federal Hwy., Boynton Beach, FL 33435.	1-18-80
Bouds Chevron	6013 E. Buffalo Avenue, Tampa, FL 33619.	1-16-80
P&W Standard Service.	1001 S. 78th Street, Tampa, FL 33619.	1-16-80
Drake Shell Service	8841 Fourth Street, St. Petersburg, FL 33702.	1-25-80
Excel Oil Company	8781 Sunset Drive, Miami, FL 33173.	2-06-80
Friendly Sunoco	3498 Dixie Hwy, Miami, FL 33133.	1-25-80
Western Trail Auto	6696 SW 8th Street, Miami, FL 33144.	1-28-80
Apple Service Center, Inc.	202 N. Federal Highway, Hollywood, FL 33020.	1-15-80

SOUTHEAST DISTRICT

Pool Shell	1125 E. Michigan Avenue, Orlando, FL 32806.	1-23-80
Jax-American Truck Plaza.	5912 New Kings Road, Jacksonville, FL 32209.	2-13-80
Park Plaza Exxon	7400-49th Street North, Pinellas Park, FL 33565.	1-17-80
Vern's Sunoco	902 E. Hillsboro Avenue, Tampa, FL 33604.	1-16-80
Canal's Mobil	501 E. Sligh Avenue, Tampa, FL 33617.	1-15-80
Sotolougo Mobil	3930 N. Nebraska Avenue, Tampa, FL 33603.	1-16-80
Weeks Standard	802 E. Buffalo Avenue, Tampa, FL 33603.	1-15-80
Jiui's Triangle Amoco	9900-4th Street North, St. Petersburg, FL 33702.	1-18-80
N.C. Service Station	18100 NW 2nd Avenue, Miami, FL 33169.	1-21-80
North Dade Shell	19101 NW 2nd Avenue, Miami, FL 33169.	1-22-80
Dean's Shell Service	1525 E. Colonial Drive, Orlando, FL 32803.	1-23-80
Mullins Service Station.	235 E. Princeton Avenue, Orlando, FL 32804.	1-22-80
Jack's Amoco	2401 Pembroke Road, Hollywood, FL 33020.	1-15-80
Tony's Union 76	301 W. Sunrise Blvd., Ft. Lauderdale, FL 33311.	1-15-80
Sunrise Gulf	2025 E. Sunrise, Ft. Lauderdale, FL 33324.	1-17-80
Cappy's Shell	1605 S. Semorau, Orlando, FL 32807.	1-22-80
Conway Circle Shell	5106 S. Conway Road, Orlando, FL 32809.	1-23-80
Colonial Plaza Shell	2800 E. Colonial Drive, Orlando, FL 32803.	1-25-80
Dover Shores Shell	4316 Curry Ford Road, Orlando, FL 32807.	1-23-80
Palacios Shell Servicenter.	700 N. Federal Highway, Hallandale, FL 33009.	1-17-80
City Hall Shell	2635 Hollywood Blvd., Hollywood, FL 33020.	1-17-80
Pinecastle Shell	7101 S. Orange, Orlando, FL 32809.	1-22-80
Doris's Little Market	RR 2, Hiram, GA 30141.	2-15-80
Hatcher's Chevron	I-75 & Twin Lakes Exit, Lake Park, GA 31636.	2-15-80
Kings Shell Service	4905 Buford Highway, Atlanta, GA 30341.	1-24-80
Emory Shell Service	1271 Clairmont Road, Decatur, GA 30033.	1-28-80
Williamsburg Shell	1923 Clairmon Road, Decatur, GA 30033.	1-28-80
Peachtree Phipps Shell.	3637 Peachtree Road, Atlanta, GA 30319.	1-23-80
Gay's Service Station	3387 Peachtree Road, Atlanta, GA 30326.	1-23-80
Shallowford Shell	2625 Shallowford Road, Atlanta, GA 30345.	1-23-80
Gary Mesh Chevron	2124 Johnson Ferry Road, Atlanta, GA 30319.	1-26-80
Floretta Shell	2755 Clairmout Road, Atlanta, GA 30329.	1-25-80
Ashburn Shell	Route 2, Ashburn, GA 31714.	2-15-80
Watson's Exxon	P.O. Box 84, Cordele, GA.	2-15-80

SOUTHEAST DISTRICT

Midway Standard	RR 1, Box 296, Somerset, KY 42501.	1-07-80
Coomer's Gulf Service	South Hwy 27, Somerset, KY 42501.	1-08-80
London Inn Shell	Route 1, Box 119, London, KY 40741.	1-08-80
Estepp's Bluegrass Shell.	1951 Stanton Way, Lexington, KY 40511.	1-09-80
Speaks Chevron Service.	1900 Newtown Pike, Lexington, KY 40511.	1-11-80
Van Meter Chevron	I-64 and Van Meter Road, Winchester, KY 40391.	1-11-80
Fords Standard Service.	Route 7, Box 92, Gulfport, MS 39501.	1-20-80
South of the Border	P.O. Box 30, Dillon, SC 29536.	1-31-80
Corner Grocery	5705 Stage Road, Memphis, TN 38134.	2-13-80
Whaley's Exxon Service Center.	3230 Austin Peay Highway, Memphis, TN 38128.	2-13-80
Mathis Garage & Body Shop.	710 N. Parkway, Memphis, TN 38105.	2-13-80
Rye's Summer Shell	5151 Summer Avenue, Memphis, TN 38122.	2-14-80
Raleigh Springs Texaco.	3492 Covington Pike, Memphis, TN 38128.	2-13-80
Brook Hill Shell	5000 Chamerlayne Avenue, Richmond, VA 23222.	1-22-80
Brown's 66 Auto Service.	2314 Jefferson Avenue, Richmond, VA 23223.	1-23-80
T&S Amoco	5730 Johnson Street, Hollywood, FL 33021.	1-15-80
Lakeside Auto Service	1200 Lakeside Drive, Lynchburg, VA 24501.	1-16-80
West Main Exxon	595 W. Main Street, Danville, VA 24541.	1-21-80

CENTRAL DISTRICT

Paul Shell Service	4002 W. Chicago Ave., Chicago, IL 60651.	1-21-80
Holiday Rent-A-Car System.	1221 S. Harlem Ave., Berwyn, IL 60402.	1-21-80
Richard White Texaco	183rd & Harlem, Tinley Park, IL 60477.	1-30-80
David Short Shell	22 W. 411 North Avenue, Glen Ellyn, IL 60137.	2-01-80
Louis C. Smith Shell	1758 S. Wabash, Chicago, IL 60616.	2-05-80
Manop Suesuntisook Mobil.	2801 W. Diversey, Chicago, IL 60647.	2-05-80
Jim Davine Standard	900 Grove, Evanston, IL 60201.	2-05-80
Joe Graco Union 76	301 W. Indian Trail Road, Aurora, IL 60506.	2-05-80
Lakeshore Sunoco	7719 Lakeshore Boulevard, Mantor, OH 44060.	2-13-80
Cadar Green Shell	14473 Cedar Road, South Euclid, OH 44121.	2-12-80
Shell Wash & Fill	951 East 200th Street, Euclid, OH 44119.	2-22-80
Larry's Gulf	11459 Euclid Avenue, Cleveland, OH 44106.	2-22-80
Macon's Sunoco	8716 Cedar Avenue, Cleveland, OH 44106.	2-22-80
Jackson's Gulf	11859 Bellaire Avenue, Lindale, OH 44135.	2-22-80
Inland Marina, Inc.	Old Waterworks Road, Evansville, IN 47714.	2-01-80

CENTRAL DISTRICT

Mike's Gulf	1890 Taylor Road, Cleveland Heights, OH 44118.	1-30-80
Jack K. Mallory Exxon	1899 West State Street, Alliance, OH 44601.	1-23-80
Joe Kbon Union 76	1106 West Vine Street, Alliance, OH 44601.	1-28-80
Larry Sam's Ashland	305 North Union Street, Alliance, OH 44601.	1-28-80
Bailey's Arco	6780 Ridge Road, Cleveland, OH 44144.	2-06-80
Frank's Sohio	464 Richmond, Richmond Heights, OH 44143.	2-06-80
Great Northern Shell	25199 Lorain Road, North Olmstead, OH 44070.	2-07-80
Detroit Avenue Servicecenter.	15111 Detroit Avenue, Lakewood, OH 44107.	2-08-80
Jimmies Sohio	11700 Detroit Avenue, Lakewood, OH 44107.	2-08-80
Samuel Palmenter's Exxon Service.	900 West State Street, Alliance, OH 44601.	2-07-80
Frank Migals Amoco	1237 West State Street, Alliance, OH 44601.	2-05-80
Joe Genetin's Gulf Service.	4420 Union Avenue, NE, Homeworth, OH 44634.	2-05-80
Ruth Brogan Miffy's Corner Amoco.	Rd. #3, 91 Union Avenue, SE, Minerva, OH 44657.	2-05-80
Frank's Gulf	9300 Kinsman, Cleveland, OH 44104.	1-04-80
Homewood Exxon	1221 East 43nd Street, Lorain, OH 44055.	2-12-80
Jimmy's Sunoco	12581 Superior Avenue, East Cleveland, OH 44112.	2-12-80
Raymond Gore Union 76.	2136 Atlantic Boulevard, NE, Canton, OH 44705.	2-14-80
John Myer Amoco	1730 Goodyear Boulevard Akron, OH 44305.	2-12-80
Dupont's Sunoco Service.	2001 Lincoln Avenue, Evansville, IN 47714.	2-14-80
Johnie's Union 76	6861 Cleveland, Columbus, OH 43229.	2-19-80
Mac Kenzie Shell	5344 S. Harlem, Sumit, IL 60501.	2-05-80
Patric Bartel Standard	550 E. North Avenue, Carol Stream, IL 60187.	2-06-80
Glenwood Shell, Inc.	1829 Dempster Avenue, Evanston, IL 60201.	2-12-80
Joe's Shell Service	5902 S. Ashland Avenue, Chicago, IL 60621.	2-12-80
Courtesy 66	Highway 25 & Hankee Ave., Aurora, IL 60504.	2-12-80
John Reynolds Arco	650 North Lake Street, Aurora, IL 60506.	2-12-80
C. Butler Amoco	5130 S. Lake Park, Chicago, IL 60615.	2-13-80
Rich Konan Amoco	444 New York Street, Aurora, IL 60505.	2-14-80
Donald Moutray Union 76.	102 S. Lincolnway, North Aurora, IL 60542.	2-14-80
Jack Seidler Shell	10100 S. Western, Chicago, IL 60643.	2-15-80
Cal-Touhy Service	2741 W. Touhy, Chicago, IL 60645.	2-26-80
Kan Kibble Texaco	155 E. U.S. Highway 6, Valparaiso, IN 46383.	2-26-80

CENTRAL DISTRICT

Arlington Dundee Mobil.	1200 W. Dundee Road, Buffalo Grove, IL 60090.	2-27-80
Collins Goodson Amoco.	3339 Martin L. King Drive, Chicago, IL 60616.	2-28-80
James Reed Shell	801 N. Cicero, Chicago, IL 60651.	2-15-80
Mack's Shell Service	4650 S. Cottage Grove, Chicago, IL 60628.	2-18-80
Joe's Skelly	I-74 and Route 51, Bloomington, IL 61701.	2-19-80
Art Voirin Amoco	12 Hills Avenue, Aurora, IL 60505.	2-21-80
Arman Covelli Arco	287 S. Broadway, Aurora, IL 60505.	2-21-80
Stewart's & Clayton's Amoco.	101 S. Lincolnway, North Aurora, IL 60547.	2-22-80
Willis Anderson Clark	3155 W. Chicago Avenue, Chicago, IL 60622.	2-25-80
W. Barnes Shell	8000 W. 111th, Palos Hills, IL 60465.	2-26-80
Virgil Sunoco	410 East Boulevard, Pontiac, MI 48058.	1-03-80
Main & Logan Shell	801 South Logan, Lansing, MI 48915.	2-02-80
Bridgeport Shell	6364 Dixie Highway, Bridgeport, MI 48722.	2-05-80
Alpine 76-Auto/Truck Plaza.	6364 Dixie Highway, Bridgeport, MI 48722.	2-05-80
Outer Drive-Hayes Shell Service.	10800 Hayes Avenue, Detroit, MI 48111.	2-11-80
Zimmer's Texaco Service.	50 South Street, Belleville, MI 48111.	2-04-80
Ray's Starling Hts. Standard.	39025 Van Dyke, Sterling Hts., MI 48078.	2-05-80
Fenton—Hill Shell	G-6010 Fenton Road, Flint, MI 48507.	2-13-80
Brentwood Auto Service Shell.	8901 Manchester Road, St. Louis, MO 63144.	2-12-80
Woodsmill Texaco	141 and Clayton Road, Manchester, MO 63011.	2-12-80
Ronsick Shell	1116 N. Florissant, Ferguson, MO 63135.	2-15-80
Butler Shell	2692 Telegraph Road, Lemay, MO 63125.	2-21-80
O'Dell Morgan	4601 Troost, Kansas City, MO 64110.	2-01-80
Allinder's Service, Inc.	900 E. Alton, Independence, MO 64050.	1-17-80

SOUTHWEST DISTRICT

Old Town Shell	5707 E. Lovers Lane; Dallas, TX 75206.	1-14-80
Hillcrest Mobil	6901 Hillcrest, Dallas, TX 75205.	1-14-80
Wayne's Exxon	801 E. Main, Grand Prairie, TX 75050.	2-12-80
Bill Lundy Mobil	1302 S. Shiloh Road, Garland, TX 75042.	2-22-80
Glendale Exxon	4404 S. Marsalis, Dallas, TX 75216.	2-19-80
Summers Exxon	1440 W. Beltline, Richardson, TX.	1-28-80
Huenefield Exxon	3430 Forest Lane, Garland, TX 75040.	1-28-80
Tucker Exxon	4322 Saturn Road, Garland, TX 75040.	2-08-80
Willie S. Pullen Exxon	3035 Broadway, Garland, TX 75042.	1-28-80
Puckett Exxon	1921 Plano Road, Garland, TX 75042.	1-29-80
Von Granthan's Texaco.	2923 N. Fitzhugh, Dallas, TX 75204.	2-08-80
Riley Shell Service Center.	1300 W. Davis, Dallas, TX 75208.	2-08-80
Woody's Shell	2310 Forest Avenue, Dallas, TX 75215.	2-03-80

SOUTHWEST DISTRICT

Winslow Shell	5606 East R. L. Thornton, Dallas, TX 75223.	1-23-80
McNeely's Exxon	2009 S. Harwood, Dallas, TX 75228.	1-28-80
Dorothy Pullen Exxon	3847 Highway 67, Mesquite, TX 75150.	2-05-80
Howard Jones Exxon	10444 Garland Road, Dallas, TX 75218.	2-01-80
William's Exxon	9222 Carpenter Freeway, Dallas, TX 75247.	2-05-80
Castleberry's Exxon	300 S. Marsalis, Dallas, TX 75203.	1-28-80
Haggin's Exxon	226 W. Ledbetter, Dallas, TX 75224.	2-05-80
Baigg's Exxon	1294 E. Ledbetter, Dallas, TX 75216.	2-06-80
Chavoya's Exxon	2849 N. Central Expressway, Dallas, TX 75204.	2-06-80
Moody Shell	3225 W. Seventh, Fort Worth, TX 76107.	1-28-80
Cratzer Shell	1513 Brown Trail, Bedford, TX 76021.	2-05-80
Cliff's Exxon	708 S. Virginia, Terrell, TX 75160.	2-15-80
Troy Price Shell	I-30 and Hwy. 205, Rockwall, TX 75087.	1-22-80
Rayard Exxon	815 I-30, Greenville, TX 75401.	2-14-80
Quinlan Service Center.	P.O. Box 816, Quinlan, TX 75474.	2-22-80
Morgan Texaco	I-30 and Highway 69, Greenville, TX 75401.	2-22-80
Morgan Exxon	I-30 and Highway 69, Greenville, TX 75401.	2-22-80
Andrews Shell	3512 S. Stonewall, Greenville, TX 75401.	2-20-80
White Stores, Inc.	3900 Callfield Road, Wichita Falls, TX 76308.	2-28-80
Walkoviak Exxon	6001 North Freeway, Houston, TX 77076.	2-19-80
Varcados Shell	8602 Memorial, Houston, TX 77024.	2-19-80
Fletcher Exxon Product Service Station.	402 South Richey, Houston, TX 77587.	2-27-80
Hall Exxon	902 W. Pasadena Freeway, Pasadena, TX 77502.	2-27-80
Jeffy's Exxon	8015 East Freeway, Houston, TX 77029.	2-27-80
Steve Salighas Exxon	12303 Chimney Rock, Houston, TX 77035.	2-19-80
John E. Aydan Exxon	2264 W. Holcombe, Houston, TX 77025.	2-06-80
Cegielski Exxon	219 First Street, Humble, TX 77338.	2-07-80
Gray's Shell Service Station.	7555 Scott, Houston, TX 77021.	2-19-80
Elsaadi Megid Exxon	8002 Kirby Drive, Houston, TX 77054.	2-05-80
Fuqua Exxon	4330 W. Fuqua Blvd., Houston, TX 77045.	2-21-80
Kyusungcho Texaco	5503 Loch Lomond, Houston, TX 77096.	2-21-80
Teddy Koulianos Texaco.	10202 Westheimer Houston, TX 77042.	1-18-80
Oswald's Service Station.	330 N. Velador, Angleton, TX 77515.	2-20-80
Smith Texaco	1698 Franklin Blvd., Beaumont, TX 77701.	2-07-80
Marina Venture, Inc.	1900 St. James Blvd., Houston, TX 77056.	10-30-79
Turano's Gulf	1002 Montrose, Houston, TX 77019.	2-29-80
Holstein Automotive & Tire.	7203 S. Loop East, Houston, TX 77087.	2-06-80
Gipson's Exxon	2401 E. Missouri, El Paso, TX 79903.	2-06-80
Skyline Exxon	9430 McCombs El Paso, TX 79924.	2-08-80

SOUTHWEST DISTRICT

Wayne's Exxon	1701 34th Street, Lubbock, TX 79404.	2-13-80
19th Street Shell	2143 19th Street, Lubbock, TX 79401.	1-19-80
Abel Silva Chevron	601 S. Main, Anthony, TX 88021.	2-07-80
Carlisle Chevron	2929 Carlisle, NE, Albuquerque, NM 87110.	2-22-80
Northdale Chevron	6798 4th Street, NW, Albuquerque, NM 87107.	2-15-80
Roland L. Sheets, Menaul Service.	1125 Menaul Blvd., Albuquerque, NM 87107.	2-15-80
Grubisich Texaco	1301 E. 66 Avenue, Gallup, NM 87301.	2-15-80
Belaire Exxon	2228 N. Dallas, Hobbs, NM 88240.	2-21-80
Sterling's Exxon	1500 W. Park Avenue, Houma, LA 70360.	1-31-80
Kern's Car Care Center.	5920 Veterans Memorial Blvd., Metairie, LA 70003.	2-04-80
LaPlace Shell	2012 Airline Highway, La Place, LA 70068.	2-11-80
Stanley's Gulf	927 East Airline Highway, Kenner, LA 70062.	2-20-80
Cooktown Exxon	I-20 at Cooktown Road, Ruston, LA 71270.	9-30-80
Cherokee Standard	RR No. 1, Calumet, OK 73014.	2-27-80

ROCKY MOUNTAIN DISTRICT

Southeast Texaco	5201 E. Yale Avenue, Denver, CO 80222.	2-12-80

WESTERN DISTRICT

Berj Exxon	1198 S. State College Blvd., Anaheim, CA 92608.	1-31-80
Morries Service Center.	6739 W. Olympic Blvd., Los Angeles, CA.	2-04-80
Weiner's Service Center.	8489 W. Beverly Blvd., Los Angeles, CA.	2-04-80
Harold's Service Center.	15053 Ventura Blvd., Sherman Oaks, CA 91403.	2-04-80
Garcia's Mobil Service	104 Foothill Blvd., Rialto, CA 92376.	2-04-80
Clint's Auto Service Center.	5166 Lankershim Blvd., North Hollywood, CA 91601.	2-05-80
Overland National Service.	10611 National, Los Angeles, CA.	2-05-80
Paul's Auto Electric 76.	4069 N. Lakewood Blvd., Long Beach, CA.	2-07-80
Harrison Shell #1	11761 E. Carson, Lakewood, CA.	2-07-80
Harrison Shell #2	1650 Artesia Blvd., Redondo Beach, CA.	2-07-80
Jerry's Encino Shell	16801 Ventura Blvd., Encino, CA 91316.	2-07-80
Bob's Arco Service	18076 Ventura Blvd., Encino, CA 91316.	2-07-80
Pedro Veronese Exxon.	1201 E. Yorba Linda Blvd., Placentia, CA 92670.	2-07-80
Laguna Beach Texaco	1833 S. Coast Hwy., Laguna Beach, CA 92651.	2-08-80
A&A Tire & Service Center.	8380 Santa Monica Blvd., Los Angeles, CA 90069.	2-08-80
Dick's Service Center	5404 Laurel Canyon, North Hollywood, CA 91607.	2-08-80
Stan Harkins Chevron.	10340 E. Rosecrans, Bellflower, CA.	2-08-80
Sako's Arco	50 S. Baldwin, Sierra Madre, CA 91024.	2-08-80

WESTERN DISTRICT		
Kim's Union 76 Station.	11807 Carson Street, Hawaiian Gardens, CA 90716.	2-08-80
Mobil Westlake Automobile.	942 Westlake Blvd., Westlake Village, CA 91361.	2-11-80
Miranda Chevron	101 N. Azusa, Azusa, CA 91702.	2-12-80
Howard Beatty Mobil	1351 Dyer Road, Costa Mesa, CA 92705.	2-12-80
Al's Union 76	10984 Riverside Drive, North Hollywood, CA.	2-14-80
Moe Blumin Shell Service, Inc..	20900 Ventura Blvd., Woodland Hills, CA 91364.	2-14-80
Salvador Sandoval Chevron Service.	5791 Rodeo Road, Los Angeles, CA.	2-15-80
Lee's Union 76	4176 Venice Blvd., Los Angeles, CA.	2-15-80
Encino Union Service Center.	16910 Ventura Blvd., Encino, CA 91316.	2-15-80
Jim Tice Chevron	2590 Newport Blvd., Costa Mesa, CA 92627.	2-15-80
Mike Nauai Shell	195 E. 17th Street, Costa Mesa, CA 92626.	2-15-80
Charles Manterian	300 E. 17th Street, Costa Mesa, CA 92626.	2-15-80
Issa Shell	9089 Glenoaks Blvd., Sun Valley, CA 91352.	2-19-80
Bill Burnett's Texaco	11250 Los Alamitos, Los Alamitos, CA 90720.	2-19-80
Karr Insta Tune	5501 Ball Road, Cypress, CA 90630.	2-19-80
Jack Newkoff (Union)	4654 Laurel Cyn. Blvd., North Hollywood, CA 91607.	2-19-80
Wes Graham Chevron Service.	1030 Foothill Blvd., La Canada, CA 91011.	2-20-80
Adly's Chevron	10929 Palms Blvd., Los Angeles, CA.	2-20-80
Dick Puff's & Chevron Service.	311 N. La Brea, Inglewood, CA.	2-20-80
Dale's Tarzana Shell Service.	18500 Ventura Blvd., Tarzana, CA 91356.	2-20-80
Gary's Chevron	8900 Glenoaks Blvd., Sun Valley, CA 91352.	2-21-80
Haserjian Bros. Texaco.	6407 Sunset Blvd., Los Angeles, CA.	2-21-80
Gay's Chevron Service.	418 E. Glenoaks Blvd., Glendale, CA 91207.	2-21-80
Keith Van Hoesen	590 N. Magnolia, Anaheim, CA 92824.	2-21-80
Keith Van Hoesen	1068 W. Ball Rd., Anaheim, CA.	2-21-80
Keith Van Hoesen	5992 Westminister Ave., Westminister, CA.	2-21-80
Fernando's Chevron	12460 Victory Blvd., North Hollywood, CA 91606.	2-25-80
Ray's Chevron Service.	9735 Glenoaks, Sun Valley, CA 91352.	2-26-80
Mardiros Torikion Chevron Service.	2201 W. Lincoln, Anaheim, CA 92801.	2-26-80
J. Nasch Texaco	9859 Atlantic, South Gate, CA.	2-27-80
Phil Ellison Arco	12650 Sherman Way, North Hollywood, CA 91605.	2-27-80
Airport Union 76	603 N. Sepulveda Blvd., El Segundo, CA 90245.	2-28-80
Jerry's Shell Service	1850 Springs Road, Vallejo, CA 94590.	2-28-80
Chin's Arco Service	1451 Solano Avenue, Albany, CA.	2-15-80
Bob's Marina Shell	200 Mare Street, Vallejo, CA 94590.	2-21-80
Hodge Enterprises, Inc. #1.	1604 Sears Point Road, Vallejo, CA 94590.	2-04-80
Hodge Enterprises, Inc. #2.	500 Tennessee Street, Vallejo, CA 94590.	2-04-80
Wilsonville Exxon	30100 SW Parkway, Wilsonville, OR 97070.	2-12-80
Frank Serman's d/b/a Tex's Service..	600 Portal Way, Ferndale, WA 98248.	2-01-80
Reggie's Chevron	100 Olson, Pullman, WA 99163.	2-25-80

[FR Doc. 80-9736 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of January 1980. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact James C. Easterday, District Manager, Southeast District, Department of Energy, Office of Enforcement, 1655 Peachtree Street, NE, Atlanta, Georgia 30309, telephone number (404) 881-2661.

Firm Name, Address, and Audit Date

Calvin J. Warbington, 2824 Chamblee Tucker Rd., Chamblee, Ga, 1-2-80.
35th & Broadway Chevron Oil, 3410 W. Broadway, Louisville, Ky, 1-2-80.
3rd & Broadway Chevron Oil, 300 W. Broadway, Louisville, Ky, 1-2-80.
Brook & Jefferson Chevron, 132 E. Jefferson Street, Louisville, Ky, 1-2-80.
Jack Kelley, 174 Edgewood Avenue, Atlanta, Ga 30303, 1-3-80.
Kenneth Orr, P.O. Box 2035, Newnan, Ga 30264, 1-4-80.
Gene Claunch, RR 1 Box 296, Somerset, Ky 42501, 1-7-80.
Tommy Bourne, 302 Main Street, Stanford, Ky, 1-7-80.
Gene Jones, I-75 & 192, London, Kentucky 40741, 1-8-80.
Jessie R. Gossett, S. Hwy 27, Somerset, Ky 42501 1-8-80.
Dennis Greer, U.S. 27, Somerset, Ky 42501, 1-8-80.
Lamar Crowder, 3109 Poplar Ave, Memphis, Tn 38111, 1-8-80.
Joe Coomer, U.S. 27, Somerset, Ky 42501, 1-8-80.
Robert R. Little, 1608 White Station Rd, Memphis, Tn 38117, 1-8-80.
Steve Estepp, 1951 Newtown Pike & I-75, Lexington, Ky 40511, 1-9-80.
Creowell Covington, I-75 & Barnes Mill Rd., Richmond, Ky 40475, 1-9-80.
Booker's Sunoco, 4105 S. Laburnum Ave., Richmond, Va 23231, 1-9-80.
Horace Womack, 5625 Buford Hwy, Doraville, Ga 30040, 1-10-80.
Horace King, 4905 Buford Hwy., Chamblee, Ga 30341, 1-10-80.
Union City Chevron, 4520 Jonesboro Rd., Union City, Ga 30291, 1-11-80.
George D. Shuman, I-64 & Vanmeter Rd, Winchester, Ky 40391, 1-11-80.
T. S. Speaks, 1900 Newtown Pike, Lexington, KY 40511, 1-11-80.
Cliff Sparks, 301 Robinson Drive, Birmingham, Al 35215, 1-14-80.
Yorkmont Exxon, 4923 York Rd, Charlotte, NC 28210, 1-14-80.
Beaman Texaco, 101 Woodlawn Rd, Charlotte, NC 28210, 1-14-80.
Barry W. Greene, 550 Cox Road, Gastonia, NC 28052 1-14-80.
D. L. Miller, 4440 N. Graham Street, Charlotte, NC 28206 1-14-80.
Roger D. Galloway, 3840 Statesville Avenue, Charlotte, NC 28206, 1-15-80.
Conrad Kies, 7070 W. Flagler Street, Miami, Fl 33144, 1-15-80.
Priority Properties, Inc., 1255 Palmetto Park Rd, Boca Raton, Fl 33432, 1-15-80.
Woodlawn Road Exxon, 125 Woodlawn Road, Charlotte, NC 28210, 1-15-80.
I-10 Chevron Service Sta, Route 1, Box 723, Grand Bay, Al 36541, 1-15-80.
Cross Roads Exxon, 1 W. Wilkinson Blvd. & N. Central Ave, Belmont, NC 28012, 1-15-80.
W. B. "Bill" Smith, 7536 N. Tryon Street, Charlotte, NC 28213, 1-15-80.
Bentley's Exxon, 5711 South Blvd, Charlotte, NC 28201, 1-15-80.
Jose Estruch, 6690 W. Flagler Street, Miami, Fl 33144, 1-15-80.
Warren G. Drum, Drum, Inc., 29601 S. Federal Hwy, Homestead, Fl 33030, 1-15-80.

Everglades Store, 38005 Ingraham, Hwy 27, Florida City, Fl 33034, 1–15–80.
Canal's Mobil, 501 E. Sligh Ave, Tampa, Fl 33617, 1–15–80.
Weeks Standard, 802 E. Buffalo Ave., Tampa, Fl 33603, 1–15–80.
Jack's Amoco, 2401 Pembroke Road, Hollywood, Fl 33020, 1–15–80.
Tony's Union, 301 W. Sunrise Blvd, Ft Lauderdale, Fl 33311, 1–15–80.
Apple Serv Ctr, 202 N. Federal Highway, Hollywood, Fl 33020 1–15–80.
T & S Amoco, 5730 Johnson Street, Hollywood, Fl 33021, 1–15–80.
Tuckers Ser Station, 8641 South Blvd, Charlotte, NC 28210, 1–16–80.
Samuel Patillo, 2120 Beatties Ford Road, Charlotte, NC 28208, 1–16–80.
Floyd Bankhead, 1601 Remount Road, Charlotte, NC 28208, 1–16–80.
E. L. Lee, 1601 N. Tryon Street, Charlotte NC 28206, 1–16–80.
Stadium Exxon, 125 E. Independence Blvd, Charlotte, NC 28204, 1–16–80.
Bob Beach's Exxon, 4700 Pineville Rd, Charlotte, NC, 1–16–80.
Vern's Sunoco, 902 E. Hillsboro Ave, Tampa, Fl 33604, 1–16–80.
Johnson's American Serv Sta, 486 Ponce de Leon Ave, Atlanta, Ga 30308, 1–16–80.
Lakeside Autom Service, 1200 Lakeside Drive, Lynchburg, Va 24501, 1–16–80.
Sotolongo Mobil, 3930 N. Nebraska Avenue, Tampa, Fl 33603, 1–16–80.
Bonds Chevron, 6013 E. Buffalo Avenue, Tampa, Fl 33619, 1–16–80.
P & W Paschall, 1001 South 78, Tampa, Fl 33619, 1–16–80.
Queens Texaco, 915 Providence Rd, Charlotte, NC 28207, 1–16–80.
Emicel Ana, 433 N.W. LeJeune Road, Miami, Fl 33126, 1–16–80.
Dale Collinsworth, 1733 S. Congress, W. Palm Beach, Fl 33406, 1–16–80.
Hassan & Hassan, Inc, 10 N.E. 167th Street, Miami, Fl 33162, 1–16–80.
Felix Tirse, 1055 N.W. 27th Avenue, Miami, Fl 33125, 1–17–80.
Denny's Chevron, 2024 N. Military Trail, West Palm Beach, Fl 33401, 1–17–80.
Gary Stallings, 5230 Rozzells Ferry Road, Charlotte, NC 26216, 1–17–80.
Sidney Smith, 1740 W. Trade Street, Charlotte, NC 28216, 1–17–80.
Baker's Texaco, 3529 E. Independence Blvd, Charlotte, NC 28205, 1–17–80.
Bob Spivey, 3701 Freedom Drive, Charlotte, NC 28208, 1–17–80.
D.P. Lloyd, 2939 The Plaza Road, Charlotte, NC 28205, 1–17–80.
Jimmy Flowers, 3201 The Plaza Rd., Charlotte, NC 28205, 1–17–80.
Bobby Jack Cain, 3223 The Plaza, Charlotte, NC 28205, 1–17–80.
Palacios Shell, 700 N. Federal Highway, Hallandale, Fl 33009, 1–17–80.
Sunrise Gulf, 2025 E. Sunrise Blvd, Ft Lauderdale, Fl 33304, 1–17–80.
City Hall Shell, 2635 Hollywood Blvd, Hollywood, Fl 33020, 1–17–80.
Park Plaza Exxon, 7400 49th St North, Pinellas Park, Fl 33565, 1–17–80.
Celso Martinez, 1090 N.W. 27th Avenue, Miami, Fl 33125, 1–17–80.
Pinebrook Shell, 3849 Airport Blvd, Mobile, Al 36608, 1–17–80.
Roberto Fernandez, 9691 S.W. 72nd Street, Miami, Fl 33173, 1–17–80.
I–95 Exxon, 1850 Okeechobee Blvd, West Palm Beach, Fl 33409, 1–17–80.
Palm Beach Gardens Chevrons, 4109 North Lake Blvd, Palm Beach Gardens, Fl 33403, 1–17–80.
Charlies Standard, 1921 Okeechobee Blvd, West Palm Beach, Fl 33401, 1–17–80.
Haigler Exxon, 2000 E. Seventh, Charlotte, NC 28209, 1–18–80.
Idlewild Shell, 5601 E. Independence Blvd., Charlotte, NC 28212, 1–18–80.
Bill Jarrell's Texaco, 2452 Park Rd., Charlotte, NC 28203, 1–18–80.
Sarah Aycock, 932 E. Independence Blvd., Charlotte, NC 28204, 1–18–80.
Jim's Triangle Amoco, 9900 4th Street North, St. Petersburg, Fl 33702, 1–18–80.
Airport Texaco, 2721 N.W. 42 Avenue, Miami, Fl 33142, 1–18–80.
Brandenburgs Amoco, 1147 S. Federal Hwy, Boynton Beach, Fl 33435, 1–18–80.
Angeles Balasis, 2360 N. Federal Hwy, Boynton Beach, Fl 33435, 1–18–80.
Nathan Swartz, 18100 N.W. 2nd Avenue, Miami, Fl 33169, 1–21–80.
Pinecastle Shell, 7101 S. Orange Ave, Orlando, Fl 32809, 1–22–80.
Mullins Service Station, 235 E. Princeton Ave, Orlando, Fl 32804, 1–22–80.
Cappys Shell, 1605 S. Semoran, Orlando, Fl 32807, 1–22–80.
Joseph Delvalle, 19101 N.W. 2nd Avenue, Miami, Fl 33169, 1–22–80.
Donald W. Dogoli, 5000 Chamberlayne Avenue, Richmond, Va 23222, 1–22–80.
Dover Shore Shell, 4316 East Curryford Rd, Orlando, Fl 32807, 1–23–80.
Brown's 66 Auto Serv, 2314 Jefferson Ave, Richmond, Va 23223, 1–23–80.
Conway Circle Shell, 5106 S. Conway Rd, Orlando, Fl 32809, 1–23–80.
Gay's Service Station, 3387 Peachtree St., N.E., Atlanta, Ga 30326, 1–23–80.
Peachtree Phipps Shell, 3037 Peachtree Rd, Atlanta, Ga 30319, 1–23–80.
Poole Shell, 1125 E. Michigan Ave, Orlando, Fl 32806, 1–23–80.
Shallowford Shell, 2625 Shallowford Rd, Atlanta, Ga 30345, 1–23–80.
Colonial & Fern Creek Shell, 1525 E. Colonial Dr, Orlando, Fl 32806, 1–23–80.
Kings Shell Service, 4905 Buford Highway, Atlanta, Ga 30341, 1–24–80.
Floretta Shell Service Station, 2755 Clairmont Rd, Atlanta, Ga 30329, 1–25–80.
Ramon DeGuzman, 3498 S. Dixie Highway, Miami, Fl 33133, 1–25–80.
Colonial Plaza Shell, 2800 East Colonial Dr, Orlando, Fl 32806, 1–25–80.
Drake Shell Service Inc, 8841 4th Street N, St. Petersburg, Fl 33702, 1–25–80.
Gary Mesh Chevron, 2124 Johnson Ferry Rd, Atlanta, Ga 30319, 1–26–80.
Western Trail Auto, 6688 S.W. 8th Street, Miami, Fl 33144, 1–28–80.
Emory Shell Service, 1271 Clairmont Rd, Decatur, Ga 30033, 1–28–80.
Williamsburg Shell, 1923 Clairmont Rd, Decatur, Ga 30033, 1–28–80.
Robardi Inc, P.O. 30, Dillon, SC 29536, 1–31–80.
Poor Boy's Texaco, 6116 Papermill Rd, Knoxville, Tn 37917, 12–1–79.
I–10 Chevron Service Sta, Route 1, Box 723, Grand Bay, Al 36541, 1–15–80.
Idlewild Exxon, 5541 E. Independence, Charlotte, NC 28212, 1–23–80.
West Main Exxon, 595 Main Exxon, Danville, Va, 1–22–80.
Ford's Standard Service, Route 7, Box 92, Gulfport, Ms 39501, 1–20–80.

Issued in Atlanta, Georgia, on the 17th day of March, 1980.

James C. Easterday,
District Manager.

Concurrence:

Leonard, F. Bittner,
Chief Enforcement Counsel.

[FR Doc. 80-9851 Filed 3-31-80; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-117]

Nabisco, Inc.; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

Nabisco, Incorporated (Nabisco) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Minneapolis Cream of Wheat plant located in Minneapolis, Minnesota with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on December 13, 1979. Notice of that application was published in the Federal Register (45 FR 2362, January 11, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication.

Comments were received from the Northern Illinois Gas Company (NI–Gas), a customer of two of the transporting pipelines under this application, the Natural Gas Pipeline Company of America and the Northern Natural Gas Company. NI–Gas has no objection to the grant of a certification of eligible use to Nabisco, provided the grant is conditioned to make the transportation interruptible when required to meet the needs of the transporting pipelines for transportation of general system supplies. NI–Gas also wanted it clarified that the transportation of the certified gas is interruptible whenever the transporting pipeline's capacity is needed to transport gas of a distributor customer of that pipeline in order to offset curtailments within that distributors' existing contract demand from the pipeline.

The ERA has carefully reviewed Nabisco's application and the above comments 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). Under 10 CFR Part 595, ERA certifies only that the purchase of the gas which

is to be transported is for an eligible use (i.e., fuel oil displacement). The transportation of the fuel oil displacement gas is authorized by the Federal Energy Regulatory Commission's (Commission) procedures in 18 CFR Part 284, Subpart F. Therefore, the imposition of conditions on the transportation of this gas is within the jurisdiction of the Commission.

The ERA has determined that Nabisco's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on March 19, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

Department of Energy,
Washington, D.C., March 19, 1980.

Re: ERA Certification of Eligible Use, ERA Docket No. 79–CERT–117, Nabisco, Incorporated.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Enclosed are comments received on Nabisco's application from the Northern Illinois Gas Company requesting that certain conditions be placed on the transportation of this fuel oil displacement gas. Also enclosed is Nabisco's response to those comments.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 653–3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79–CERT–117.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by Nabisco, Inc.

ERA Docket No. 79–CERT–117

Application for Certification

Pursuant to 10 CFR Part 595, Nabisco, Incorporated (Nabisco) filed an application for certification of an eligible use of 125 Mcf of natural gas per day at its Minneapolis Cream of Wheat plant located in Minneapolis, Minnesota with the Administrator of the Economic Regulatory Administration (ERA) on Dec. 13, 1979. The application states that the eligible sellers of the gas are Edwin L. Cox, Sam P. Bennett, Alfred Lamson and Dow Chemical U.S.A. (Dow Chemical), and that the gas will be transported by the Southern Natural Gas Company, the Gas Gathering Corporation, the Transcontinental Gas Pipe Line, the Natural Gas Pipeline Company of America, the Northern Natural Gas Company, and the Minneapolis Gas Company. The application and supplemental information indicate that the use of this natural gas is estimated to displace 80,000 gallons of No. 2 fuel oil (0.5 percent maximum sulfur) between December 1, 1979 and March 31, 1980. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of 125 Mcf of natural gas per day at Nabisco's Minneapolis Cream of Wheat plant purchased from Edwin Cox, Sam Bennett, Alfred Lamson, and Dow Chemical is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible sellers.

Issued in Washington, D.C., on March 19, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-9849 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co. Through Its Subsidiary Anadarko Production Co.; Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

EFFECTIVE DATE: March 12, 1980.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: On February 8, 1980, the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Panhandle Eastern Pipe Line Company through its subsidiary Anadarko Production Company and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

I. Comments Received

No comments were received with respect to the terms of the Consent Order.

II. Determination

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Panhandle Eastern Pipe Line Company through its subsidiary Anadarko Production Company is an appropriate resolution of the compliance proceedings described in the Notice published on February 8, 1980, and hereby gives Notice that the Consent Order is made effective by

written notice to Anadarko Production Company on this date.

Issued in Kansas City, Missouri on this 12th day of March, 1980.

William D. Miller,

District Manager Central Enforcement District.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 80-9852 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of the Mandatory Petroleum Price Regulations.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Leon Snead, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 25th day of March, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Firm name & address	Audit date	Violation amount	Highest cents per gallon violation
Northeast district:			
Roome's Service Center, 291 Jefferson Road, Rochester, NY 14623	2-20-80	$3,105.00	10.6
Kingsland Service Station, 51 Kingsland Avenue, Brooklyn, NY 11211	2-22-80	5,250.00	12.4
Central district:			
Long's Texaco, 612 N. Hamilton, Peoria, IL 61603	10-01-79	819.92	4.8
17th & Harrison Mobil Service, 1701 Harrison, Maywood, IL 60153	2-05-80	1,133.19	4.6
Brandtville Texaco Service, P.O. Box 97, Bloomington, IL 61701	2-22-80	4,597.86	3.3
Clark Super 100, 38 E. Irving Park Road, Roselle, IL 60172	2-25-80	2,462.48	5.3
Phil's Clark, 3050 N. Pulaski Road, Chicago, IL 60641	3-12-80	478.31	1.5
Bloomingdale Service, 102 E. Lake Street, Bloomingdale, IL 60108	3-19-80	4,245.52	7.8
Western district:			
Don Mundy Chevron Service, 3070 Rubidoux Blvd., Rubidoux, CA	2-29-80	2,218.51	3.5
Sunset Blvd. Car Wash (Chevron), 7935 Sunset Blvd., Los Angeles, CA 90046	2-29-80	20,207.04	10.8

Concurrence:

Dated: March 21, 1980.

Leon Snead,

Program Manager for Product Retailers, Enforcement Program Operations Division, Economic Regulatory Administration.

Dated: March 24, 1980.

Robert G. Heiss,

Assistant General Counsel for Enforcement.

[FR Doc. 80-9850 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Union Texas Petroleum Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: March 6, 1980. Comments by: May 1, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235—(214) 767-7745.

SUPPLEMENTARY INFORMATION: On March 6, 1980, the Office of Enforcement of the ERA executed a proposed Consent Order with Union Texas Petroleum Corporation (Union Texas) of Houston, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Union Texas, with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Union Texas, entered into a Consent Order, the significant terms of which are as follows:

II. Disposition of Refunded Overcharges

In this Consent Order, Union Texas agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $2,100,000.00 within six months after the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on UNION TEXAS Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on ————. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 20th day of March 1980.

Wayne I. Tucker,

District Manager for Enforcement, Southwest District, Economic Regulatory Administration.

I, Thomas A. Fry, III, Chief Enforcement Attorney, Southwest District Enforcement, concur in the issuance of the Consent Order to Union Texas Petroleum Corporation, and in the Notice prepared for publication in the **Federal Register.**

Dated: March 17, 1980.

Thomas A. Fry III,

Chief Enforcement Attorney, Southwest District.

[FR Doc. 80-9853 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79–CERT–115]

Salt River Project Agricultural Improvement and Power District; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Salt River Project Agricultural Improvement and Power District (Salt River Project) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Agua Fria Steam Plant in Glendale, Arizona, and its Kyrene Steam Plant in Tempe, Arizona, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on December 3, 1979 as amended on December 21, 1979. Notice of that application was published in the **Federal Register** (45 FR 10842, February 19, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No adverse comments were received.

The ERA has carefully reviewed Salt River Project's application 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 the Salt River Project'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. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on March 21, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C., March 21, 1980.

Re ERA Certification of Eligible Use, ERA Docket No. 79–CERT–115, Salt River Project Agricultural Improvement and Power District.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 653–3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79–CERT–115.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Salt River Project Agricultural Improvement and Power District

[ERA Docket No. 79–CERT–115]

Application for Certification

Pursuant to 10 CFR Part 595, Salt River Project Agricultural Improvement and Power District (Salt River Project) filed an application for certification of an eligible use of approximately 19,000,000 Mcf of natural gas at its Agua Fria and Kyrene Steam Plants in Glendale and Tempe, Arizona, with the Administrator of the Economic Regulatory Administration (ERA) on December 3, 1979, as amended on December 21, 1979. The application, as amended, states that the eligible sellers of the gas are the Delhi Gas Pipeline Corporaton (Delhi) and the Consumers Power Company (Consumers) and that the gas will be transported by the El Paso Natural Gas Company, the Panhandle Eastern Pipeline Company, the Trunkline Pipeline Company, and the Northern Natural Gas Company. The application and supplemental information indicate that the use of this natural gas is estimated to displace 2,844,000 barrels of residual fuel oil (0.9 percent sulfur) and 254,000 barrels of distillate fuel oil (0.5 percent sulfur) per year. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other informaton available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 19,000,000 Mcf of natural gas at Salt River Project's Agua Fria Steam Plant and Kyrene Steam Plant purchased from Dehli and Consumers is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible sellers.

Issued in Washington, D.C., on March 21, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-9848 Filed 3-31-80; 8:45 am]

BILLING CODE 6450-01-M

Imported Crude Oil Transfer Pricing Program

AGENCY: Department of Energy (DOE), Economic Regulatory Administration.

ACTION: Publication of representative and maximum prices for certain imported crude oils for the period January 1979 through June 1979.

SUMMARY: Notice is hereby given of representative and maximum prices as determined by DOE pursuant to 10 CFR 212.84 for certain crude oils when imported pursuant to a transaction between affiliated entities for the months of January 1979 through June 1979. The prices, set out in the tables attached to this notice, will be used to determine whether the transfer prices reported by refiners to DOE should be disallowed. DOE will accept comments concerning this notice, if submitted on or before May 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Mail Stop 2140, Washington, D.C. 20461 (202) 633-8292.

William H. Harrison, Director, Transfer Pricing, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Mail Stop 2140, Washington, D.C. 20461 (202) 633-9161.

SUPPLEMENTAL INFORMATION:

Background

Pursuant to 10 CFR 212.84(f), the Transfer Pricing Program Office in the Office of the Special Counsel for Compliance is publishing maximum and representative prices for the months January through June 1979. These prices, calculated in accordance with § 212.84 and as discussed below, will be used to determine whether the transfer prices reported by refiners which imported crude oil in interaffiliate transactions should be disallowed.

By a management directive dated October 8, 1979, the Administrator, Economic Regulatory Administration, assigned the responsibility for the operational aspects of the transfer pricing program, beginning with January 1979, to the Manager of the transfer Pricing Program in the Office of Special Counsel. Since the issuance of that directive, the transfer pricing program office has been collecting and editing the data received from the Transfer Pricing Report (Form ERA-51) and performing the related functions necessary to the publication of the maximum and representative prices for the six month period January-June 1979. Disallowances will be determined and Notices issued, as appropriate. Further, maximum and representative prices for subsequent months will be computed and published.

Determination of Prices

10 CFR 212.84 sets out the procedures for the selection of reference crude oils and the determination of maximum and representative prices. Section 212.84(f) provides that the reference crude oil shall be any crude oil which is traded substantially or which is used as a pricing standard by the host government and by refiners which purchase the oil.

Maximum and representative prices are determined as prescribed by § 212.84(e):

(1) The representative price for a reference crude oil shall be the lowest price at which fifty percent or more (as measured by volume) of arms-length transactions in that reference crude oil and (at adjusted prices) related crude oils, loaded during a month of measurement and reported to FEA, take place. Reference and related crude oils will be designated pursuant to paragraph (f) of this section.

(2) The maximum price for a reference crude oil for each month of measurement shall be the higher of

(i) the representative price in the month of measurement plus 10 cents per barrel, or

(ii) the lowest price at which 65 percent or more (as measured by volume) of the arms-length transactions, in that reference and related crude oils, loaded during that month of measurement and reported to FEA, take place.

(3) In determining the representative and maximum prices for a reference crude oil, FEA will consider all transactions reported to FEA for the reference and related crude oils loaded during the month of measurement, except as provided in paragraph (e)(4) of this section. For purposes of determining representative and maximum prices for a reference crude oil, the prices of a related crude oil shall be adjusted to the equivalent price of the related reference crude oil on the basis of the difference in the posted prices, tax-reference prices or other official selling prices, as established by the host government for those two crude oils.

We have determined that changes in the reported transactions of a number of crude oils as well as the designation of posted or official selling prices for various crude oils have made changes in the designation of a number of reference crude oils appropriate. The reference crude oils set out in the appendix to this notice were selected because of the volume in transactions in those particular crudes, independent of the volumes in "related" crude oil transactions. Consideration was also given to the designation of official selling prices for the reference crudes by the host governments, and to the availability of information with regard to those crudes in trade publications. Changes in reference crude designations have been made for: Algeria (Saharan Blend, AG-025); Egypt (Gulf of Suez, EG-058); Iraq (Kirkuk, IZ-101); Libya (Sarir, LY-130); Neutral Zone (Khafji, IY-136); Nigeria (Bonny Light, NI-150).

In Venezuela, marketing practices changed following nationalization in 1977. We are designating reference crude oils which are widely traded and for which official minimum selling prices are available: Boscan, VE-220; Leona Mix, VE-221; and Ceuta, VE-225. In calculating adjustments between these reference and related crude oils, discussed further below, we have utilized the official minimum selling prices rather than the sulphur premiums and gravity adjustments previously described by the Venezuelan tax export values. *See*, 40 FR 27058 (June 26, 1975); 42 FR 22190 (May 2, 1977).

In addition, a number of countries with crudes not previously traded now have sufficient volumes to support the designation of a reference crude oil: Norway: Ekofisk, NO-158; United Kingdom: Forties, UK-403, Mexico: Isthmus, MX-280, Oman, MU-160. In Indonesia, the maximum price for the two reference crudes: Sumatra Light, ID-070 and Attaka, ID-072, has been the official selling price. We have, however, calculated a maximum and representative price for them in recognition of open trading in Indonesia since 1978. Similar treatment is under consideration for Canadian crude oils. Finally, we are maintaining two reference crude oils in the United Arab Emirates in recognition of the different royalty and tax treatments applicable among the Trucial States and the volume of reported transactions. *See*, 44 FR 30721 (May 29, 1979).

Related crude oils, produced in countries where a reference crude oil has been designated, are adjusted to the equivalent price of the reference crude most similar in quality on the basis of the difference in official selling prices pursuant to § 212.84(e), quoted above. Where official selling prices existed for some but not all crude oils, an official selling price equivalent was determined by extrapolating from the given official prices. This was done to assure that only prices equivalent to the reference crude oil price were used in determining maximum and representative prices.

Where a price change in mid-month altered the relationship between crudes, an average of the two prices, weighted by the portion of the month each was in effect, was used. Furthermore, the gravity plans reported by the host government, in contracts with the host government or from published trade journal sources, were used to correct variations from the standard gravity in the reported gravity for a particular crude.

The regulations, at § 212.84(f) provide that DOE may choose not to designate a reference crude oil whenever (i) the total volume in a month is less than 600,000 barrels, (ii) the number of arms-length transactions of at least 100,000 barrels is less than four, or (iii) more than 35 percent of the transactions by volume are pursuant to a single contract. In three instances, Saudi Arabian Medium, SA–182, in February and June, and in Indonesian Attaka, ID–072, in May it appears that transactions representing marginally more than 35 percent of the reported transactions were pursuant to individual contracts. After examining the prices in these transactions and finding them not unrepresentative of other reported transactions, we have determined to publish these prices.

Pursuant to § 212.84(e)(6), for a crude oil from a country in which no reference crude oil is available in a given month, a "parity" pricing calculation is made by adjusting the price of a reference crude oil most nearly similar in quality in the same geographical region as that crude oil. The procedures used to make "parity" pricing calculations were published in a Notice dated June 20, 1975 (40 FR 27058, June 26, 1975). We are in the process of determining the clean product premium and the sulphur premium to be applied in the parity calculations. We anticipate the continued use of $1.25 per barrel for each percent of sulphur for the low sulphur premium and $2.00 per barrel in calculating the clean product premium. However, to the extent that the two crude oils subject to comparison have divergent transportation characteristics, DOE may order an amendment to the transportation adjustment pursuant to § 212.84(e)(7).

As an alternative to the three adjustments currently utilized in making the price parity calculation, that is the clean product premium in lieu of the gravity adjustment, the low sulphur premium, and the transportation adjustment, we are considering alternatives. We may order, pursuant to § 212.84(e)(7), a single adjustment to replace the three part calculation now required. It has been suggested that the parity calculation be based on the relative values of the crude oils using a "three-cut" procedure based upon a true boiling point (TBP) curve of the crude oils. Valuations for the three fractions or "cuts" would be determined by using monthly postings derived from published data on regional markets. A third possibility would be to compare the official selling prices of similar crudes, recognizing that traditional value relationships among crude oils have been distorted by non-qualitative considerations. Comments on these options would be particularly welcome.

Refiners whose transfer prices are subject to disallowance by comparison to a maximum price based on a parity calculation will be notified of the adjustments utilized. Similarly, transfer prices for crude oils not listed in the appendix remain subject to disallowance. Companies subject to disallowance will be notified of the basis for that determination.

Comments Permitted

We will accept comments on the reference crude oils, the maximum prices, the proposed parity calculations alternative or any other matters discussed in this notice. Comments should be provided to Mr. Adams at the address indicated above. We are providing this opportunity to gather information with a view towards review of the factual bases and calculations utilized in determining these and future maximum and representative prices. We request that persons interested in submitting comments do so within 30 days of this publication to allow contemporaneous consideration. Any information furnished which is considered confidential must be so identified, and a copy of the submission with such information deleted must be furnished. *See,* 10 C.F.R. § 205.9(f).

Issued in Washington, D.C., March 28, 1980, by the Economic Regulatory Administration.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Table I.—*Maximum Prices*

Reference crude	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	Jun. 1979
Algeria (AG–025)	14.85	14.87	14.86	18.60	20.87	21.07
Angola (AO–030)	(1)	(2)	(2)	(1)	(1)	(1)
Indonesia:						
(ID–070)	14.00	14.00	14.07	15.75	16.40	18.47
(ID–072)	15.27	15.16	15.05	17.10	18.09	21.14
Iraq (IZ–101)	15.53	14.43	22.50	15.97	16.67	19.96
Kuwait (KU–110)	12.89	12.87	14.07	15.82	16.37	19.10
Libya (LY–130)	14.38	14.77	15.74	18.26	18.96	21.46
Oman (MU–160)	(1)	(1)	(1)	(1)	(1)	(1)
Mexico (MX–280)	14.13	14.13	14.13	17.12	17.12	17.12
Nigeria (NI–150)	15.30	15.21	15.22	19.44	21.07	30.21
Norway (NO–158)	15.95	16.50	16.00	18.70	18.85	21.16
Qatar (QA–170)	14.10	15.00	(1)	(1)	(1)	(1)
Saudi Arabia:						
(SA–180)	13.52	13.61	13.60	14.65	14.65	18.03
(SA–181)	12.78	12.79	12.79	13.75	13.75	17.27
(SA–182)	13.13	13.18	13.14	14.15	14.15	17.64
United Arab Emirates:						
(TC–010)	14.13	14.19	15.15	17.12	17.81	17.91
(TC–015)	(2)	(1)	18.97	19.03	18.33	(1)
United Kingdom (UK–403)	15.55	15.44	15.48	18.40	18.26	20.76
Venezuela:						
(VE–225)	14.08	14.22	14.07	16.82	17.10	17.33
(VE–221)	13.25	13.26	13.54	15.68	16.54	16.22
(VE–220)	9.90	9.87	9.88	11.06	11.08	11.06

[1] Less than three sellers. Data treated as proprietary.

[2] Does not meet requirements of 212.84(f)(1). Figures will be based on comparison to most similar crude in same geographic region.

Table II.—*Representative Prices*

Reference crude	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	Jun. 1979
Algeria (AG–025)	14.75	14.77	14.76	18.50	18.60	20.97
Angola (AO–030)	(1)	(2)	(2)	(1)	(1)	(1)
Indonesia:						
(ID–070)	13.90	13.90	13.90	15.65	16.15	18.18
(ID–072)	15.17	14.95	14.95	17.00	17.99	21.04
Iraq (IZ–101)	15.13	13.79	15.07	15.87	16.57	19.04
Kuwait (KU–110)	12.79	12.77	13.97	15.72	16.27	19.00
Libya (LY–130)	14.15	14.43	15.51	17.76	18.44	20.83
Oman (MU–160)	(1)	(1)	(1)	(1)	(1)	(1)
Mexico (MX–280)	14.03	14.03	14.03	17.02	17.02	17.02
Nigeria (NI–150)	15.20	15.07	15.12	18.72	20.94	21.59
Norway (NO–158)	15.85	16.00	15.85	18.60	18.60	21.06
Qatar (QA–170)	14.00	14.25	(1)	(1)	(1)	(1)
Saudi Arabia:						
(SA–180)	13.42	13.51	13.50	14.55	14.55	17.93
(SA–181)	12.68	12.69	12.69	13.65	13.65	17.17

Table II.—*Representative Prices—Continued*

Reference crude	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	Jun. 1979
(SA–182)	13.03	13.08	13.04	14.05	14.05	17.54
United Arab Emirates:						
(TC–010)	14.03	14.04	15.05	17.02	17.10	17.81
(TC–015)	(2)	(1)	17.42	16.84	18.23	(1)
United Kingdom (UK–403)	15.45	14.97	15.38	18.30	18.10	20.66
Venezuela:						
(VE–225)	13.98	14.12	13.97	16.72	16.93	17.09
(VE–221)	13.15	13.16	13.17	15.54	16.14	16.12
(VE–220)	9.79	9.77	9.78	10.96	10.98	10.98

[1] Less than three sellers. Data treated as proprietary.
[2] Does not meet requirements of 212.84(f)(1). Figures will be based on comparison to most similar crude in same geographic region.

[FR Doc. 80–10006 Filed 3–31–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CI77–789, et al.]

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

March 25, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before April 4, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at this hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per mcf	Pressure base
CI77–789, C, Jan. 21, 1980	Mobil Oil Exploration and Producing Southeast, Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Transcontinental Gas Pipe Line Corporation, Block 68, Ship Shoal Area and Block 9, South Pelto Area, Offshore Louisiana.	(1)	15.025
CI80–15, C, Mar. 3, 1980	Amerada Hess Corporation, 1200 Milam, 6th Floor, Houston, Tex. 77002.	United Gas Pipe Line Company, Block A–475, High Island Area, Offshore Texas.	(2)	14.65
CI80–203, A, Feb. 19, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Southern Natural Gas Company, Block 150, Mississippi Canyon, Offshore Louisiana.	(3)	15.025
CI80–206 (CI78–416), Feb. 19, 1980.[4]	Tenneco Oil Company, P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Company, Sec. 7–T13N–R24W, Roger Mills County, Oklahoma.	(5)	14.65
CI80–245, E, Mar. 17, 1980	Sohio Petroleum Company (Operator), (Succ. in Interest to Webb Resources Inc.), 50 Penn Place, Suite 1100, Oklahoma City, Okla. 73118.	Panhandle Eastern Pipe line Company, Totem Field, Adams County, Colorado.	(6)	14.65
CI80–246, A, Mar. 19, 1980	Pioneer Production Corporation, (Operator), P.O. Box 2542, Amarillo, Tex. 79189.	Northern Natural Gas Company, Jarvis Unit "B" #1, Section 136, J. Calk Survey, Hemphill County, Tex.	(7)	14.65
CI80–247, A, Mar. 18, 1980	Ocean Production Company, *et al*, P.O. Box 61780, New Orleans, La. 70161.	Michigan Wisconsin Pipe Line Company, West Cameron Blocks 537, 551 and 552, Gulf of Mexico, Offshore Louisiana.	(8)	15.025
CI80–248, A, Mar. 20, 1980	Exxon Corporation, P.O. Box 2180, Houston, Tex. 77001.	Transwestern Pipeline Company, Bradford Field, Lipscomb County, Texas.	(9)	14.65

[1] Applicant is filing under Gas Sales Contract dated 8–25–77, amended by Amendment dated 10–23–79.
[2] Applicant is filing under Gas Purchase Contract dated 9–6–79, amended by Amendatory Agreement dated 1–15–80.
[3] Applicant is filing under Contract dated 1–23–80.
[4] Conversion of interest from overriding royalty to working interest. Gas previously dedicated to interstate commerce under Sun Oil Company's certificate in Docket No. CI78–416.
[5] Applicant is filing under Contract dated 12–1–79.
[6] Pursuant to Merger Agreement dated 12–11–79, between Webb Resources, Inc., Newco Exploration Company and Sohio Petroleum Company, among other things, Sohio Petroleum Company, as the surviving corporation acquired the oil and gas leases which are the properties committed to the performance of the Gas Purchase and Sales Agreement dated 5–6–71, as amended. Applicant respectfully requests the Commission to issue it a Certificate of Public Convenience and Necessity effective 12–11–79, authorizing Sohio to continue the sale and delivery of natural gas now being made as described in said Application, designating Sohio as Operator.
[7] Applicant is filing under Gas Purchase Contract dated 2–18–71.
[8] Applicant is filing under Gas Sales Contract dated 2–28–80.
[9] Applicant is filing under Contract dated 2–11–80.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80–9560 Filed 3–31–80; 8:45 am]

BILLING CODE 6450–85–M

Office of Energy Research

Conservation Panel of the Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770)

Date and time: April 14 and 15, 1980—9:00 a.m.–4:30 p.m.

Place: Department of Energy, Forrestal Building, Room 6A–110, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, Room GE–216, 1000 Independence Avenue, S.W., Washington, D.C. 20585, telephone 202/252–8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Conservation Panel will make recommendations to the parent Board.

Tentative agenda:

Presentation of DOE Conservation Programs

- Program Analysis and Objectives
- Building Programs
- Industrial Programs
- Transportation Programs
- Storage Programs
- State and Local Programs
- Discussion of DOE Conservation Programs
- Discussion on Selection of Topics for Panel

Public Participation: The meeting is open to the public. Written statements may be filed with the panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 14, 1980.

Edward A. Frieman,

Director of Energy Research.

[FR Doc. 80–9738 Filed 3–31–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1450–7]

Availability of Coal Use Information and Further Comment Period Extension Under Section 125 of the Clean Air Act

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of availability of industry coal use projections and further public comment period extension on EPA's proposed determination under subsection 125(a) of the Clean Air Act.

SUMMARY: On September 6, 1979 (44 FR 52030) EPA proposed to determine under subsection 125(a) of the Clean Air Act, 42 U.S.C. 7425(a) that projected local and regional economic and unemployment impacts that would occur if certain Ohio utilities proceeded with plans to switch from high sulfur coal to low sulfur coal to comply with sulfur dioxide emission limitations would not be sufficiently significant to necessitate action under subsections 125 (b) and (c) of the Act. A public hearing was held in St. Clairsville, Ohio on November 20, 1979. A public comment period was established and scheduled to close December 20, 1979 (44 FR 59287, October 15, 1979).

On January 15, 1980 (45 FR 2893) EPA extended the comment period to allow time for the Agency to acquire and analyze up-to-date coal use information from certain utilities and industrial facilities in Ohio and to allow public inspection of this information. This information has been received and that portion on which a business confidentiality claim has not been asserted is available for public inspection and copying at the locations designated as repositories for the Ohio section 125 proceedings (44 FR 52030, September 6, 1979).

EPA will make a final determination as to what portion, if any, of the information on which business confidentiality is claimed will be made available for public inspection after the

firms asserting confidentiality have had an opportunity to substantiate their claims in accordance with EPA's Freedom of Information Act regulations (40 CFR Part 2).

In order to permit public inspection of coal use information now released, to allow time for the firms to substantiate their confidentiality claims and to permit public inspection of any additional material determined by EPA to be releasable to the public for inspection, EPA is extending the public comment period on the subsection 125(a) reproposed determination period to April 20, 1980. EPA will publish a **Federal Register** notice indicating the availability of any additional data determined to be releasable for public inspection.

DATES: The public comment period for the reproposed determination under subsection 125(a) of the Act will remain open until April 20, 1980.

ADDRESSES: The new coal use data and information now released is available for public inspection and copying during regular business hours at the Ohio section 125 record repositories. Public comments or requests for further information should continue to be directed to F. J. Biros, Office of Enforcement, EN–335, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone: 202–426–8710.

(Sec. 125 of the Clean Air Act as amended, August 7, 1977, 42 USC 7425)

Issued in Washington, D.C. on March 13, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–9723 Filed 3–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1452–4]

Conoco Chemicals Co.; Approval of NESHAPS Application

Notice is hereby given that on January 28, 1980, the Environmental Protection Agency approved the application submitted by Conoco Chemicals Company to construct another polyvinyl chloride (PVC) reactor and dryer train at its PVC facility in Oklahoma City, Oklahoma. This approval has been issued under EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS), 40 CFR Subparts A and F, applicable to the construction of new vinyl chloride sources. Approval of the application is subject to the following conditions:

1. An applicable leak detection and elimination program is to be submitted for EPA approval prior to start up.

2. Any revision to approved plans and specifications which may affect the amount of vinyl chloride emitted to the outside air, or any planned deviation from the specific equipment identified in the regulations must receive prior EPA approval.

This Approval to Construct does not relieve Conoco Chemicals Company of the legal responsibility to comply with the NESHAPS regulations applicable to vinyl chloride sources, 40 CFR 61, Subpart A and F, or to comply with other laws and regulations, federal, state or local, which may be applicable.

Approval of this application is reviewable under Section 307(b)(1) of the Clean Air Act only in the U.S. Court of Appeals for the Tenth Circuit. A petition for review must be filed on or before June 2, 1980.

Copies of the Approval to Construct are available for public inspection upon request at the following locations:

Air Enforcement Branch, Environmental Protection Agency, Region 6, First International Building, 1201 Elm Street, Dallas, Texas 75270; and

John W. Gallion, Chief, Air Quality Service, Oklahoma State Department of Health, NE. 10th and Stonewall, Oklahoma City, Oklahoma 73105.

Dated: March 12, 1980.

Frances E. Phillips,

Acting Regional Administrator, Environmental Protection Agency, Region 6.

[FR Doc. 80–9785 Filed 3–31–80; 8:45 am]

BILLING CODE 6560–01–M

[Docket No. ECAO–HA–78–3; FRL 1451–3]

Health Assessment Document for Tetrachloroethylene (Perchloroethylene); Extension of Comment Period for the Second External Review Draft

EPA will extend the comment period deadline for the second external review draft of Health Assessment Document for Tetrachloroethylene (Perchloroethylene) from April 4, 1980 (45 FR 9766), to May 12, 1988.

Address all written requests for copies to Ms. Diane Chappell, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. To place a telephone request dial (919) 541–3746.

Direct comments to Mr. Mark M. Greenberg at the address given above.

Stephen J. Gage,

Assistant Administrator for Research & Development.

March 20, 1980.

[FR Doc. 80–9725 Filed 3–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1451–5]

Issuance of PSD Permit

Notice is hereby given that the Environmental Protection Agency (EPA) has issued a Prevention of Significant Deterioration (PSD) permit, under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52) regulations.

Source: Alaska Petrochemical Company, 601 West 5th Avenue, Anchorage, Alaska 99501.

The permit issued on March 21, 1980 constitutes approval to construct an oil refinery and marine loading terminal at Valdez, Alaska, subject to certain conditions, including:

Approval Conditions

1. Emission of sulfur dioxide (SO_2), particulate matter (PM), nitrogen oxides (NO_x), carbon monoxide (CO) and hydrocarbons (HC) shall not exceed the following limits:

Emission limitation

Facility	Pollutant	kg/hour (lb/hour)	Concentration or emission factor limitation
Combustion devices (total)	SO_2	85 (187)	NOTE 1.
	NO_x	90 (198)	70 ppm at 3 percent O_2 34.4 ng/J (80 lbs/10^9 BTU).
	PM		5 percent opacity.
Refinery fuel gas (NOTE 2)	SO_2		80 mg/dscm H_{2S} (0.035 gr/dscf).
Flexicoker fuel gas	SO_2		155 mg/dscm total sulfur (0.067 gr/dscf).
Fluid catalytic cracker (FCCU)	SO_2	5 (11)	12 ppm.
	PM	20 (44)	0.75 kg/1000 kg coke burnoff. 20 percent opacity. NOTE 3.
	CO	96 (212)	500 ppm
Sulfur recovery (SRU)	SO_2	7.1 (15.6)	0.015 percent by volume at 0 percent O_2 dry basis.
Flexicoker SRU vent	SO_2	0.8 (1.8)	
Gas turbines	SO_2	3.2 (7.1)	
	NO_x	94 (207)	(0.0075E) + F percent by volume at 15 percent O_2, NOTE 4.
Solid waste incinerator	SO_2	1.25 (2.8)	
	PM	0.04 (0.09)	70 mg/dscm (0.03 gr/dscf) 10 percent opacity.
Storage tank (total)	HC	58 (128)	Based on the equipment standard and operation practices below: Pressure tanks shall be used for liquids with a TVP greater than 76.6kPa. Internal floating roofs with double seals or equivalent shall be used for liquids with TVP greater than 10.3 but less than 76.6kPa.
Product loading terminal	HC		The following equipment standard and operating practice shall be substitutes for an emission standard: A vapor recovery system shall be installed and operated to collect and incinerate the HC emissions treater during vessel loading. The design efficiency of the incinerator must exceed 99 percent.
Process fugitives	HC		The following equipment standard and operating practice shall be substituted for an emission standard: Specification for valves, pumps and compressors must include the optimum sealing techniques available from the manufacturers. Process drains must be trapped. Oil/water separators must be covered. A HC monitoring and maintenance plan must be submitted to EPA for approval one year prior to projected refinery startup.

NOTE 1. The average SO_2 emission factor for the combined refinery gas/flexicoker gas is 24.3 ng/J (56.6 lbs/10^9 BTU).
NOTE 2. Includes fuel gas to combustion devices and gas turbines.
NOTE 3. Particulate concentration is about 79 mg/dscm or 0.03 gr/dscf.
NOTE 4. Based on the use of refinery gas as fuel

$$E = \frac{14.4 \text{kg/watt.hr}}{\text{actual ISO heat rate}}$$

F	Fuel Bound Nitrogen = N
0	N 0.015
0.04 (N)	0.015 N 0.1
0.004 + 0.0067 (N − 0.1)	0.1 N 0.25
0.005	N 0.25

2. Only the above listed sources shall be permitted for emissions of air pollutants to the atmosphere. Additional sources or design changes which result in an increase in emissions will require formal permit modification in accordance with Section 52.21.

3. The solid waste incinerator final design shall include a control device capable of 90% removal efficiency for SO_2.

4. Compliance testing shall be conducted within 60 days after achieving the maximum production rate at which the refinery will be operated, but not later than 180 days after initial startup of the refinery. The test methods and procedures described in 40 CFR 60.106 shall be followed for determining compliance with the emission limitations for the refinery fuel gas system, the Claus sulfur recovery unit, and the FCC regenerator. In addition, EPA Method 6 (40 CFR 60; Appendix A) shall be used to determine compliance with the FCC regenerator SO_2 limitations. EPA Method 15 shall be used to determine compliance with the total sulfur emission limitation for the flexicoker gas system. EPA Method 7 shall be used to determine compliance with the NO_x emission limitation for the combustion devices. Only one combustion device of each type needs to be tested. The Company shall submit a plan for EPA approval proposing which combustion devices to test. The test methods and procedures described in 40 CFR 60.335 shall be followed for determining compliance of the gas turbines with the NO_x emission limitations.

5. Compliance Monitoring—The emission monitoring requirements of 40 CFR 60.105 and 60.334 shall be followed. In addition, continuous oxygen or carbon monoxide monitoring instruments shall be installed to record the excess oxygen or carbon monoxide in the combustion devices. A continuous SO_2 monitor shall be installed on the FCC regenerator stack unless the Company can demonstrate that sufficient process monitoring data will be recorded to determine the SO_2 emissions. All continuous monitoring instruments must meet the requirements contained in 40 CFR 60.13. Process monitors shall be installed to record pressure drop across the scrubber, liquid flow rate and any other process variable necessary to insure proper operation of the scrubber on the solid waste incinerator. The thermal incinerator for the product loading terminal shall be equipped with instruments to continuously monitor the incinerator temperature and to determine the residence time within the combustion zone.

6. All reasonable measures shall be taken to prevent and reduce emissions of air pollutants to the atmosphere during the period of construction. This shall include but not be limited to activities to prevent particulate matter from becoming air-borne from roadways or arising from traffic activities in and about the construction site.

7. The refinery throughput shall not exceed 150,000 barrels per day feed stock.

8. ALPETCO shall notify the Alaska Department of Environmental Conservation (ADEC), in writing of any occurrence of emissions in excess of limits specified above; notification shall be forwarded to ADEC in writing in a timely fashion and in each instance, no later than ten (10) days from the date of such occurrence. The notification shall include an estimate of the resultant emissions and narrative report of the cause, duration and steps taken to correct the problem and avoid a recurrence. ALPETCO shall contemporaneously send a copy of all such reports to EPA.

9. This approval shall become void if on-site construction is not commenced within eighteen (18) months after receipt of the approval or if on-site construction once initially commenced is discontinued for a period of eighteen (18) months.

10. As approved and conditioned by this permit, any construction, modification or operation of the

proposed facility shall be in accordance with the application which resulted in this permit. Moreover, any such activity which is undertaken in a manner inconsistent with this permit shall be subject to EPA enforcement action under the Clean Air Act.

11. This permit in no way constitutes a waiver which relieves ALPETCO from its obligations to meet requirements under other parts of the Clean Air Act, including Section III, New Source Performance Standards, or from other obligations as a result of permits required by other Federal or State laws.

12. EPA and ADEC shall be notified of the commencement of construction date and the start up date not later than within thirty (30) days before the date these events begin.

13. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* v. *Douglas M. Costle* (78–1006 and consolidated cases) which will have significant impact on the EPA PSD program. The applicant is hereby advised that this permit may be subject to reevaluation and/or modification as a result of the final court decision and its ultimate effect.

14. Access to the source by EPA or State regulatory personnel shall be permitted upon request for the purpose of compliance assurance inspections. Failure to allow such access is grounds for revocation of this permit.

The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before (60 days from date of this publication).

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: March 20, 1980.

Donald P. Dubois,

Regional Administrator, Region 10.

[FR Doc. 80-9276 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1450-8]

National Ambient Air Quality Standards; Risk Assessment Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: EPA's Office of Air Quality Planning and Standards is conducting a meeting with several research groups who will be developing, under contract, alternative conceptual approaches to assessing health risks in connection with setting national ambient air quality standards under Section 109 of the Clean Air Act. The meeting will be from 9:00 a.m. to 5:30 p.m. on both Wednesday, April 16, and Thursday, April 17, 1980. It will be held in Room 529A of the Humphrey Building, 200 Independence Avenue, Washington, D.C. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Thomas McCurdy (919) 541–5355/(FTS 629–5355) or Harvey Richmond (919) 541–5231/(FTS 629–5231) of the Ambient Standards Branch, Strategies and Air Standards Division, Office of Air Quality Planning and Standards. Their mailing address is: Ambient Standards Branch (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTAL INFORMATION: The Office of Air Quality Planning and Standards in coordination with other EPA offices is undertaking a two-year program to improve its health risk assessment procedures for purposes of setting national ambient air quality standards (NAAQS). The aim of this program is to develop one or more analytic methods suitable for use in that context.

EPA's Science Advisory Board (SAB) Subcommittee on Health Risk Assessment recommended that EPA undertake such an effort. This Subcommittee is continuing to provide EPA with advice on the conduct and content of the risk assessment program.

The first major milestone in the overall program is a two-day public meeting. The meeting will launch a research effort to develop conceptual, or generic, approaches to assessing health risks associated with exposures to ambient air pollutants which are or may be listed under Section 108 of the Clean Air Act. At the conclusion of this effort, each research team will describe its integrated risk assessment approach in a report to be published by EPA. EPA will then evaluate these approaches and choose one or more of them for further development and possible application.

The first day of the public meeting will consist of formal presentations by EPA staff and the research teams. EPA staff will describe (1) the overall risk assessment program; (2) the Agency's ambient air standard-setting process in general, and how it currently reviews and revises air standards; and (3) some preliminary EPA staff thinking on regulatory risk assessment. The researchers will then describe their initial thoughts on how they will approach the problem and discuss issues associated with estimating risk for ambient air pollutants.

The second day will consist of an informal discussion of the issues involved in conducting risk assessments in connection with the setting of NAAQS. This session will be open for public comment, and time will be set aside for that purpose. Anyone wishing to speak at the second session should contact one of the persons listed above under "For Further Information." Written statements can also be sent to either person.

Dated: March 25, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80-9722 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1453-1]

Management Advisory Group to the Municipal Construction Division; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division will be held at the Capital Yacht Club, 1000 Water Street, Washington, DC, on April 22–23–24–, 1980. The meeting will begin at a.m. on April 22, 1980.

The purpose of the meeting is to discuss and review the following: The 1990 Construction Grants Strategy Study; RCRA Regulations and Impact on the Construction Grants Program; Sludge Management Rules, Regulations and Strategy, Pretreatment Regulations; Marine Waiver Applications; Minority Business Enterprise and Women Business Enterprise; Public Participation; Environmental Concerns; Advanced Waste Treatment; National Municipal Policy and Strategy; Model Procurement Ordinance and Handbook; Industrial Cost Recovery; and Pending Legislation. There will also be MAG Sub-Committee Task Force Meetings on various aspects of the Construction Grants Program.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Executive Secretary, Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is area code 202–426–8986.

Eckardt C. Beck,

Assistance Administrator for Water and Waste Managment.

March 26, 1980.

[FR Doc. 80-9784 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1452-1; PP 8G2022/T230]

Renewal of Temporary Tolerances N,N-Dimethylpiperidinium Chloride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the renewal of temporary tolerances for residues of the plant growth regulator *N,N*-dimethylpiperidinium chloride in or on cotton forage at 1.5 parts per million (ppm); the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm; and in eggs and milk at 0.05 ppm. The request was submitted by BASF Wyandotte Corp., The renewal will permit the marketing of the above raw ageicultural commodities while further data are collected on the subject pesticide.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, (202–755–2196).

SUPPLEMENTARY INFORMATION: BASF Wyandotte Corp. Agricultural Chemicals Div., 100 Cherry Hill Road, Parsippany, NJ 07054, has submitted a pesticide petition (PP 8G2022) to EPA. This petition requested that temporary tolerances be renewed for residues of the plant growth regulator *N,N*-dimethylpiperidinium chloride in or on the raw agricultural commodities cotton forage at 1.5 ppm; cottonseed at 1 ppm; the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm; and in eggs and milk at 0.05 ppm. (A related document concerning the renewal of a feed additive regulation for residues of *N,N*-dimethylpiperidinium chloride in cottonseed meal appears elsewhere in today's **Federal Register.**)

Renewal of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit (7969–EUP–9) that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. BASF Wyandotte Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire March 25, 1981. Residues not in excess of 1.5 ppm remaining in or on cotton forage; 1 ppm remaining in or on cottonseed; 0.1 ppm remaining in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; and 0.05 ppm remaining in eggs and milk after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Robert Taylor at the above address.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j))

Dated: March 25, 1980.

Douglas D. Compt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-9786 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, April 21, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3086–1.

Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3086–1, between the City of Long Beach, California (City) and Standard Fruit & Steamship Company (Standard), modifies the parties' basic agreement providing for Standard's lease of a private banana terminal facility. The purpose of the modification is to provide for a renewal option for a second additional term of 5 years, with compensation to be determined prior to renewal. Standard further agrees to possible liability for property taxes, and waives any rights to relocation assistance upon termination of the lease.

Agreement No. 5660–28.

Filing Party: John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D. C. 20006.

Summary: Agreement No. 5660–28, entered into by the member lines of the Marseilles North Atlantic U.S.A. Freight Conference, would amend Article I of the conference agreement to provide that each member shall have the right, on fifteen calendar days' written notice to the Secretary, to establish for itself any ocean freight rate or rates. This right of independent action shall automatically terminate 180 days from the date of approval provided, however, that the members may vote to extend said right for a maximum period of 180 days.

Agreement No. 10383.

Filing party: Sandra Brown, President, The Irwin Brown Company, 210–212 Chartes Street, P.O. Box 2426, New Orleans, Louisiana 70176.

Summary: Agreement No. 10383, between the Irwin Brown Company (Brown) and Dorf International (Dorf) both of whom are licensed ocean freight forwarders with the Federal Maritime Commission, provides that Brown will receive 70 percent of Dorf's net profit for operating their customhouse and forwarding business in New Orleans. Brown handles Dorf's business on an agency basis to provide Dorf's clients with an efficient and expeditious service that would not otherwise be possible. Brown is able to deal directly

with personnel in New Orleans. The agreement is subject to termination by either party giving 180 days' notice to the other or intent to terminate. Mrs. Sandra Brown, President of Brown, shall become Vice-President of Dorf during the term of the agreement, but her appointment shall not prevent Brown from operating its own business in competition with Dorf, except that during the term of the agreement, Brown shall not solicit for its account and benefit, the Dorf accounts.

By Order of the Federal Maritime Commission.

Dated: March 26, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-9728 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Correction

Agreement No. 6190-34.

Filing Party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 6190-33, appeared in the **Federal Register** on March 24, 1980 (45 FR 19051) and was listed incorrectly. It should have read "Agreement No. 6190-34."

By Order of the Federal Maritime Commission.

Dated: March 26, 1980.

Francis C. Hurney,

Secretary

[FR Doc. 80-9727 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1217]

Asiatic Trans-Pacific, Inc.; Order of Revocation

On March 20, 1980, Asiatic Trans-Pacific, Inc., P.O. Box 6600, Tamuning, Guam 96911, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1217 effective March 31, 1980.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1217 issued to Asiatic Trans-Pacific, Inc., be and is hereby revoked effective March 31, 1980.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Asiatic Trans-Pacific, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-9729 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2063]

WTC Air Freight; Order of Revocation

On March 24, 1980, WTC Air Freight, 23740 Hawthorne Blvd., Torrance, California 90505, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 2063 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2063 issued to WTC Air Freight, be and is hereby revoked effective March 24, 1980.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon WTC Air Freight.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-9730 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-16]

Daiichi Chuo Kaisen Kaisha, Toko Kaiun Kaisha, Ltd., and Atlantic Lines and Navigation Company, Inc., v., Pacific Maritime Association; Filing of Complaint

Notice is hereby given that a complaint filed by Daiichi Chuo Kaisen Kaisha, Toko Kaiun Kaisha, Ltd., and Atlantic Lines and Navigation Company, Inc. against the Pacific Maritime Association (PMA) was served March 26, 1980. The complaint alleges that certain actions taken by PMA pursuant to collective bargaining arrangements between PMA and the International Longshoreman's and Warehouseman's Union have resulted in violations of sections 15, 16 and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before September 26, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-9809 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-18; Agreement No. 8370]

Port of New York Ocean Freight Forwarders' Conference Agreement; Order To Show Cause

FMC Agreement No. 8370 is between several independent ocean freight forwarders doing business in the New York City area. It was approved on September 26, 1957, pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), and permits its members to agree upon minima or maxima charges to be assessed shippers for forwarding services performed with respect to cargoes moving through the New York port area and to prescribe rules and regulations pertaining to freight forwarding practices generally. The agreement further requires that copies "* * * of all minutes (of meetings) and true and complete records of all affirmative and negative actions of the parties pursuant to or giving effect to this agreement * * * be furnished promptly to (the Commission)."

According to the Commission's records, the last meeting of the Agreement No. 8370 parties was held on October 22, 1958. Last summer, the parties were requested to furnish a report on the status of their Agreement. They replied by letter dated October 17, 1979 to the effect that no concerted activities had ever been conducted under the Agreement. Because Agreement No. 8370 has been dormant since 1958 and apparently never resulted in substantive actions by the parties, it shall be cancelled unless its proponents can show cause why it should be given continued approval.

Agreement No. 8370 permits its participants to agree upon charges for freight forwarding services and is therefore *per se* violative of the anti-trust laws. Because it was approved in September, 1957, the Agreement was not analyzed under the standards currently applicable to price fixing agreements for which section 15 approval is sought. Such agreements are deemed contrary to the public interest unless required by a serious transportation need, necessary to secure important public benefits, or in furtherance of a valid regulatory

purpose of the Shipping Act. *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien,* 390 U.S. 238 (1968).

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, the Port of New York Ocean Freight Forwarders' Conference and the independent ocean freight forwarders listed in the Attachment are named Respondents in this proceeding; and

It is further ordered, That Respondents show cause why Agreement No. 8370 should not be cancelled as inactive, contrary to the public interest, or both; and

It is further ordered, That this proceeding be limited to the submission of affidavits of fact and memoranda of law and replies thereto. Should any party believe an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Affidavits of fact and memoranda of law shall be filed by Respondents and served upon all nonrespondent parties of record no later than the close of business on April 30, 1980. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel no later than the close of business on May 16, 1980. Intervenors shall submit their case at the same time as the party they support. Oral argument may be scheduled if deemed necessary by the Commission.

It is further ordered, That this Order be published in the **Federal Register** and a copy served upon each Respondent at the address listed in the Attachment; and

It is further ordered, That any person desiring to intervene in this proceeding file a petition establishing the qualifications specified in § 502.72 of the Commission's rules of practice and procedure (46 CFR 502.72); and

It is further ordered, That all documents submitted by any party of record in this proceeding be filed in accordance with § 502.118 of the Commission's rules of practice and procedure (46 CFR 502.118) and mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Attachment

Members Licensed

Atlas Forwarding Co. Inc., 45 John St., New York, New York 10038.

Terramar Shipping Company, Inc., Suite 1551, One World Trade Center, New York, New York 10048.

Pitt & Scott Corporation, 115 Broadway, New York, New York 10006.

Leyden Shipping Corp., One World Trade Center, #2661, New York, New York 10048.

H. W. St. John Company, 33 Rector Street, New York, New York 10006

G. A. Lopez Forwarding & Shipping Co., 30 Vesey St., New York, New York 10007.

Brauner International Corp., Suite 2109, One World Trade Center, New York, New York 10048.

Inter Americas Shipping Co., 127 North Broadway, Hicksville, New York 11801.

O. W. Lochner, Inc., Suite 1413, One World Trade Center, New York, New York 10048.

J. B. Wood Shipping Co., Inc., 175 W. Broadway, New York, New York 10013.

Port of New York Ocean Freight Forwarders Conference

Colony Shipping Co., Inc., Suite 1361, One World Trade Center, New York, New York 10048.

Exporters Forwarding Co., Inc., Suite 8519, One World Trade Center, New York, New York 10048.

Mohegan International Corp., 61 Broadway, New York, New York 10006.

Latina-Macor Shipping Company, Ltd., 236 Main St., Ridgefield Park, New Jersey 07660.

American Union Transport, Inc., 15 E. 26th St., New York, New York 10010.

Major Forwarding Company, Inc., 44 Trinity Place, New York, New York 10006.

J. E. Tomkins & Son, Inc., One Whitehall St., New York, New York 10006.

Beacon Shipping Co., Inc., 7 Dey St., New York, New York 10007.

Rohner, Gehrig & Co., Inc., One Whitehall St., New York, New York 10004.

Almac Shipping Co., Inc., Suite 1171, One World Trade Center, New York, New York 10048.

Unsworth & Co., Inc., 30 Vesey St., New York, New York 10007.

J. Mas International Corp., 350 Broadway, New York, New York 10013.

[FR Doc. 80-9811 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-17]

Wescot International, Inc. v. Sea-Land Service, Inc.; Filing of Complaint

Notice is given that a complaint filed by Wescot International, Inc. against Sea-Land Service, Inc. was served March 26 1980. The complaint alleges that respondent has collected greater compensation for transportation of property than specified in its tariffs, in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before September 26, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-9810 Filed 3-31-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citizens Bancorp, Inc.; Formation of Bank Holding Company

Citizens Bancorp, Inc., Glasgow, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(i)) to become a bank holding company by acquiring 80.1 per cent of the voting shares of Citizens Bank and Trust Company, Glasgow, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 26, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-9793 Filed 3-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Des Plaines Corp.; Formation of Bank Holding Company

First Des Plaines Corporation, Des Plaines, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Des Plaines, Des Plaines, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 26, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-9790 Filed 3-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Oklahoma Bancorp., Inc.; Proposed Acquisition of American Mortgage and Investment Co.

First Oklahoma Bancorporation, Inc., Oklahoma City, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of American Mortgage and Investment Company, Oklahoma City, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking. These activities would be performed from offices of Applicant's subsidiary in Oklahoma City, Midwest City, Tulsa, Lawton, Enid, Yukon, Shawnee, Moore, Norman, and Pauls Valley, Oklahoma, and the geographic areas to be served are those cities as well as Edmond, Piedmont, Mustang, Del City, Choctaw, Harrah, Owasso, Sand Springs, Broken Arrow, Bixby, Claremore, Waukomis, Garber, Tecumseh, Ada, and Ardmore, Oklahoma, and the counties of Cleveland and McClain, Oklahoma. 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 Kansas City.

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. 20551, not later than April 17, 1980.

Board of Governors of the Federal Reserve System, March 25, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-9791 Filed 3-31-80; 8:45 am]

BILLING CODE 6210-01-M

Landmark Bancshares Corp.; Acquisition of Bank

Landmark Bancshares Corporation, Clayton, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Harvester National Bank, Harvester (an unincorporated area of St. Charles County), Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 21, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 26, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-9792 Filed 3-31-80; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp. et al., Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 25, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (finance activities; Texas): to engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions such as would be made by a factoring company or a consumer finance company. These activities would be conducted from an office of Security Pacific Finance Corp., located at Southland Center, 400 North

Olive, Dallas, Texas 75201, serving the State of Texas.

2. Security Pacific Corporation, Los Angeles, California (finance activities; California): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions such as would be made by a factoring company or a consumer finance company. These activities would be conducted from an office of Security Pacific Finance Corp., located at 10 South Lake Avenue, Suite 201, Pasadena, California 91101, serving the State of California.

3. Security Pacific Corporation, Los Angeles, California (finance activities; California): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions such as would be made by a factoring company or a consumer finance company. These activities would be conducted from an office of Security Pacific Finance Corp. located at 10103 Carroll Canyon Road, San Diego, California 92131, serving the State of California.

4. Security Pacific Corporation, Los Angeles, California (finance activities: California): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions such as would be made by a factoring company or a consumer finance company. These activities would be conducted from an office of Security Pacific Finance Corp. located at 505 Sansome Street, San Francisco, California 94111, serving the State of California.

5. Security Pacific Corporation, Los Angeles, California (escrow activities; Washington): to engage through its subsidiary, Security Pacific Escrow, Inc. (formerly Kassler Escrow, Inc.), in acting as escrow agent for the purchase and sale of real property and the execution of all documents and disbursal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office of Security Pacific Escrow, Inc. located in Bellevue, Washington, serving the State of Washington.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 26, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-9789 Filed 3-31-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Preemptive Effect of Magnuson-Moss Act on State Law

AGENCY: Federal Trade Commission.

ACTION: Notice of establishment of rebuttal period for written comments on the Commission's interpretation of section 111 of the act.

SUMMARY: On September 6, 1979, the Commission published a request in the **Federal Register** (44 FR 52036) calling for written comments concerning the Commission's interpretation of Section 111 and the effect of the Magnuson-Moss Warranty Act on state law. In response to a number of requests following that notice, the Commission published, on November 9, 1979, a notice in the **Federal Register** (44 FR 65186) extending the comment period to January 4, 1980, and delegating to the Director of the Bureau of Consumer Protection authority in this proceeding over the establishment of a reasonable rebuttal period. The Director hereby establishes a rebuttal period of 30 days, beginning today.

One commentor sugested, as an adjunct to this proceeding, amending Rule 701 (16 CFR Part 701). Rebuttal comments are appropriate to any issue raised in the comments regarding the present Rule 701 or Section 111 of he Magnuson-Moss Warranty Act; however, the Commission will not be considering the amendment of Rule 701 at this time.

Copies of submissions are available from Shirley Short at the address and telephone number listed below.

ADDRESS: Send written rebuttal comments to: Secretary, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Shirley Short (202) 523-0425, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

DATES: Rebuttal Comments must be received by May 1, 1980.

Approved:

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80-9864 Filed 3-31-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10 (a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: April 21–22, 1980—Public Hearings—9:00 a.m.–5:00 p.m.

ADDRESS: Public hearings will be held at the Anaheim Convention Center, Anaheim, CA. For further information contact: Dr. Gloria Becerra, Office of Bilingual Education, Reporters Building, Room 421, Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202–447–9227).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b–11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On *April 21–22, 1980,* in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics:

(1) Title VII Rules and Regulations,

(2) 1982 Legislation,

(3) Funding,

(4) Parental Involvement,

(5) President's Commission on Foreign Languages and International Education, and

(6) Bilingual Education in General.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;

(2) Witnesses shall limit their testimony to fifteen minutes: ten minutes of formal presentation followed by five of questioning from Council members;

(3) Two or more persons from the same organization shall designate one person to speak for the group;

(4) Witnesses shall present an oral synopsis of their written testimony. Witnesses who do not provide such a testimony will be heard after all who have written testimony are heard;

(5) Witnesses shall provide fifteen copies of their written testimony;

(6) Witnesses may address the Council in either English or in their native language. The written testimony must be submitted in English;

(7) All testimony shall be tape recorded; and

(8) Exceptions to the aforementioned procedures shall be at the discretion of the Chairman of the Program Resource and Coordination Committee.

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the Full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, S.W., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C. on March 26, 1980.

Josué M. González,

Director, Office of Bilingual Education.

[FR Doc. 80-9782 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-89-M

National Advisory Council on Extension and Continuing Education; Committee Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedules and proposed agenda of a meeting of the Ad Hoc Committee on the Media in Continuing Education of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: April 24–25, 1980.

ADDRESS: Convention Complex, Denver, Colorado.

FOR FURTHER INFORMATION: Richard F. McCarthy, Associate Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, NW; Suite 529, Washington, DC 20004, Telephone: 202/376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I, (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW of Part B (Lifelong Learning activities) of the title.

Meetings of the Council are open to the public. However, because of incomplete meeting arrangements, those interested in attending the meeting of the Committee on the Media in Continuing Education are asked to call the Council's office beforehand. The committee will meet intermittently on the mornings of April 24 and 25.

The committee was established by the Council to investigate the issue of education technology and its application to helping to meet the learning needs of the American adult population. The committee was asked to prepare a report for the Council on the subject, which it would then use as the basis for submission of testimony to Congressional committees and a report to the White House.

The members of the committee will attend and participate in the 1980 convention of the Association for Educational Communications and Technology, which meets in Denver during the week of April 21–25 at the Denver Convention Center. The convention is focusing on many of the issues of importance to the committee.

In addition to participating in workshops and seminars and meeting with experts in the field of education technology, the committee has invited a number of prominent individuals to meet with the committee to discuss the central concern of the committee's work: the implications for Federal education policy of the application of education technology to adult learners.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, NW, Washington, D.C.

Dated: March 27, 1980.

Richard F. McCarthy,

Associate Director.

[FR Doc. 80-9788 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-02-M

Food and Drug Administration

[Docket No. 80M-0059]

Heyer-Schulte Corp., Premarket Approval of Angelchik Anti-Reflux Prosthesis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Angelchik Anti-Reflux Prosthesis sponsored by Heyer-Schulte Corp., Goleta, CA. After reviewing the recommendation of the Gastroenterology-Urology Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 1, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Heyer-Schulte Corp., Goleta, CA, submitted an application for premarket approval for the Angelchik Anti-Reflux Prosthesis to FDA on February 5, 1979. The device is used in the treatment of esophageal reflux (backward flow of stomach contents into the esophagus) and hiatal hernia. The application was reviewed by the Gastroenterology-Urology Section of the General Medical Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 23, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before May 1, 1980 file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: March 25, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–9717 Filed 3–31–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80M–0060]

U.S. Packaging, Inc.; Premarket Approval of Gonodecten® Test Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Gonodecten® Test Kit sponsored by U.S. Packaging, Inc., LaPorte, IN. After reviewing the Immunology and Microbiology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for a use as recommended in the submitted labeling.

DATE: Petitions for administrative review by May 1, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK–402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, U.S. Packaging, Inc., LaPorte, IN, submitted an application for premarket approval of the Gonodecten® Test Kit to FDA on December 21, 1977. The device is a presumptive test for the presence of gonorrheal infection in males. The application was reviewed by the Immunology and Microbiology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On April 11, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before May 1, 1980 file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: March 25, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–9718 Filed 3–31–80; 8:45 am]

BILLING CODE 4110–03–M

Health Resources Administration

National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1980:

Name: National Advisory Council on Nurse Training

Date and Time: May 19–21, 1980, 10:30 a.m.

Place: Conference Room 7–32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Open May 19, 10:30 a.m.—12:00 noon. Closed remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.

Agenda: Agenda items for open portion of meeting will cover announcements; consideration of

minutes of previous meeting; discuss future meeting dates; and administrative and staff reports. The remainder of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact DR. MARY S. HILL, Bureau of Health Professions, Health Resources Administration, Room 3–50 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–6681.

Agenda items are subject to change as priorities dictate.

Dated: March 26, 1980.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 80-9720 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Reassumption of Jurisdiction—Confederated Tribes of the Colville Indian Reservation

March 20, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition has been received by the Secretary from the confederated Tribes of the Colville Indian Reservation, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Colville Agency Office, Bureau of Indian Affairs, Nespelem, Washington.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-9840 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

BLM Opens Public Comment Period for Intensive Wilderness Inventory in Nevada; Summarizes Inventory Progress to Date

The Bureau of Land Management in Nevada announces the proposed decision on the intensive inventory of public lands in Nevada for wilderness characteristics and is presenting for public comment its recommendations on which of the intensive inventory units should be designated wilderness study areas and which areas should be dropped from further wilderness consideration based upon the presence or absence of wilderness characteristics in the area.

BLM Nevade State Director Ed Spang said the inventory and his proposed decisions are directed by Section 603 of the Federal Land Policy and Management Act of 1976 and Section 2(c) of the Wilderness Act of 1964. These laws require the inventory of all public lands in Nevada for wilderness characteristics identified by Congress: size, naturalness, outstanding opportunities for solitude or a primitive and unconfined type of recreation, and supplemental values.

The Bureau's approach to this task was to conduct the total inventory in two phases. The first phase, called the initial inventory, was conducted to identify areas that obviously and clearly did not possess wilderness characteristics based upon existing information and areas that possibly contained wilderness characteristics and should be intensively inventoried, including field examinations. The initial inventory was completed in Nevada on Sept. 27, 1979, following a 90-day public comment period on the proposed decisions. Notice of those final decisions was published in the Sept. 27, 1979 **Federal Register** on pages 55667 through 55668. That notice also announced the beginning of the intensive inventory phase in Nevada on areas that possibly possessed wilderness characteristics. The Bureau's recommendations on the remaining intensive inventory acreage was promised on April 1980.

The intensive inventory covered 14,379,969 acres of public lands. The Bureau's recommendation is that 11,416,471 acres be dropped from further wilderness consideration because they lack wilderness characteristics identified by Congress; the remaining 2,963,498 acres were found to possess wilderness characteristics in the Bureau's opinion and should be designated wilderness study areas. The Bureau's recommendations are open for public comment from April 1, 1980 until June 30, 1980. An intensive inventory summary book with public involvement guidelines, an overview of the wilderness effort in BLM, and area by area descriptions of the 405 units covered in the intensive inventory is available from BLM offices throughout Nevada. Copies can be obtained by writing to Bureau of Land Management, P.O. Box 12000, Reno, Nevada, 89520. This book clearly explains what type of public input is requested, how it should be submitted, and how it will be utilized by BLM.

To facilitate public comments, the Bureau is holding open houses in each of its six district offices to discuss local district findings between April 14 and April 22. These meetings are outlined below. In addition, to help those interested in a statewide view of all 405 units regardless of district boundary, six-statewide summary open houses are planned between April 30 and May 20. Times and dates of these meetings are also noted below.

District Open Houses: (covering only information for that general area)

April 14—Elko—Convention center—1 p.m.–6 p.m.
April 15—Gerlach—Gerlach High School Library—7 p.m.–10 p.m.
April 15—Alamo—Pahranagat High School—7 p.m.–9 p.m.
April 15—Battle Mountain—BLM District Office—1 p.m.–4:30 p.m. and 7 p.m.–9 p.m.
April 16—Las Vegas—BLM District Office—2 p.m.–4:30 p.m., 7 p.m.–10 p.m.
April 16—Eureka—Eureka Courthouse—1 p.m.–4:30 p.m., 7 p.m.–9 p.m.
April 17—Winnemucca—BLM District Office—7 p.m.–10 p.m.
April 17—Goldfield—County Courthouse—7 p.m.–9 p.m.
April 17—Carson City—Ormsby Public Library—7 p.m.–9 p.m.
April 17—Ely—Convention center—6 p.m.–9 p.m.
April 17—Tonopah—BLM Area Office—1 p.m.–4:30 p.m., Cenvention center—7 p.m.–9 p.m.
April 22—Lovelock—County Courthouse, conference room—7 p.m.–10 p.m.

Statewide Open Houses:

April 28—Reno—Pioneer Hotel Room D—3 p.m.–5 p.m. & 7 p.m.–9 p.m.
April 30—Las Vegas—BLM District Office—7 p.m.–9 p.m.
May 14—Battle Mountain—BLM District Office conference room 7 p.m.–9 p.m.
May 15—Tonopah—Convention center—7 p.m.–9 p.m.
May 19—Elko Convention center, Turquoise Room—3 p.m.–5 p.m. & 7 p.m.–9 p.m.
May 20—Eureka—Courthouse—7 p.m.–9 p.m.

In addition to this **Federal Register** notice, the Bureau is attempting to inform the public through numerous news media announcements, direct mail

to more than 2,000 people who have indicated an interest in the Bureau's inventory process in Nevada and handouts to interested persons who write or drop by BLM offices throughout Nevada.

The following chart illustrates the Bureau's wilderness inventory efforts in Nevada to date:

Inventory process	Total acres	Acres eliminated	(Areas)	Existing WSA acres	(Areas)
Initial	25,140,136	25,140,136	(1,010)	0	(0)
Accelerated	8,335,689	7,008,909	(224)	1,326,780	(31)
Intensive	[1] 14,379,969	[3] Not complete		[4] Not complete	
Totals	[2] 47,855,794	32,149,045	(1,234)	1,326,780	(31)

[1] Includes all public land in interstate units. (California, Oregon, Idaho, Utah.)
[2] Doesn't include public lands in Nevada managed by Susanville, California, BLM District and Boise, Idaho, BLM District.
[3] Contains 11,416,471 Acres recommended to be dropped from further wilderness study.
[4] Contains 2,963,498 acres recommended for WSAs.

Accelerated inventories were site specific inventories completed to expedite planning and program decisions for important public land projects or systems. A summary of the accelerated inventory conclusions is provided below.

Name of special accelerated inventory	Total Acreage	Acres dropped	Acres WSA
Oil and gas lease lands	1,871,470	1,855,640	15,830
Rip Rap site (highway department)	11,200	11,200	
Sierra Pacific powerline	255,434	255,434	
Valmy power	92,600	92,600	
Gund Ranch transfer	102,300	102,300	
Dolly Varden/Victoria	62,720	62,720	
Mineral Hill	13,640	13,640	
Intermountain Power project No. 1	2,877,980	2,268,358	609,622
Intermountain Power project No. 2	101,000	50,300	50,700
Mount Wheeler powerline	82,000	82,000	
Oil well drilling permit	118,900	118,900	
Ely Prison site	16,000	16,000	
Las Vegas Prison site	48,900	48,900	
Mormon Mesa drilling permit	81,200	81,200	
American Selco et al	379,920	379,920	
San Antonio molybdenum	88,200	88,200	
Hickison molybdenum	23,400	23,400	
Overthrust belt	2,098,665	1,448,637	650,028
Pueblo mountains	10,160	9,560	600
Total	8,335,689	7,008,909	1,326,780

During the intensive inventory, 405 units were individually studied by BLM. The unit numbers, names, total public land acreage, and acreage recommendations for the intensive inventory are listed below:

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
Elko District				
NV-010-002	Maverick Springs	84,840	84,840	0
NV-010-002-A	Maverick Springs	6,360	6,360	0
NV-010-002-B	Maverick Springs	5,760	5,760	0
NV-010-002-C	Maverick Springs	7,040	7,040	0
NV-010-002-D	Maverick Springs	7,700	7,700	0
NV-010-002-E	Maverick Springs	5,800	5,800	0
NV-010-002-F	Maverick Springs	31,360	31,360	0
NV-010-002-G	Maverick Springs	10,900	10,900	0
NV-010-002-J	Maverick Springs	7,700	7,700	0
NV-010-004	High Bald Peak	31,560	31,560	0
NV-010-004B	High Bald Peak	16,000	16,000	0
NV-010-016	Spruce Mountain	35,960	35,960	0
NV-010-016B	Spruce Mountain	8,150	8,150	0
NV-010-017	Spruce Ridge	46,600	46,600	0
NV-010-017C	Spruce Ridge	6,500	6,500	0
NV-010-022	Hogan	15,460	15,460	0
NV-010-023	Collar and Elbow	10,000	10,000	0
NV-010-023A	Collar and Elbow	8,300	8,300	0
NV-010-025	Leppy Peak	10,840	10,840	0
NV-010-027	Bluebell	66,130	2,980	63,150
NV-010-032	Morgan Basin	12,160	12,160	0
NV-010-033	Goshute Peak	101,340	12,900	88,440
NV-010-035	South Pequop	46,660	46,660	0
NV-010-035-B	South Pequop	6,100	6,100	0
NV-010-036	Boone Springs	8,320	8,320	0
NV-010-037	Brush Creek	13,320	13,320	0
NV-010-044	Antelope	33,020	33,020	0
NV-010-045	Currie Hills	27,640	27,640	0
NV-010-045-A	Currie Hills	7,760	7,760	0
NV-010-045-B	Currie Hills	5,200	5,200	0
NV-010-047	Kingsley	21,800	21,800	0
NV-010-047-D	Kingsley	8,160	8,160	0
NV-010-049	Sugarloaf	17,600	17,600	0
NV-010-050	Ferguson Mountain	6,960	6,960	0
NV-010-052	Lead Mine Hills	11,520	11,520	0
NV-010-053	Dead Cedar Wash	13,340	13,340	0

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
NV-010-054/UT-020-044	Ferber Wash	10,240	10,240	0
NV-010-058	Dead Horse	10,800	10,800	0
NV-010-060	White Sage Flat	19,540	19,540	0
NV-010-061/UT-020-050	Ferber Flat	10,240	10,240	0
NV-010-062/UT-020-046	Utah Peak	7,040	7,040	0
NV-010-070	Cortez	33,260	33,260	0
NV-010-074	Florio	12,100	12,100	0
NV-010-081	Smith Creek Mountains	20,850	20,850	0
NV-010-085	Diamond Hills	56,320	56,320	0
NV-010-102/ID-12-56A	Little Owyhee	57,589	57,589	0
NV-010-102-A	Little Owyhee	5,800	5,800	0
NV-010-103/ID-16-53	Devil's Corral	12,060	12,060	0
NV-010-103-A/ID-16-53	Devil's Corral	55,740	5,200	50,540
NV-010-104	Hat Peak	49,800	49,800	0
NV-010-105	Forklift	17,280	17,280	0
NV-010-106	Owyhee Canyon	17,520	350	17,170
NV-010-106-A	Owyhee Canyon	7,360	7,360	0
NV-010-106-B	Owyhee Canyon	43,520	43,520	0
NV-010-107	Airstrip No. 1	42,240	42,240	0
NV-010-108	Star Valley Cabin	32,000	32,000	0
NV-010-109	Silver Lake	41,470	41,470	0
NV-010-109-A	Silver Lake	43,650	43,650	0
NV-010-110	Milligan Creek	121,360	121,360	0
NV-010-111	Winter Creek	59,780	59,780	0
NV-010-112	Bullhead	55,150	55,150	0
NV-010-113	Burner Hill	16,770	16,770	0
NV-010-114	Cornucopia	28,760	28,760	0
NV-010-115	Big Cottonwood Canyon	56,140	56,140	0
NV-010-116	Sulfer	15,000	15,000	0
NV-010-129	Six Mile Hill	42,680	42,680	0
NV-010-130	Rock Creek	37,080	37,080	0
NV-010-131	Snowstorm	12,130	12,130	0
NV-010-132	Little Humboldt River	96,320	56,220	40,100
NV-010-133	Three Mile Creek	28,440	28,440	0
NV-010-134	Chino Creek	9,680	9,680	0
NV-010-135	Bull Run	8,700	8,700	0
NV-010-143	Adobe	11,230	11,230	0
NV-010-147	Double Mountain	36,740	36,740	0
NV-010-148	Beaver Creek	22,240	22,240	0
NV-010-149	Lookout Mountain	44,960	44,960	0
NV-010-150	Table Mountain	47,300	47,300	0
NV-010-151	Rough Hills	6,300	6,300	0
NV-010-152	Charleston Reservoir	5,120	5,120	0
NV-010-153	Mahala Creek	10,240	10,240	0
NV-010-160/UT-020-009, 011, 012.	Wagon Box Pass	21,300	21,300	0
NV-010-160-B	Wagon Box Pass	6,000	6,000	0
NV-010-161	Bald Mountain	16,620	16,600	0
NV-010-162	Tee Pee Rock No. 2	11,000	11,000	0
NV-010-164/ID-202-1/UT-020-001.	Little Goose Creek No. 1	11,350	11,350	0
NV-010-167	Little Goose Creek No. 4	5,300	5,300	0
NV-010-167-B	Little Goose Creek No. 4	6,100	6,100	0
NV-010-170	Bedke Well	26,880	26,880	0
NV-010-171	Delano	7,400	7,400	0
NV-010-171-A	Delano	10,450	10,450	0
NV-010-171-B	Delano	10,540	10,540	0
NV-010-174	Ninemile	21,120	21,120	0
NV-010-177	Tijuana John	12,840	12,840	0
NV-010-177-B	Tijuana John	12,990	12,990	0
NV-010-177-F	Tijuana John	6,560	6,560	0
NV-010-177-J	Tijuana John	6,320	6,320	0
NV-010-177-L	Tijuana John	14,400	14,400	0
NV-010-178	Granite	8,300	8,300	0
NV-010-178-A	Granite	15,420	15,420	0
NV-010-178-C	Granite	9,900	9,900	0
NV-010-178-F	Granite	7,900	7,900	0
NV-010-179/ID-107-26/ID-17-26.	Cottonwood-Salmon Falls	17,767	17,767	0
NV-010-181	Ellen and Dee	6,010	6,010	0
NV-010-181-C	Ellen and Dee	6,000	6,000	0
NV-010-181-E	Ellen and Dee	5,340	5,340	0
NV-010-183	Fort Yoho	12,350	12,350	0
NV-010-184	Bad Lands	72,480	63,480	9,000
NV-010-185	Canyon Creek	35,760	35,760	0
NV-010-187	Cottonwood	15,490	15,490	0
NV-010-188	Beaver Ponds	17,320	17,320	0
NV-010-193	Anderson Creek	8,920	8,920	0
NV-010-197	Hank's Creek	37,640	37,640	0
NV-010-198	Coyote	9,580	9,580	0
NV-010-199	Stag Mountain	40,240	40,240	0
Winnemucca District				
NV-020-001/CA-020-919	Tenmile Spring	11,470	11,470	0
NV-020-004/CA-020-813-A&B	Hog Ranch Mountain	9,980	9,980	0
NV-020-006/CA-020-914-A	Warm Springs Canyon	65,369	65,369	0
NV-020-006-A/CA-020-914	East Fork High Rock Canyon	53,920	0	53,920
NV-020-007	High Rock Lake	73,696	73,696	0
NV-020-008/CA-020-913	Little High Rock Canyon	53,573	1,430	52,143
NV-020-009/CA-020-823	Leadville	27,023	27,023	0
NV-020-010/CA-020-816/CA-020-821/CA-020-820.	Crutcher	52,745	52,745	0

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
NV-020-012/CA-020-621, 618	Poodle Mountain	137,160	9,331	127,829
NV-020-014	Fox Mountain Range	81,424	10,481	70,943
NV-020-018	Division Peak	27,927	27,927	0
NV-020-019	Calico Mountains	67,931	2,070	65,861
NV-020-021/CA-020-822-A&B/ CA-020-823.	No Name	5,230	5,230	0
NV-020-200	Selenite Mountain	34,731	0	34,731
NV-020-201	Mt. Limbo	24,512	386	24,126
NV-020-204	Nightingales	56,549	56,549	0
NV-020-209	Razorback	67,467	67,467	0
NV-020-212	Lava Beds	69,605	69,605	0
NV-020-216	South Shawave Mtns	20,541	20,541	0
NV-020-217	Shawave Mountains	65,757	65,757	0
NV-020-222	Blue Wing Mountains	43,711	43,711	0
NV-020-235	North Lava Bed	87,747	87,747	0
NV-020-406	Tobin Range	86,872	86,872	0
NV-020-408	Jersey Valley	55,710	55,710	0
NV-020-410	Table Mountain	64,518	64,518	0
NV-020-436	Granite Mountain	20,269	20,269	0
NV-020-600	Blue Lakes	31,969	14,469	17,500
NV-020-601	Alder Creek	30,467	30,467	0
NV-020-602	Mahogany Mountains	26,115	26,115	0
NV-020-603	South Jackson Mtns	69,314	7,606	61,708
NV-020-604	Trident Peak	69,718	69,718	0
NV-020-606	North Jackson Mtns	26,423	643	25,780
NV-020-609/OR-2-80	Maggie Creek	35,584	35,584	0
NV-020-610	Sentinel Peak	28,060	28,060	0
NV-020-612	Bilk Creek	21,072	21,072	0
NV-020-615	Wood Canyon	7,936	7,936	0
NV-020-617	Middle Spring	11,460	11,460	0
NV-020-618	Texas Springs	10,853	10,853	0
NV-020-620	Black Rock Desert	550,000	216,889	333,111
NV-020-621	Pahute Peak	55,472	55,472	0
NV-020-621-A	Pahute Peak	32,240	32,240	0
NV-020-622	North Black Rock Range	94,356	64,411	29,945
NV-020-637	McGee Mountain	25,406	0	25,406
NV-020-641	Paiute Meadows	16,349	16,349	0
NV-020-800	Long Ridge	12,430	12,430	0
NV-020-810/OR-3-191	Carin "C"	11,660	11,660	0
NV-020-811/OR-3-159/ID-106-70-E.	Tent Creek	46,520	46,520	0
NV-020-827	North Fork Little Humboldt	114,021	32,701	81,320
NV-020-830	Sugar Loaf Hill	35,901	35,901	0
NV-020-835	Forks Ranch	21,998	21,998	0
NV-020-836	Little Owyhee	34,883	34,883	0
NV-020-838	Lone Willow	24,597	24,597	0
NV-020-839	Calico Ranch	34,366	34,366	0
NV-020-840	No Springs	11,174	11,174	0
NV-020-843	Raven Creek	21,436	21,436	0
NV-020-859/OR-3-153/OR-2-78	Disaster Peak	58,905	25,550	33,355
Carson City District				
NV-030-102	Clan Alpine Mountain	257,000	63,480	193,520
NV-030-104	Stillwater Range	113,310	3,177	110,133
NV-030-105	New Pass Range	61,500	61,500	0
NV-030-106	Shoshone Meadows	53,000	53,000	0
NV-030-108	Augusta Mountains	96,000	96,000	0
NV-030-110/NV-060-288	Desatoya Mountains	76,800	28,650	48,150
NV-030-117	Diamond Canyon	65,000	65,000	0
NV-030-118	Desatoya South	27,850	27,850	0
NV-030-125	Desatoya North	54,750	54,750	0
NV-030-127	Job Peak	115,120	22,790	92,330
NV-030-136	Mount Annie	19,500	19,500	0
NV-030-323	Wassuk Range	62,000	62,000	0
NV-030-402	Gillis Range North	51,580	51,580	0
NV-030-407	Gabbs Valley Range	81,120	3,790	77,330
NV-030-409	Stewart Valley Hills	44,410	44,410	0
NV-030-425	Excelsior Mountains	66,850	66,850	0
NV-030-430	Teels Marsh	52,700	26,660	26,040
NV-030-432	Hontone Mine	2,570	1,000	1,570
NV-030-435	Truman Meadows	7,560	7,560	0
NV-030-436	Queen Valley North	7,640	7,640	0
NV-030-437	Queen Valley Ranch	610	610	0
NV-030-439	Orchard Spring	760	760	0
NV-030-517	Rawe Peak	49,480	49,480	0
NV-030-520	Lyon Peak	36,000	36,000	0
NV-030-525	East Pine Nuts	39,185	39,185	0
NV-030-525-A	Burbank Canyons	14,490	14,490	0
NV-030-531/CA-010-105	Slinkard	5,440	0	5,440
NV-030-532	Carson-Iceberg	550	0	550
NV-030-603/CA-020-403	Fort Sage Mountain	22,990	22,990	0
NV-030-605	Virginia Mountains	89,275	89,275	0
NV-030-610	Peterson Mountain	17,170	17,170	0
Ely District				
NV-040-001	Northeast Corner	27,400	27,400	0
NV-040-004	Chin Creek	16,000	16,000	0

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
NV-040-007	Lehman Creek	17,300	17,300	0
NV-040-007-A	Lehman Creek	7,700	7,700	0
NV-040-008	Antelope Range	13,100	13,100	0
NV-040-009	Warm Springs	18,400	18,400	0
NV-040-015	Goshute Canyon	190,680	159,680	31,000
NV-040-016	Willow Spring	19,200	19,200	0
NV-040-019	Egan Basin	20,900	20,900	0
NV-040-021	Butte Mountains	47,860	47,860	0
NV-040-021-A	Butte Mountains	33,460	33,460	0
NV-040-034	Buck Mountain	41,180	41,180	0
NV-040-042	Maple Syrup Well	20,400	20,400	0
NV-040-043	Robber's Roost	48,400	48,400	0
NV-040-047	Frank's Well	20,500	20,500	0
NV-040-048	Toner Spring	20,900	20,900	0
NV-040-048-A	Heusser Mountain	32,940	32.940	0
NV-040-048-B	Toner Spring	6,700	6,700	0
NV-040-049	Telegraph Canyon	20,020	20,020	0
NV-040-050	Hot Springs	8,900	8,900	0
NV-040-065	Golden Springs	16,200	16,200	0
NV-040-070	Red Hills	12,800	12,800	0
NV-040-078	Grass Valley Reservoir	11,100	11,100	0
NV-040-079	Kern Mountains	35,400	35,400	0
NV-040-079-A	Kern Mountains	7,300	7,300	0
NV-040-081	White Cloud Basin	25,100	25,100	0
NV-040-081-A	White Cloud Basin	17,800	17,800	0
NV-040-085	Yelland Ranch	9,900	9,900	0
NV-040-086	Granite Spring	119,500	100,100	19,400
NV-040-100	Colorado Gulch	38,200	38,200	0
NV-040-100-C	John's Wash	3,000	3,000	0
NV-040-107	Kious Spring	2,900	2,900	0
NV-040-109	Snake Creek Cave	2,400	2,400	0
NV-040-110	Big Wash	1,000	1,000	0
NV-040-123	Martin Spring	24,800	24,800	0
NV-040-129	Copper Flat	42,600	42,600	0
NV-040-130-A	Deadman Gulch	9,800	9,800	0
NV-040-130-AA	Deadman Gulch	8,200	8,200	0
NV-040-130-AB	Deadman Gulch	11,900	11,900	0
NV-040-153	West Pancakes	317,820	317,820	0
NV-040-154	Park Range	50,600	8,300	42,300
NV-040-155	South Pancakes	140,400	140,400	0
NV-040-159	Manzone Well	30,000	30,000	0
NV-040-159-A	Manzone Well	9,100	9,100	0
NV-040-159-B	Manzone Well	8,240	8,240	0
NV-040-166	Riordan's Well	190,700	136,300	54,400
NV-040-184	Big Spring Wash	12,500	12,500	0
NV-040-185	Lexington Creek	4,900	4,900	0
NV-040-197	Table Mountain	57,260	23,460	33,800
NV-040-202/UT-040-216	White Rock Range	39,800	20,700	19,100
NV-040-203	Burnt Canyon	7,860	7,860	0
NV-040-204	Camp Valley	16,000	16,000	0
NV-040-217	Black Cone	24,100	24,100	0
NV-040-226	Gap Mountain	9,800	9,800	0
NV-040-229	Scofield	10,200	10,200	0
NV-040-231	Bruno Creek	4,500	4,500	0
NV-040-234-A	South Badger Gulch	440	440	0
NV-040-235	Barton Spring	13,460	13,460	0
NV-040-241	Griswold	23,900	23,900	0
NV-040-241-A	Griswold	31,880	31,880	0
NV-040-242	Worthington Mtns	58,300	58,300	0
NV-040-243	Garden Valley Reservoir	99,580	99,580	0
NV-040-246	Weepah Spring	191,700	122,300	69,400
NV-040-247	Fossil Peak	88,900	88,900	0
NV-040-249	North Pahranagat Range	55,900	55,900	0
NV-040-249-A	North Pahranagat Range	21,500	21,500	0
NV-040-250	Southpaw	34,900	34,900	0
Las Vegas District				
NV-050-0100	Quinn Canyon	12,810	12,810	0
NV-050-0107	North Pahroc	28,847	28,847	0
NV-050-0108	Nesbitt	20,931	20,931	0
NV-050-0109	Seep Springs	15,149	15,149	0
NV-050-0112	Timpahute Range	52,800	52,800	0
NV-050-0113	Pahroc Summit Pass	61,737	61,737	0
NV-050-0114	Pahroc Spring	15,950	15,950	0
NV-050-0116	Chief Mountain	12,673	12,673	0
NV-050-0127	Swirl Cake Rock	8,690	8,690	0
NV-050-0131	East Pahranagat	152,458	136,258	16,200
NV-050-0132	South Pahrocs/Hiko	71,055	42,455	28,600
NV-050-0154	Medsger Pass	11,462	0	11,462
NV-050-0165	Lower Pahranagat Lake	3,350	0	3,350
NV-050-0302	Cedar Mountain	10,577	10,577	0
NV-050-0304	Relay Station	23,379	23,379	0
NV-050-0305	Far North	11,905	11,905	0
NV-050-0306	Pilot Peak	59,274	59,274	0
NV-050-0308	Monte	7,637	7,637	0
NV-050-0311	Devils Gate	36,332	36,332	0
NV-050-0312	Rock Hill	41,392	41,392	0
NV-050-0317	Lone Mountain	38,239	38,239	0
NV-050-0319	Montezuma Valley	12,047	12,047	0
NV-050-0320	Weepah Hills	29,153	29,153	0

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
NV-050-0323	Emigrant Peak	25,337	25,337	0
NV-050-0324	Volcanic Hills	25,444	25,444	0
NV-050-0325	Pinchot Creek	15,254	15,254	0
NV-050-0327	The Sump	30,693	30,693	0
NV-050-0328	Emigrant Pass	30,583	30,583	0
NV-050-0330/NV-050-0330-A	Monocline	20,150	20,150	0
NV-050-0331	The Choice	23,676	23,676	0
NV-050-0335	Misplaced	49,040	49,040	0
NV-050-0336	Clayton Ridge	106,593	106,593	0
NV-050-0337	Company Spring South	25,206	25,206	0
NV-050-0337-A	Company Spring North	10,880	10,880	0
NV-050-0338	Silver Peak Range North	72,779	72,779	0
NV-050-0338-A	Silver Peak Range South	54,845	54,845	0
NV-050-0339	Aiken	1,279	1,279	0
NV-050-0340	Red Mountain Triangle	33	33	0
NV-050-0341	Furnace Creek	1,050	1,050	0
NV-050-0342	Palmetto Mountains	30,165	30,165	0
NV-050-0344	Mount Jackson North	33,720	33,720	0
NV-050-0344-A	Mount Jackson South	6,184	6,184	0
NV-050-0345/NV-050-0345-A	Crispa Hills	30,599	30,599	0
NV-050-0349	Magruder Mountain	19,651	19,651	0
NV-050-0350	Pigeon Spring	6,977	2,227	4,750
NV-050-0351	Uncle Sam	24,223	24,223	0
NV-050-0352	Slate Ridge West	28,874	28,874	0
NV-050-0352-A	Slate Ridge East	8,813	8,813	0
NV-050-0353	Hell's Gate	19,596	19,596	0
NV-050-0354	Queer Mountain	88,729	31,379	57,350
NV-050-0355	Bonnie Claire Flat	81,776	40,526	41,250
NV-050-0358	Can You Believe	32,327	32,327	0
NV-050-0368	Porter Mine	6,689	600	6,089
NV-050-0369	Amargosa	12,526	73	12,453
NV-050-0370	Nothing Flats	12,055	2,545	9,510
NV-050-0372	Crater Flat	37,242	37,242	0
NV-050-0373	Black Marble	28,864	28,864	0
NV-050-0375	Big Dune	21,900	21,900	0
NV-050-0376	Dry Well	21,732	21,732	0
NV-050-0377	Jokersville	4,625	4,625	0
NV-050-0386	Claw	820	820	0
NV-050-0387	Old McNett Ranch	23,661	23,661	0
NV-050-03R-11-A	Fish Lake Valley	165	165	0
NV-050-03R-12	Pinto Hill	16,712	16,712	0
NV-050-03R-15-A	Lida Valley	852	852	0
NV-050-03R-22	Gem	2,193	40	2,153
NV-050-03R-23	Von Schmidt	2,786	2,786	0
NV-050-0401	Mount Stirling	203,000	132,000	71,000
NV-050-0406	Lost Cabin Spring	68,421	68,421	0
NV-050-0410	Shoemaker Spring	82,917	82,917	0
NV-050-0414	Pine Creek	34,761	10,761	24,000
NV-050-0416	Wheeler	7,282	7,282	0
NV-050-0421	Clark Canyon	7,880	7,880	0
NV-050-0450	Striped Hills	20,698	20,698	0
NV-050-0451	Specter Range	34,340	34,340	0
NV-050-0457	Mount Montgomery	45,193	45,193	0
NV-050-0459	Ash Meadows	9,770	9,770	0
NV-050-0460	Resting Springs Range	21,058	17,208	3,850
NV-050-0461	Last Chance Range	27,079	27,079	0
NV-050-0462	High Peak	10,872	10,872	0
NV-050-0463	Grown	7,064	7,064	0
NV-050-04R-03-AB&C	Pahrump	10,958	10,958	0
NV-050-CDCA276	Dead Mountains	750	750	0
Battle Mountain District				
NV-060-019	Kawich	39,000	11,440	27,560
NV-060-059	Rawhide Mountain	75,400	11,030	64,370
NV-060-069	Empire Canyon	17,620	17,620	0
NV-060-078	Stone Cabin	24,000	24,000	0
NV-060-079	Hot Creek	45,970	45,970	0
NV-060-086	Monarch	11,700	11,700	0
NV-060-089	Woods Canyon	25,900	25,900	0
NV-060-112	South Reveille	114,500	8,300	106,200
NV-060-113	Quinn Canyon	105,570	105,570	0
NV-060-120	East Kawich	18,100	18,100	0
NV-060-130	Castle Rock	22,300	22,300	0
NV-060-132	North Reveille	65,000	65,000	0
NV-060-136	Quinn Range	23,703	23,703	0
NV-060-142/162	Palisade Mesa	117,000	17,450	99,550
NV-060-158/199	Blue Eagle	72,900	14,100	58,800
NV-060-163	The Wall	43,300	5,300	38,000
NV-060-166	Grant Range	7,200	650	6,550
NV-060-174	Black Rock	25,500	25,500	0
NV-060-176	Big Round Valley	6,200	6,200	0
NV-060-183	North Pancake I	17,200	17,200	0
NV-060-184	North Pancake III	19,200	19,200	0
NV-060-188	Morgan	9,000	9,000	0
NV-060-190	Fandango	48,600	48,600	0
NV-060-191	Morey	29,700	9,580	20,120
NV-060-192	Slanted Buttes	23,900	23,900	0

Unit No.	Unit name	Total public acres	Acres recommended for release from further wilderness consideration	Acres recommended for WSA
NV-060-194	North Pancake II	26,400	26,400	0
NV-060-201/211	Sixmile	12,600	12,600	0
NV-060-212	Rhyolite Hills	34,300	34,300	0
NV-060-213	Red Ring Mountain	6,200	6,200	0
NV-060-219	Milton Ranch	9,300	9,300	0
NV-060-231/241	Antelope	148,300	43,600	104,700
NV-060-258	Buzanes	10,900	10,900	0
NV-060-278	Haypress	2,900	2,900	0
NV-060-279	White Rock	26,400	26,400	0
NV-060-347	Diana's Punchbowl	14,700	14,700	0
NV-060-407	Bates Mountain	77,930	77,930	0
NV-060-415	Callaghan	79,300	79,300	0
NV-060-422	White Sage	16,400	16,400	0
NV-060-428	Simpson Park	113,400	113,400	0
NV-060-432	Willow Creek	35,300	35,300	0
NV-060-433	Manhattan Mountain	31,300	31,300	0
NV-060-442	Sage	10,900	10,900	0
NV-060-459	Rocky Hills	57,360	57,360	0
NV-060-461	South Fish Creek	104,500	104,500	0
NV-060-464	Elephant Head	44,200	44,200	0
NV-060-465	Carico Ranch	8,000	8,000	0
NV-060-467	Francis Cabin	5,700	5,700	0
NV-060-474	Red Rock	14,100	14,100	0
NV-060-478	Caetano Ranch	9,560	9,560	0
NV-060-482	North Fish Creek	52,400	52,400	0
NV-060-504	Diamond Mountains	73,470	73,470	0
NV-060-530	Rutabaga Creek	13,800	13,800	0
NV-060-531	Henderson	12,700	12,700	0
NV-060-541	Roberts	57,800	42,710	15,090
NV-060-554	North Diamond	43,800	43,800	0
District totals:				
Elko (010)		2,675,986	2,407,586	268,400
Winnemucca (020)		2,936,122	1,898,444	1,037,678
Carson City (030)		1,592,210	1,037,147	555,063
Ely (040)		2,586,080	2,316,680	269,400
Las Vegas (050)		2,427,188	2,135,171	292,017
Battle Mountain (060)		2,162,383	1,621,443	540,940
State total		14,379,969	11,416,471	2,963,498

Some of these units contain designated natural areas that were given special attention by Congress. The natural areas within these intensive inventory units are outlined below along with the recommendations concerning those units. Natural area designation will remain, on these areas no matter what the final outcome of the wilderness review.

Natural Areas Remaining in Intensive Inventory

District	Natural area	Within unit No.	Unit recommendations
Winnemucca	Lahontan-Cutthroat Trout	NV-020-622	A portion (29,945 acres) of the unit is recommended as WSA including a part of the natural area.
Ely	Bristlecone Pine	NV-040-048A	Unit recommended to be dropped from further consideration.
Ely	Goshute Canyon	NV-040-015	A portion (31,000 acres) of the unit is recommended as a WSA, including a part of the natural area.
Las Vegas	Pine Creek Canyon	NV-050-0414	A portion (24,000 acres) of the unit is recommended as a WSA, including the entire natural area.
Las Vegas	Pinyon-Joshua Tree Transition	NV-050-0337 and NV-050-0338A	Both units are recommended to be dropped from further wilderness consideration.

During the comment period and once the comment period closes, the State Director and district staff will be evaluating all incoming comments and doing field verification checks where necessary. These comments and evaluations will be utilized in making the final intensive inventory decisions and selecting areas to be designated wilderness study areas and areas to be dropped from further wilderness consideration based on the presence or absence of wilderness characteristics. The State Director's decisions are scheduled to be announced in September, 1980.

Dated: March 18, 1980.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 80-92421 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: National Zoological Park, Washington, D.C. 20008.

The applicant requests a permit to import frozen serum and semen and fixed blood smears of cheetah (*Acinonyx jubatus*) from South Africa for scientific research and propagation purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–6400. Interested persons may comment on this application on or before May 1, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: March 27, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-9752 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before March 21, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by April 16, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Bradshaw House,* 2154 Highland Ave.

Lauderdale County

Florence, *Southall Drugs,* 201 N. Court St.
Florence, *Water Tower,* Seymore St.

Russell County

Pittsview vicinity, *Glenn-Thompson Plantation,* S of Pittsview on U.S. 431.

ALASKA

Bristol Bay Division

Dillingham, *Hull No. AK7258 (Bristol Bay Double Ender)* Dillingham Small Boat Harbor.

Fairbanks Division

Fairbanks, *Joslin, Falcon, House,* 413 Cowles St.

Kuskokwim Division

Anvik, *Christ Church Mission.*

Upper Yukon Division

Eagle vicinity, *New North Fork Washington-Alaska Military Cable and Telegraph System Relay Station.*
Eagle vicinity, *Steel Creek Roadhouse,* Fortymile Resource Area.

ARKANSAS

Monroe County

Holly Grove, *Walls, James A., House,* Off AR 17.

Washington County

Fayetteville, *Washington-Willow Historic District,* Roughly bounded by College and Walnut Aves., Rebecca and Spring Sts.

CALIFORNIA

Marin County

Marin City vicinity, *Muir Beach Archeological Site,* W of Marin City.

Riverside County

Blythe vicinity, *McCoy Spring Petroglyphs,* NW of Blythe.
Desert Center vicinity, *Corn Springs Petroglyph Site.*
Hayfield vicinity, *Hayfield Rock Art District.*

San Bernardino County

Cadiz vicinity, *Iron Mountain Divisional Camp.*
Needles vicinity, *Von Schmidt State Boundary Monument,* 11 mi. N of Needles.

COLORADO

Garfield County

Rifle vicinity, *Havemeyer-Willcox Canal Pumphouse and Forebay,* W of Rifle.

Montrose County

Uravan vicinity, *Hanging Flume,* 5.7 mi. NW of Uravan on CO 141.

Rio Blanco County

Rangely vicinity, *Whiskey Creek Trestle,* W of Rangely.

DISTRICT OF COLUMBIA

Washington

President's Park South, Constitution Ave.

FLORIDA

Orange County

Orlando, *First Church of Christ Scientist,* 24 N. Rosalind Ave.

GEORGIA

Fulton County

Atlanta, *Academy of Medicine,* 875 W. Peachtree St., NE.

ILLINOIS

Coles County

Charleston, *Briggs, Alexander, House,* 210 Jackson St.

Chicago, *Building at 14—16 East Person Street.*

Chicago, *Buildings at 860—880 Lake Shore Drive.*

Chicago, *Drake Hotel,* 140 E. Walton St.
Chicago, *Ludington Building,* 1104 S. Wabash Ave.

Chicago, *Sacred Heart Mission Church,* 11652 S. Church St.

Chicago, *Story-Camp Rowhouses,* 1526—1528 W. Monroe St.

Montgomery County

Hillsboro, *Hayward-Hill House,* 540 S. Main St.

Winnebago County

Rockford, *Herrick Cobblestone,* 2127 Broadway.

KANSAS

Crawford County

Pittsburg, *Hotel Stilwell,* 707 Broadway

Shawnee County

Topeka, *Old German-American State Bank,* 435 Kansas Ave.

LOUISIANA

Lafayette Parish

Lafayette, *Mouton, Charles H., House,* 338 N. Sterling St.

MARYLAND

Harford County

Fallston, *Little Falls Meetinghouse,* Fallston Rd.

MICHIGAN

Wayne County

Detroit, *Trinity Episcopal Church,* 1519 Myrtle St.

MISSISSIPPI

Adams County

Natchez, *Van Court Town House,* 510 Washington St.

MISSOURI

Jackson County

Kansas City, *Peck, George B., Dry Goods Company Building,* 1044 Main St.

Jasper County

Carthage, *Carthage Courthouse Square Historic District,* Roughly bounded by E. Central Ave., S. Maple, Lincoln, and W. 5th Sts.

MONTANA

Lake County

Polson, *Polson Feed Mill,* 501 Main St.

NEW HAMPSHIRE

Belknap County

Laconia, *Endicott Rock,* Weirs Channel
Tilton vicinity, *Lochmere and Silver Lake Archeological District.*

Carroll County

Eaton Center vicinity, *White Meetinghouse,* S of Eaton Center on Towle Hill Rd.

Cheshire County

Keene *Sawyer Tavern,* 63 Arch St.

Hillsborough County

Goffstown vicinity, *Parker's Store (Neighborly Club)* W of Goffstown on NH 114,
Weare vicinity, *Whittaker, Caleb, Place,* S of Weare on Perkins Pond Rd.
Wilton vicinity, *Cragin, Daniel, Mill,* W of Wilton at Davisville Rd. and Burton Hwy.

Merrimack County

Bow, *Eddy, Mary Baker, Birthplace Site,* U.S. 3A.
Concord, *Upham, Nathaniel G., House (Walker House)* 18 Park St.

NEW JERSEY

Morris County

Boonton, *Boonton Historic District, Main,* Church, Birch, Cornelia and Cedar Sts.

NEW MEXICO

Otero County

Oro Grande vicinity, *Rattlesnake Hill Archeological District,* S of Ore Grande.

Valencia County

Encinal, *Village of Encinal Day School.*

NORTH CAROLINA

Buncombe County

Asheville, *Breese, William E., Sr., House,* 674 Biltmore Ave.

Chowan County

Edenton, *Strawberry Hill,* Church St.
Edenton vicinity, *Athol,* SE of Edenton on SR 1114.

Guilford County

Greensboro, *Central Fire Station,* 318 N. Greene St.

Person County

Concord vicinity, *Burleigh,* NW of Concord on NC 57.

Wilkes County

Traphill, *Traphill Historic District,* SR 1002 and SR 1749.

NORTH DAKOTA

Billings County

Medora vicinity, *Myers School Timbered Lodge.*

Burleigh County

Bismarck, *Cathedral Area Historic District,* Roughly bounded by Hannifin and N. 1st Sts., Aves. C and A West.

Foster County

Carrington, *Lincoln Building,* Off U.S. 281.

Grant County

Carson, *Carson Roller Mill.*

Ward County

Deering vicinity, *Wood, F. B., Farm,* SW of Deering.

OREGON

Lake County

Lakeview, *Heryford Brothers Building,* 524 Center St.
Lakeview, *Heryford, William P., House,* 108 S. F St.

PENNSYLVANIA

York County

Hanover vicinity, *Swigart's Mill,* N of Hanover on Berlin Rd.

TENNESSEE

Campbell County

Jellico, *U.S. Post Office and Mine Rescue Station,* Main and 2nd Sts.

Hamblen County

Morristown, *U.S. Post Office,* N. Henry and W. 1st Sts.

Hamilton County

Chattanooga, *East Tennessee Iron Manufacturing Company Blast Furnace,* Walnut St.
Chattanooga, *Market Square-Patten Parkway,* Roughly bounded by E. 8th and E. 9th Sts., Georgia and Lindsay Aves.
Chattanooga, *Tennessee Valley Railroad Museum Rolling Stock,* 2202 N. Chamberlain Ave.

Montgomery County

Clarksville, *Dog Hill Architectural District,* Munford Ave., 1st, Union, Madison, and 2nd Sts.

Obion County

Union City, *U.S. Post Office,* 114 Washington St.

Putnam County

Cookeville, *U.S. Post Office,* 9 E. Broad St.

Shelby County

Memphis, *U.S. Post Office,* 1 N. Front St.

Tipton County

Brighton vicinity, *Rhodes House,* SE of Brighton on Clopton-Gainsville Rd.

TEXAS

Bexar County

San Antonio, *Elmendorf, Emil, House,* 509 Burleson St.

Burnett County

Grantsburg, *Burnett County Abstract Company,* 214 N. Oak St.

Dane County

Madison, *Plouth Inn,* 3402 Monroe St.
Madison, *Thorstrand,* 1–2 Thorstrand Rd.
Madison vicinity, *McCoy Farmhouse,* S of Madison at 2925 Syene Rd.

Dodge County

Richwood, *St. Joseph's Roman Catholic Church,* WI Q and Rich Rd.

Milwaukee County

Wauwatosa, *Sunnyhill Home,* 8000 W. Milwaukee Ave.

Sawyer County

Hayward, *North Wisconsin Lumber Company Office,* Florida Ave.

WYOMING

Albany County

Centennial vicinity, *Knight, S. H., Science Camp,* 9 mi. W of Centennial on WY 130.
Laramie, *Conley, John D., House,* 718 Ivinson St.
Laramie, *East Side School,* Off U.S. 30.
Laramie, *Fort Sanders Guardhouse,* Kiowa St.

Crook County

New Haven vicinity, *Bush-Bunger Site.*

Goshen County

Torrington, *Stevens, E. E., Murals,* 23rd and W. C Sts.

Laramie County

Cheyenne, *Whipple-Lacey House,* 300 E. 17th St.

Natrona County

Casper vicinity, *Cow Spring Butte Site.*

Park County

Cody vicinity, *Valley School,* SW of Cody

Sweetwater County

Eden vicinity, *Finley Site.*
Rock Springs, *City Hall,* 4th and B Sts.

Teton County

Moran vicinity, *Rosencrans Cabin Historic District,* 9 mi. E of Moran.

[FR Doc. 80-9433 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

[INT DES 80-16]

Public Hearing, Wilderness Study and Availability, Draft Wilderness Study Report and Draft Supplement to Final Environmental Impact Statement Fire Island National Seashore, New York State

Pursuant to Section 3(d)(1)(B) of the Wilderness Act of September 3, 1964, (Pub. L. 88-577; 78 Stat. 892 (16 U.S.C. 459(e) et seq.)) and in accordance with Departmental Procedures as identified in 43 CFR 19.5 public hearings will be held at the following locations and times for the purpose of receiving comments and suggestions as to the suitability of lands within Fire Island National Seashore for designation as wilderness.

May 2, 1980, at 7:30 p.m., Saxton Street Middle School, Saxton Street, Patchogue, New York 11772.

Should response dictate the need to schedule a second meeting, it will be announced locally and held within two weeks of the scheduled Public Hearing.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft supplement environmental impact statement to its final environmental impact statement on the General Management Plan for Fire Island National Seashore. This supplement evaluates the impacts of the wilderness proposal and alternatives.

A packet containing the draft wilderness study report and draft supplement to the final environmental impact statement for the General Management Plan may be obtained from the Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772 (516) 289-4810 or from the Regional Director, North Atlantic Region, National Park Service, 15 State Street, Boston, MA (617) 223-2296.

A map of the areas studied for their suitability or non-suitability as wilderness is available for review at the locations noted above and in Room 1210 of the Department of the Interior Building at 18th and C Streets, N.W., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer by April 29, 1980, of their desire to appear. Those not wishing to appear in person may submit their written statement on the wilderness study report to the Hearing Officer for inclusion in the official record which will be held open for written statements until June 2, 1980. The Hearing Officer may be reached by writing or telephoning the Superintendent, Fire Island National Seashore.

Comments are requested on the draft supplement environmental impact statement, separate from the wilderness study report. These separate environmental statement comments should be submitted in writing to the Superintendent, Fire Island National Seashore (address above) by June 2, 1980.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent time is available presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary wilderness study report and the General Management Plan by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State of a representative.

(2) Members of Congress.

(3) Members of the State Legislature.

(4) Official representatives of the counties in which the National Seashore is located.

(5) Officials of other Federal agencies or public bodies.

(6) Organizations in alphabetical order.

(7) Individuals in alphabetical order.

(8) Others not giving advance notice, to the extent there is remaining time.

Dated: March 26, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-9838 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Corrections to Notice of Availability for Public Review of Proposed Modification to a Coal Mining and Reclamation Plan, Westmoreland Resources, Inc., Absaloka Mine, Big Horn County, Crow Indian-Ceded Area, Montana

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

ACTION: Corrections to Notice of Availability for Public Review of Proposed Modification to a Coal Mining and Reclamation Plan.

SUMMARY: This document corrects the notice that begins on page 75734 of the **Federal Register** on Friday, December 21, 1979. Pursuant to Part 211 of Title 30 of Section 1500.2 of Title 40, Code of Federal Regulations, the Department's notice is given that the Office of Surface Mining has received a modification to an existing mining and reclamation plan. The proposed modification is described below:

Location of Lands To Be Affected

Applicant: Westmoreland Resources, Inc.

Mine Name: Absaloka.

State: Montana.

County: Big Horn, Crow Indian-Ceded Area.

Township, Range, Section: T.1N, R.38E: 30; T.1N, R.37E: 24, 25.

Office of Surface Mining Reference Number: MT-0007.

The mine is located approximately 26 miles east of Hardin, Montana, and immediately north of the Crow Indian Reservation. The proposed modification involves mining and associated disturbance on 825 acres of the total lease area of 14,746 acres in Tract III. The mine is proposed to continue as a multiple (two) seam, dragline operation removing Indian-owned coal. The coal is shipped, via railroad, to power stations in the Midwest. The proposed modification would allow the company to continue mining at the current rate of production of five million tons per year through 1984. The proposed modification would extend mining activities northward and eastward from the presently mined area. The multiple seam operation would include the extraction of coal from two primary seams, the Rosebud-McKay and Robinson seams. The area scheduled for mining under the proposed modification is within the boundaries of the 20-year mine plan which was approved by the Department on August 15, 1977. However, the proposed modification would involve a number of changes in the approved 20-year mine plan.

The Absaloka Mine was the subject of site-specific analyses of impacts, mitigation measures and alternatives in two Environmental Impact Statements. The Final Environmental Impact Statement (74–8) was issued by the Bureau of Indian Affairs in 1974, and another Final Environmental Impact Statement (77–17), which addressed the 20-year mining plan approval, was issued by the U.S. Geological Survey on May 31, 1977.

This notice is issued at this time for the convenience of the public. The Office of Surface Mining (Region V) and the Bureau of Indian Affairs (Billings, Montana), have not yet determined whether the proposed modification is technically adequate. It is possible that the Department will request additional information from the company during the ongoing technical review. Any further information so obtained is available for public review.

No action with respect to approval of the proposed coal mining and reclamation plan shall be taken by the Department for a period of 30 days after the original publication of this Notice of Availability in the **Federal Register**. The Regional Director of the Office of Surface Mining has determined that a Notice of Pending Decision pursuant to Section 211.5(c)(2) of Title 30, Code of Federal Regulations is not necessary in this specific case. Notice will be published in the newspapers of local and nationwide circulation of action by the Regional Director on the modificaion to the mining and reclamation plan for the Absaloka Mine. This notice will specify the outcome of the decision.

The mine plan modification submitted by Westmoreland Resources, Inc., for the Absaloka Mine is available for public review during normal working hours in the Library, Office of Surface Mining, Regions V, Brooks Towers, 1020 15th Street, Denver, Colorado, the Bureau of Indian Affairs, Crow Agency, Montana, and the Crow Tribal Council, Crow Agency, Montana. Comments on the proposed modification may be submitted during the 30-day period after the original publication of this notice to the Regional Director, Office of Surface Mining, at the same address.

FOR FURTHER INFORMATION CONTACT:
Dan Kimball or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Donald A. Crane,

Regional Director.

[FR Doc. 80-9798 Filed 3-31-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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.gs., unresolved common control, unresolved fitness questions, and jurisditional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Substitle IV, United States Code, and the Commission's regulation. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly

reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before May 1, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before May 1, 1980, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 48

Decided: February 8, 1980.

By the Commission Review Board Number 2, Members Eaton, Liberman, and Jensen. Member Jensen not participating.

MC 1824 (Sub-110F), filed October 22, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Building, 918 Sixteenth Street NW., Washington, DC 20006. Over Regular routes transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fort Wayne and Decatur, IN, over U.S. Hwy 33 serving no intermediate points. (Hearing site: Washington, DC.)

MC 3854 (Sub-55F), filed October 30, 1979. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, DC 20004. Transporting (1)(a) *air conditioning, air filtration, refrigeration, and humidifying equipment,* and (2) *materials, supplies, and tools* used in the installation of the commodities in (1)(a), from Winston-Salem, NC, to points in FL, KY, IN, IL, OH, MI, and LA; and (2)(a) *used air conditioning, air filtration, refrigeration, and humidifying equipment,* (b) *materials, supplies, and tools* used in the installation of the commodities in (2)(a), and (c) *materials, supplies and equipment* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from points in FL, KY, IN, IL, OH, MI, LA, SC, GA, AL, TN, VA, WV, MD, PA, NY, CT, MA, RI, DE, NJ, AR, TX, ME, VT, NH, and DC, to Winston-Salem, NC. (Hearing site: Winston-Salem, NC, Raleigh, NC.)

MC 8535 (Sub-102F), filed October 29, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth Street NW., Washington, DC 20036. Transporting *iron and steel articles,* from the facilities used by Weirton Steel Company, at or near Morrisville, PA, to points in CT, MA, and RI. (Hearing site: Washington, DC.)

MC 30844 (Sub-664F), filed October 28, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *paper cores and tubes and pulpboard cores and tubes,* and *materials and supplies* used in the manufacture of paper cores and tubes, between the facilities of Sononco Products Co., at or near Boone, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 60014 (Sub-153F), filed October 29, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *railway car wheels and axles and locomotive wheels and axles,* from the facilities of Griffin Wheel Company, Div. of AMSTED Industries, Inc., at (a) Kansas City, KS, and (b) Keokuk, IA, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 60014 (Sub-160F), filed October 30, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting (a) *pipe, pipe fittings, valves, fire hydrants, firebrick, sewage treatment plants, and aerators, and* (b) *accessories* used in the installation of the commodities in (a) above, from the facilities of Clow Corporation, at (a) Coshocton and Parral, OH, (b) Columbia, MO, (c) Richwood, KY, and (d) Buckhannon, WV, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 67234 (Sub-26F), filed October 31, 1979. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *Materials and supplies* used in the manufacture of computer power systems, from Minneapolis, MN, and Oshkosh, WI, to the ports of entry on the international boundary line between the United States and Canada located in MI and NY, and (2) *computer power systems* from the ports of entry on the international boundary line between the United States and Canada located in MI and NY to points in Sullivan and Washington Counties, TN, Hennepin and Ramsey Counties, MN, Cerro Gordo County, IA, Santa Clara and Orange County, CA, Salt Lake City County, UT, Cook County, IL and Winnebago County, WI. (Hearing site: Minneapolis, MN, or Washington, DC.)

MC 7555 (Sub-73F), filed October 30, 1979. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. Transporting *foodstuffs* (except commodities in bulk), from Fredonia, NY, to points in AL. Note: Dual operations may be involved. (Hearing site: Washington, DC.)

MC 94265 (Sub-324F), filed October 22, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 720434, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *toilet preparations,* (1) from Detroit, MI, to points in AL, GA, NC, VA, WV, MD, DE, SC, those in TN east of Interstate Hwy 65, and Philadelphia, PA, and (2) from Pulaski and Falmouth, VA, and Irwin, TN, to Detroit, MI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 107295 (Sub-946F), filed October 30, 1979. Applicant: PRE-FAB TRANSIT CO., a Corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting (1) *iron and steel articles,* and *fabricated metal articles,* from Meridian, MS, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and (2) *materials, equipment and supplies* used in the fabrication and distribution of the

commodities in (1) above (except commodities in bulk), from points in AL, AR, CT, DE, WI, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC, to Meridian, MS. (Hearing site: Jackson, MS.)

MC 111434 (Sub-104F), filed October 29, 1979. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Susan B. Price, 1700 Western Federal Bldg., Denver, CO 80202. Transporting *industrial sand,* from points in CO, to points in MT, WY, UT, NE, KS, NM, OK, and TX. (Hearing site: Denver, CO.)

MC 111545 (Sub-296F), filed October 22, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). Transporting *mag-coke,* in drums, from the facilities of American Cast Iron Pipe, at or near Birmingham, AL, to Silvis, IL, East Chicago, IN, and St. Paul, MN. (Hearing site: Birmingham, AL, Atlanta, GA.)

MC 114604 (Sub-87F), filed October 22, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. Transporting (1) *bananas* and (2) *pineapples,* in mixed loads with bananas, from Tampa, FL, Charleston, SC, and Mobile, AL, to points in GA, AL, TN, MS, NC, SC, KY, FL, PA, MD, DE, VA, WV, OH, IN, MI, WI, IL, and DC. (Hearing site: Atlanta, GA.)

MC 115654 (Sub-183F), filed October 30, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Ave., 425 13th Street, N.W., Washington, DC 20004. Transporting *lard, edible tallow, shortening, margarine, cooking oils, salad oils, and vegetable oils* (except commodities in bulk), from the facilities of Swift & Company, at Chattanooga, TN, to points in AL, GA, NC, SC, VA, WV, KY, and MS. (Hearing site: Nashville, TN.)

MC 116544 (Sub-193F), filed October 31, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *frozen fruits and frozen vegetables,* from points in CA, to points in MI. (Hearing site: San Francisco, CA.)

MC 119634 (Sub-43F), filed October 22, 1979. Applicant: DICK IRVIN, INC., 218 12th Avenue North, P.O. Box F, Shelby, MT 59474. Representative: Joe Gerbase, 100 Transwestern Bldg., Billings, MT 59101. In foreign commerce only, transporting *animal feed* and *feed ingredients,* (1) between points in MT, on the one hand, and, on the other, ports of entry on the international boundary line, between the United States and Canada, and (2) from points in MN to the ports of entry on the international boundary line between the United States and Canada located in MT.) (Hearing site: Great Falls or Billings, MT.)

MC 119634 (Sub-44F), filed October 30, 1979. Applicant: JOE GERBASE, 100 Transwestern Building, Billings, MT. Representative: Dick Irvin, Inc., 218 12th Avenue North, P.O. Box P, Shelby, MT 59474. Transporting *steel bins, steel buildings, and grain handling equipment,* from Houghton, Atlantic, and Sheffield, IA, Laycygne, Hutchinson, and Silver Lake, KS, Carson City, NV, Clay Center, Waverly, Kearney, Grand Island, and Columbus, NE, Aurora, CO, Oklahoma City, OK, Madison, WI, Mattoon, Sterling, and Mackinaw, IL, Fargo and Minot, ND, Homer City, PA, and Lafayette, LA, to points in MT. (Hearing site: Great Falls or Billings, MT.)

MC 1237744 (Sub-68F), filed October 30, 1979. Applicant: BUTLER TRUCKING CO., A corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. Transporting *refractories and materials and supplies* used in the manufacture of refractories, from those points in the Unted States in and east of ND, SD, NE, KS, OK, and TX, to points in PA. (Hearing site: Washington, DC.)

MC 125335 (Sub-89F), filed October 30, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *frozen foods,* (1) from the facilities of Pet Incorporated, Frozen Foods Division, at or near Allentown and Chambersburg, PA, to points in AR, CT, DE, KS, ME, MD, MA, MS, MO, NH, NJ, NY, ND, OK, RI, SD, TX, VT, VA, and DC, (2) from the facilities of Pet Incorporated, Frozen Foods Division, at or near Benton Harbor, Frankfort, and Hart, MI, to points in AL, FL, GA, IL, IA, KY, MN, MS, NC, ND, SC, SD, TN, and WI, and (3) from the facilities of Pet Incorporated, Frozen Foods Division, at or near South Bend, IN, to Allentown and Chambersburg, PA. (Hearing site: St. Louis, MO, or Harrisburg, PA.)

MC 133655 (Sub-192F), filed October 30, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of fiberglas and fiberglas products, between Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Dallas, TX.)

MC 134035 (Sub-40F), filed October 29, 1979. Applicant: DOUGLAS TRUCKING CO., P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting (1) *small arms ammunition* and *materials and supplies* used in the manufacture of small arms ammunition, (except commodities in bulk), between Lewiston, ID, on the one hand, and, on the other, points in the United States (except AK and HI), and (2)(a) *tools, hardware, and scales,* and (b) *materials and supplies* used in the manufacture of the commodities in (2)(a), (except commodities in bulk) between Oroville, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 134105 (Sub-73F), filed October 22, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *foodstuffs* (except commodities in bulk), (1) between the facilities of M & M/Mars, Snack Master Division at (a) Albany, GA, (b) Jacksonville, FL, and (c) Elizabeth, NJ, and (2) from the facilities named in (1) above, to points in CA, CO, FL, GA, IL, IN, MD, MI, MN, MO, NJ, NC, OH, OR, TN, TX, and UT, restricted in (2) to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Atlanta, GA, or Miami, FL.)

MC 134105 (Sub-74F), filed October 22, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *bananas,* and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526 (a)(6), when moving in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in AZ, CO, ID, KS, NE, NM, OK, OR, SD, TX, UT, WA, and WY, restricted to the transportation of traffic

having a prior movement by water. (Hearing site: Miami, or Jacksonville, FL.)

MC 134134 (Sub-52F), filed October 30, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *alcoholic beverages,* from points in IN, KY, MD, NJ, and NY, to Kansas City, MO. (Hearing site: Kansas City, MO.)

MC 134484 (Sub-27F), filed October 22, 1979. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting (1) *Bananas,* (2) *Commodities* otherwise exempt from economic regulation pursuant to the provisions of 49 U.S.C. § 10526(a)(6), in mixed loads with bananas, from the facilities of Del Monte Banana Co., at or near Port Hueneme, CA, to points in OR, WA, ID, MT, WY, UT, NV, AZ, and CO. (Hearing site: Boise, ID, or Miami, FL.)

MC 134755 (Sub-212F), filed October 22, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Chicago, IL, to Philadelphia, PA, Los Angeles, CA, Denver, CO, Dallas, Houston and San Antonio, TX, Seattle, WA, San Francisco and Atlanta, GA, Portland, OR, and New York, NY, and (2) from Philadelphia, PA, to Chicago, IL, Los Angeles, and San Francisco, CA, Denver, CO, Dallas, Houston, and San Antonio, TX; Seattle, WA, Atlanta, GA, Portland, OR. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 135524 (Sub-75F), filed October 22, 1979. Applicant: G. F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Road, Youngstown, OH 44509. Transporting *non-alcoholic carbonated beverages, fountain syrups, fruit juices,* from Columbus, OH, to points in MI, IN, KY, WV, PA, and NY. (Hearing site: Columbus, OH, or San Francisco, CA.)

MC 135524 (Sub-80F), filed October 22, 1979. Applicant: G. F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Road, Youngstown, OH 44509. Transporting *steel sheets* and *steel coils* from the facilities of Feralloy Corporation, Southern Division, at Birmingham, AL, to those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Columbus, OH, or Birmingham, AL.)

MC 135895 (Sub-71F), filed October 30, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *foodstuffs,* and *equipment, materials, and supplies* used in the manufacture, distribution, and sale of foodstuffs (except commodities in bulk and those requiring special equipment), between points in AL, AR, FL, GA, LA, MS, MO, NC, OK, SC, TN, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Uncle Ben's, Inc. (Hearing site: Houston, TX; Greenville, and Jackson, MS.)

MC 135945 (Sub-7F), filed October 22, 1979. Applicant: BOB HILDEBRANDT, Prescott, WI 54021. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. Transporting *feed and feed ingredients,* from Mankato and Minneapolis, MN, to points in WI. (Hearing site: Minneapolis, MN.)

MC 136315 (Sub-93F), filed October 22, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. Transporting *plywood and paneling,* from the facilities used by Pacific Wood Products Company in (a) Orleans Parish, LA and (b) Galveston County, TX, to points in AL, AR, GA, IL, MO, IN, KS, KY, LA, MI, MN, MS, NE, ND, OK, SD, TN, TX, and WI. (Hearing site: San Francisco, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 136315 (Sub-95F), filed October 30, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *furfural residue,* (except in bulk), from the facilities of Grinding and Sizing Company, Inc., at or near Lufkin, TX, to points in AL, AR, FL, GA, LA, MS, MO, NC, OK, SC, TN, VA, and WV. (Hearing site: Houston, TX, or Washington, DC.)

Note.—Dual operation may be involved.

MC 136605 (Sub-138F), filed October 22, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Donald F. Walters, P.O. Box 8058, Missoula, MT 59807. Transporting *precast concrete units, Accessories for precast concrete units, steel products,* and *joint filler products,* from the facilities of Reservco, Inc., at or near Fort Morgan and Denver, CO, to points in CA, OR, WA, NM, UT, KS, MT, IA, ID, WY, ND, TX, AR, and OK. (Hearing site: Denver, CO.)

MC 138104 (Sub-89F), filed October 30, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting (1) *trailers* (other than those designed to be drawn by passenger automobiles) in initial movements, (a) from the facilities of Great Dane Trailers Indiana, Inc., at or near Brazil, IN, to points in the United States (including AK, but excluding HI), (b) from the facilities of Great Dane Trailers Tennessee, Inc., at or near Memphis, TN, to points in the United States (including AK, but excluding HI), and (c) from the facilities of Great Dane Trailers, Inc., at or near Savannah, GA, to points in the United States (including AK, but excluding HI), and (2) *trailers* (other than those designed to be drawn by passenger automobiles), in secondary movements, between points in the United States (including AK, but excluding HI), restricted in (2) above to the transportation of traffic originating at or destined to the facilities of Great Dane Trailers, Inc., Great Dane Trailers Tennessee, Inc., Great Dane Trailers Indiana, Inc., and their dealers. (Hearing site: Dallas, TX, or Savannah, GA.)

MC 138875 (Sub-248F), filed October 30, 1979. Applicant: SHOEMAKER TRUCKING CO., an Idaho corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *such commodities* as are dealt in by drug and discount stores (except drugs and commodities in bulk), between the facilities of Valu-Rite Pharmacies, Inc., a subidiary of Foremost-McKesson, Inc. at (a) Los Angeles, CA, (b) Denver, CO, (c) Smyrna, GA, (d) Bedford Park, IL, (e) Albany, NY, (f) Grand Prairie, TX, and (g) Portland, OR, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at and destined to the indicated points. (Hearing site: San Francisco, CA, or Boise, ID.)

MC 139555 (Sub-11F), filed October 30, 1979. Applicant: MODULAR TRANSPORTATION CO., a corporation, P.O. Box 1822, Grand Rapids, MI 49501. Representative: William D. Parsley, 1200 Bank of Lansing Bldg., Lansing, MI 48933. Transporting *iron and steel*

articles, and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Grand Rapids and Detroit, MI, Chicago, IL, Cleveland, OH, and the facilities used by Penn-Dixie Steel Corporation, Penn-Dixie Steel Industries, Inc., and Stevens Spring, Inc., at or near (a) Lansing, MI, (b) Joliet and Blue Island, IL, (c) Kokomo and Ft. Wayne, IN, (d) Centerville, IA, (e) Jackson, MS, and (f) Columbus and Toledo, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Lansing or Grand Rapids, MI.)

MC 140435 (Sub-5F), filed October 30, 1979. Applicant: ADOBE INTERNATIONAL, INC., 1100 Western United Life Bldg., Midland, TX 79701. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington, DC 20006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal,* in dump vehicles, (1) between points in Butler, Lawrence, Mercer, and Venango Counties, PA, and (2) from points in Butler, Lawrence, Mercer, and Venango Counties, PA, to points in Ashtabula and Cuyahoga Counties, OH, under continuing contract(s) in (1) and (2) with Pengrove Coal Company, a Division of Adobe Mining Company. (Hearing site: Pittsburgh, PA.)

MC 140645 (Sub-11F), filed October 22, 1979. Applicant: UNITED TRUCKING, INC., 100 Stoffel Dr., Tallapoosa, GA 30176. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery houses, retail chain department stores, and drug stores, from the facilities of Colgate-Palmolive Company, Inc., at or near Jeffersonville, IN, to Atlanta, GA, Birmingham, AL, and Jacksonville, FL, under continuing contract(s) with Colgate-Palmolive Company, Inc. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 140484 (Sub-62F), filed October 22, 1979. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *meats,* in boxes, in vehicles, equipped with mechanical refrigeration, from the facilities of the Standard Meat Company, at or near Ft. Worth, TX, to points in FL, GA, and VA. (Hearing site: Dallas, TX, or Washington, DC.)

MC 140484 (Sub-65F), filed October 22, 1979. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, 2671 E. Edison Ave., Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *roofing,* (except commodities in bulk) from Tuscaloosa, AL, to points in FL. (Hearing site: Tuscaloosa, AL, or Washington, D.C.)

MC 140665 (Sub-71F), filed October 29, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting (1) *lawn and garden care equipment, plastic articles, and iron and steel articles,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in Tarrant County, TX, on the one hand, and, on the other, points in the United States (except AK, HI and TX). (Hearing site: Washington, DC, or Dallas, TX.)

MC 141774 (Sub-32F), filed October 31, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *fuel wood and compressed logs,* from Pocahontas, AR, and Memphis, TN, to points in AL, GA, MS, TN, AR, and FL. (Hearing site: Memphis, TN, or Birmingham, AL.)

Note.—Dual operations may be involved.

MC 145764 (Sub-2F), filed October 22, 1979. Applicant: C & E TRANSPORT, INC., 1600 Morton, Elkhart, IN 46514. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *salt,* from the facilities of Domtar Industries, Inc., Sifto Salt Division, at (a) Chicago, IL, (b) St. Joseph, MI, (c) Toledo, OH, (d) Burns Harbor, IN, and (e) St. Joseph County, IN, to points in IN and MI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145904 (Sub-22F), filed October 29, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at Chicago, IL, to points in IA and MO, and those in KS within the Kansas City, KS-MO, commercial zone, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 146574 (Sub-2F), filed October 30, 1979. Applicant: ORIN GRAY TRUCKING CO., P.O. Box 223, Lake City, MI 49651. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *raw forgings,* from the facilities of Lake City Manufacturing Co., at or near Lake City, MI, to Allentown, PA, Louisville, KY, and Fort Wayne and Mishawaka, IN; (2) *steel,* from Cleveland and Canton, OH, Lackawanna and Buffalo, NY, Gary, IN, and Johnstown, PA, to the facilities of Lake City Manufacturing Co., at or near Lake City, MI, under continuing contract(s) (1) and (2) with Lake City Manufacturing Co., of Lake City, MI; and (3) *steel,* from the facilities of Republic Steel Corporation at or near (a) Buffalo, NY, (b) Canton, Cleveland, and Youngstown, OH, (c) Chicago, IL, and (b) Gary, IN, to the facilities of Lake City Manufacturing Co., at or near Lake City, MI, under continuing contract(s) with Republic Steel Corporation, of Cleveland, OH. (Hearing site: Lansing, MI.)

MC 147275 (Sub-2F), filed October 22, 1979. Applicant: K-W EXPRESS, INC., 6576 Belding Rd., Belding, MI 48809. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting (1) *new electrical and gas appliances, and* (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of White Consolidated Industries, Inc., at or near Belding, Greenville, and Grand Rapids, MI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 147995 (Sub-2F), filed October 22, 1979. Applicant: C. R. RUDD & SONS, INC., 1532 Washington Ave., New Hyde Park, NY 11040. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire rope, and fittings* and *reels for wire rope, between Kenosha, WI, on the one hand, and, on the other, Atlanta, GA, Memphis, TN, Newark, NJ, New Orleans, LA, Philadelphia and Pittsburgh, PA, Portland, OR, Seattle, WA, and points in CO, IL, IN, KY, OH, and WY, under continuing contract(s) with Macwhyte Company, of Kenosha, WI. (Hearing site: Milwaukee, WI.)*

MC 148634F, filed October 22, 1979. Applicant: COMPASS TRANSPORTATION COMPANY, a corporation, "C" Street, San Diego, CA 92101. Representative: William R. Daly, 4340 Vandever Avenue, Suite "S", P.O.

Box 20521, San Diego, CA 92120. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning, washing, and scouring compounds*, from Los Angeles, CA, to Phoenix and Tempe, AZ, under continuing contracts with International Distributing Company, of San Diego, CA.

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Decided: February 28, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 8535 (Sub-101F), filed October 29, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Transporting *iron and steel articles* (except in dump vehicles), from Cumberland, MD, to points in IL and IN. (Hearing site: Washington, D.C.)

MC 30045 (Sub-8F), filed October 26, 1979. Applicant: KITCHELL TRUCK LINE, INC., Ipswich, SD 57451. Representative: James T. Flescher, 1745 University Ave., St. Paul, MN 55104. Transporting *petroleum products* in containers, (except in bulk), from the facilities of Mobil Oil Corporation, at or near Omaha, NE, to points in IA and WY. (Hearing site: St. Paul, MN.)

MC 45764 (Sub-34F), filed October 26, 1979. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., P.O. Box 38, Essington, PA 19029. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting (a) *iron and steel articles*, from the facilities of Lehigh Structural Steel Co., at or near Allentown, PA, and Lancaster, SC, to points in the US (except AK and HI); and (b) *equipment, materials, and supplies* (except commodities in bulk), in the reverse direction. (Hearing site: Philadelphia, PA.)

MC 53965 (Sub-167F), filed October 26, 1979. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Post Office Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock (same address as applicant). Over regular routes transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment); (1) Between Wichita, KS, and Coffeyville, KS, from Wichita over Interstate Hwy 35 to junction KS Hwy 196, then over KS Hwy 196 to junction US Hwy 54, then over US Hwy 54 to junction US Hwy 71, then over US Hwy 71 to junction US Hwy 66, then over US Hwy 66 to junction US Hwy 166, then over US Hwy 166 to Coffeyville, and return over the same route, serving Ft. Scott and Iola, KS, and Nevada, Carthage and Joplin, MO, as intermediate points, and (b) from Wichita, over US Hwy 81 to junction US Hwy 160, then over US Hwy 160 to junction US Hwy 77, then over US Hwy 77 to junction US Hwy 166, then over US Hwy 166 to Coffeyville, and return over the same route, serving all intermediate points, (2) between Wichita, KS and Tulsa, OK; from Wichita over KS Hwy 15 to junction US Hwy 77, then over US Hwy 77 to junction US Hwy 160, then over US Hwy 160 to junction Interstate Hwy 44, then over Interstate Hwy 44 to Tulsa, and return over the same route, serving all intermediate points in KS, and Springfield and Joplin, MO, as intermediate points, and serving the junction of US Hwy 69 and Interstate Hwy 44 near Big Cabin, OK, as point of joinder only; (3) between junction KS Hwy 99 and US Hwy 160 and junction KS Hwy 99 and US Hwy 166, over KS Hwy 99 serving no intermediate points, (4) between junction US Hwy 75 and US Hwy 160 and junction US Hwy 75 and US Hwy 166, over US Hwy 75 serving all intermediate points; (5) between Pittsburg, KS and Joplin, MO, from Pittsburg over KS Hwy 57 to junction MO Hwy 171, then over MO Hwy 171 to junction MO Hwy 43, then over MO Hwy 43 to Joplin and return over the same route, serving no intermediate points; (6) between Ponca City, OK, and Arkansas City, KS; over US Hwy 77 serving no intermediate points; (7) between Dallas, TX and Pittsburg, KS; from Dallas over US Hwy 75 to junction US Hwy 69, then over US Hwy 69 to junction Interstate Hwy 44 near Big Cabin, OK, then over Interstate Hwy 44 to junction OK Hwy 10, then over OK Hwy 10 to junction US Hwy 66, then over US Hwy 66 to junction KS Hwy 26, then over KS Hwy 26 to junction US Hwy 69, then over US Hwy 69 to Pittsburg and return over the same route, serving no intermediate points, and serving junction US Hwy 69 and Interstate Hwy 44 near Big Cabin, OK as point of joinder only. (Hearing site: Wichita, KS and Springfield, MO.)

Note.—Applicant intends to tack above authority with present authority.

MC 60014 (Sub-156F), filed October 26, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *nonferrous metals*, from the facilities of U.S. Reduction Co., at Fontana, CA, Henrietta, MO, and Russellville, Anniston, and Sheffield, AL, to points in the US (except AK and HI). (Hearing site: Washington, DC.)

MC 95084 (Sub-151F), filed October 25, 1979. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 E. Main, Ottumwa, IA 52501. Transporting (1) *household washers and dryers*, from Webster City and Fort Dodge, IA, to points in the US (except AK and HI) and (2) *materials, equipment and supplies* used in the manufacture and distribution of (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 105045 (Sub-124F), filed October 26, 1979. Application: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Transporting *iron and steel articles*, from the facilities of Tennessee Forging Steel Corp., at or near Harriman, TN, to points in CT, DE, NC, NJ, NY, and SC. (Hearing site: Washington, D.C.)

MC 106074 (Sub-138F), filed October 26, 1979. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylor, SC 29687. Transporting *general commodities* (except in bulk), between Houston and Pasadena, TX, Kansas City, KS, and Seneca, Spartanburg, and Startex, SC, on the one hand, and, on the other, points in the US (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corporation, Phillips Chemical Company, and Phillip Products Company, Inc. (Hearing site: Dallas, TX, or Washington, D.C.)

MC 106074 (Sub-139F), filed October 29, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Muscatine and Iowa City, IA, Fremont and Toledo, OH, Holland, MI, and Pittsburgh, PA, to points in GA, NC, SC, TN on and east of Interstate Highway 65, and Jacksonville, FL, restricted to the transportation of traffic originating at the named facilities and destined to the named points. (Hearing site: Pittsburgh, PA, or Washington, D.C.)

MC 106194 (Sub-38F), filed October 23, 1979. Applicant: HORN TRANSPORTATION, INC., 3008 East 4th St., P.O. Box 1172, Pueblo, CO 81001.

Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *drilling mud, mud additives, cottonseed hulls, bentonite, lignite coal, demulsifiers, inhibitors, corrosives, surfactants, oxygen scavengers and anti-foulants,* between points in MT, WY, AR, OK, UT, KS, NE, SD, TX, ND, LA, CO, NV, NM, AZ, MO, IL, IN, and MI. (Hearing site: Denver, CO, or Dallas, TX.)

MC 107295 (Sub-944F), filed October 23, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting *materials, accessories, and supplies* used in the manufacture of plumbing goods, from Pomona, CA, to Abingdon and Robinson, IL. (Hearing site: Tampa, FL.)

MC 107295 (Sub-945F), filed October 28, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting (1) *adhesives, adhesive cement, fabricated and shaped metal articles, building materials, polyurethane, and plastic articles, and* (2) *materials, equipment and supplies* used in the manufacture and distributing of the commodities in (1) between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS and Kewanee, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted against the transportation of commodities in bulk, in tank vehicles, and commodities which by reason of size or weight require the use of special equipment and further restricted to the transportation of traffic originating at or destined to the facilities of Kinkead Industries, Inc. (Hearing site: Chicago, IL.)

MC 107934 (Sub-35F), filed October 25, 1979. Applicant: BYRD MOTOR LINE, INC., Hargrave Road, P.O. Box 787, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *soybean oil* (except commodities in bulk, in tank vehicles), from Louisville, KY, to Lexington, NC. (Hearing site: Washington, DC or Charlotte, NC.)

MC 107934 (Sub-36F), filed October 25, 1979. Applicant: BYRD MOTOR LINE, INC., Hargrave Road, P.O. Box 787, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *paper forming tubes,* from Donalds, SC, and Minerva, OH, to Lexington, NC. (Hearing site: Washington, DC or Charlotte, NC.)

MC 110525 (Sub-1316F), filed October 24, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from points in AL, to points in U.S. (except AK and HI). (Hearing site: Mobile, AL.)

MC 114334 (Sub-68F), filed October 28, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis TN 38103. Transporting *aluminum ingots and aluminum products,* from Gum Springs and Jones Mills, AR, to points in AL, GA, and FL. (Hearing site: Memphis, TN.)

MC 114334 (Sub-69F), filed October 28, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis TN 38103. Transporting *iron and steel articles* from (1) Guntersville, AL, to points in AL, FL, GA, KY, MS, and TN and (2) the facilities of United States Steel Corporation at or near Gary, IN, and South Chicago, Joliet and Waukegan IL, to points in AR, KY, MS, MO, and TN. (Hearing site: Chicago, IL.)

MC 115554 (Sub-23F), filed October 24, 1979. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *telephones, telephone sets,* and *telephone equipment,* and (2) *materials, equipment,* and *supplies* used in the manufacture, distribution, installation or operation of the commodities in (1) (except commodities in bulk), (a) from Shreveport, LA, to Goddard, KS, and (b) from Goddard, KS, to Dallas and Houston, TX, restricted to the transportation of traffic originating at or destined to the facilities of Western Electric Company, Inc., at or near the named origins and destinations in (a) and (b). (Hearing site: New Orleans, LA.)

MC 115654 (Sub-173F), filed October 26, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, DC 20004. Transporting *paper and paper products,* from Naheola, AL, to points in IN, IL, and OH. (Hearing site: Nashville, TN.)

MC 115654 (Sub-174F), filed October 26, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, DC 20004. To transport over irregular routes *foodstuffs,* chilled or frozen, from Nashville, TN, to points in AR, IL, IN, KY, and OH. (Hearing site: Nashville, TN.)

MC 124144 (Sub-23F), filed October 24, 1979. Applicant: ROBERT N. TOOMEY TRUCKING CO., a Corporation, 1516 South George St., York, PA 17403. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier,* transporting *refractory brick and refractory products,* from York, PA, to those points in the US in and west of MN, IA, MO, AR, and LA, under continuing contract(s) with Dolomite Brick Corporation of America, of York, PA. (Hearing site: York, PA.)

Note.—Dual operations may be involved.

MC 124154 (Sub-97F), filed October 23, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: W. D. Wingate (same address as applicant). Transporting *Agricultural chemicals and materials, supplies and equipment used in their manufacture,* between points in US (except AK and HI), restricted to the transportation of traffic originating at or destined to Olin Corporation's facilities. (Hearing site: Atlanta, GA or Washington, D.C.)

MC 124964 (Sub-54F), filed October 15, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier,* transporting *foodstuffs,* from Lakeland, FL, to points in IL, MI, NJ, NY, OH, and PA, under continuing contract(s) with Borden Foods, Division of Borden, Inc., of Columbus, OH. (Hearing site: Jacksonville, FL, or Columbus, OH.)

MC 125335 (Sub-86F), filed October 23, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs,* from the facilities of Pepperidge Farm, Incorporated, at or near Downingtown, New Holland, Fogelsville, and Philadelphia, PA, Baltimore, MD, and Milford, DE, to points in AR, IL, KS, LA, OK, and TX. (Hearing site: Norwalk, CT, or Harrisburg, PA.)

MC 125335 (Sub-88F), filed October 25, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE

68501. Transporting (1) *Bananas,* and (2) *agricultural commodities,* the transportation of which is otherwise exempt from economic regulation, in mixed loads with bananas, from New York, NY, Philadelphia, PA, Wilmington, DE, Mobile, AL, Tampa, FL, and Charleston, SC, to those points in the US in and east of IS, KS, MN, NE, OK, and TX. (Hearing site: Miami, FL, or Harrisburg, PA.)

MC 128115 (Sub-3F), filed October 29, 1979. Applicant: KEITH EMHOFF, d.b.a. EMHOFF TRUCKING, Route 1, Sheffield, IA 50475. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Contract carrier,* transporting *liquid fertilizer,* in bulk, from Mason City, Clear Lake, Des Moines and Clinton, IA, to points in MN and WI, under continuing contract(s) with Land O'Lakes, Inc., of Fort Dodge, IA. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 129645 (Sub-78F), filed October 25, 1979. Applicant: SMEESTER BROS., INC., 1330 South Jackson St., Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corporation, at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, Allenport and Monesen, PA, and Beech Bottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, MI, MN, and WI. (Hearing site: Pittsburgh, PA, or Columbus, OH.)

MC 134105 (Sub-78F), filed October 28, 1979. Applicant: Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *Roasted peanuts and peanut products* (except in bulk, in tank vehicles), and (2) *peanuts, when transported in mixed loads with roasted peanuts or peanut products,* from the facilities of Seabrook Blanching Corporation, at Sylvester, GA, and Edenton, NC, to those points in the US in and east of ND, SD, NE, CO and NM, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Atlanta, GA, or Nashville, TN.)

MC 134105 (Sub-79F), filed October 24, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *floor coverings and equipment, materials and supplies used in the installation of floor coverings* (except in bulk) from points in Bartow, Murray, and Whitfield Counties, GA, and Winchester, TN, to points in the US (except AK and HI), and (2) *equipment, materials and supplies used in the manufacture of the commodities in (1)* (except in bulk), in the reverse direction. (Hearing site: Atlanta, GA, or Nashville, TN.)

MC 134404 (Sub-57F), filed October 15, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract carrier,* transporting *such commodities* as are dealt in or used by a manufacturer or distributor of medical equipment, chemicals, toilet preparations and drugs, between those points in the US in and east of WI, IL, KY, TN, and MS, under continuing contract(s) with Miles Laboratories, Inc., of Elkhart, IN. (Hearing site: New York, NY.)

MC 135455 (Sub-3F), filed October 23, 1979. Applicant: LESLIE G. BOOMGARDEN d.b.a. SQUARE DEAL TRUCKING, 1931 Dean Street, Des Plaines, IL 60018. Representative: Margie Market, 305 Van Buren Street, Marengo, IL 60152. *Contract carrier,* transporting *such commodities* as are used by banks, between the facilities of Diebold, Inc., at or near Chicago, IL, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 135524 (Sub-76F), filed October 26, 1979. Applicant: G. F. TRUCKING CO., a Corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting (1) *iron and steel articles,* and (2) *material, equipment and supplies used in the manufacture of iron and steel articles* between Warren, OH on the one hand, and, on the other, points in CT, WV, DE, GA, IN, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, and DC. (Hearing site: Columbus, OH, or Cleveland, OH.)

MC 136315 (Sub-94F), filed October 25, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 28, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *wood fibreboard and accessories and supplies used in the installation of wood fibreboard,* from the facilities of Masonite Corporation, at or near Laurel, MS, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NC, OH, OK, PA, TN, TX, WV and WI. Note: Dual operations may be involved. (Hearing site: Jackson, MS, or Washington, DC.)

MC 140635 (Sub-21F), filed October 26, 1979. Applicant: ADAMS LINES, INC., 2619 N. Street, Omaha, NE 68107. Representative: John L. Hornung, 2619 N. Street, Omaha, NE 68107. Transporting (1) *Chemicals, chemical compounds, anti-freeze, plastics and plastic products* (except in bulk); and (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between the facilities of Northern Petro Chemical Company, at or near Mankato, MN, Newark, OH, Clinton, MA, Chicago, Morris, Mapleton, IL, on the one hand, and on the other, points in the US (except AK and HI). (Hearing site: Chicago, IL.)

MC 140665 (Sub-70F), filed October 29, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *foodstuffs, and materials and supplies* used in the distribution of foodstuffs (except commodities in bulk), from points in CA, to those points in the US in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 141804 (Sub-286F), filed October 29, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC. P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Transporting *plastic articles,* (1) From City of Industry, CA, to those points in the US in and west of ND, SD, NE, KS, OK and TX (except AL and HI) and (2) from Rockaway and Kearney, NJ, to points in the US (except AL and HI). (Hearing site: Los Angeles, CA).

MC 142335 (Sub-11F), filed October 26, 1979. Applicant: C & E TRUCKING CO., INC., 11910 Greenstone Avenue, Santa Fe Springs, CA 90670. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Transporting (1) *copper and aluminum wire and cable* from points in Orange and Los Angeles Counties, CA, to points in AZ, and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) in the reverse direction. (Hearing site: Los Angeles, CA)

MC 145935 (Sub-4F), filed October 12, 1979. Applicant: ALL STATES TRANSPORTATION, INC., Rt. 1, Box 27, Fort Worth, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Forth Worth TX 76112. Transporting *Meats, meat products, meat byproducts, and articles distributed by meat-packing houses,* as

described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Swift & Company, at or near Clovis, NM, Guymon, OK, and Cactus, TX, to points in AL, GA, FL, TN, NC, SC, NY, NJ, PA, ME, MD, MA, NH, DE, RI, CT, VA, VT, WV, MS, AR, LA and DC, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Chicago, IL, or Fort Worth, TX).

MC 147264 (Sub-3F), filed October 16, 1979. Applicant: JAT EXPRESS, INC., R.R.1, Box 405, Muncie, IN 47302. Reprsentative: Jack W. Tapy (same address as applicant). Transporting *meats, meat products and meat byproducts* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities used by Farmland Foods, at or near Garden City, KS, to points in the US (except AK and HI), restricted to the transportation of traffic originating at the facilities of Farmland Foods, and destined to the indicated destinations. (Hearing site: Kansas City, MO, or Chicago, IL)

MC 147645 (Sub-2F), filed October 15, 1979. Applicant: DOTY TRUCKING, INC., R. R. No. 2, Box 310, Columbus, IN 47201. Representative: Stephen M. Gentry, 1500Main Street, Speedway, IN 46224. *Contract carrier,* transporting (1) *Air conditioners, heating equipment,* and *household appliances;* and (2) *materials* and *supplies* used in the manufacture and distribution of commodities in (1)(A) from points in IL, IN, OH, WI, Hartsville, TN, and Cory, PA, to the facilities of Carrier Corporation, Carlyle Compressor Company, Carrier Air Conditioning Company, Carrier International Corp., and Carrier Transicold Co., at or near Syracuse, NY; (B) from the facilities of Carrier Corporation, Carlyle Compressor Company, Carrier Air Conditioning Company, Carrier Inernational Corp., and Carrier Transicold Co., at or near Syracuse, NY, to Melrose Park, IL, Indianapolis, IN, Jeffersntown, KY and St. Louis, MO, and (C) From the facilities of Carrier Corporation, BDP Company, and Jenn-Air Corp., at or near Indianapolis, IN to Melrose Park, IL, Troy and Madison Height, MI, Cincinati, OH, and New Berlin and Milwaukee, WI, under continuing contract(s) with Carrier Corporation, of Syracuse, NY. (Hearing site: Indianapolis, IN)

MC 148014 (Sub-2F), filed October 23, 1979. Applicant: DARRELL L. WALLBERG d.b.a. D & D TRUCKING, 1545 West 7525 South, West Jordan, UT 84084. Representative: Macoy A. McMurray, Suite 800, Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. *Contract carrier,* transporting *lumber,* from the facilities of Boise Cascade Corporation, at Emmett, ID, to the facilities of Economy Builders Supply Co. in Salt Lake County, UT, under continuing contract(s) with Economy Builders Supply Co., of Salt Lake City, UT. (Hearing site: Salt Lake City, UT)

MC 148305 (Sub-1F), filed October 12, 1979. Applicant: A. J. NINNEMAN, TRUCKING, Rural Route 1, Denton, NE 68339. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *Self-propelled vehicles under 5,000 pounds lawn and garden care commodities, and trailers, accessories, attachments and parts,* from the facilities of Outboard Marine Corporation, at Lincoln, NE, to points in the US (except AK, HI and NE), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) from points in the US (except AK, HI and NE), to Lincoln, NE. (Hearing site: Lincoln, NE)

MC 148415 (Sub-1F), filed October 11, 1979. Applicant: TRI-LAKES TRANSPORT, INC., P.O. Box 1093, Oxford, MS 38655. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Over regular routes transporting *passengers, baggage, and express* moving in the same vehicle with passengers, in special and charter operations, between Oxford, MS, and Memphis, TN: from Oxford over MS Hwy 6 to Batesville, MS, then over US Hwy 51 and Interstate 55 to Memphis and return over the same route, serving all intermediate points. (Hearing site: Oxford, Memphis, TN, and Jackson, MS)

MC 148525 (Sub-1F), filed October 26, 1979. Applicant: THE PEERLESS TRANSPORTATION CO., a corporation, 214 South Perry Street, Dayton, OH 45402. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. *Contract carrier,* transporting (1) *Foundry products,* from the facilities of G.H.R. Division of Dayton Malleable Iron, Inc. at Dayton, OH, to points in IN, KY, MI, MS, and TN, and (2) *materials and supplies* used in the manufacture of foundry products (except commodities in bulk) in the reverse direction, under continuing contract(s) with G.H.R. Division of Dayton Malleable Iron, Inc., of Dayton, OH. (Hearing site: Columbus, OH).

MC 148555F, filed October 12, 1979. Applicant: J. T. & S. TRANSFER, INC., Route No. 4, Circle Creek Drive, Stockbridge, GA 30281. Representative: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *plywood, Lumber, Wood building materials and Veneer products,* between the facilities of Woodcraft, Incorporated, at or near Madison and Greenville, GA, on the one hand, and, on the other, points in AL, AR, FL, GA, IN, IL, KY, LA, MD, MI, MS, NC, OH, PA, SC, TN, TX, VA, WI, and WV. (Hearing site: Atlanta, GA)

MC 148594F, filed October 15, 1979. Applicant: WESTERN CARGO CARRIERS, INC. 2345 Grand Avenue, P.O. Box 23428, Kansas City, Mo. 65141. Representative: Frank W. Taylor, 1221 Baltimore Street, Suite 600, Kansas City, MO 64105. *Contract carrier,* transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between the facilities of Hallmark Cards, Inc., at Kansas City, MO, on the one hand, and on the other, points in CA, under continuing contract(s) with Hallmark Cards, Inc., of Kansas City, MO. (Hearing site: Kansas City, MO)

MC 148595F, filed October 16, 1979. Applicant: VAN HANDEL TRANSIT, INC., Route 1, Kaukauna, WI 54130. Representative: Norman A. Cooper, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Contract carrier,* transporting (1) *Pork, pork belly, and pork products,* between points in IA, Anniston, AL, Bloomington and Champaign, IL, Ft. Wayne, IN, Frontenac, KS, Hopkins, MN, Indianola, MS, Bismarck and Fargo, ND, Dayton, Washington Courthouse, and Xenia, OH, Cudahy, Green Bay, and Milwaukee, WI, under contract(s) with World Wide Sales, Inc., of Plymouth, WI, (2) *Cheese,* from Fremont, WI, to the facilities of Merrywood Farms at Rosemont, IL, under continuing contract(s) with Merrywood Farms of Chicago, IL, (3) *Cheese,* from Fergus Falls and Zumbrota, MN, to Plymouth, WI, under continuing contract(s) with Great Atlantic & Pacific Tea Company, Inc., of Montvale, NJ, and (4) *Cheese,* from Bongards and Winsted, MN, to Monroe, Mosinee, Green Bay, Waupaca, Manitowoc, and Mayville, WI, and *Cheese,* from Pine Island, MN, to points in WI, under continuing contract(s) with Purity Cheese of Green Bay, WI. (Hearing site: Milwaukee, WI and Chicago, IL.)

MC 148624F, filed October 26, 1979. Applicant: BOB'S TRANSFER & STORAGE CO., INC., 7081 Oakland Mills Road, Columbia, MD 21046. Representative: Ronald K. Kolins, Suite 202, 333 North Fairfax Street, Alexandria, VA 22314. Transportng *such commodities dealt in by grocery stores,* between points in MD, on the one hand, and, on the other hand, points in DE, NJ, NY, PA, VA, WA, WV, and DC. (Hearing site: Washington, DC)

MC 148635F, filed October 26, 1979. Applicant: FALCON TRUCKING, INC., P.O. Box 4, Branchton, PA 16021. Representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. *Contract carrier,* transporting *lime and limestone,* between the facilities of Mercer Lime and Stone Company, Inc., at Branchton, Slippery Rock Township, PA, on the one hand, and on he other, points in OH, IN, MI, IL, KY, VA, WV, MD, and NY, under continuing contract(s) with Mercer Lime and Stone Company, Inc., of Banchton, PA. (Hearing site: Pittsburgh, PA, or Washington, DC)

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Decided: Feb. 12, 1980.
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2934 (Sub-55F), filed November 13, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. Transporting *new furniture,* from Appomattox, VA, to points in CT, DE, IL, IN, TN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, and DC. (Hearing site: Indianapolis, IN.)

MC 2934 (Sub-56F), filed November 13, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. Transporting *floral foam* and *floral accessories,* from Kent, OH, to points in the US (except AK and HI). (Hearing site: Indianapolis, IN.)

MC 4024 (Sub-12F), filed November 9, 1979. Applicant: HORN TRUCKING CO., a corporation, 300 Schmetter Road, Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. Transporting *aluminum and aluminum products,* between the facilities of Consolidated Aluminum Corporation, in Murphysboro, IL, on the one hand, and, on the other hand, points in MO, IN, WI, OH, IA, TN, and KY. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 4024 (Sub-13F), filed November 9, 1979. Applicant: HORN TRUCKING CO., a corporation, 300 Schmetter Road, Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. Transporting (1) *foodstuffs* (except in bulk), between the facilities used by Sunmark, Inc., at and between St. Louis, MO, and Chicago, IL, and on the one hand, and, on the other points in IL, IN, MO, WI, and MI, (2) *malt beverages and beer coolers,* between St. Louis, MO, on the one hand, and, on the other, points in IN, MI, OK, AR, AL, MS, KY and TN, (3) *malt beverages,* between St. Louis, MO, on the one hand, and, on the other, points in IL, IA, WI, and MN, and (4) *confectionery,* between the facilities used by Switzer Candy Co., at St. Louis, MO, on the one hand, and, on the other, points in IL, IN, MI, and WI. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 8515 (Sub-33F), filed November 12, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Transporting *agricultural machine parts* (except tractor parts), *tractor parts,* and *materials, equipment, and supplies* used in manufacturing and maintenance of tractors and agricultural machinery, between Canton, and Rock Island, IL, and points in MN, IN, MO, OH, KY, KS, IA, MI, and WI. (Hearing site: Chicago, IL.)

MC 30045 (Sub-9F), filed November 12, 1979. Applicant: KITCHELL TRUCK LINES, INC., Ispwich, SD 57541. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *agricultural machinery, agricultural implements and attachments for agricultural machinery and agricultural implements,* from Rock island and East Moline, IL, to points in MN, ND, and SD. (Hearing site: St. Paul, MN.)

MC 30844 (Sub-665F), filed November 13, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *toilet preparations,* (except in bulk), from Lakewood, NJ, to Davenport, Iowa City, and Cedar Rapids, IA, restricted to the transportation of traffic originating at or destined to the facilities used by Procter & Gamble. (Hearing site: Chicago, IL.)

MC 30844 (Sub-672F), filed November 9, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *such commodities* as are used in the manufacturing and distribution of veterinary supplies, animal drugs, feeds, and supplemental powders in vehicles equipped with mechanical refrigeration, from Charleston, SC, and from points in MA, NY, NJ, MD, PA, VA, and WV, to Charles City, IA. (Hearing site: Chicago, IL.)

MC 52574 (Sub-60F), filed November 9, 1979. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, NJ 07111. Representative: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. *Contract carrier,* transporting *bakery products,* from Frederick, MD, to those points in MI on and south of MI Hwy. 55 (except Pontiac, Farmington, Inkster, Mt. Clemens, Detroit, Ann Arbor and Ypsilanti), under a continuing contract(s) with S.B. Thomas, Inc., of Totowa, NJ. (Hearing site: New York, NY.)

MC 52704 (Sub-258F), filed November 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *plastic articles,* and *materials, equipment and supplies* used in the manufacture or distribution of plastic articles, (except in bulk), between the facilities of Terminal Paper Bag Co., Inc., at or near Yulee, FL, on the one hand, and, on the other, those points in the US in and east of MN, IA, MO, OK, and TX. (Hearing site: Atlanta, GA.)

MC 60014 (Sub-162F), filed November 8, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting (1)(a) *lumber and* (b) *building materials* (except lumber) and (2) *materials and supplies* used in the manufacture of the commodities described in (1) above, between the facilities of Union Camp Corporation, in AL, on the one hand, and, on the other, those points in the US east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Washington, DC.)

MC 95084 (Sub-153F), filed November 8, 1979. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 1501 East Main St., P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *agricultural implements and machinery,* and (2) *parts and attachments* for the commodities named in (1), from Armstrong, IA, to points in the United

States (except AK and HI). (Hearing site: Omaha, NE, or Minneapolis, MN.)

MC 105045 (Sub-126F), filed November 8, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Transporting (1) *aluminum articles,* from the facilities of Alumax, Inc., in Berkeley County, SC, to points in the US (except AK and HI), and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 105045 (Sub-127F), filed November 9, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *iron and steel articles* (a) from the facilities of (1) Atlantic Steel Company, at or near Atlanta and Cartersville, GA, and (2) Atlantic Steel Building Systems, at or near Tallapoosa, GA, to the facilities of Atlantic Steel Building Systems, at or near Hannibal, MO, and (b) from the facilities of Atlantic Steel Building Systems, at or near Hannibal, MO, to points in AL, AR, GA, IA, IL, IN, KY, LA, MI, MN, MS, OH, OK, TN, TX, WI, and WV. (Hearing site: Washington, DC.)

MC 105045 (Sub-128F), filed November 9, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania St., Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *iron and steel articles* and *protection control equipment,* from the facilities of Shelby Steel Fabricators, in Shelby County, AL, to points in the US (except AK and HI). (Hearing site: Washington, DC.)

MC 106674 (Sub-443F), filed November 9, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as above). Transporting *glass containers* and *materials and supplies* used in the manufacture of glass containers, between the facilities of Chattanooga Glass Company, at or near (a) Keyster, WV (b) Chattanooga, TN, (c) Mt. Vernon, OH, (d). Corsicana, TX, (e) Gulfport, MS, and (f) Mineral Wells, MS, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-444F), filed November 9, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as above). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in the U.S., restricted to the transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 109124 (Sub-97F), filed November 9, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. Transporting *iron and steel articles,* between points in IN, and OH, restricted to the transportation of traffic originating at or destined to the facilities of National Can Corp. (Hearing site: Chicago, IL.)

MC 109584 (Sub-205F), filed November 8, 1979. Applicant: ARIZONA-PACIFIC TANK LINES, a corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *sodium hydrosulfite,* in bulk, in tank vehicles, from Los Angeles, CA, to Phoenix and Sahuarita, AZ. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

MC 110525 (Sub-1317F), filed November 9, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O. Brien (same address as applicant). Transporting (1) *sulphur trioxide,* in bulk, in tank vehicles, from the facilities of E. I. du Pont de Nemours & Co., at (a) East Chicago, IN, to points in IL, OH, AR, LA, SC, MO, MN, and TN and (b) Columbia Park, OH, to points in IL, AR, LA, MO, MI, and TN, and (c) Wurtland, KY, to points in AR, LA, and TX, and (2) *chemicals,* in bulk, tn tank vehicles, from Orange and Beaumont, TX, to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 112304 (Sub-223F), filed November 9, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting *concrete products,* from Devault, PA, to points in DE, WV, MD, NJ, NY, VA, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC112304 (Sub-224F), filed November 9, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). Transporting *iron and steel articles,* from Baytown, TX, to points in AL, FL, GA, and TN. (Hearing site: Houston, TX, or Washington, DC.)

MC113434 (Sub-152F), filed November 13, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Ave., Holland, MI 49423. Representative: Miss Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *paper and paper products,* and *equipment, materials and supplies used in the manufacture and distribution of paper and paper products,* between points in IA, IL, IN, KY, MI, MO, OH, PA, WI, and WV. (Hearing site: Chicago, IL, or Detroit, MI.)

MC114045 (Sub-555F), filed November 9, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as above). Transporting *foodstuffs,* (except in bulk), from Carnegie, PA, to points in TX. (Hearing site: Pittsburgh, PA.)

MC119774 (Sub-108F), filed November 8, 1979. Applicant: EAGLE TRUCKING COMPANY, a corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *compressors, and compressor parts,* from the facilities of Arkla Equipment Company, at or near Shreveport, LA, to points in OH, MI, and PA. (Hearing site: Dallas, TX, or Shreveport, LA.)

MC119875 (Sub-12F), filed November 12, 1979. Applicant: WAR-HUNT TRUCKING CO., INC., R.D. 3, P.O. Box 92–A, Allentown, PA 18104. Representative: Walter K. Swartzkopf, Jr., 407 North Front St., Harrisburg, PA 17101. Transporting *confectionery and confectionery products, and materials and supplies used in the manufacturing and distribution of confectionery and confectionery products,* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of (1) M&M/Mars Division of Mars, Inc., (a) Hackettstown, NJ, to points in CT west of Rt. 5, to points in MA west of Rt. 5, to points in RI (excluding Providence), to points in PA west of the Susquehanna River, to points in ME, NH, VT, KY and DC, and to points in the Chicago, IL, commercial zone, (b) Elizabethtown, PA, to points in and points in CT, ME, MA, NJ, NH, NY, RI, VT, KY and DC, and points in Chicago, IL, and (c) in Chicago, IL, to points in CT, ME, MC, MA, NH, NJ, NY, PA, RI, VT and DC. (2)(a) Michael Warehousing Corp, in Cockeysville, MD,

to points in NY, NJ and PA; (e)(b) East Coast Warehouse and Distribution Corp., in Elizabeth, NJ, to points in MD, MA and PA, (c) Foxboro Terminals Co., Inc., in Foxboro, MA, to points in MD, NJ, PA, and DC, and (d) John Jeffrey Corp., in Gloucester City, NJ, to points in PA and MD. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123405 (Sub-74F), filed November 12, 1979. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *frozen foods,* from the facilities used by Pet Incorporated, Frozen Foods Division, at or near (a) Fogelsville and Waynesboro, PA, (b) Winchester, VA, and (c) Martinsburg and Ranson, WV, to points in AL, FL, GA, KY, LA, MS, NC, OK, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123405 (Sub-75F), filed November 13, 1979. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from York, Hellam, Thomasville, Lancaster, Lebanon and Elizabethtown, PA, to points in FL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123405 (Sub-76F), filed November 13, 1979. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *aquariums household pet cages and aquarium accessories, supplies and equipment,* from Elmwood Park and Newark, NJ, to points in WA, OR, CA, NV, AZ, NM, CO, UT, ID, MT, and WY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 124154 (Sub-101F), filed November 12, 1979. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: W. D. Wingate, P.O. Box 645, Albany, GA 31702. Transporting (1) *chemicals* and (2) *materials, supplies and equipment used in the manufacture of chemicals* (except in bulk), between points in the US (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by Velsicol Chemical Company. (Hearing site: Chicago, IL, or Washington, DC.)

MC 124154 (Sub-102F), filed November 13, 1979. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: W. D. Wingate (same address as applicant). Transporting (1) *ores,* (2) *copper, iron and zinc concentrates,* (3) *chemicals* (except those described in (2) above, *copper pig, and copper slab,* and (4) *materials, equipment and supplies* used in the manufacture of the commodities described in (2) and (3) above, between Copperhill, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

MC 128205 (Sub-89F), filed November 12, 1979. Applicant: BULKMATIC TRANSPORT CO., (a corporation), 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle, Chicago, IL 60601. Transporting *starch,* in bulk, from Clinton, IA, and Chicago, IL, to points in KY and MO. (Hearing site: Chicago, IL.)

MC 129124 (Sub-28F), filed November 8, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. Transporting (1) *coal,* in bulk in dump vehicles, from points in Centre and Jefferson Counties, PA, to points in MD, and (2) *fly ash,* in bulk in dump vehicles, from points in MD, to points in Centre, Clearfield, and Jefferson Counties, PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 13309 (Sub-281F), filed November 13, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ron Duncan (same address as applicant). Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses* except hides and commodities in bulk) from the facilities of Vernon Calhoun Packing Company, at or near Palestine, TX, to points in the US (except AK, HI, ID, MT, ND, OR, SD, UT, WA, and WY). (Hearing site: Dallas, TX.)

MC 133095 (Sub-283F), filed November 15, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ron Duncan (same address as applicant). Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the facilities used by John Morrell and Co., at or near Shreveport, LA, to points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing site: Dallas, TX.)

MC 135524 (Sub-84F), filed November 13, 1979. Applicant: G. F. TRUCKING CO. (a corporation), P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *iron and steel articles,* between Elk Point, SD on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Columbus, OH, or Pierre, SD.)

MC 135824 (Sub-3F), filed November 13, 1979. Applicant: J. BERNARD KLAPEC, R. D. 1, 673 North Seneca St., Oil City, PA 16301. Representative: Robert Y. Daniels, 314 West Park St., Franklin, PA 16323. Transporting *iron and steel articles,* and *supplies, materials and equipment* used in the manufacture and distribution of iron and steel articles, between facilities of Electralloy Corporation, at Oil City, PA, on the one hand, and, on the other, points in AL, AZ, CA, CT, DE, FL, IL, IN, KY, LA, MD, MA, MI, NY, OH, PA, TN, TX, WA, WV, and WI. (Hearing site: Pittsburgh, PA.)

MC 138144 (Sub-54F), filed November 9, 1979. Applicant: FRED OLSON CO., INC., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 10 South LaSalle St., Suite #1600, Chicago, IL 60603. Transporting *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corporation at (a) Canfield, Nartins Ferry, Mingo Junction, Steubenville, and Yorkville, OH; (b) Allenport and Monessen, PA; and (c) Beech Bottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, MI, MN, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 138635 (Sub-99F), filed November 13, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: George W. Clapp (same address as applicant). Transporting *printed matter,* from Gallatin, TN, to points in AZ, CA, CT, DE, GA, ID, MD, NV, NJ, NY, NC, OR, PA, SC, UT, VA, WA, and DC. Note: Dual operations may be involved. (Hearing site: Nashville, TN, or Charlotte, NC.)

MC 140444 (Sub-3F), filed November 13, 1979. Applicant: HIGHLAND TOURS, INC., 8550 B—Atlantic Blvd.,

Jacksonville, FL 32216. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32316. Transporting *passengers* and *express* and *baggage*, in the same vehicle, with passengers, in round-trip charter operations, beginning and ending at Jacksonville, FL, and extending to points in Camden County, GA. (Hearing site: Jacksonville, FL.)

MC 141804 (Sub-291F), filed November 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *televisions, television parts,* and *accessories,* from Forrest City, AR, to Oak Grove Village, IL. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-292F), filed November 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *television chasses,* and *electronic components, and parts, for television sets and chasses,* from (1) points in CA, to McAllen, TX, and (a) from McAllen, TX, to Chicago, IL. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-319F), filed November 12, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *welders,* and *parts for welders,* from Appleton, WI, to points in AZ, CA, NV, OR, UT, and WA. (Hearing site: Los Angeles, CA.)

MC 141804 (Sub-320F), filed November 12, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting (1) *bicycles, motorcycles,* and *outboard motors,* and (2) *parts and accessories* for the commodities combined in (1) above, between points in the US (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities of U.S. Suzuki Motor Corp., and Suzuki International, U.S.A. and their dealers and distributors. (Hearing site: Los Angeles, CA.)

MC 143394 (Sub-1F), filed November 13, 1979. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same address as applicant). *Contract Carrier,* transporting *meats, meat products, meat by-products and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near (a) Emporia and Wichita, KS, and (b) Dakota City, NE, to points in GA, MS, LA, AL, and FL, under a continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Omaha, NE or Kansas City, KS.)

MC 143995 (Sub-24F), filed November 8, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier, transporting malt beverages,* from the facilities of Anhueser-Busch, Inc., at Columbus, OH, to Clinton and Dubuque, IA, under continuing contract(s) with Kirchhoff Distributing Co., of Dubuque, IA. (Hearing site: Davenport, IA).

MC 144945 (Sub-2F), filed November 9, 1979. Applicant: ALLEN LEE, d.b.a. A & L TRANSPORT, 11722 S. Halsted St., Chicago, IL 60628. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting (1) *fibre drums,* and *parts, materials, and supplies* used in the manufacture of fibre drums (except in bulk), between Chicago, IL, on the one hand, and, on the other, points in OH and KY, restricted to the transportation of traffic originating at the facilities of Grief Bros. Corporation, (2) *plastic products* and *chemicals* (except in bulk), between Joliet, IL, on the one hand, and, on the other, points in IN, IA, MI, MO, OH, KY, and WI, and (3) *auto and machine parts and accessories,* between Chicago, IL, on the one hand, and, on the other, points in IA, WI, MI, IN, OH, KY, and TN. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 145914 (Sub-5F), filed November 8, 1979. Applicant: COASTAL TRUCK LINE, INC., How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. *Contract carrier,* transporting *such commodities as are dealt in and used by grocery and food business houses (except frozen commodities and commodities in bulk),* between the facilities of The Clorox Company, at Jersey City, and in Hudson County, NJ, to points in NY and CT, under continuing contract(s) with The Clorox Company, of Oklahoma, CA. (Hearing site: Newark, NJ, or New York, NY.)

MC 148654F, filed November 13, 1979. Applicant: CLOVERLEAF TRANSPORTATION, INC., 14 Kerri Lane, Spring, Valley, NY 10977. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Transporting (1) *alcoholic beverages,* and (2) *empty beverage containers,* between points in NY and NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 149294F, filed November 13, 1979. Applicant: JERRY C. ELDRIDGE, d.b.a. Q-CITY ROAD RUNNER BUS SERVICE, 1015 North 12th St., Quincy, IL 62301. Representative: Jerry C. Eldridge (same address as applicant). Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Adams, Hancock, Brown, Pike, Scott, Schuyler, and McDonough Counties, IL, and extending to points in the United States (including AK but excluding HI). (Hearing site: Quincy or Springfield, IL.)

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Decided: February 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 5987 (Sub-4F), filed December 10, 1979. Applicant: KULB TRUCKING, INC., 789 Rambler Rd., Warminster, PA 18974. Representative: Alan Kahn, 1920 2 Penn Center Plaza, Philadelphia, PA 19102. Transporting (1) *metal furniture,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal furniture (except commodities in bulk), between the facilities of Metalstand Company, in Philadelphia, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 11207 (Sub-514F), filed December 10, 1979. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting: (1) *machinery and machinery parts,* and (2) *materials and supplies* used in the manufacture of (1) above between Dallas, Irving, and McGregor, TX, on the one hand, and, on the other, points in the United States in and east of LA, AR, MO, IA, and MN. (Hearing sites: Dallas, TX; Washington, DC.)

MC 26396 (Sub-320F), filed December 11, 1979. Applicant: THE WAGGONERS TRUCKING, (a corporation), P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting: (1) *mausoleum crypts* and *precast concrete,* (a) from Bluffton, OH, to points in IN, KY, MI, PA, TN and VA, and (b) from Laurel, MD, to points in DE, NC, NY, NJ, PA, SC, VA and WV; and

(2) *precast concrete products,* from Oshkosh, WI, to points in the United States (except AK and HI). (Hearing sites: Madison, WI, or Billings, MT.)

MC 28956 (Sub-24F), filed December 10, 1979. Applicant: McKAY'S TRUCK LINE, INC., 908 North Pacific Hwy, P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. Transporting *radioactive waste material,* between points in OR, on the one hand, and, on the other, points in WA and NV. (Hearing site: Portland, OR.)

MC 42537 (Sub-63F), filed December 14, 1979. Applicant: CASSENS TRANSPORT COMPANY (a corporation), P.O. Box 468, Edwardsville, IN 62025. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *Motor vehicles,* in secondary movements, in truckaway service, from Chicago, IL to points in WI. (Hearing site: Washington, DC.)

MC 45656 (Sub-25F), filed December 10, 1979. Applicant: ANDERSON TRUCK LINE, INC., Hwy 321 S., P.O. Box 1196, Lenoir, NC 28645. Representative: Dan E. Anderson (same address as applicant). Transporting *new furniture and new furniture parts,* from Sumter, SC, to points in Caldwell and Catawba Counties, NC. (Hearing site: Charlotte, NC.)

Note.—Applicant seeks to tack this authority to its present operating authority.

MC 51146 (Sub-794F), filed December 17, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *such commodities as are dealt in, or used by, manufacturers and distributors of magnetic, electronic, and industrial controls* from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Allen-Bradley Company at points in WI. (Hearing site: Chicago IL.)

MC 51146 (Sub-795F), filed December 17, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting (1) *plastic resin, and* (2) *materials and supplies* used in the manufacture and distribution of plastic products, from points in the United States (except AK and HI), to Portage, WI; and (3) *vinyl plastic,* from Winchester, VA, and Lebanon, PA, to Green Bay, WI. (Hearing site: Chicago, IL.)

MC 55896 (Sub-129F), filed December 13, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Rd, Taylor, MI 48180. Representative: George E. Batty (address same as applicant). Transporting *materials, equipment and supplies* used in the manufacture of automobiles (except commodities in bulk, in tank vehicles), from Vienna, WV, to Janesville, WI. (Hearing site: Detroit, MI.)

MC 59726 (Sub-3F), filed December 14, 1979. Applicant: MERLINE ZILLMER, d.b.a. ZILLMER TRANSFER, R.R. #4, Sparta, WI 54656. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), (1) between Black River Falls, WI and junction of WI Hwy 108 and U.S. Hwy 16; from Black River Falls, WI over U.S. Hwy 54 to Melrose, WI, then over WI Hwy 108 to junction with U.S. Hwy 16, serving all intermediate points (also over U.S. Hwy 54 to Melrose, WI, then over WI Hwy 108 to north junction with unnumbered Hwy then over unnumbered Hwy to south junction with WI Hwy 108, serving Mindoro, WI as off-route point) and return over the same route, (2) between North Bend, WI and Melrose, WI, over WI Hwy 54, and (3) between North Bend, WI, and junction of unnumbered Hwy and WI Hwy 108, north of Mindoro, WI, over unnumbered Hwys. *Alternate Routes for Operating Convenience Only:* (1) between junction of WI Hwys 54 and 71 to junction WI Hwys 27 and 71, over WI Hwy 71; and (2) between junction WI Hwys 162 and 71 and junction of U.S. Hwy 16 and WI Hwy 162, over WI Hwy 162. (Hearing site: La Crosse, WI, or Madison, WI.)

MC 69116 (Sub-253F), filed December 10, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Prentiss, MS, as an off-route point in connection with carrier's regular-route operations. (Hearing site: Chicago, IL.)

Note.—Applicant proposes to tack this authority with its existing authority.

MC 78687 (Sub-97F), filed December 13, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, DC 20001. Transporting *foodstuffs,* and *materials, equipment and supplies* used in the production of foodstuffs (except commodities in bulk), between Millsboro, DE, on the one hand, and, on the other, points in NY, PA, NJ, VA, MD, WV, CT, RI, MS, NH, VT, and ME. (Hearing site: Washington, DC.)

MC 108676 (Sub-155F), filed December 12, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicagauga Ave., Knoxville, TN 37917. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237. Transporting *flat glass,* from the facilities of Guardian Industries Corporation, at or near Corsicana, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Detroit, MI.)

MC 110567 (Sub-20F), filed December 12, 1979. Applicant: SOONER TRANSPORT CORP., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *bauxite alumina,* in bulk, from Fort Smith, AR, to points in CA, CO, KS, LA, MS, MT, NM, OK, TX, UT, and WY. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 110567 (Sub-21F), filed December 12, 1979. Applicant: SOONER TRANSPORT CORP., 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *petroleum products,* in bulk, (a) from points in KS, to points in OK, TX, AR, MO, and LA, and (b) from Smackover, AR, to Midway, CO. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 114457 (Sub-556F), filed December 10, 1979. Applicant: DART TRANSIT CO., 2102 University Ave, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave, St. Paul, MN 55114. Transporting *such commodities as are dealt in by department stores* (except commodities in bulk), from those points in the United States in and east of MN, IA, NE, CO, OK, and TX, to the facilities of Venture Stores, Division of the May Company, at points in IL, IN, IA, KS, MI, and MO. (Hearing site: St. Louis, MO, or St. Paul, MN.)

MC 114457 (Sub-557F), filed December 10, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. *General commodities* (except commodities in bulk, those requiring special equipment, and classes A and B

explosives), from the facilities of Visual Graphics Corporation, at Tamarac, FL, to Chicago, IL, Clifton, NJ, Los Angeles, CA, and Dallas, TX. (Hearing site: Jacksonville, FL, or St. Paul, MN.)

MC 114606 (Sub-11F), filed December 14, 1979. Applicant: S. F. DOUGLAS TRUCK LINE, INC., 587 First S.W., New Brighton, MN 55551. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting: (1) *sugar*, from the facilities of American Crystal Sugar Company, at Moorhead, East Grand Forks and Crookston, MN, and Drayton, ND, to points in IA, also to those points in WI on and west and north of a line beginning at the MI–WI state line and extending along Interstate Hwy 51 to Portage, WI, then along Interstate Hwy 16 to the MN–WI state line, and (2) *materials, equipment and supplies* used in the manufacture and distribution of sugar, from points in MN, to Drayton, ND. (Hearing site: Minneapolis or St. Paul, MN.)

MC 117686 (Sub-280F), filed December 11, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Transporting *papger bags*, from the facilities of Westvaco at New Orleans, LA, to points in AL, AR, IA, IL, KS, KY, MN, MO, MS, NE, TN and WI. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 118776 (Sub-44F), filed December 10, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Herman W. Huber, 101 East High St., Jefferson City, MO 65101. Transporting *scrap paper*, from AR, IN, IA, KS, KY, MI, MN, MO, NE, OH, SD, TN, and WI, to Quincy, IL. (Hearing site: St. Louis or Jefferson City, MO.)

MC 123407 (Sub-628F), filed December 10, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *asphalt roofing compound* from Denver, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 123556 (Sub-10F), filed December 13, 1979. Applicant: RAHIER TRUCKING, INC., 1822 South 1st St., P.O. Box 3148, Yakima, WA 98901. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *fruit juice*, in containers, (1) from points in Yakima County, WA, to points in NV, NM, OR, and UT, and El Paso, TX, and (2) from points in Chelan County, WA, to points in AZ, CA, NV, NM, OR, and UT, and El Paso, TX, restricted in (1) and (2) to the transportation of traffic originating at the facilities of Treetop, Inc. (Hearing site: Yakima or Seattle, WA.)

MC 125777 (Sub-263F), filed December 13, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46406. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *pig iron*, in dump vehicles, from New Boston, OH, to points in AL, AR, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NC, NJ, NY, PA, RI, SC, TN, VT, VA, and WV. (Hearing site: Chicago, IL.)

MC 125777 (Sub-264F), filed December 13, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46406. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *copper concentrates* and *copper ores*, in bulk, from Beaumont, CA, to points in AZ, CO, NM, and TX; and (2) *silica sand* and *silica sand products*, in bulk, from Oceanside, CA, to points in AZ, NM, NV, and UT. (Hearing site: Chicago, IL.)

MC 125777 (Sub-265F), filed December 14, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46406. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *refractory products* and *materials* used in the manufacture of refractory products, in bulk, in dump vehicles, between points in AL and IN, on the one hand, and, on the other, points in the United States in and east of MN, NE, SD, CO, OK, and TX. (Hearing site: Chicago, IL.)

MC 128746 (Sub-60F), filed December 11, 1979. Applicant: D'AGATA NATIONAL TRUCKING CO., a corporation, 3240 South 61st St., Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Transporting (1) *malt beverages*, in containers, and (2) *materials, supplies*, and *equipment* used in the manufacture, sale and distribution of malt beverages and returned *malt beverage containers*, between the plantsite and facilities of the Miller Brewing Co., at or near Fulton, NY and Eden, NC, on the one hand, and, on the other, points in OH and MI. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 134477 (Sub-395F), filed December 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *materials, equipment, and supplies* used in the manufacture of personal floatation devices, and outer protective clothing (except commodities in bulk), from points in AL, DE, IL, KY, ME, MD, MI, MS, NH, NC, VT, VA, and WV to St. Cloud, MN. (Hearing site: St. Paul MN.)

MC 134477 (Sub-396F), filed December 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mandota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *chemicals* (except in bulk), from points in CT, DE, KY, ME, MD, MA, NJ, NY, PA, RI, TN, VA, and WV to points in OH. Restricted to traffic originating at points in the named origin States and destined to the facilities of Van Waters & Rogers, Division of Univar at points in the named destination States. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-397F), filed December 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *confectionery products* (except in bulk), from the facilities of Deran Confectionery-Division of Borden, Inc. at or near Boston, MA to points in AL, AR, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MS, NE, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC. (Hearing site: St Paul, MN.)

MC 134477 (Sub-398F), filed December 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transporting *pasta and pasta products* (except in bulk), from the facilities of The Pillsbury Company at or near Kansas City, KS, to points in IA, MN, NE, ND, SD, and WI. (Hearing site: St. Paul, MN.)

MC 135197 (Sub-25F), filed December 10, 1979. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Herman W. Huber, 101 East High St., Jefferson City, MO 65101. Transporting *coal* from points in Brown County IL, to points in IA and MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 135797 (Sub-294F), filed December 10, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting (1) *foodstuffs*, from Oconto, WI, Denver, CO, Lewisville, TX, and Portales, NM, to points in AL, AZ, AR, CA, CO, FL, GA, IL, KS, LA, MS, MO, NM, OK, TN, TX, and WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, in the reverse direction.

(Hearing site: Dallas, TX, or Washington, DC.)

MC 135936 (Sub-26F), filed December 12, 1979. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meat, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk) as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at (1) Cedar Rapids, IA, to points in IL, IN, and MO and (2) Omaha, NE, to points in IL, IN. IA and MO, restricted to traffic originating at the named origins and destined to named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 135936 (Sub-27F), filed December 12, 1979. Applicant: C & K TRANSPORT INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meat, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk) as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at Cherokee, IA, to points in IL and IN, restricted to traffic originating at the named origin point and destined to the named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 136786 (Sub-192F), filed December 10, 1979. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50206. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *paint, varnish, solvents, and applicators* for paint products, from Chicago and Wheeling, IL, to Portland, OR, and Seattle, WA, and Carson, CA. (Hearing site: Chicago, IL.)

MC 136786 (Sub-193F), filed December 13, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. Transporting *wine, spirits, vermouth, champagnes, sparkling wines, and brandy*, (1) from San Jose, CA, to points in IL, IN, KS, MN, MO, OH, and WI, and (2) from points in CA, to Minneapolis/St. Paul, MN. (Hearing site: Minneapolis, MN, or San Francisco, CA.)

MC 136786 (Sub-194F), filed December 17, 1979. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *cheese, cheese foods, and cheese spreads*, from La Crosse, WI, to Richmond, CA, Santa Fe Springs, CA, Carthage, MO, Garland and Houston, TX, Denver, CO, Landover, MD, and Bellevue, MD. (Hearing site: Chicago, IL.)

MC 136786 (Sub-196F), filed December 10, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd St., Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd. Suite 411, Edina, MN 55435. Transporting *such commodities* as are dealt in by wholesale and retail drug department and food business houses (except in bulk), moving in vehicles equipped with mechanical refrigeration, from Waxdale and Racine, WI, to points in OR and WA. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 143127 (Sub-64F), filed December 12, 1979. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo, (same address as applicant). Transporting *malt beverages*, from Jacksonville, FL, Merrimack, NH, and Williamsburg, VA to Rochester, NY. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 143696 (Sub-16F), filed December 3, 1979. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Contract carrier, transporting *terminal tractors, materials, and equipment* used in the maintenance and restoring of terminal tractors, between points in the United States (except AK and HI), under continuing contract(s) with Smith Leasing Company, of Mansfield, OH. (Hearing site: Dallas, TX.)

MC 144547 (Sub-6F), filed December 19, 1979. Applicant: DURA-VENT TRANSPORT CORPORATION, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., N.W., Washington, DC 20006. Contract carrier, transporting *truck parts and accessories*, from points in the United States (except AK and HI), under continuing contract(s) with Universal Filter Supply, Inc., of Fremont, CA. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 145227 (Sub-3F), filed December 11, 1979. Applicant: ROGERS TRANSPORTATION COMPANY, INC., 1315 So. Blout St., Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, Raleigh, NC 27602. Contract carrier, transporting *petroleum and petroleum products* (in bulk in tank vehicles), from points in NC, to points in Southampton, Brunswick, Lunenburg, Mecklenburg, Sussex, and Charlotte Counties, VA, and Richmond, Emporia and Greenville, VA, under continuing contract(s) with Rogers Oil Company, Inc., of Raleigh, NC. (Hearing site: Raleigh, NC.)

MC 145577 (Sub-20F), filed December 13, 1979. Applicant: GULLETT-GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. Transporting (1) *castings, molds, machine parts and clay parts* used in the manufacture or production of glass containers from points in OH, IN, and PA on and west of U.S. Highway 219 to points in the United States (except AL and HI); (2) *glass containers*, between points in CT, GA, MS, PA on and west of U.S. Highway 219, TN, AND TX, on the one hand, and, on the other, points in CA; (3) *materials, equipment, supplies and parts* (except commodities in bulk) used in the manufacture or productions of glass containers, between points in CA, CT, GA, MS, PA on and west of U.S. Highway 219, TX, IN and OH; and (4) *paint*, from Washington, PA to Madera, CA, restricted in (2) and (3) above to the transportation of traffic originating at or destined to the facilities of Glass Containers Corporation. (Hearing site: Chicago, IL, or Washington, DC.)

MC 145516 (Sub-7F), filed December 12, 1979. Applicant: T. G. STEGALL TRUCKING COMPANY, INC., 8100 East Independence Blvd., P.O. Box 1286, Matthews, NC 28105. Representative: T. Gene Stegall, Jr. (same address as applicant). Transporting (1) *such commodities* as are dealt in by wholesale, retail and chain business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in AL, AR, CA, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 145667 (Sub-1F), filed December 13, 1979. Applicant: TRANSPORT PLANNING AND SERVICE, INC., 53 Evelyn St., North Dartmouth, MA 02747. Representative: Ronald Shapss, 450 Seventh Ave., New York, NY 10001. *Contract carrier*, transporting (1) *latex*, between Lawrence, MA, on the one hand, and, on the other, Calhoun, GA, Pedricktown, NJ, Bristol and Croyden,

PA, and the port of entry on the international boundary line between the United States and Canada at or near Niagara Falls, NY, under continuing contract(s) with Malden Mills, Inc., and (2) *latex calcium carbonate clay, slurries, aluminum hydrate, and fillers,* between Sharon, MA, on the one hand, and, on the other, Charlotte, NC, Belvedere, and Pedricktown, NJ, Allanspoint, CT, and Huber, GA, under continuing contract(s) with Walsh Chemical (North), Inc. (Hearing site: Boston, MA.)

MC 146017 (Sub-2F), filed December 10, 1979. Applicant: SMART FORWARDING AND DISTRIBUTION, INC., P.O. Box 3421, Hickory, NC 28601. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting *furniture parts,* from Los Angeles, CA, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, and DC. (Hearing site: Charlotte, NC, or Los Angeles, CA.)

MC 146046 (Sub-1F), filed December 28, 1979. Applicant: INTERCOASTAL LINES, LTD., 200 Foxhunt Crescent, Syosset, NY 11791. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* transporting *Paper and paper articles,* from the facilities of Automatic Data Processing, Inc. in Clifton, NJ, to Santa Clara and La Palma, CA., under a continuing contract(s) with Automatic Data Processing, Inc. (Hearing site: New York, NY.)

MC 146187 (Sub-16F), filed December 12, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Rd., Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, 805 So. Garden St., Columbia, TN 38401. Transporting *metal and plastic egg, bread and milk trays, steel forging rough and wood furniture,* between Jackson, MS, Collierville, TN, Clarendon, AR, and Salt Lake City, UT, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at and destined to the facilities of Piper Industries, in Jackson, MS, Collierville, TN, Clarendon, AR, and Salt Lake City, UT. (Hearing site: Nashville, TN, or Jackson, MS.)

MC 146187 (Sub-17F), filed December 14, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Rd., Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, 805 So. Garden St., Columbia, TN 38401. Transporting *wood, aluminum stepladders,* from the facilities of the Davidson Mfg. Corp., at Nashville, TN, to points in CA, OR, and WA, restricted to traffic originating at the above named origin and destined to the above named destination points. (Hearing site: Nashville, or Knoxville, TN.)

MC 146206 (Sub-1F), filed December 11, 1979. Applicant: RBR CORPORATION, d.b.a. CASINO LIMOUSINE, 2490 Terminal Way, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. Transporting *passengers and their baggage,* in the same vehicle with passengers in special and charter operations, (1) between the Reno, NV, International Airport, Reno, NV, and South Lake Tahoe, CA, and (2) between Reno, Sparks, Zephyr Cove, Stateline, and Incline, NV, and the facilities of the Cal-Neva Club and the Chrystal Bay Club, in Washoe County, NV, on the one hand, and, on the other, points in El Dorado and Placer Counties, CA, restricted to operations in vehicles with seating capacity of 25 passengers or less. (Hearing site: Reno, NV.)

MC 146616 (Sub-9F), filed December 12, 1979. Applicant: B & H MOTOR FREIGHT, INC., 3314 East 51st St., Suite B, Tulsa, OK 74135. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103. Contract carrier, transporting (1) *bolts and nuts,* and (2) *materials and supplies* used in the production of bolts and nuts, between the facilities of Modulus Corporation, at Gary, IN, and Mt. Pleasant, PA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Modulus Corporation. (Hearing site: Tulsa, OK.)

MC 146646 (Sub-67F), filed December 13, 1979. Applicant: BRISTOW TRUCKING CO., P.O. Box 6355 A, Birmingham, AL 35217. Representative: Henry Bristow, Jr. (same address as applicant). Transporting *non-alcoholic beverages* (except in bulk), from the facilities of Shasta Beverages, Inc., at or near Birmingham, AL, to points in GA, FL, LA, MS, and TN. Condition: Person or persons who appears to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: San Francisco, CA, or Birmingham, AL.)

MC 146757 (Sub-2F), filed December 10, 1979. Applicant: PORTER TRUCK SERVICE, INC., P.O. Box 866, Sioux Falls, SD 57101. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. Contract carrier, transporting (1) *asphalt roofing materials, insulating materials, cement-asbestos pipe, steel toilet partitions, plastic pipe, and prefabricated chimneys* (except commodities in bulk, in tank vehicles), from Sioux Falls, SD, Minneapolis and St. Paul, MN, to points in IN, MN, NE, ND, SD, MT, and WY, (2) *asphalt roofing materials* (except in bulk, in tank vehicles), from cody, WY, to points in IA, MN, MT, NE, ND, and SD, (3) *asphalt roofing materials* (except in bulk, in tank vehicles), from Phillipsburg, KS, to points in SD, MN, IA, and NE, and (4) *plastic pipe,* from Ulysses, KS, to points in SD, MN, and IA, under continuing contract(s) in (1), (2), (3) and (4) above with Mac Arthur Company, Inc., of Sioux Falls, SD. (Hearing site: Sioux Falls, SD, or Sioux City, IA.)

MC 147247 (Sub-2F), filed December 10, 1979. Applicant: AAA TRUCKING & DISTRIBUTION COMPANY, INC., 12605 East Freeway, Suite 106, Houston, TX 77015. Representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Transporting *chemicals,* in containers, from Beaumont, TX, to Houston, TX, restricted to traffic originating at the above origin, and restricted to traffic having subsequent movement by water. (Hearing site: Dallas, TX.)

MC 147886 (Sub-5F), filed December 7, 1979. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. Transporting (1) *lawn and garden equipment,* (2) *lawn and garden products* in containers and (3) *agricultural insecticides and fungicides* in containers, from the facilities of O. M. Scott and Sons, Inc. at or near Marysville, Vermillion and Columbus, OH to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Louisville, KY.)

MC 148427 (Sub-2F), filed December 13, 1979. Applicant: EXPRESS TRANSPORT, INC., 128 Louisiana St., San Antonio, TX 78210. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., Austin, TX 78701. Transporting *hides,* between points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: San Francisco, CA.)

MC 149067F, filed December 10, 1979. Applicant: WILLIAM Y. BARRY AND FRANK A. VASSALLO, d.b.a. SUN VALLEY TRUCKING, a Partnership, 231 Franklin St., Oakland, CA 94607. Representative: James H. Gulseth, 100 Bush St., 21st floor, San Francisco, CA 94104. Transporting (1) *chilled or frozen vegetables, and chocolate products,* and (2) *commodities exempt from economic*

regulations when moving in mixed loads with commodities in (1) above, between Oakland and Salinas, CA, on the one hand, and, on the other, points in OR, WA, and NV. (Hearing site: San Francisco, CA.)

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Decided: Feb. 26, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 11207 (Sub-520F), filed January 30, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave, Washington, DC 20014. Transporting *building materials* (except in bulk) from Galveston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX; Washington, DC.)

MC 11207 (Sub-521F), filed January 30, 1980. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave, Washington, DC 20014. Transporting *iron and steel articles,* from points in Kaufman and Tarrant Counties, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

MC 211866 (Sub-136F), filed January 14, 1980. Applicant: WEST MOTOR FREIGHT, INC., 470 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *general commodities* (except those of unusual value, commodities which require special equipment, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), from the facilities of Boyertown Packaging Service Corp., at or near Boyertown and Harrisburg, PA, to points in the United States (except AK and HI), and (2) *materials* used in the manufacture or distribution of polyethylene, cellophane, and paper wrappers, polyethlene bags, and cellophane bags, (except in bulk), in the reverse direction. (Hearing site: Washington, DC, or Philadelphia, Pa.)

MC 42266 (Sub-4F), filed January 29, 1980. Applicant: LANCASTER & NEW YORK MOTOR FREIGHT SERVICE, INC., R. D. #2, Box 208, Elizabethtown, PA 17022. Representative: James W. Hagar, P.O. Box 1166 (100 Pine Street), Harrisburg, PA 17108. Transporting (1) *cocoa beans, cocoa butter, cocoa press cake, chocolate liquor,* in blocks and in bags, and *cocoa crumb,* in bags, from Philadelphia, PA, to Elizabethtown, Camp Hill, and Mechanicsburg, PA, and (2) *confectionery* (except in bulk) (a) from Elizabethtown, PA, to Philadelphia, PA, and points in MD, NJ, VA, and DC, and (b) from Hackettstown and Elizabeth, NJ, to points in MD, NJ, PA, VA, and DC, restricted to (A) traffic originating at or destined to the facilities of Mars, Inc., at Hackettstown *and* Elizabeth, NJ, and Elizabethtown, Camp Hill, and Mechanicsburg, PA, or (B) traffic orignating at Philadelphia, PA, and destined to the facilities of Hershey Foods Corporation at Camp Hill and Mechanicsburg, PA. (Hearing site: Washington, DC.)

MC 51146 (Sub-810F), filed January 24, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting *alcoholic liquors, and equipment, materials, and supplies* used in their manufacture and distribution (except in bulk, in tank vehicles) between Ft. Smith, AR, Bardstown and Louisville, KY, New Orleans, LA, and Plainfield, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Hiram Walker & Sons, Inc. (Hearing site: Chicago, IL.)

MC 51146 (Sub-812F), filed January 28, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). Transporting (1) *tires, wheels, and machine parts (iron or steel), and* (2) *lawn and garden and recreation equipment and parts,* from points in IN to points in IL, IA, KY, MN, OH, TN, and WI. (Hearing site: Chicago, IL.)

MC 63417 (Sub-266F), filed January 28, 1980. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting *zinc, zinc alloys, zinc slabs, zinc dust, zinc oxide, and titanium dioxide,* from the facilities of New Jersey Zinc Division at (a) Palmerton, PA, and (b) Gloucester City, NJ, to points in VA, NC, SC, GA, FL, AL, LA, KY, and TN. (Hearing site: Washington, DC.)

MC 69116 (Sub-258F), filed January 17, 1980. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Transporting *railway car wheels and locomotive wheels.* from Keokuk, IA, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX (except OH, PA, and WV). (Hearing site: Chicago, IL.)

MC 69116 (Sub-259F), filed January 17, 1980. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *hydraulic hoists (dumping vehicle body) and material, equipment and supplies* used in their manufacture and distribution between Centerville, TN, on the one hand, and, on the other, points in CT, GA, IL, IN, KS, MD, MA, MI, MN, MS, MO, NY, NJ, NC, OH, OK, PA, SC, TX, VA, and WI. (Hearing site: Chicago, IL.)

MC 69116 (Sub-260F), filed January 17, 1980. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Transporting *meats and packinghouse products* from Tama, IA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL.)

MC 91306 (Sub-23F), filed January 16, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th. Avenue, N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting (1)(a) *electrical wiring plugs and receptacles, extension cords, power supply cords, copper wire, and* (b) *materials and supplies used in the manufacture thereof,* between South Attleboro, MA, and points in RI, on the one hand, and, on the other, Morgantown and West Jefferson, NC, and (2) *plastic materials (other than expanded),* from North Tonawanda and Buffalo, NY, to South Attleboro, MA, Morgantown and West Jefferson, NC, and points in RI. (Hearing site: New York, NY.)

MC 91306 (Sub-24F), filed January 16, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th. Avenue, N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting *toilet paper* from Greenwich, NY, to points in MD, VA, NC, SC, and DC. (Hearing site: New York, NY.)

MC 95876 (Sub-336F), filed January 17, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same

address as applicant). Transporting *knocked down steel buildings and parts thereof,* from Houston, TX, to points in CT, DE, KY, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, and WV. (Hearing site: Houston, or Dallas, TX.)

MC 95876 (Sub-340F), filed January 24, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). Transporting (1) *plastic articles,* (2) *plastic pipe and connections,* and (3) *materials, equipment and supplies* used in the manufacture and installation of commodities in (1) and (2) above, between points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Robintech, Inc. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 100666 (Sub-521F), filed January 14, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *lumber and wooden mining props,* from points in Butte, Custer, Lawrence, Meade, and Pennington Counties, SD, to points in AZ, CO, and NM. (Hearing site: Albuquerque, NM.)

MC 100666 (Sub-524F), filed January 15, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *metal and metal articles,* from Vicksburg, MS, to points in the United States (except AK and HI). (Hearing site: Shreveport, LA.)

MC 105656 (Sub-15F), filed January 17, 1980. Applicant: TOM PASQUALE, d.b.a. PASQUALE TRUCKING, P.O. Box 295, Logansport, IN 46947. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at Logansport, IN, to points in IA, MN and MO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas, MO.)

MC 112617 (Sub-467F), filed January 28, 1980. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, KY 40221. Representative: Larry W. Thompson (same address as applicant). Transporting *liquid pitch,* in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation at Augusta, KS, to Columbia, TN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 115116 (Sub-33F), filed January 29, 1980. Applicant: SUBURBAN TRANSIT CORP., 750 Somerset St., New Brunswick, NJ 08901. Representative: Edward F. Bowes, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Over regular routes, transporting *passengers and their baggage and express* and *newspapers* in the same vehicle with passengers, (1) between Hillsborough and Manville, NJ: From the junction of U.S. Hwy 206 and Somerset County Hwy 514 (Amwell Road) in Hillsborough Township, NJ, over U.S. Hwy 206 to junction of Brooks Blvd., then over Brooks Blvd. to Manville, and return over the same routes, serving all intermediate points; (2) between Millstone and Manville, NJ: From the junction of Somerset County Hwy 514 (Amwell Rd.) and Millstone River Rd. in the Borough of Millstone, NJ, then over Millstone River Rd. to Manville, and return over the same routes, serving all intermediate points; (3) between the junction of John F. Kennedy Blvd. and Winston Drive in Franklin Township, NJ, and to the junction of County Hwy 527 (Easton Ave.) in Franklin Township, NJ over John F. Kennedy Blvd., and return over the same routes, serving all intermediate points; (4) between Franklin Township, NJ, and New York, NY: From the junction of Weston Canal Rd. and access roads to Interstate Hwy 287 in Franklin Township, then over access roads and Interstate Hwy 287 to the junction of Interstate Hwy 287 and the access roads of the NJ Turnpike at Interchange 10 in Edison, NJ, then over the access roads and the NJ Turnpike to the access roads at the NJ Turnpike Interchange 16E in Secaucus, NJ, then over the access roads and Interstate Hwy 495 (also known as NJ 3 and the Depressed Hwy) to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, and return over the same routes, serving the intermediate points for purposes of joinder only; (5) between the junction of Easton Avenue and access roads to Interstate Hwy 287 in Franklin Township, NJ, and Interstate Hwy 287, over access roads in Franklin Township, and return over the same route, serving the intermediate points for purposes of joinder only; (6) between Manville, NJ, and South Bound Brook, NJ: From Manville over Finderne Ave. to the junction of Main St. in Bridgewater Township, NJ, then over Main St. and Talmadge Ave. to the junction of Columbus Place in the Borough of Bound Brook, NJ, then over Columbus Place to the junction of Main St., then over Main St. to the junction of South Main St., then over South Main St. to the junction of County Hwy 527 (Main St.) in the Borough of South Bound Brook, and return from the junction of County Hwy 527 and South Main St. in the Borough of South Bound Brook, over South Main St. to the junction of Main St., Bound Brook, then over Main St. to the junction of Main St. and East High St., then over East High St. to the junction of East High St. and East St., then over East St. to the junction of East St. and Main St., then over the aforesaid route to Manville, serving all intermediate points; and (7) between Somerville, NJ, and Bridgewater Township, NJ: From the junction of Middaugh St. and Somerset St. in Somerville, over Somerset St. to junction West Main St., then over West Main St., East Main St., and Main St. to the junction of Finderne Ave. in Bridgewater Township, and return over the same routes, serving all intermediate points. (Hearing site: New Brunswick or Somerville, NJ.)

MC 116457 (Sub-50F), filed January 14, 1980. Applicant: GENERAL TRANSPORTATION, INC., 1804 S. 27th Avenue (P.O. BOX 6484), Phoenix, AZ 85005. Representative: D. Parker Crosby (same address as applicant.) (1) *Gypsum products, plaster products,* and (2) *tools, equipment, and supplies used in their installation (except commodities in bulk in tank vehicles),* from points in AZ to points in CA. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

MC 117416 (Sub-67F), filed January 31, 1980. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue, NW., Knoxville, TN. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *Limestone* and *alumina trihydrate,* in bags, from the facilities of A. B. Wood Chemical Co., Inc., at or near Campobello, SC, to points in IN and OH. (Hearing site: Washington, DC.)

MC 117676 (Sub-20F), filed January 14, 1980. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *wooden furniture,* from the facilities of Neptune International Corporation at Dorchester, MA, to those points in the United States east of the western boundaries of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 120257 (Sub-50F), filed January 14, 1980. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting *pipe,* as described in *Mercer Extension Oil Field Commodities* 74 M.C.C. 459, from points in Morris County, TX, to points in the United States (except AK, CO, CT, DE, FL, GA, HI, KS, LA, ME, MD, MA, MT, NH, NJ, NY, NC, OK, RI, SC, TX, UT, VA, and WY. (Hearing site: Dallas or Ft. Worth, TX.)

MC 120737 (Sub-61F), filed January 14, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *iron and steel articles,* from Chicago, IL, to points in MN, IA, MO, IL, KY, TN, WI, IN, OH, and MI. (Hearing site: Chicago, IL.)

MC 121677 (Sub-1F), filed date January 25, 1980. Applicant: WARREN COUNTY FREIGHT LINE, INC., 601 Red Road, McMinnville, TN 37110. Representative: Val Sanford, P.O. Box 2757, Nashville, TN 37219. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between Nashville, TN, and Cookeville, TN: (a) from Nashville over Interstate Hwy 24 to Manchester, TN, then over TN Hwy 55 to McMinnville, TN, then over U.S. Hwy 70S to Sparta, TN, then over TN Hwy 111 to Cookeville, and return over the same route, and (b) from Nashville over U.S. Hwy 70S to Sparta, TN, then over TN Hwy 111 to Cookeville, and return over the same route, on both routes serving all intermediate points in White and Putnam Counties, TN, and serving all other points in White and Putnam Counties, TN, as off-route points, and (c) from Nashville over Interstate Hwy 40 to Cookeville, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Cookeville, TN.)

MC 123407 (Sub-630F), filed January 14, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting (1) *steel products,* and (2) *materials, equipment, and supplies used in the production of steel products* (a) from Roseboro, NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (b) from points in OH to Roseboro, NC. (Hearing site: Washington, DC.)

MC 124306 (Sub-79F), filed January 30, 1980. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: Richard A. Mehley, 1000 16th Street, N.W., Washington, DC 20036. Transporting *antifreeze and cleaning compounds,* in bulk, in tank vehicles, (1) from Salem, VA, to points in the United States (except AK and HI), and (2) from Ashland and Catlettsburg, KY to points in VA. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 125916 (Sub-17F), filed January 18, 1980. Applicant: NORWOOD TRANSPORTATION, INC., 2232 South 7200 West, Magna, UT 84044. Representative: Macoy A. McMurray, Suite 800, Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. Transporting *ore* and *ore concentrates,* in bulk, between points in AZ, CO, ID, MT, NV, NM, UT, and WY. (Hearing site: Salt Lake City, UT, Boise, ID, or Denver, CO.)

MC 133566 (Sub-154F), filed January 14, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, One State Street Plaza, New York, NY 10004. Transporting *meats, meat products, meat by-products* and *articles distributed by meat-packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation at Marshall, MO, to points in CT, DE, IL, IN, IA, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 133666 (Sub-31F), filed January 10, 1980. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue, South, Wheaton, MN 56296. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Contract carrier, transporting *road asphalt, road oils,* and *fuel oils,* in bulk, in tank vehicles, (1) between points in WY and MT, and (2) from Dickinson, ND., to points in MT, under continuing contract(s) with Duininck Bros. and Gilchrist, of Prinsburg, MN. (Hearing site: Minneapolis-St. Paul, MN.)

Note.—Dual operations may be involved.

MC 135797 (Sub-297F), filed January 14, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of feed, feed ingredients, and feed products, between points in AR, CA, CO, ID, IA, IL, KS, MN, MO, NE, NM, NV, OK, OR, TN, TX, UT, WA, and WY. (Hearing site: Denver, CO, or Washington, DC.)

MC 135797 (Sub-304F), filed January 28, 1980. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *such commodities* as are dealt in or used by automotive supply and household appliance stores, (except commodities in bulk), (1) between those points in the United States in and east of MN, IA, NE, KS, OK and TX, and (2) between those points in the United States in and east of MN, IA, NE, KS, OK, and TX, on the one hand, and, on the other, points in CA, OR, and WA, restricted in (1) and (2) above to traffic originating at or destined to the facilities of Western Auto Supply Company. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 135936 (Sub-28F), filed January 14, 1980. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *meat, meat products, meat by-products, and articles distributed by meat-packing houses,* as described in Sections A & C of Appendix I, to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk) (1) from the facilities of Dubuque Packing Co., at Le Mars, IA, to points in MN, NE, and SD, and (2) from the facilities of Farmland Foods at (a) Denison, Iowa Falls, Cherokee, Carroll, Fort Dodge, Sioux City and Des Moines, IA, and (b) Crete, Lincoln and Omaha, NE, to points in AR, IL, IA, IN, KS, KY, LA, MI, MN, MS, MO, NE, OK, SD, TN, TX, and WI, restricted in parts (1) and (2) to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE, or Minneapolis, MN.)

MC 136366 (Sub-5F), filed January 17, 1980. Applicant: BEE LINE, INC., 17 Commerce Road, Fairfield, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *railway car, locomotive, and automotive equipment,* and (2) *materials, equipment, and supplies* used in their manufacture and sale (except commodities in bulk), between Totowa and Parsippany, NJ, on the one hand, and, on the other, points in the United States (except AK and HI).

(Hearing site: New York, NY, or Washington, DC.)

MC 136377 (Sub-1F), filed January 14, 1980. Applicant: DYNE & LENIHAN TRUCKING, INC., 38 Campbell St., Waldwick, NJ 17463. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier, transporting (1) *railway car brake shoes,* from Meadowlands, PA, to New York, NY, and (2) *iron and steel scrap,* from New York, NY to Meadowlands, PA, under continuing contract(s) with the Abex Corporation, of New York, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 136886 (Sub-5F), filed January 3, 1980. Applicant: MASTERSON TRANSFER CO., INC., 3000 Pennsylvania Avenue, West, Warren, PA 16365. Representatives: Ronald W. Malin and Bankers Trust Building, Jamestown, NY 14701. Contract carrier, transporting (1) *such merchandise* as is dealt in by mail order houses and (2) *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between those points in the United States west of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in Warren County, PA, under continuing contract(s) with New Process Company, of Warren County, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 138157 (Sub-219F), filed January 17, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). (1) *Chemicals* and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of chemicals, from points in AL, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, NY, NC, OH, PA, SD, SC, TN, TX, WV, WI, and WY, to points in AZ, CA, CO, OR, and WA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-220F), filed January 25, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). Transporting *such commodities* as are dealt in and distributed and sold by retail drug stores (except in bulk), between Omaha, NE and points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 138206 (Sub-17F), filed January 14, 1980. Applicant: TRULINE CORPORATION, 4455 South Cameron Ave., Las Vegas, NV 89103. Representative: Grant S. Truman (same address as applicant). Transporting *building materials,* between points in Clark County, NV, on the one hand, and, on the other, points in CA, CO, UT, NM, and NE. (Hearing site: Las Vegas, NV.)

MC 138687 (Sub-4F), filed January 14, 1980. Applicant: BYNUM TRANSPORT, INC., 4609 Highway 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, Post Office Box 1200, Tallahassee, FL 32302. Transporting *dried citrus pulp and citrus pulp pellets,* in dump vehicles, (1) from points in Indian River, St. Lucie, Martin, Highlands, Glades and Hendry Counties, FL, to Tampa, FL, and (2) from points in Manatee, Lake, Orange, Pasco, Polk, Indian River, St. Lucie, Martin, Highlands, Glades and Hendry Counties, FL, to Port Manatee, FL. (Hearing site: Tampa, FL.)

MC 138796 (Sub-1F), filed January 21, 1980. Applicant: NELSON, INC., Box 38, Deerwood, MN 56444. Representative: Hubert Nelson (same address as applicant). *Contract carrier,* transporting *wood crating, pallets, and lumber,* from Aitkin, MN, to Port Washington, Madison, Milwaukee, and Racine, WI, Galesburg, Moline, Marion, and Chicago, IL, Newton, Des Moines, Amana, Webster City, and Marshalltown, IA, Grand Rapids and Greenville, MI, Lincoln, NE, Fargo, ND, and points in IN, under continuing contract(s) Burns Manufacturing Company, of Aitkin, MN. (Hearing site: Brainerd or St. Paul, MN.)

MC 139206 (Sub-70F), filed January 23, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: R. C. Mitchell (same address as applicant). *Contract carrier,* transporting *paper and paper products,* from the facilities of Sangamon Co., at or near Taylorville, IL, to Visalia, CA, Noonan, GA, Ft. Wayne, IN, Lawrence, KS, Plymouth, MI, Sparks, NV, and Fairless Hills, PA, under continuing contract(s) with Sangamon Co., of Taylorville, IL. (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 139457 (Sub-25F), filed January 25, 1980. Applicant: G. L. SKIDMORE, d.b.a., JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Contract carrier,* transporting *canned and preserved foodstuffs and canned and packaged animal food,* from the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, to points in IL, IA, KY, and TN (except Memphis), under continuing contract(s) with Campbell Soup (Texas) Inc., of Paris, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139917 (Sub-14F), filed January 28, 1980. Applicant: SEARAIL, INC., P.O. Box 909, Mobile, AL 36601. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, and commodities in bulk), between Meridian and Jackson, MS, on the one hand, and, on the other, points in AL, LA, MS, and those in FL west of the Apalachicola River, restricted to traffic having a prior or subsequent movement by rail. (Hearing site: Jackson, MS, or Mobile, AL.)

MC 141187 (Sub-10F), filed January 10, 1980. Applicant: BLUFF CITY TRANSPORTATION, INC., P.O. Box 18391, Memphis, TN 38118. Representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, TN 38103. *Contract carrier,* transporting (1)(a) *plastic film, plastic bags, boneguard cloth and aluminum packaging clips,* and (b) *materials, equipment and supplies* used in their manufacture and distribution, between Iowa Park, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Cryovac Division of W. R. Grace & Co., of Duncan, SC, (2) *chemicals, and materials, equipment and supplies* used in their manufacture and distribution (except in bulk), between the facilities of Jefferson Chemical Co., Inc., at Austin, Port Neches and Youens, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Jefferson Chemical Co., Inc., of Bellaire, TX, and (3) *proprietary antifreeze preparation, and materials, equipment and supplies* used in its manufacture and distribution (except bulk), between Houston, TX, Memphis, TN, and Wilmington, DE, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Jefferson Chemical Co., Inc., of Bellaire, TX. (Hearing site: Memphis, TN.)

MC 143276 (Sub-29F), filed January 16, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, a corporation, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., P.O. Box 32309, Decatur, GA 30032. Transporting (1) *roofing materials and* (2) *materials, equipment, and supplies used in the installation, manufacture, and*

packaging of roofing materials (a) between the facilities of Owens-Corning Fiberglas Corporation, at Atlanta, GA, on the one hand, and, on the other, points in AL, NC, SC, TN, FL, VA, AR, and MS, and (b) between the facilities of Owens-Corning Fiberglas Corporation, at or near Jacksonville, Ft. Lauderdale, and Miami, FL, on the one hand, and, other the other, points in MS, VA, AR, and GA. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 145726 (Sub-10F), filed January 14, 1980. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence St., Montgomery, AL 36104. Transporting *meats, meat products,* and *meat by-products,* and *articles distributed by meat-packing houses,* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of Duffey Foods, Inc., at or near Sylacauga, AL, to those points in the United States in and east of MS, TN, KY, IN, and MI. (Hearing site: Montgomery or Birmingham, AL.)

Note.—Dual operations may be involved.

MC 146817 (Sub-6F), filed January 14, 1980. Applicant: GEORGE CAVES, P.O. Box 144, Benedict, NE 68316. Representative: George Caves (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by Farmland Foods, Inc., at or near (a) Carroll, Cherokee, Ft. Dodge, Denison, Des Moines, Iowa Falls, and Sioux City, IA, and (b) Crete, Lincoln, and Omaha, NE, to points in AL, AR, KS, LA, MS, MO, OK, TN, and TX. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 147087 (Sub-7F), filed January 14, 1980. Applicant: W. L. GOOD TRUCKING, INC., Mingo, IA 50168. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *feed ingredients,* in bags, from the facilities of International Distributing Corporation at or near (a) Belvidere, IL, and (b) Marshalltown, IA, to Sioux Falls, SD, and points in IA, MN, and NE. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 148767 (Sub-2F), filed January 17, 1980. Applicant: F. J. SCHILLING, INC., 2105 North Clairemont Avenue, Eau Claire, WI 54701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *liquid petroleum products,* in bulk, between points in WI, on the one hand, and, on the other, points in Upper Peninsula of MI and MN. (Hearing site: St. Paul, MN.)

MC 149206F, filed January 24, 1980. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as applicant). Transporting *iron and steel articles,* from the facilities of LaBarge, Inc. at (a) Wagner, OK, (b) Memphis, TN, (c) St. Louis, MO, and (d) Bellevue, OH, to those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

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Decided: March 14, 1980.

By the Commission, Review Board Number 2, Members Eaton, Liberman and Jensen.

MC 2229 (Sub-235F), filed December 26, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as application). Transporting (1) *pipe, pipe fittings, and polyvinyl chloride, building materials,* and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of Certainteed Corporation at or near Eads, TN, to points in the United States (except AK and HI). (Hearing site: Memphis, TN or Dallas, TX.)

MC 3468 (Sub-176F), filed December 19, 1979. Applicant: F. J. BOUTELL DRIVEAWAY CO., INC., 705 South Dort Highway, Flint, MI 48501. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *automobiles, trucks, and buses,* as described in *Descriptions In Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in initial movements, in truckaway service, from the facilities of General Motors Corporation at (a) Linden, NJ, and (b) Wilmington, DE, to points in IL, IN, MI, OH, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 25399 (Sub-15F), filed December 19, 1979. Applicant: A-P-A TRANSPORT CORP., 2100 88th Street, North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between North Bergen, NJ, Canton, MA, Philadelphia, PA, and Meriden, CT, on the one hand, and, on the other, points in NH, MA, RI, CT, NY, NJ, PA, DE and MD, (2) between Detroit, MI, on the one hand, and, on the other, points in St. Clair, Genesee, Lapeer, Macomb, Oakland, Livingston, Wayne, Washtenaw, Monroe, and Lenawee Counties, MI and Lucas County, OH, (3) between Cleveland, OH, on the one hand, and, on the other, points in Ashtabula, Lake, Cuyahoga, Lorain, Erie, Trumbull, Portage, Summit, Medina, Huron, Mahoning, Stark, Wayne, Ashland, and Geauga Counties, OH, (4) between Chicago, IL, on the one hand, and, on the other, points in Lake, McHenry, Cook, Kane, DuPage, Will, Kendall, Grundy, and Kankakee Counties, IL, LaPorte, Porter, and Lake Counties, IN, and Kenosha County, WI. (5) between Columbus, OH, on the one hand, and, on the other, points in Knox, Morrow, Marion, Logan, Union, Delaware, Licking, Muskingum, Franklin, Madison, Champaign, Clark, Fayette, Pickaway, Fairfield, Perry, Hocking, and Ross Counties, OH, (6) between Cincinnati, OH, on the one hand, and, on the other, points in Preble, Montgomery, Greene, Butler, Warren, Clinton, Hamilton, Clermont, Brown, and Highland Counties, OH, Union, Franklin, Ripley, Dearborn, Ohio, Jefferson, and Switzerland Counties, IN, and Boone, Kenton, Campbell, Gallatin, Pendleton, Grant, Bracken, Carrol, and Owen Counties, KY, (7) between Indianapolis, IN, on the one hand, and, on the other, points in Grant, Howard, Tippecanoe, Delaware, Madison, Tipton, Clinton, Henry, Hamilton, Boone, Montgomery, Wayne, Fayette, Rush, Hancock, Marion, Henricks, Putnam, Shelby, Johnson, Morgan, Decatur, Bartholomew, Brown, Monroe, Owen, and Jennings Counties, IN, (8) between Louisville, KY, on the one hand, and, on the other, points in Trimble, Henry, Oldham, Franklin, Shelby, Jefferson, Anderson, Spencer, Bullitt, Meade, Nelson, Washington, Hardin, Breckinridge, Marion, and La Rue Counties, KY, and Jackson, Scott, Washington, Orange, Clark, Floyd, Harrison, Crawford, and Perry Counties, IN, and (9) between St. Louis, MO, on the one hand, and, on the other, points in Lincoln, St. Charles, Warren, St. Louis, Franklin, Jefferson, St. Francois, and Ste. Genevieve Counties, MO, and Macoupin, Greene, Calhoun, Jersey, Bond, Madison, Clinton, St. Clair, Washington, Monroe, Perry, and Randolph Counties, IL. (Hearing site: Albany, New York, NY, Boston, MA, Washington, DC, Detroit, MI, Chicago, IL, Columbus, OH, Louisville, KY, St. Louis, MO.)

MC 29079 (Sub-165F), filed December 19, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 300, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, N.W., Washington, DC 20006. Transporting (1) *refractories and refractory products,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, between points in Audrain, Callaway, and Montgomery Counties, MO, Goose Lake, IL, Bessemer and Kimberly, AL, Macon, GA, Woodbridge, NJ, East Greenville, Jackson, and Oak Hill, OH, and Climax, Philadelphia, Tarentum, and Vanport, PA, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, IN, KY, LA, MD, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, the Lower Peninsula of MI, and DC. (Hearing site: Washington, DC.)

MC 81908 (Sub-12F), filed December 21, 1979. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting (1) *fertilizer and fertilizer ingredients,* (except commodities in bulk), and (2) *animal feed, and animal feed ingredients,* between the facilities of The Andersons at or near Maumee, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, WV, and those in PA on and west of U.S. Hwy 15. (Hearing site: Columbus, OH, or Washington, DC.)

MC 107818 (Sub-103F), filed December 20, 1979. Applicant: GREENSTEIN TRUCKING COMPANY, a Corporation, 280 N.W. 12th Ave., Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *foodstuffs* (except in bulk), from the facilities of Beatrice Foods Company at or near Archbold and Napoleon, OH, to points in AL, FL, GA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Toledo, OH.)

MC 107839 (Sub-184F), filed December 28, 1979. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Ave., Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses,* from Plainview and Amarillo, TX, to points in AL, FL, GA, LA, MS, NC, SC and TN. (Hearing site: Denver, CO, or Amarillo, TX.)

MC 107839 (Sub-185F), filed December 28, 1979. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting *steel office furniture and fixtures,* from Dickson, TN, to Denver, CO.

MC 108119 (Sub-219F), filed December 28, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Transporting (1) *air cleaning, heating, cooling, humidfying, dehumidifying, and moving equipment,* (2) *parts* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of Industrial Sheet & Mechanical Corporation, at or near Rockingham, NC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Charlotte or Raleigh, NC.)

MC 109238 (Sub-21F), filed October 22, 1979. Applicant: DE HART MOTOR LINES, INC., Highway 64–70 West, Conover, NC 28613. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *cleaning, scouring, washing, and disinfecting compounds, fabric or textile softeners, lube oils and greases, plastic bags, filters, and paint,* (except commodities in bulk, in tank vehicles), from Avenel, NJ, to points in NC and SC. (Hearing site: Charlotte NC or Washington, DC.)

MC 113528 (Sub-50F), filed December 20, 1979. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36601. Representative: Joy Stephenson, (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Monsanto Company at or near Gonzalez and Pensacola, FL, on the one hand, and, on the other, points in GA. (Hearing site: Mobile, AL or Pensacola, FL.)

MC 114569 (Sub-362F), filed December 19, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *canned and preserved foodstuffs,* from Wenatchee, WA, to the facilities of Heinz USA, Division of H. J. Heinz Company, at or near (a) Grand Prairie, TX, (b) Greenville, SC, (c) Harrison, NJ, (d) Iowa City, IA, (e) Jacksonville, FL, (f) Mechanicsburg and Pittsburgh, PA, and (g) Toledo, OH, restricted to the transportation of traffic originating at the named origin and destined to the named facilities. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 114569 (Sub-363F), filed December 19, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 170?2. Representative: N. L. Cummins (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Packers Cold Storage, Inc., at or near Laramie, WY, on the one hand, and, on the other, points in AL, GA, IA, IN, IL, KS, MD, MI, MN, NE, OH, PA, TX, and WI. (Hearing site: Los Angeles, CA or Washington, DC.)

MC 116519 (Sub-81F), filed December 28, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R.R.6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 1511 K Street, NW., Washington, DC 20005. Transporting in foreign commerce only, (1) *paper and paper products, woodpulp, and printed matter,* and (2) *materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities in (1) above, between the ports of entry on the international boundary line between the United States and Canada located in MI, NY, VT and ME, on the one hand, and, on the other, points in the United States (except AK, AR, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 117119 (Sub-803F), filed December 28, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Transporting *chemicals* (except in bulk), in vehicles equipped with mechanical refrigeration, from Rahway, NJ, Elkton, VA, and Riverside, PA, to Chicago, IL, and St. Louis, MO.

MC 117589 (Sub-70F), filed December 20, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. Transporting *dairy products,* as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Seattle, WA, to points in CO. (Hearing site: Seattle, WA.)

MC 118318 (Sub-49F), filed December 19, 1979. Applicant: IDA–CAL FREIGHT LINES, INC., P.O Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting: *Such commodities* as are dealt in by grocery and food business houses, from the facilities of International Paper Co., at or near Turlock, CA, to points in ID and UT. (Hearing site: Boise, ID.)

MC 118318 (Sub-50F), filed December 19, 1979. Applicant: IDA–CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting: *Meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of appendix I to the report in *descriptions in motor carrier certificates,* 61 M.C.C. 209 and 766, from points in WA to points in CA, ID, MT, NV, and UT. (Hearing site: Boise, ID.)

MC 119789 (Sub-660F), filed December 20, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (same as applicant). Transporting *fertilizer and seed distributors* from Vermillion, OH, to points in CA, CO, FL, GA, MO, NE, OR, TX, and WA. (Hearing site: Columbus, OH.)

MC 119789 (Sub-661F), filed December 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., (same address as applicant). Transporting *foodstuffs* (except frozen and in bulk), from Vacaville, CA, to points in OK and TX. (Hearing site: New York, NY.)

MC 120279 (Sub-11F), filed December 17, 1979. Applicant: MCFARLAND & HULLINGER, a Partnership, 915 North Main Street, Tooele, UT 84074. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting *salt,* in bulk, from the facilities of Texas Gulf, Inc., at Potash, UT, to points in AZ and CO. (Hearing site: Washington, DC.)

MC 125689 (Sub-13F), filed December 20, 1979. Applicant: BEATTYVILLE TRANSPORT, INC., Box 357, Catlettsburg, KY 41129. Representative: Fred H. Daly, Suite 475, 2550 M Street, N.W., Washington, DC 20037. Transporting *petroleum products,* in bulk, in tank vehicles, from Ironton, OH, to points in KY and WV. (Hearing site: Charleston, WV.)

MC 126118 (Sub-207F), filed December 17, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in by manufacturers, retailers, and distributors of carpets, between points in Los Angeles and orange Counties, CA, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Los Angeles or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 126898 (Sub-12F), filed December 17, 1979. Applicant: BULLDOG HIWAY EXPRESS, a corporation, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Transporting *aluminum, aluminum products, and supplies, materials, and equipment* used in the manufacture of aluminum and aluminum products (except commodities in bulk), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbia, SC, Charlotte, NC, or Washington, DC.)

MC 133689 (Sub-323F), filed December 17, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.W., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *confectionery,* from the facilities of Luden's Inc., at Reading, PA, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, TN, VA, WA, and WI. (Hearing site: St. Paul, MN.)

MC 135078 (Sub-64F), filed December 26, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from New York, NY, to Chicago, IL, and Denver, CO. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 136818 (Sub-102F), filed December 17, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *meats, meat products, and meat by-products, and articles distributed by meat-packing houses,* from Phoenix, AZ, to points in AR, CA, CO, KS, LA, MS, MO, NV, NM, OK, OR, TX, UT, and WA. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 136818 (Sub-103F), filed December 17, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *foodstuffs* and *canned goods,* from the facilities of Skyland Food Corp., at or near Delta, CO, to points in AZ, CA, KS, NM, UT, MO, OK, and TX (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 136818 (Sub-104F), filed December 26, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *foodstuffs,* from the facilities of Texsun Corporation at or near Weslaco, TX, to points in OK, AR, MO, KS, IA, NE, MN, WI, and IL. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 136818 (Sub-105F), filed December 26, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. Transporting *scrap paper,* from points in AZ to points in CA. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 138308 (Sub-99F), filed December 26, 1979. Applicant: KLM, INC, Old Highway 49 South (P.O. Box 6098), Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), on the one hand, and, on the other, the facilities of the Richardson Company located in CA, CT, FL, GA, IL, OH, MO, OK, SC, TX, MS, TN, MN, MI, NJ, IN, NY, and VA. (Hearing site: Melrose Park, IL, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 138308 (Sub-100F), filed December 26, 1979. Applicant: KLM, INC, Old Highway 49 South (P.O. Box 6098), Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting

foodstuffs and materials and supplies used in the manufacture and distribution of foodstuff, (except commodities in bulk), between points in AZ, CA, CO, FL, GA, IL, IN, LA, MA, MD, MI, MN, MO, NC, NJ, OH, OR, PA, TN, UT, WI, KY, AL, VA, NY, and WA, restricted to the transportation of traffic originating at or destined to the facilities of M&M/MARS, Snack-Master Division. (Hearing site: Albany, GA or Jackson, MS.)

Note.—Dual operations may be involved.

MC 138328 (Sub-110F), filed December 19, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *alcoholic beverages,* from Houston and Galveston, TX, and New Orleans, LA, to Omaha, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 138328 (Sub-111F), filed December 19, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, I–80 and Highway 50, P.O. Box 37205, Omaha, NE 68137. Transporting (1) *charcoal and charcoal briquets,* and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1) above, (except commodities in bulk), from the facilities of Husky Industries, Inc., at or near (a) Branson, MO, (b) White City, OR, (c) Isanti, MN, (d) Waupaca, WI, (e) Dickinson, ND, and (f) Marion, OH, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 139248 (Sub-4F), filed December 19, 1979. Applicant: CONTRACT CARRIERS, INC., 1006 East 11th, Ellensburg, WA 98926. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Transporting *feed and feed ingredients,* in bulk, between points in WA, OR, and ID. (Hearing site: Seattle, WA.)

Note.—Dual operations may be involved.

MC 140028 (Sub-9F), filed December 17, 1979. Applicant: MOULDEN & SONS, INC., P.O. Box 18, 200 Second Street, Enumclaw, WA 98022. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. Transporting in foreign commerce only, *silica sand,* from Ravensdale, WA, to the ports of entry on the international boundary line between the United States and Canada at or near Lynden and Sumas, WA. (Hearing site: Seattle, WA, or Portland, OR.)

MC 140829 (Sub-335F), filed December 20, 1979. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting (1) *chemicals, cleaning compounds, offset printing plate, rubber coated fabric, sealing and packing compounds, conveyor belts, gaskets, and battery boxes, covers, and vents, and (2) materials, equipment, and supplies* used in the manufacture, installation, distribution and sale of the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by The Richardson Company. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141459 (Sub-14F), filed December 26, 1979. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Boulevard, Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *wood burning stoves and agricultural implements,* from Litchfield, IL, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 141898 (Sub-3F), filed December 19, 1979. Applicant: ROBERTS CARTAGE OF OHIO, INC., P.O. Box 7162, Akron, OH 44306. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving in express service, between points in Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Holmes, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull and Tuscarawas Counties, OH, on the one hand, and, on the other, points in IL, IN, KY, NY, PA, and the lower Peninsula of MI, restricted to the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day (except with regard to traffic having a prior or subsquent movement by air). (Hearing site: Columbus or Cleveland, OH.)

MC 142059 (Sub-111F), filed December 17, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting *calcined magnesite,* in containers, from the facilities of Glasrock Products, Inc., near Tuscumbia, AL, to points in the United States (except AK and HI). (Hearing site: Memphis, TN, or Washington, DC.)

MC 142508 (Sub-130F), filed December 26, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. Transporting (1) *foodstuffs, pet foods, and animal feeds,* and (2) *equipment, materials, and supplies* used in the manufacturing, sale, or distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating or destined to the facilities of The Carnation Company. (Hearing site: Los Angeles, CA, or Omaha, NE.)

MC 142559 (Sub-139F), filed December 17, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *commercial, household, and institutional appliances;* and (2) *materials, equipment, and supplies* used in the manufacture and disribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Speed Queen Company. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 142559 (Sub-142F), filed December 26, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *personal care products, chewing gum, cough drops, and candies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Warner-Lambert Company. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 144858 (Sub-27F), filed December 20, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72219. Representative: Harvey K. Thompson

(same address as applicant). Transporting (1) *such commodities* as are dealt in by mail order food and gift business (except frozen), and (2) *plants and bulbs,* in mixed loads with the commodities in (1) above, from the facilities of Harry and David at or near Medford, OR, to points in the United States (except AK and HI). (Hearing site: Portland, OR, or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 148158 (Sub-5F), filed December 26, 1979. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Patricia M. Schnegg, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in the United States (except AK and HI) to the facilities of Gibson Product Co., in UT. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 148179 (Sub-3F), filed December 26, 1979. Applicant: V S ENTERPRISES, INC., P.O. Box 3834, St. Louis, MO 63122. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *beer,* from the facilities of Anheuser-Busch, Inc., at St. Louis, MO, to Centralia, Decatur, and Macomb, IL, and French Lick, Evansville, and Attica, IN. (Hearing site: St. Louis, MO.)

MC 148199 (Sub-3F), filed December 21, 1979. Applicant: T. G. & J. C. GARLAND, a partnership, d.b.a. AQUARIAN LINES, Rt. 1, Box 261, Van Alstyne, TX 75095. Representative: T. G. Garland (same address as applicant). Transporting over regular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Oklahoma City, OK, and Wichita Falls, TX, over U.S. Hwy 277, serving no intermediate points. (Hearing site: Wichita Falls or Fort Worth, TX.)

MC 148618 (Sub-1F), filed December 19, 1979. Applicant: CORNELIUS VAN DRUNEN d.b.a. VAN'S MOBILE HOME SERVICE, RD No. 1, Rehoboth Beach, DE 19971. Representative: Eugene D. Anderson, 910 Seventeenth St. NW., Suite 428, Washington, DC 20006. Transporting (1) *trailers designed to be drawn by passengers automobiles,* and (2) *buildings,* in sections, mounted on wheeled undercarriages, from Leola, Epharata, and Schaefferstown, PA, to Dover and Rehoboth, DE, and (3) *materials* used in the manufacture of the commodities in (1) and (2) above, from Rehoboth, DE to Leola, Ephrata, and Schaefferstown, PA. (Hearing site: Lancaster, PA, or Washington, DC.)

MC 148809 (Sub-2F), filed December 20, 1979. Applicant: DAVE PHILLIPS, d.b.a. DAVE PHILLIPS CONSTRUCTION COMPANY, 2780 S.E. Three Lake Road, Albany, OR 97321. Representative: John A. Anderson, Suite 1440, 200 S.W. Market Street, Portland, OR 97201. Transporting *animal feed,* in bulk, between points in OR and WA. (Hearing site: Portland, OR.)

MC 149029 (Sub-1F), filed December 17, 1979. Applicant: VANWORMER TRUCKING, INC., Star Route, Cranberry, PA 16319. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk), from North Tonawanda and Buffalo, NY, Farmers Valley, Emlenton, and North Warren, PA, and Congo and Saint Marys, WV, to points in PA, OH, NY, IN, MI, WV, WI, IL, KY, VA, MD, DE, NJ, CT, and DC, and (2) *materials and supplies* used in the production or distribution of petroleum and petroleum products (except commodities in bulk), in the reverse direction

Agatha L. Mergenovich

Secretary

[FR Doc. 80-9780 Filed 3-31-80; 8:45 am]

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[Volume No. 6]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission on or before May 1, 1980, with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 1005 (M1–F), (Notice of filing of petition to modify the territorial description), filed September 28, 1979. Petitioner: SERV-ALL MOTOR FREIGHT, INC., 53 Liberty St., Passaic, NJ 07055. Representative: George A Olsen, P.O. Box 357, Gladston, NJ 07934. Petitioner holds *common carrier* authority in MC–1005, served April 2, 1964, which authorizes over irregular routes, the transportation of *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, on the one

hand, and, on the other, points in Bergen, Essex, Hudson, Passaic, Morris, Mercer, and Warren Counties, NJ.

By the instant petition, petitioner seeks to modify the territorial description to read: "Between New York, NY, on the one hand, and, on the other, points in NJ."

MC 8744 (M2-F) (Notice of filing of petition to modify the certificate), filed September 7, 1979. Petitioner: CONSOLIDATED MOTOR EXPRESS, INC., 910 Grant St., P.O. Box 1160, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Petitioner holds *common carrier* authority in MC 8744, served April 27, 1954, which authorizes, as pertinent, the transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between North Tazewell, VA, on the one hand, and, on the other, points in those parts of VA and WV located within 50 miles of North Tazewell. By the instant petition, petitioner seeks to modify the above authority to read: *"general commodities* (except those of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those commodities, which because of their size or weight require the use of special equipment), between Tazewell, VA, on the one hand, and, on the other, points in Tazewell, Buchannan, Russell, Dickenson, Washington, Giles, Pulaski, Carroll, Grayson, Smyth, Bland, and Wythe Counties, VA, and points in Logan, Mingo, McDowell, Wyoming, Boone, Raleigh, Mercer, Summers, and Monroe Counties, WV."

MC 8973 (Sub-52(M1F)) (Notice of filing of petition to modify certificate), filed September 17, 1979. Petitioner: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC–8973 Sub 52 issued September 27, 1979, to operate in interstate or foreign commerce, over irregular routes, transporting in paragraph (2) . . . *aluminum articles, aluminum products, building materials,* and *materials, equipment, and supplies* used in the manufacture, sale, processing, distribution and installation of the commodities listed in (2) above (except commodities in bulk), between New York, NY, on the one hand, and, on the other, points in the United States (Except AK and HI). By the instant petition, petitioner seeks to modify the authority as follows: add *wire and cable* to the commodity description following building material.

MC 107515 (Sub-611 and 917G, and E–263 (M1F)) (Notice of filing of petition to modify the commodity descriptions), filed August 24, 1979. Petitioner: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Representative: Marc A. Pearl, Suite 520, Lenox Towers, S., 3390 Peachtree Road, Atlanta, GA 30326. (A) Petitioner holds motor *common carrier* certificate in MC 107515 (Sub-No. 611) issued December 11, 1969, authorizing transportation over irregular routes of (1) *food, food preparations, and foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *gift shop and curio shop merchandise:* when moving in mixed loads with the commodities specified in (1) above. From points in Cook, DuPage, Lake and Will Counties, IL, and Lake County, IN, to points in AL, GA, KY, NC, SC, and TN (except Memphis, TN, and points within the Memphis, TN Commercial Zone as defined by the Commission), restricted against the transportation of shipments destined to points in FL. (B) Petitioner holds motor *common carrier* Certificate in MC–107515 (Sub-No. E–263) issued December 19, 1974, authorizing transportation over irregular routes of *foodstuffs:* (except commodities in bulk), in vehicles equipped with mechanical refrigeration. From Cook, DuPage, Lake and Will Counties, IL, and Lake County, IN, to Memphis, TN, and points in Clark, Floyd, Harrison, Perry and Spencer Counties, IN, MS, that part of WV on and south of a line beginning at the KY–WV State line, then along Interstate Hwy 64 to Charleston, then along U.S. Hwy 60 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction WV Hwy 41, then along WV Hwy 41 to junction WV Hwy 15, then along WV Hwy 15 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction WV Hwy 28, then along WV Hwy 28 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the VA-WV State line, and that part of VA on and south of a line beginning at the VA-WV State line, then along U.S. Hwy 33 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 28, then along U.S. Hwy 28 to junction VA Hwy 29, then along VA Hwy 29 to junction VA Hwy 7, then along VA Hwy 7 to the Potomac River. Petitioner also holds motor *common carrier* Certificate in MC–107515 Sub 917G, issued July 23, 1975, authorizing transportation over irregular routes, the transportation of *foodstuffs,* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Cook, DuPage, Lake and Will Counties, IL, and Lake County, IN, to points in VA and OH, Memphis, TN, and Charleston and Parkersburg, WV. By the instant petition, petitioner seeks to modify the above certificates and E-letter notice by deleting the requirement that the transportation authorized be performed "in mechanically-refrigerated equipment".

MC 123274 (M1F), notice of filing of petition to modify the certificate, filed October 8, 1979. Petitioner: MARSHALL SERVICE, INC., Pearl St., Newfield, NJ 08344. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds *common carrier* authority in MC–123274, served January 16, 1961, which authorizes, over irregular routes, the transportation of (1) *benzol and petroleum products,* in tank vehicles, (a) between Philadelphia, Marcus Hook and Chester, PA, Paulsboro, NJ, and Claymont, DE, on the one hand, and, on the other, Baltimore, MD, Wilmington, DE, Frenchtown, and Phillipsburg, NJ, and points in NJ on and south of NJ Hwy 33, and (b) between Sewaren, Bayonne, Carteret, Bayway, and Paulsboro, NJ, and Claymont, DE, on the one hand, and, on the other, points in that part of PA on and south of a line beginning at the Delaware Water Gap, PA, and extending along U.S. Hwy 611 to Stroudsburg, PA, and then along U.S. Hwy 209 to Millersburg, PA, and on and east of a line beginning at Millersburg, PA, and extending west to a point directly across the Susquehanna River on U.S. Hwy 15, then south along U.S. Hwy 15 to Harrisburg, PA, and then along U.S. Hwy 111 to the PA–MD State line; and (2) *petroleum lubricating oil,* in bulk, in tank vehicles, from Marcus Hook and Philadelphia, PA, to points in that part of NY east and south of a line beginning at Port Jervis, NY, and extending north along NY Hwy 42 to Woodbourne, NY, then east along NY Hwy 52 via Newburgh, Beacon and Stormville, NY, to Carmel, NY, and then along U.S. Hwy 6 to the NY–CT State line, and points in that part of CT south of U.S. Hwy 6 and west of CT Hwy 25, including points on the indicated portions of the highways specified, to Bridgeport, CT. The separate authorities contained in MC–123274 shall not be tacked or joined, directly or indirectly, for the purpose of performing any through service. By the instant petition, petitioner seeks to modify the entire certificate to read: *"Benzol and*

petroleum products, in tank vehicles, between Philadelphia, PA, Bayonne, and Sewaren, NJ, on the one hand, and, on the other, points in NJ, PA, MD, CT, NY, and DE."

MC 136023 Sub-1 (M1F) (Notice of filing of petition to modify permit), filed August 20, 1979. Petitioner: CIRCLE S TRUCKING, INC., 1308 SW. Gamma Court, Pendleton, OR 97801. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Petitioner holds a motor *contract carrier* permit in MC–136023 Sub 1, issued April 2, 1976, to operate over irregular routes, in interstate or foreign commerce, transporting *wood residuals,* from the facilities of Blue Mountain Forest Products in points in Grand and Umatilla Counties, OR, to points in Walla Walla County, WA, with no transportation for compensation on return except as otherwise authorized, under continuing contract(s) with Blue Mountain Products Company of Long Creek, OR. By the instant petition, petitioner seeks to add Boise Cascade Corporation as an additional contract shipper.

MC 136109 (M1F) (Notice of filing of petition to modify permit), filed February 5, 1980. Petitioner: HETEM BROS., INC., 601 Commerce Road, Linden, NJ 07036. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Petitioner holds motor *contract* carrier permit in MC–136109 Sub 1 issued August 3, 1979, authorizing transportation over irregular routes, of *liquid chemicals,* in bulk, in tank vehicles, from the facilities of Exxon Chemical Company, U.S.A., an operating division of Exxon Chemical Company, a division of Exxon Corp., located at or near Bayonne, Carteret, and Linden, NJ, to points in CT, NJ, DE, MD, and those points in that part of NY on, south, and east of a line beginning at the Massachusetts-New York State line, then east along New York State Hwy 7 to its junction with Interstate Hwy 87, then northerly over Interstate Hwy 87 to Saratoga Springs, NY, then west along New York State Hwy 29 to Gloversville, NY, then south along New York State Hwy 30A to junction with New York State Hwy 7, then south and west along New York State Hwy 7 to Binghamton, NY, then south along U.S. Hwy 11 to the New York-Pennsylvania State line, and that part of PA on and east of a line beginning at the New York-Pennsylvania State line and extending south along U.S. Hwy 11 to Harrisburg, PA, then south along Interstate Hwy 83 to the Pennsylvania-Maryland State line, under continuing contract(s) with Exxon Chemical Company, U.S.A., an operating Division of Exxon Chemical Company, a division of Exxon Corp. By the instant petition, petitioner seeks to modify the Permit by adding to the destination points those portions of NY and PA not included in the present permit, and points, in ME, MA, NH, RI, VT, VA, WV, OH, and DC.

MC 140375 (Sub-M1F), Notice of filing of petition to modity the territorial description, filed September 26, 1979. Petitioner: JANSEN TRANSPORTATION CO., INC., 13327 E. Temple Ave., La Puente, CA 91746. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Petitioner holds a motor *contract carrier* permit in MC 140375, issued February 23, 1978, authorizing transportation over irregular routes of: *Corrugated containers,* from the facilities of Fruit Growers Supply Company in the City of Industry, CA to points in Yuma County, AZ, restricted to service performed under contract with said shipper: Petitioner seeks to change the origin point from City of Industry, CA to Ontario, CA by reason of the pending change of the shipping facility of shipper, and to add Maricopa County, AZ so that the Permit, as modified but subject to the same restriction, will read: "From the facilities of the Fruit Growers Supply Company in the City of Ontario, CA, to points in Maricopa and Yuma Counties, AZ."

MC 14314 (Sub-M1F), filed May 22, 1979. Republication of the notice of filing of petition to modity the certificate, previously noticed in the **Federal Register** issue of October 31, 1979. Petitioner: DUFF TRUCK LINE, INC., Broadway & Vine Streets, P.O. Box 359, Lima, OH 45802. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. Petitioner holds a *common carrier* certificate in MC 14314 (Sub-20), issued April 22, 1977, authorizing transportation, as pertinent, over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, articles of unusual value, commodities in bulk, and commodities which require special equipment), (1) between Evansville, IN, and Greenville, KY, serving all intermediate points (except points between Evansville, IN, and Anthoston, KY): from Evansville over U.S. Hwy 41 to junction U.S. Hwy 62, then over U.S. Hwy 62 to Greenville, and return over the same route; (2) between junction U.S. Hwys 41 and 62 and Princeton, KY, serving all intermediate points: from junction U.S. Hwys 41 and 62 over U.S. Hwy 62 to Princeton, and return over the same route; (3) between Princeton, KY, and Evansville, IN, for operating convenience only, serving no intermediate points: from Princeton over KY Hwy 293 to Providence, KY, then over KY Hwy 120 to junction alternate U.S. Hwy 41, then over alternate U.S. Hwy 41 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 41 then over U.S. Hwy 41 to Evansville, and return over the same route. Restriction: Service authorized under the commodity description immediately above is subject to the following conditions: (a) Said operations are restricted against the handling of traffic originating at or destined to points east of the OH–PA state line, east of the OH–WV state line, east of the KY–WV state line, east of the KY–VA state line, and north of the VA–NC state line; and (b) Service at Dawson Springs, Madisonville, and Princeton, KY, and their respective commercial zones, as defined by the Commission is restricted against the handling of traffic originating at, destined to, or interchanged at Evansville, IN, or Louisville, KY, and their respective commercial zones, as defined by the Commission. By the instant petition, petitioner seeks to (A) remove the following restrictions: (i) in paragraph (1) above, delete "(except points between Evansville, IN, and Anthoston, KY)", and (ii) delete both parts, (a) and (b), of the above-stated restriction, and (B) serve Providence, KY as an off-route point in connection with its authorized regular route operations.

Note.—This republication indicates the correct docket number and adds (B) above.

Republications of Grants of Operating Rights Authority Prior to Certification—Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before May 1, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's

representative, or carrier if no representative is named.

MC 142559 (Sub-76F), (Republication), filed December 13, 1978, published in the **Federal Register** issue of February 1, 1979, and republished this issue. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. A decision of the Commission, Review Board Number 2, decided October 18, 1979, and served November 1, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *scales, power transmission machinery, motors, motor controllers, elevators, escalators, food processing equipment, and telecommunications equipment*, and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), (a) between Cleveland, OH, and Lawrenceburg, KY, on the one hand, and, on the other, Mishawaka, IN, Greenville and Spartanburg, SC, and Rogersville, TN, and points in CA, GA, KS, ME, NE, NV, NJ, NY, NC, OR, PA, TX, and WA, (b) from Mishawaka, IN, to Greenville, SC, and (c) from Columbiana, OH, to points in GA; restricted against the transportation of commodities which because of size or weight require the use of special equipment, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Permanent Authority Decisions—Decision-Notice

Substitution Applications—Single-Line Service for Existing Joint-Line Service

Decided: March 18, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before May 1, 1980.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after April 1, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before May 1, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzaptrick, Fisher, and Felder. Member Felder not participating.

MC 8771 (Sub-52F), filed May 25, 1979, and previously noticed in **Federal Register** issue of November 27, 1979. Applicant: SAW MILL SUPPLY, INC., 101 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, machinery parts, contractor's equipment, commodities which because of size and weight require the use of special equipment*, and *self-propelled vehicles* weighing more than 15,000 pounds each, from points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, VT, and DC, to points in AL, AR, AZ, CA, FL, GA, IL, IN, KS, KY, LA, MI, MO, MS, NC, NM, OH, OK, SC, TN, TX, WI, and WV.

Note.—This republication shows NM as a destination State in lieu of MN. Also this application is to substitute single-line for joint-line service. (Hearing site: Washington, DC.)

MC 71652 (Sub-44F), filed February 20, 1980. Applicant: BYRNE TRUCKING, INC., P.O. Box 280, 4669 Crater Lake Hwy, Medford, OR 97501. Representative: David J. Stewart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic sheet* and *articles used with or in the installations of plastic sheet*, from the facilities of Reichhold Chemical Corporation, at or near San Diego, CA, to points in OR and WA.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations. (Hearing site: Medford, OR, or San Diego, CA.)

MC 143483 (Sub-3F), filed January 28, 1980. Applicant: QUIK-HAUL, INC., P.O. Box 699, League City, TX 77573. Representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipeline, including the stringing and picking up thereof, between points in TX, on the one hand, and, on the other, points in LA. (Hearing site: Houston or Dallas, TX.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

Permanent Authority Decisions; Decision-Notice

Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: March 17, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before May 1, 1980.

Petitions for intervention without leave (i.e., automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replace (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in resonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after April 1, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United Stated Code, and the Commission's regulations. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before May 1, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 130775F, filed January 22, 1980. Applicant: SCENIC TRAVEL, INC. Box 453, Byron, MN 55920. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To engage in operations, in interstate or foreign commerce, as a *broker*, at Byron, MN, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Goodhue, Wabasha, Dodge, and Olmsted Counties, MN, and extending to points in the United States (including AK but excluding HI.) (Hearing site: Minneapolis, MN.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc.*,

Extension—New York, N.Y., 54 M.C.C. 291 (1952).

MC 130784F, filed December 27, 1979. Applicant: COSMOPOLITAN TRAVEL SERVICE, INC., P.O. Box 489, Waynesboro, VA 22980. Representative: John Downing, 1000—16th St., NW, Washington, DC 20036. To engage in operations, in interstate or foreign commerce, as a *broker*, at Waynesboro and Staunton, VA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at Waynesboro, VA, and extending to points in the United States (including AK but excluding HI.) (Hearing site: Waynesboro or Charlottesville, VA.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension*—New York, N.Y., 54 M.C.C. 291 (1952).

MC 130792F, filed January 14, 1980. Applicant: PANDA TOURS, INC., 486 Colonial Ave., Union, NJ 07083. Representative: Charles K. Kurebanas, 622 Bloomfield Ave, Bloomfield, NJ 07003. To engage in operations, in interstate or foreign commerce, as a *broker* at Union, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in NY and NJ, and extending to points in the United States (excluding AK and HI.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952).

Permanent Property Broker Authority Decisions; Decision-Notice

Decided: March 17, 1980.

The following applications are governed by 49 CFR 1045A. Applicants seek to obtain authority to operate as brokers of motor carrier transportation of general commodities (except household goods) between all points in the United States. The full text and explanation of the rules are contained at 44 FR 53513.

The sole issue upon which these applications can be protested is the fitness of applicant (or business associates) to perform the service. Protests (an original and one copy) must be filed with the Commission on or before May 1, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or latter which will be served on each party of record.

Findings:

With the exception of those applications involving duly noted problems e.g., unresolved fitness questions), we find, preliminarily, that each applicant has demonstrated that its proposed service is consistent with the public interest and the transportation policy of 49 U.S.C. 10101, and that each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this action will not significantly affect the quality of the human environment or conservation of energy resources.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 130744F, filed December 14, 1979. Applicant's name and address are MURPHY WAREHOUSE COMPANY, 701 24th Ave., SE, Minneapolis, MN 55414. The name under which operations will be performed is Murphy Warehouse Company. Applicant is represented by Andrew R. Clark in this proceeding whose address is 1000 First National Bank Bldg., Minneapolis, MN 55402. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal holders, with their appropriate titles: Richard T. Murphy, President and Treasurer, 701 24th ave., SE, Minneapolis, MN 55414, John Solum, Executive Vice President, and Lynn F. Ehlers, Secretary. All of the officers have the same address as the president. The principal shareholders are Richard T. Murphy and Edward L. Murphy, Jr. The daily operations will be managed by John Solum whose business address is the same as the president's. Applicant is affiliated with the following shipper or warehouse: N/A.

MC 130765F, filed December 20, 1979. Applicant's name and address are MICHAEL L. RICHMOND, 2209A Lakeside Dr., Bannockburn, IL, 60015. The name under which operations will be performed is Richmond Transportation Services, Inc. Applicant is represented himself. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Michael L. Richmond, President and Treasurer, and Judith C. Richmond, Vice President and Secretary, and Richard A. Giangiorgi, Director. All have the same address as the applicant. Michael L. Richmond is the sole shareholder. The daily operations will be managed by Michael L. Richmond, whose business address is the same as the applicant's. Applicant is affiliated with the following shipper or warehouse: N/A.

MC 130774F, filed January 24, 1980. Applicant's name and address are DISTRIBUTION SERVICES, INC., 300 Ivywood Ave., Haddonfield, NJ, 08033. The name under which operations will be performed is Distribution Services, Inc. Applicant is represented by Robert B. Einhorn, in this proceeding whose address is 3220 P.S.F.S. Building, 12 South 12th St., Philadelphia, PA, 19107. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Thomas L. Viguers, Jr., Director and President, and principal shareholder, 300 Ivywood Ave., Haddonfield, NJ 08033, and William J. Farrell, Jr., Director and Secretary/Treasurer, and principal shareholder, 1517 Plymouth Blvd., Norristown, PA, 19401. The daily operations will be managed by Thomas L. Viguers, Jr., whose address is stated above. Applicant is affiliated with the following shipper or warehouse: None.

MC 130793F, filed February 25, 1980. Applicant's name and address are TRUCKERS EXCHANGE, INC., I 20 & 49

Truck Plaza, P.O. Box 5809, Jackson, MS 39208. The name under which operations will be performed is TRUCKERS EXCHANGE, INC. Applicant is represented by Guy L. Britt in this proceeding whose address is P.O. Box 1896, 2027 W. Memorial Boulevard, Lakeland, FL 33802. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Wayne W. Miller, President and shareholder, and Shirley W. Miller, Secretary-Treasury and shareholder. The business address of the above officers and shareholders is I 20 & 49 Truck Plaza, Jackson, MS 39208. The daily operations will be managed by Hector M. Hinjos, Ron Casey, Robert Haliburton, Guy L. Britt, Robert E. Phebus, and Jim Gordon, whose business addresses are Border Produce Terminal, P.O. Box 2252, Nogales, AZ 85621, 11C Pointer Trail, P.O. Box 1271, Van Buren, AR 72956, 195 E. Valley Blvd., Rialto, CA 92376, 2027 W. Memorial Blvd., Lakeland, FL 33802, I 29 & 49 Truck Plaza, Jackson, MS 39208, and 707 Truck Plaza, Blue Springs, MO 64015. Applicant is affiliated with the following shipper or warehouse: none.

MC 130795F, filed February 25, 1980. Applicant's name and address are WEST COAST DISTRIBUTING CO., INC., 2100 Alaskan Way, Seattle, WA 98121. The name under which operations will be performed is West Coast Distributing Co., Inc. Applicant is represented by Virginia Collman in this proceeding whose address is 539 No. 170th Place, Seattle, WA 98133. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Harry Collman, Director and President, 539 N. 170th Place, Seattle, WA 98133, Harry Giltner, Director and Vice President, 628 Giltner Lane, Edmonds, WA, 98020 and Virginia Collman, Director and Secretary Treasurer, whose address is stated in the second paragraph. The daily operations will be managed by Virginia Collman, whose business address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130808F, filed December 28, 1979. Applicant's name and address are L & D ASSOCIATED, INC., 41 Heatherwood Dr., R.R. #5, Lockport, IL 60441. The name under which operations will be performed is L & D ASSOCIATES, INC. Applicant is represented by Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603 in this proceeding. The following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Donald W. Blary, President, sole director and sole shareholder, same address as applicant, Nancy L. Blary, Secretary, same address as applicant. The daily operations will be managed by Donald W. Blary, same address as applicant. Applicant is not affiliated with any shipper or warehouse.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before April 11, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 104896 (Sub-E3), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Glass bottles,* from Salem and Cumberland Counties, NJ, to points in NY bounded by a line beginning at the NY-PA State line extending along NY Hwy 16 to junction NY Hwy 39, then along NY Hwy 39 to junction NY Hwy 98, then along NY Hwy 98 to junction NY Hwy 18, then along NY Hwy 18 to the NY State line. (Gateway eliminated: Brockway, PA.)

MC 104896 (Sub-E6), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Prepared food products* (A) between points in MD on and west of US Hwy 81, on the one hand, and, on the other, Clearfield, St. Marys, and Smethport, PA, and points in PA north of US Hwy 422 and west of US Hwy 219. (B) between points in MD east of US Hwy 81, on the one hand, and, on the other, points in PA on and north of US Hwy 422, and on and west of US Hwy 219. (Gateway eliminated: Ebensburg, PA.)

MC 104896 (Sub-E7), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Plastic containers,* from New Castle, PA, to points in NJ, and points in NY on and east of a line beginning at the NY–PA State line extending along NY Hwy 16 to junction NY Hwy 39, then along NY Hwy 39 to junction NY Hwy 98, then along NY Hwy 98 to junction NY Hwy 18, then along NY Hwy 18 to Lake Ontario. (Gateway eliminated: Brockway, PA.)

MC 104896 (Sub-E8), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Glass products* (except flat glass), from Cumberland, MD, and Keyser, WV, to points in the Lower Peninsula of MI. (Gateway eliminated: Washington, PA.)

MC 104896 (Sub-E9), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Glass containers and closures,* from Zanesville, OH, to points in ME, NH, VT, MA, CT, RI, NJ, and points in NY east of a line beginning at Oswego extending along NY Hwy 57 to Syracuse, then along U.S. Hwy 11 to the PA–NY State line. (Gateway eliminated: points in PA.)

MC 104896 (Sub-E10), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Glass bottles,* (A) from Cumberland, MD, and Keyser, WV, to points in NY on and west of a line beginning at the NY–PA State line extending along NY Hwy 19 to junction NY Hwy 17, then along NY Hwy 17 to junction NY Hwy 21, then along NY Hwy 21 to junction NY Hwy 70, then along NY Hwy 70 to junction NY Hwy 15, then along NY Hwy 15 to junction NY Hwy 54, then along NY Hwy 54 to junction NY Hwy 14, then along NY Hwy 14 to junction U.S. Hwy 104, then along U.S. Hwy 104 to Lake Ontario, (B) from points in NJ on and north of a line beginning at Camden extending along NJ Hwy 38 to junction NJ Hwy 37, then along NJ Hwy 37 to the Atlantic Ocean, and points to NY on and west of a line

beginning at the NY–PA State line extending along NY Hwy 7 to junction NY Hwy 12, then along NY Hwy 12 to junction NY Hwy 49, then along NY Hwy 49 to Oswego, NY, to Pittsburgh, PA. (Gateway eliminated: Brockway, PA.)

MC 104896 (Sub-E11), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). (A) *Glass products, closers and rubber rings* for glass containers, and *wooden and paper cases and labels,* for use in connection with the sale and distribution of glass products, from Glenshaw and Pittsburgh, PA, to Bloomington, Chicago, Evanston, and Peoria, IL; Indianapolis and Lawrenceburg, IN; Covington, Latonia and Lexington, KY; and points in MD bounded by a line beginning at the PA–MD State line extending along U.S. Hwy 83 to junction U.S. Hwy 95, then along U.S. Hwy 95 to the District of Columbia, and west of U.S. Hwy 522; Lower Peninsula of MI; NJ; points in NY east of a line beginning at the NY–PA State line extending along U.S. Hwy 11 to junction NY Hwy 57, then along NY Hwy 57 to Oswego; points in OH west of a line beginning at Marietta extending along U.S. Hwy 77 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction OH Hwy 146, then along OH Hwy 146 to junction OH Hwy 586, then along OH Hwy 586 to junction OH Hwy 13, then along OH Hwy 13 to junction U.S. Hwy 250, then along U.S. Hwy 250 to Sandusky; points in VA west and north of a line beginning at the NC–VA State line extending along U.S. Hwy 29 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 360, then along U.S. Hwy 360 to the Chesapeake Bay; and points in WV. (B) *Glass products, closers and rubber* rings for glass containers, and *wooden and paper cases and labels,* for use in connection with the sale and distribution of glass products, from Glenshaw and Pittsburgh, PA, to points in DE, ME, NH, VT, MA, CT, RI, WV, points in NY on and east of a line beginning at Oswego extending along NY Hwy 57 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the NY–PA State line. (Gateways eliminated: Pittsburgh and Washington, PA.)

MC 104896 (Sub-E13), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). *Canned goods and frozen foods,* (A) from points in Erie, Genesee, Monroe, Niagara, and Orleans Counties, NY, to points in MD and WV bounded by a line beginning at Hancock, MD, extending along US Hwy 522 to junction US Hwy 50, then along US Hwy 50 to junction US Hwy 19, then along US Hwy 19 to the PA State line. (B) from points in NY (except those counties named in (A) above) on and west of a line beginning at Oswego extending along NY Hwy 57 to Syracuse, then along NY Hwy 5 to junction NY Hwy 20, then along NY Hwy 20 to junction US Hwy Alt. 20, then along US Hwy Alt. 20 to junction US Hwy 15, then along US Hwy 15 to junction NY Hwy 401, then along NY Hwy 401 to junction NY Hwy 36, then along NY Hwy 36 to junction NY Hwy 21, then along NY Hwy 21 to junction NY Hwy 17, then along NY Hwy 17 to Ceres; points in WV on west and north of a line beginning at the WV–PA State line extending along WV Hwy 26 to junction US Hwy 50, then along US Hwy 50 to junction US Hwy 19, then along US Hwy 19 to junction WV Hwy 7, then along WV Hwy 7 to the PA State line. (Gateways eliminated: Altoona, Bedford, Ebensburg, Indiana, Kittanning, and Butler, PA.)

MC 104896 (Sub-E14), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). (A) *Glass products, and supplies and equipment* used or useful in the production and sale of such products (except bulk raw materials), between Evanston and Peoria, IL, Indianapolis, IN, Covington, KY, Zanesville, OH, and Washington, PA, on the one hand, and, on the other, points in NY, ME, NH, VT, MA, CT and RI. (B) *Plate glass, window glass and wire glass,* from Butler, Dunbar, Floreffe and New Kensington, PA, to points in DE (except Dover and Wilmington); NJ; NY; ME; NH; VT; MD (except Baltimore); MA; CT; RI; DC; Chicago, Peoria, Evanston and Bloomington, IL; Indianapolis, IN; points in OH north and west of a line created by connecting US Hwy 40, 22 and 23; WV north and west of US Hwys 19 and 50; Latonia, KY; and VA north and west of US Hwys 29, 60 and 360. (C) *Glass bottles,* from Chicago, Peoria, Evanston, IL; Indianapolis, IN; and points in OH on and north of US Hwys 71 and 70, to points in ME; NH; VT; MA; CT; RI; DE; and MD. (Gateways eliminated: (A) New Castle, Oil City, Kane, Brockway, Washington or Pittsburgh, PA; (B) Washington, PA; and (C) Brockway, New Castle or Washington, PA.)

MC 104896 (Sub-E15), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). (A) *Canned and preserved foodstuffs,* from Pittsburgh, PA, to points in NJ; MD; Albany, Schenectady and Troy, NY; points in NY on and west of a line beginning at the NY–PA State line extending along I Hwy 81 to junction NY Hwy 12, then along NY Hwy 12 to the St. Lawrence River. (Gateway eliminated: facilities of H.J. Heinz Company at Pittsburgh, PA) (B) *Food products* in containers from Dayton, Marysville, Medina, Orrville and Salem, OH, to points in MD east of US Hwy 40; points in PA bounded by a line beginning at the PA–MD State line extending along US Hwy 219 to junction US Hwy 422, then along Hwy 422 to junction PA Hwy 8, then along PA Hwy 8 to junction US Hwy 62, then along US Hwy 62 to junction PA Hwy 257, then along PA Hwy 257 to junction US Hwy 322, then along US Hwy 322 to junction PA Hwy 66, then along PA Hwy 66 to junction PA Hwy 321, then along PA Hwy 321 to junction US Hwy 219, then along US Hwy 219 to junction PA Hwy 255, then along PA Hwy 255 to junction PA Hwy 120, then along PA Hwy 120 to junction US Hwy 220, then along US Hwy 220 to junction PA Hwy 144, then along PA Hwy 144 to junction US Hwy 322, then along US Hwy 322 to junction US Hwy 522, then along US Hwy 522 to junction US Hwy 15, then along US Hwy 15 to junction PA Hwy 35, then along PA Hwy 35 to junction US Hwy 522, then along US Hwy 522 to the MD–PA State line; and points in NJ. (Gateway eliminated: New Castle, Pittsburgh, or Washington, PA.)

MC 104896 (Sub-E16), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Robert L. Womeldorf (same as above). (1)(a) *Plate glass* from Clarksburg, WV, to points in MA, RI, and CT and (b) *glass* from Clarksburg, WV, to points in ME, NH, and VT. (2) *Glass containers,* from Clarksburg, WV, to points in CT, ME, MA, NH, RI, and VT. (Gateways eliminated: (1) Cumberland, MD, Washington, PA. (2) Brockway and Washington, PA.)

MC 124211 (Sub-E123), filed September 7, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same as above). *Junk and scrap meats, meat products, meat byproducts,* and *articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) between points in NE on, east and north of a line beginning at the IA-NE State line extending along US Hwy 275 to junction US Hwy 30, then along US Hwy 30 to junction NE Hwy 15, then

along NE Hwy 15 to junction US Hwy 275, then along US Hwy 275 to junction US Hwy 81, then along US Hwy 81 to the NE-SD State line, on the one hand, and, on the other, points in the US on and south of US Hwy 60, and (b) between points in NE on and north of US Hwy 34, on the one hand, and, on the other, points in the US on and south of US Hwy 60 and east of the western boundaries of KY, TN and MS. (Gateway eliminated: points in NE in the Council Bluffs, IA, commercial zone.)

MC 124211 (Sub-E124), filed September 7, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same as above). *Junk and scrap meats, meat products, meat byproducts,* and *articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) between points in CA on and south of US Hwy 60, on the one hand, and, on the other, points in ME, NH, NC, SC, and VT (Points in NE in the Council Bluffs, IA, commercial zone*); (b) between points in CA on and south of US Hwy 60 (except points in Imperial County), on the one hand, and, on the other, points in the US on, east and north of an imaginary line beginning at the US-CD Boundary line extending along US Hwy 281 to Topeka, KS, then to Savannah, GA, restricted against the transportation of scrap meats (points in NE in the Council Bluffs, IA, commercial zone); and (c) from points in CA on and south of US Hwy 60 (except points in Imperial County), to points in IL, IN, IA, MI, MN, OH, and WI (points in Ne in the Council Bluffs, IA, commercial zone, and points in Saunders County, NE*). (Gateways eliminated: asterisked.)

MC 125777 (Sub-E8), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gray, IN 46403. Representative: J. S. Gray, Jr. (same as above). *Scrap metal,* in dump vehicles, between points in MT, WY, CO, AZ, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, IL, KY (except Marshall County), VA, TN, NC, SC, GA, AL, MS, and FL. (Gateways eliminated: points in KY, IL, IA, MO.)

MC 125777 (Sub-E14) (correction), filed June 4, 1974, published in the **Federal Register** June 13, 1975. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gray, Ind. 46403. Applicant's representative: J. S. Gray, Jr. (same as above). *Haydite, materialite, shale and cinders,* in bulk, in dump trucks, from Brooklyn, IN, to points in Lenawee, Monroe, Hillsdale, Jackson, Washtenaw, Berrian, and Wayne Counties, MI. (The purpose of this filing is to eliminate the gateway of Ft. Wayne, and Michigan City, IN.) (Purpose of republication: correct destination points.)

MC 125777 (Sub-E15), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gray, IN 46403. Representative: J. S. Gray, Jr. (same as above). *Lime and limestone products,* from Thornton, IL, to points in PA and NY. (Gateway eliminated: River Rouge, MI.)

MC 125777 (Sub-E23), filed June 4, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gray, IN 46403. Representative: J. S. Gray, Jr. (same as above). *Stone, marble, granite and gravel,* in bulk, in dump vehicles, from points in WI, MN, IA, SD, ND, NE, CO, WY, MT, AZ and UT, to points in IN. (Gateways eliminated: Champaign and Chicago, IL.)

MC 125777 (Sub-E25), filed June 4, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gray, IN 46403. Representative: J. S. Gray, Jr. (same as above). *Stone, marble, granite and gravel,* in bulk, in dump vehicles, from points in WI, MN, IA, SD, ND, NE, WY, MT and UT to points in FL. (Gateways eliminated: Champaign and Chicago, IL.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-9774 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed on or before May 1, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC F–14221F, filed November 19, 1979. MCCARTY TRUCK LINE, INC. (McCarty) (17th & Harris Avenue, Trenton, MO 64683)–Purchase (Portion)–NEBRASKA IOWA MISSOURI EXPRESS, INC. (Nebraska) (1501 Norton, Trenton, MO 64683) and KRUSE TRANSPORTATION CO., INC. (Kruse) (712 Washington Street, Chillicothe, MO 64601). James M. McCarty, who controls McCarty through majority of stock ownership, also acquiring control. Representative: James M. McCarty, 17th & Harris Avenue, Trenton, MO 64683. McCarty is purchasing the operating rights of (1) Nebraska evidenced by a Certificate of Public Convenience and necessity in MC 139003 authorizing the transportation as a common carrier over irregular routes, in interstate or foreign commerce of *general commodities* (usual exceptions), between points in Buchanan County, MO, on the one hand, and, on the other, points in MO on and north of U.S. Hwy 36 and on and west of U.S. Hwy 69, those points in IA on and south of IA Hwy 2 and on and east of U.S. Hwy 69, and Nebraska City, NE, and (2) Kruse evidenced by a Certificate of Registration issued in MC 121586, issued by the Nebraska State Railway Commission, in M–11501, issued May 19, 1965, authorizing the transportation as a motor common carrier of *general commodities* (except those of unusual value), over irregular routes, from points within a 25-mile radius of Waterloo, NE, to and from Omaha, NE, and occasionally to various points within a 150 mile radius of Waterloo, NE. Also from Yutan and vicinity to and from Omaha, operations limited to and from various points within a 50 mile radius of Yutan. McCarty is authorized to operate as a motor common carrier pursuant to certificate in No. MC 1263 and subs thereunder.

Notes.—(1) Application has been filed for temporary authority under 49 U.S.C. 11349. (2) A directly related application seeking a conversion of the Certificate of Registration in MC 121586 into a Certificate of Public Convenience and Necessity has been filed in No. MC 1263 (Sub-34F), published in this same **Federal Register** issue. (3) A directly related application seeking elimination of a gateway, joinder point would be Nebraska City, NE, has been filed in MC 1263 (Sub-35F), published in this same **Federal Register** issue. (4) An additional $700 filing fee will be required. The two applications will be handled on a consolidated basis. MC F–14332 will be assigned to McCarty Truck Line, Inc.,–Purchase (Portion)–Kruse Transportation. (5) These cases will be handled with MC F–14162 and 14196. (Hearing site: Kansas City, MO.)

MC F–14275F, filed December 21, 1979. U.S. BUS, INC. (U.S. Bus) (95 State Street, Springfield, MA 01103)—PURCHASE (PORTION)—GREYHOUND LINES, INC. (Greyhound) (Greyhound Tower, Phoenix, AZ 85077). Representatives: Owen B. Katzman, 1800 M Street, NW, Suite 800 South, Washington, DC 20036, and L. C. Major, Jr., 6121 Lincolnia Road, Suite 400, Overlook Bldg., Alexandria, VA 22312. U.S. Bus seeks to purchase a portion of the interstate operating rights and property of Greyhound. Louis Gautier (4 Weymouth Road, Enfield, CT 06082), Louis Magnano (602 North Barry Street, Olean, NY 14760), and Peter Picknelly (1776 Main Street, Springfield, MA 01103), who control U.S. Bus through equal stock ownership, seek to acquire control of said rights and property through the transaction. Operating rights sought to be purchased are contained (A) in Certificate MC 1501 (Sub-92) (renumbered MC 1515 (Sub-8) but not yet reissued) and authorize the transportation as a motor common carrier, over regular routes, of *passengers and their baggage* and *express newspapers,* and *mail* in the same vehicle with passengers, (1) between Baltimore, MD, and Washington, DC over U.S. Hwy 1, serving all intermediate points, subject to the following restriction: No traffic shall be transported which moves over the entire length of the route between Baltimore and Washington; and (2) between Baltimore, MD and junction U.S. Hwy 1 and Alternate U.S. Hwy 1, near Cedar Heights, MD, serving all intermediate points: From Baltimore, MD, over new U.S. Hwy 1 to junction Alternate U.S. Hwy 1, near Cedar Heights, MD, and return over the same route. Note: The restriction above is presently not part of seller's authority but is to be imposed on the authority being transferred to buyer so as to protect seller's through operations between Baltimore, MD and Washington, DC; and (B) in Certificate No. 1501 (Sub-110) (renumbered MC 1515 (Sub-8) but not yet reissued), and authorize the transportation as a motor common carrier, over regular routes, of *passengers and their baggage* and *express, mail, and newspapers* in the same vehicle with passengers, between Frederick, MD and Washington, DC, serving all intermediate points: From Frederick, MD over U.S Hwy 240 to junction MD Hwy 355 (formerly Alternate U.S. Hwy 240), thence over MD Hwy 355 to junction U.S. Hwy 240, and thence over U.S. Hwy 240 to Washington, and return over the same route. Note: Because of a redesignation of a portion of the above-described route, notice of which seller furnished the Interstate Commerce Commission on October 16, 1975 and copy of which is attached, the above described authority, when purchased by and transferred to buyer, should be corrected to read as follows: Between Frederick, MD and Washington, DC serving all intermediate points: From Frederick, MD over MD Hwy 355 to Washington, DC and return over the same route. Louis Magnano controls Blue Bird Coach Lines, Inc., a motor common carrier pursuant to MC 108531 and sub-numbers thereunder, and Blue Bird Cab Co., Inc., a motor contract carrier pursuant to MC 117633 and sub-numbers thereunder. Peter Picknelly controls Peter Pan Bus Lines, Inc., a motor common carrier pursuant to MC 61016 and sub-numbers thereunder, and Springfield School Bus Co., Inc., a motor common carrier pursuant to MC 147777 and sub-numbers thereunder. Also, as Trustee of the Estate of Peter Picknelly, Sr., he has control of Peter Pan World Travel, Inc., which is a broker pursuant to authority in MC 130223. Condition: Authorization and approval of this transaction is conditioned upon the modification of Greyhound's retained certificate in MC 1501 (Sub-92), issued July 16, 1956, at page 17, as follows: (1) between Laurel, MD, and the junction of MD Hwy 198 (formerly MD Hwy 602) and the Baltimore-Washington Expressway, over MD Hwy 198; and (2) between Laurel, MD, and the junction MD Hwy 197 and Baltimore-Washington Expressway, over MD Hwy 197, restricted in (1) and (2) above against the transportation of traffic which originates at Laurel, MD, on the one hand, and is destined to Washington, DC, or Baltimore, MD, on the other. (Hearing site: Washington, DC.)

Notes.—(1) Application for temporary authority has been filed. (2) There are two

directly related extension applications filed, one by U.S. Bus, Inc., in MC 149076F, and one by Greyhound Lines, Inc., in MC 1515 (Sub-286F), both published in this same **Federal Register** issue. (3) Dual operations may be involved.

MC F–14316F, filed February 11, 1980. SHEANS FREIGHT LINES, INC. (Sheans) (75 Locust St., Medford, MA 02155)—PURCHASE—KALEEL's EXPRESS, INC., (Kaleel) (North Haven, CT 06473). Representative: For Transferee—Joseph M. Klements, 84 State Street, Boston, MA 02109. For Transferor—Thomas W. Murrett, 342 No. Main Street, W. Hartford, CT 06117. Sheans seeks to purchase a portion of the operating rights to Kaleel. Frank S. Ingrassia who controls Sheans through ownership of all capital stock, seeks to acquire control of said rights through this transaction. The interstate operating rights to be acquired by Sheans are contained in Kaleel's certificate of registration, MC 56819 (Sub-1) which authorizes the transportation of *general commodities* (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment) for hire as a motor common carrier over regular routes within Connecticut as follows: Route 1: Between Winchester and New Haven, via Torrington, Thomaston and Waterbury. Serving: Winchester, Torrington, Thomaston, Waterbury, Hamden, East Haven, West Haven and New Haven. Restriction: No freight destined for New Haven, East Haven, West Haven and Hamden will be picked up in Waterbury and no freight destined for Waterbury will be picked up in New Haven, East Haven, West Haven and Hamden. Route 2: Between North Canaan and Waterbury, via New Hartford, Farmington and Plymouth, via Cornwall, Litchfield and Watertown and via Torrington. Serving: North Canaan, Norfolk, Colebrook, Riverton, Winchester, New Hartford, Canton, Burlington, Farmington, Plymouth, Salisbury, Sharon, Canaan, Cornwall, Goshen, Litchfield, Watertown, Waterbury, Thomaston and Torrington. Route 3: Between Waterbury and Glastonbury, via Southington, Meriden, Berlin, Middletown and Hartford and via Thomaston, New Britian and Newington. Serving: Southington, Meriden, Berlin, Middletown, Rocky Hill, Hartford, East Hartford, Glastonbury, Waterbury, Plymouth, Thomaston, Bristol, Plainville, New Britain, Newington and West Hartford. Route 4: Between Waterbury and Litchfield via Watertown and via Woodbury. Serving: Watertown, and Woodbury. General commodities (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment) for hire as a motor common carrier from its headquarters in Torrington, and, upon call received at its headquarters, between any points within this state, * * * over such routes and highways within this state as may be necessary in the performance of its common carrier service, subject to such regulations and conditions as the commission may from time to time prescribe with respect to the conduct of its business. Sheans holds authority as a motor common carrier in MC 15936. (Hearing site: Boston, MA, or Hartford, CT.)

Notes.—(1) A directly related conversion application has been filed in MC 15936 (Sub-3F), published in this same **Federal Register** issue. (2) An application for temporary authority has been filed.

Decided: March 19, 1980

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams. (Member Taylor dissents in MC F–14275F, stating that the proposed division of rights, and the resulting restriction on the authority sought in the two related proceedings, appear to be designed to minimize competition rather than increase it, which is now the overriding Commission policy. Therefore, applicants in the various proceedings have failed to show that the proposed transfer is consistent with the public interest, or that any need for the new authority exists. There is nothing of record to show why Greyhound should be allowed to discontinue local service to the public on routes over which it proposes to continue to operate.)

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission on or before May 1, 1980 with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after April 1, 1980.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the

service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application or the following operating rights applications directly related thereto filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 1263 (Sub-34F), filed November 19, 1979. Applicant: McCARTY TRUCK LINES, INC., 17th & Harris Avenue, Trenton, MO 64683. Representative: James M. McCarty (same address as applicant). Conversion of Certificate of Registration No. MC-139003, into a Certificate of Public Convenience and Necessity authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Waterloo, NE, and points within 150 miles of Waterloo, to Omaha, NE, and (2) from Yutan, NE, and points within 50 miles of Yutan to Omaha, NE. (Hearing site: Kansas City, MO.)

Note.—This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC–F–14221F, published in this same Federal Register issue.

MC 1263 (Sub-35F), filed November 19, 1979. Applicant: McCARTY TRUCK LINES, INC., 17th & Harris Avenue, Trenton, MO 64683. Representative: James M. McCarty (same address as applicant). To operate as a *common carrier*, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Buchanan County, MO, on the one hand, and, on the other, points within 150 miles of Waterloo, NE. (Hearing site: Kansas City, MO.)

Notes.—(1) The purupose of this application is to eliminate the gateways of Nebraska City, NE, in order to provide a through service. (2) This proceeding is directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC F–14221F, published in this same Federal Register issue.

MC 1515 (Sub-286F), filed December 21, 1979. Applicant: GREYHOUND LINES, INC.—Extension, Greyhound Tower, Phoenix, Arizona 85077. Representative: Anthony P. Carr (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between Washington, DC, and Rockville, MD, serving no intermediate points, and serving Rockville, MD for purpose of joinder only: From Washington, DC, over MD Hwy 190 to junction Interstate Hwy 495, then over Interstate Hwy 495 to junction Interstate Hwy 270 spur, then over Interstate Hwy 270 spur to junction Interstate Hwy 270, then over Interstate Hwy 270 to Rockville, MD, and return over the same route; (2) between Frederick, MD, and junction MD Hwys 85 and 355, just south of Frederick, MD, serving no intermediate points: From Frederick, MD over MD Hwy 355 to junction MD Hwy 85, and return over the same route. (Hearing site: Washington, DC.)

Note.—This application is directly related to the application in Docket No. MC F–14275F whereby U.S. Bus, Inc., is seeking authority to purchase Greyhound's local service operating rights between Washington, DC and Baltimore, MD primarily via U.S. Highway 1 and between Washington, DC and Frederick, MD primarily via Maryland Highway 355 and is required to permit Greyhound to continue to provide overhead service between Washington, DC and Frederick, MD, and to points beyond.

MC 149076F, filed December 21, 1979. Applicant: U.S. BUS, INC., 95 State Street, Suite 909, Springfield, MA 01103—Extension. Representative: Owen B. Katzman, 1800 M. Street, Suite 800 South, Washington, DC 20036. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, (a) between Washington, DC, and Laurel, MD, serving all intermediate points, from Washington over the Baltimore-Washington Parkway to its junction with MD Hwy 197, then over MD Hwy 197 to Laurel, and return over the same route; and (b) between junction US Hwy 1 and Interstate Hwy 95 and the junction of Interstate Hwy 95 and the Baltimore-Washington Parkway, over Interstate Hwy 95, subject to the following: The operations authorized in (a) and (b) above are restricted against the transportation of any passenger whose entire ride is between Washington, DC, and Baltimore, MD. (Hearing site: Washington, DC).

Note.—This application is filed in conjunction with Docket No. MC–F–14275F whereby U.S. Bus, Inc., is seeking to purchase the local service operating rights of Greyhound Lines, Inc., between Washington, DC and Baltimore, MD, primarily via U.S. Hwy 1 and between Washington, DC and Frederick, MD, primarily via MD Hwy 355 and the authority applied for is required to permit applicant to continue to provide local commuter services between Washington, DC, and Laurel, MD, while Greyhound retains overhead service beyond the named.

MC 15936 (Sub-3F), filed February 11, 1980. Applicant: SHEANS FREIGHT LINES, INC.—CONVERSION, 75 Locust Street, Medford, MA 02155. Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109. Conversion of Certificate of Registration No. MC–56819 (Sub-No. 1) into a Certificate of Public Convenience and Necessity authorizing the transportation as a common carrier, by motor vehicle, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT. (Hearing site: Boston, MA, or Hartford, CT.)

Note.—(1) Applicant only seeks conversion of the irregular route authority. The regular route operations between limited points in CT will be surrendered for cancellation. (2) This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC F–14316F, published in this same **Federal Register** issue.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–9779 Filed 3–31–80; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29249]

Genesee and Wyoming Industries, Inc., Control of North Country Railroad Corp.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption:

SUMMARY: Genesee and Wyoming Industries, Inc., (G&W) owns the outstanding stock of Genesee and Wyoming Railroad Company, a class II rail carrier which operates over a 12.2 mile line of track between Griegsville and Caledonia, NY. G&W proposes to become a one-half owner of North Country Railroad Corporation, a newly formed corporation which shall enter into an agreement with St. Lawrence Pulp and Paper Corporation (St. Lawrence) to become designated operator of a line of railroad track running a distance of approximately 20 miles between De Kalb Junction and Ogdensburg, NY, pursuant to the provisions of Section 304 of the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976. St. Lawrence leases the 20 mile line of track from St. Lawrence County, NY, which in turn leases this track from Penn Central Corporation. Because the proposed transaction thus would give G&W, control of two railroads, it filed a petition on January 24, 1980, for an exemption from 49 U.S.C. 11343 which requires prior consideration and approval of the transaction from the Interstate Commerce Commission. G&W is seeking an exemption from this section under 49 U.S.C. 10505, on the basis that approval of this transaction (1) is not necessary to carry out the national transportation policy; (2) would be an unreasonable burden upon the parties, and (3) would serve little or no useful public purpose.

DATES: Comments must be received on or before: May 1, 1980.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423. All written statements will be available for public inspection during regular business hours at the same address. Comments should make reference to the docket number (Finance Docket No. 29249).

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275–7245.

SUPPLEMENTARY INFORMATION: By petition filed January 24, 1980, Genesee and Wyoming Industries, Inc. (G&W), requests an exemption pursuant to 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343, with respect to its control of North Country Railroad Corporation (N. Co. Rail), a proposed designated operator over a line of railroad track. The involved trackage is leased by St. Lawrence Pulp and Paper Corporation (St. Lawrence) from St. Lawrence County which in turn leases the track from Penn Central Corporation. G&W presently owns the Genesee and Wyoming Railroad Company (GW Rail). This proposed transaction would give G&W control of two railroads. The railroads are located some 200 miles apart in New York State, and combined involved a total of 32.2 miles of lightly used main line tracks.

Over 90 percent of the traffic moved by GW Rail is rock salt. Over 95 percent of the traffic anticipated to be moved by N. Co. Rail will be for St. Lawrence. Accordingly, the two rail operations involved will have different kinds of commodity traffic, as well as very short trackage segments separated by approximately 200 miles.

The Exemption

The acquisition of control of two carriers by a person that is not a carrier requires approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval, an application must be filed in compliance with the ICC Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures, 49 C.F.R. Part 1111 (1978). G&W, has requested an exemption from 49 U.S.C. 11343 to avoid the procedural steps, time, and expense required by the statute and implementing regulations. G&W states that the proposed transaction is the type Congress intended the Commission to exempt from detailed regulation when it enacted 49 U.S.C. 10505 in 1976, and that the designated operator provision of section 304(b) of the Regional Rail Reorganization Act of 1973, is a part of that expression.

The petitioner states that prior approval of the transaction is not necessry to protect the public interest and that no useful public purpose would be served by an application under section 11343, because the annual number of carloads involved (only 2,423 carloads anticipated for 1980) would have a *de minimus* impact on interstate commerce and because there are no adverse parties involved in the transaction. Rather, G&W argues, the transaction involves the cooperation of a local government, a new business enterprise and a new transportation company in an effort to promote local industrial growth in northern New York State. Pursuing a formal application process would place an unreasonable and unnecessary burden on the parties.

Any exemption, were it granted in this proceeding, would be limited solely to the required filing of an application under 49 U.S.C. 11343. After consummation of control, the Commission would retain full jurisdiction over the carriers involved. N. Co. Rail, as a designated operator, would be expected to comply with the procedures set forth in the Notice, served March 8, 1976, and entitled Information Concerning the Implementation of Section 304 (c) and (d) of Regional Rail Reorganization Act of 1973 (45 U.S.C. 744), as amended by the Railroad Revitilization and Regulatory Reform Act of 1976, P.L. 94–210 (45 U.S.C. 801), Enacted on February 5, 1976 (Continuation of Rail Service Under Subsidy by Designated Operator).

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the proposed transaction is that opportunity. In paticular, we invite comments pertaining to the propriety of imposing provisions for the protection of employees of carriers mandated under 49 U.S.C. 11347. All comments filed in response to this notice, along with the petition of G&W, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted (in whole or in part).

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553,559.

This proceeding is not a major federal action significantly affecting energy consumption or the quality of the human environment.

Dated: March 21, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-9776 Filed 3-31-80; 8:45 am]

BILLING CODE 7035-01-M

[Application No. MC-1508]

Jetco, Inc.; Released Rates Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rates, Application No. MC–1508.

SUMMARY: Jetco, Inc., MC–65475, seeks authority to establish and maintain released rates on tin subject to a released valuation not to exceed $5,000.00 per ton of 2,000 pounds when released as to value by shipper.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101.

FOR FURTHER INFORMATION CONTACT: Mr. Howard J. Rooney, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275–7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730 and 11707.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–9778 Filed 3–31–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 39F)]

Seaboard Coast Line Railroad Co. Abandonment Between Vanderbilt Beach and Naples, Fla.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided February 22, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and *further* that Seaboard Coast Line Railroad Company (SCL) shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Fort Myers Subdivision, Tampa Division, extending from railroad milepost AX 1001.24, at Naples, FL, a distance of 11.07 miles, in Collier County, FL. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 16, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication (May 16, 1980).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–9777 Filed 3–31–80; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: March 25, 1980.

In our decisions of February 26, March 4, 11, and 18, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4 percent, we are authorizing that the 13-percent surcharge remain in effect. All owner-operators are to receive compensation at the 13-percent level. No changes will be made in the existing authorization of a 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor in the 5.0-percent surcharge for the bus carriers, or the 1.3-percent surcharge for United Parcel Service.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It Is Ordered:

This decision shall become effective Friday, 12:01 a.m., March 28, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)

January 1, 1979 ..... 63.5¢.

Date of Current Price Measurement and Price Per Gallon (Including Tax)

March 24, 1980 ..... 113.9¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1)	(2)	(3)	(4)
From transportation performed by owner-operators.	Other.	Bus Carriers...	UPS.
(Apply to all truckload rated traffic.	(Including less-than-truckload traffic).		
16.8%	2.9% .	6.3%	3.3%
Percent Surcharge Developed			
13.4%	2.3% .	5.0%	[1]2.1%.
Percent Surcharge Allowed			
13%	2.3% .	5.0%	[2]1.3%.

[1]The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2]The developed surcharge figure is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80–9775 Filed 3–31–80; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[731–TA–18/24 (Preliminary)]

Certain Carbon Steel Products From Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, The Netherlands, and the United Kingdom; Institution of Preliminary Antidumping Investigations and Scheduling of Conference

Investigations instituted. Following receipt of petitions on March 21, 1980, filed on behalf of United States Steel Corp., the Commission on March 26, 1980, instituted preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the following articles of iron or steel, other than alloys of iron or steel,[1] which the petitioner alleges are being, or are likely to be, sold in the United States at less than fair value:

Plate, provided for in TSUS items 607.66, 607.83, 607.94, 608.07, and 608.11,

[1]The articles descriptions in the petitions were derived from the Tariff Schedules of the United States Annotated (1978) (TSUS). This notice provides for identical coverage in terms of the TSUS (1980).

Hot-rolled sheet, provided for in TSUS items 607.67 and 607.83,

Cold-rolled sheet, provided for in TSUS item 607.83,

Sheet, coated or plated with zinc, provided for in TSUS items 608.07 and 608.13, and

Angles, shapes, and sections, having a maximum cross-sectional dimension of 3 inches or more, provided for in TSUS item 609.80,

all the foregoing articles the products of Belgium (Inv. No. 731–TA–18), the Federal Republic of Germany (Inv. No. 731–TA–19), France (Inv. No. 731–TA–20), Italy (Inv. No. 731–TA–21), Luxembourg (angles, shapes, and sections only—Inv. No. 731–TA–22), The Netherlands (except angles, shapes, and sections—Inv. No. 731–TA–23), and the United Kingdom (Inv. No. 731–TA–24).

These investigations will be subject to the provisions of Part 207 of the Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457) and, particularly, Subpart B thereof, effective January 1, 1980.

Written Submissions. Any person may submit to the Commission on or before April 23, 1980, a written statement of information pertinent to the subject matter of the investigations. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All the written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigations for 10 a.m., e.s.t., on Thursday, April 17, 1980, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigations, Mr. Lynn Featherstone (202–523–1376). It is anticipated that parties in support of the petition for antidumping duties will be allocated three hours within which to make an oral presentation at the conference and parties opposed to such petition will be collectively allocated four hours. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of petitions. The petitions filed in these cases are available for public inspection at the Office of Secretary, U.S. International Trade Commission, and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: March 27, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-9740 Filed 3-31-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Request for Comments on the Proposed LEAA Guideline: Violent Juvenile Offender Research and Development Program

AGENCY: Law Enforcement Assistance Administration (LEAA), Justice.

ACTION: Request for Public Comment.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., proposes to issue an addition to the National Priority Program and Discretionary Program Announcement, published in the **Federal Register** on February 15, 1980. It will not in any way impact upon the programs or regulations presently set out in that announcement or affect the eligibility of those individuals applying for previously announced programs.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is inviting interested persons to comment on the proposed guideline and will consider all such written comments before the final publication of this guideline. The period for public comment on this proposed guideline is 30 days. This 30 day external review period was approved by Homer F. Broome, Acting Administrator of LEAA, because it is deemed in the best interest of the public to provide for award of the cooperative agreement before October 1, 1980. When the National Coordinator has developed the draft request for proposals and it has been approved by OJJDP, OJJDP will release the proposed guidelines in the **Federal Register** for an additional public comment period. After development of the final guideline, which is expected to be published in the **Federal Register** in Spring 1980, it is anticipated that interested persons will have approximately 60 days to develop applications.

This notice and opportunity to submit written views and comments is provided pursuant to Executive Order No. 12044, Improving Government Regulations, to ensure that interested organizations, agencies and individuals have an opportunity to review the proposed guideline. Interested persons are invited to submit written comments or suggestions to Douglas C. Dodge, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Room 442, Washington, D.C. 20531, on or before May 1, 1980. Mr. Dodge's telephone number is 202–724–7755.

The text of the guideline follows:

Office of Juvenile Justice and Delinquency Prevention Program Announcement; Violent Juvenile Offender Research and Development Program

Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Law Enforcement Assistance Administration (LEAA), pursuant to Section 224(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a Violent Juvenile Offender Research and Development (R&D) Program.

A. Background

Development work for this program has been underway since early 1979. The Juvenile Justice System Assessment Center has completed an extensive survey of theoretical and empirical literature in serious juvenile crime, and of programs focused on this population. (A draft of the background paper summarizing the results of this review to guide the R&D program is available for potential applicants from the OJJDP).

A major finding from the analyses of the Uniform Crime Report arrest data and LEAA Victimization data indicates that, contrary to popular belief, serious juvenile crime appears to be stable or on the decline since 1975. Other significant findings include:

- In 1977 persons under 18 arrested for Index property crimes comprised 34.0% of the total juvenile arrests, and persons under 18 arrested for Index violent crimes accounted for 3.7% of the total juvenile arrests.
- In 1977, juveniles arrested for violent crime was approximately 1% of the *total arrests* for persons of all ages.
- In 1977, the modal age for arrest for index offenses of persons under 18 was 16. The modal age for arrests of persons

under 18 for index property offenses was 16 and for violent offenses was 17.

• Serious/violent crime appears to be primarily committed by males (81.5%). White juvenile offenders are arrested more frequently then others for property offenses; while black juvenile offenders are arrested more frequently than others for violent offenses.

• The risk of being victimized by juveniles is greatest among other juveniles.

• Data on the geographic distribution of offenses indicates that index crimes occur primarily in urban centers.

The Assessment Center's review and other research and programming efforts highlighted the need for research into the nature and extent of serious/violent crime, for the development of an adequate juvenile justice system response to this population, and for systematic assessment of the impact of services and treatment models for these offenders.

In light of the lack of agreement concerning definitional, policy and programming issues, OJJDP organized a Special National Workshop on the Serious Juvenile Offender in Arlington, Virginia on January 15, 16, 1980, consisting of 30 researchers, lawyers, public interest group representatives and practitioners in the field. The purpose of the workshop was to discuss issues related to the development of a serious, violent juvenile offender program and obtain recommendations on program strategies.

The Working Group recommended that OJJDP: (1) restrict the program to violent juveniles; (2) focus the initiative on reintegration of violet offenders and develop a second efforts on the prevention of violent crime in communities where there is a high incidence of juvenile violent crime; and (3) undertake a public education initiative in an effort to clarify misconceptions about violent juvenile crime.*

OJJDP has therefore decided to implement a research and development program focused on the violent juvenile offender and violent juvenile crime. This dual focus is based on the following rationale:

1. *Violent Juvenile Offender*—

(a) Violent juvenile offenders are disproportionately involved in the juvenile justice system, i.e., although their number is very small, they account for a significant proportion of arrests for violent offenses. Their crimes also tend to generate most negative public reaction and call for harsher treatment for all juvenile offenders.

(b) Given lack of knowledge of effective approaches for prevention and treatment of juvenile violence and the small amount of available funds, resources should be concentrated on testing strategies for prevention of violent juvenile criminality and reintegration of violent juvenile offenders.

2. *Prevention of Violent Crime*—

The focus on prevention of violent juvenile crime in communities is based on the following rationale:

(a) Since the violent juvenile crime occurs largely in major urban centers, it is important to test projects that hold promise for prevention of violent crime in these communities.

(b) Indigenous community groups have considerable potential for reaching youth who commit the largest portion of violent juvenile crime in urban communities.

To provide for additional developmental work required on the initiative and to implement the initiative, OJJDP will establish a two part effort.

Part One focuses on the violent juvenile offender and will be implemented through this solicitation. A cooperative agreement will be awarded to a National Coordinator who, in cooperation with OJJDP, will identify and document the most promising models for the screening, prosecution, treatment and reintegration of violent juvenile offenders into their communities which can be tested in this research and development effort. The National Coordinator will also, in cooperation with and subject to prior OJJDP approval, develop a Request for Proposals (RFP); recommend to OJJDP for approval selected contractors who will implement specific models; award the contracts; and manage the contracts after they are awarded.

Part Two, which will focus on prevention of violent juvenile crime in communities which experience a high incidence of violent juvenile crime, will be implemented simultaneously through a contract with an 8–A contractor (Small Business Administration-designated minority-owned firm). The selected 8–A contractor will assist OJJDP in the identification and documentation of the most promising indigenous community group prevention models; recommend a funding strategy and guideline requirements; develop criteria and procedures for the selection process and manage the subcontracts after they are awarded. Four-hundred thousand dollars ($400,000) will be available for this contract and $2.5 million will be allocated in fiscal year 1981 to fund models in specific sites.

B. Objectives for the Part One Violent Juvenile Offender Research and Development Program

The major objectives of the Violent Juvenile Offender Research and Development program are:

1. To test program models for treatment and reintegration that are designed to reduce violent crimes committed by youth in the program.

2. To test strategies for increasing the capacity of the juvenile justice system to handle violent juvenile offenders, fairly, efficiently, and effectively.

This solicitation is intended to result in a cooperative agreement for a National Coordinator. The OJJDP, the National Coordinator and the National Evaluator (See Par. J.) will develop jointly a Violent Juvenile Offender Research and Development program. The following tasks will be performed under the cooperative agreement.

1. The National Coordinator, in consultation with OJJDP, will identify and document the most promising models for dealing with screening, prosecution, treatment and reintegration of violent juvenile offenders.

2. The National Coordinator will recommend models to OJJDP for approval.

3. The National Coordinator in consultation with OJJDP, will develop and issue an RFP, subject to OJJDP approval prior to issuance.

4. The National Coordinator, in conjunction with the National Evaluator and OJJDP will develop the selection process for subcontractors, who will implement specific models and submit it for OJJDP approval.

5. The National Coordinator will implement the violent juvenile offender program. OJJDP will maintain substantial operation involvement and will jointly monitor the contracts for implementation of the models within the National Coordinator.

C. Results Sought

1. The development of effective models for the screening, prosecution, treatment, and reintegration of violent juvenile offenders.

2. An increased concentration of juvenile justice system resources on the screening, prosecution, treatment and reintegration of violent juvenile offenders.

3. A reduction in the incidence of violent juvenile crimes committed by participating youth.

* This third recommendation has been accepted by OJJDP and is being implemented under auspices outside the R&D program described herein.

D. Dollar Range, Number and Duration of Awards

One cooperative agreement will be awarded to a public or private non-profit agency or organization to assist in completing the development of a violent juvenile offender program, managing the project seletion process and managing the contracts to implement the models in selected sites. Funds in the amount up to $400,000 will be available for the development of program models, site testing of models, program monitoring and management of the cooperative agreement funded activities. This agreement will be for two years with the potential for an additional 18 month grant based on satisfactory performance. In addition, the cooperative agreement will include $4,489,601 for exclusive use and award, on a competitive basis, to contractors who will implement program components. These contracts will initially be for eighteen (18) months, with the potential for an additional 18 months support for sucessful projects, subject also to the availability of funds. It is expected that approximately five sites will be selected to implement models, and the amount of funds available for each site will be approximately $900,000 for 18 months.

E. Submission and Processing Procedures

The Violent Juvenile Offender Development and Implementation Project has been determined to be of national scope and a cooperative agreement will be awarded directly to the successful applicant.

Applications should be submitted to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in accordance with the form outlined in the application kits available on request from OJJDP (contact Douglas C. Dodge at (202) 724–7755). Applicants must also submit applications to appropriate A–95 Clearinghouses and Criminal Justice Councils (CJC) in accordance with A–95 and CJC requirements. Letters of verification indicating appropriate contacts with Criminal Justice Councils and A–95 Clearinghouses must be included in the applications.

F. Eligibility

Applications are invited from national public or private not-for-profit agencies and organizations that have experience in administering juvenile justice programs and that meet the specific requirements of Paragraph I.

G. Deadline for Submission of Applications

One (1) original and two (2) copies of the application must be mailed or hand delivered to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), LEAA, Room 442, 633 Indiana Avenue, NW., Washington, D.C. 20531, by 5:30 p.m. on June 30, 1980. Applications sent by mail will be considered to be received on time if sent by registered or certified mail not later than June 30, 1980, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service.

H. Application Requirements

These requirements are to be used in lieu of the Part D—Program Narrative instructions in the Standard Federal Assistance Form 424. In order to be considered for funding, applications must include the following:

1. *Project Goals and Objectives.* Translate the objectives outlined in Paragraph B of this solicitation into the goals and objectives for your application. Establish a workplan which is broken down into: (1) A six (6) month segment for planning, development of the RFP and funding of the contractors who will implement the program and, (2) a thirty-six (36) month period for management of the contracts. Discuss in detail the tasks necessary to accomplish the objectives outlined in the solicitation. State the goals, objectives and tasks necessary to complete each specific milestone or timeframe.

2. *Problem Definition*—

(a) Based on the background materials provided by OJJDP and any other materials, discuss your understanding: (1) Of the nature and extent of violent juvenile crime (using the definition of violent crime in paragraph K. 1); (2) of legislative activities related to violent juvenile crime; and (3) of promising screening, prosecution, treatment and reintegration approaches.

(b) Discuss the anticipated major difficulties and problem areas in assisting with development of the violent offender initiative, management of the selection process, management of the program and coordination with the national evaluation, together with potential or recommended approaches for their solutions.

(c) Proposals must address the following points regarding qualifications and experience of the applicant, and where applicable for the subcontractors.

(1) Describe experience with similar or related projects completed or now underway.

(2) Key personnel should be designated, along with their responsibilities and the approximate percentage of time and duration each will be available for this program. Resumes which indicate relevant education and experience are required. Recommended key staff, e.g. project director will have to be approved by OJJDP.

(3) *Program Methodology*—

Provide a plan and program design to accomplish the following administrative and development tasks:

(a) Administration

(1) Propose an administrative, management and fiscal structure. This structure should reflect the relationship between contractors who will implement the program models and the applicant organization and the relationship between the National Coordinator and OJJDP.

(2) Provide an implementation plan which includes a schedule, management policies and organizational chart to show provisions for quality control and compliance with Federal requirements.

(b) The plan for developing the final guidelines and awarding contracts for the Violent Juvenile Offenders Program.

(1) Describe a cooperative process with OJJDP for identifying and documenting effective project models for implementation which can be recommended to OJJDP for approval.

(2) Describe a cooperative process with OJJDP for developing recommendations for program guidelines to be submitted to OJJDP for final approval.

(3) Outline a plan for processing applications and selecting the most qualified applicants. This plan should include, arrangement for a peer panel review of the applications, computerized forms and computerized weighted system for tabulating the peer panelists scores. The final plan, to be developed after award in cooperation with OJJDP, must be submitted to OJJDP for final approval.

(4) Outline a technical assistance plan for assisting applicants with the development of their applications. This should focus on cluster conferences in several areas of the country, where applications development issues can be addressed. The final will be developed during the program development period, and submitted to OJJDP for final approval.

(5) Outline a plan for the management of all contracts. This plan should include (a) procedures for assuring the contractors compliance with OJJDP/LEAA program and fiscal requirements; (b) a plan for joint site monitoring to be coordinated with OJJDP; (c) a plan for

assuring that all contractors meet quarterly program and fiscal reporting requirements; (d) a discussion of how the grantee will coordinate with the National Alternative to Incarceration Technical Assistance Contractor in the effort to provide technical assistance to the contractors, and a discussion of the cooperative relationship with the National Evaluation Contractor. The final detailed plan for management, will be worked out in cooperation with and subject to the final approval of OJJDP.

I. *Selection Criteria*

Applicants will be evaluated on experience methodology and management capability as evidenced by the submitted documentation.

1. *Applicant Capability*—Applicants must evidence the following qualifications and experience: (40 points)

(a) Diversified experiences in working with issues related to the juvenile justice system handling of violent or chronic serious juvenile offenders and the treatment and control of these offenders in institutions and community based alternatives. (15 Points).

(b) Ability to establish effective relationships with the juvenile justice system and alternative service providers. (5 points)

(c) Availability of key staff and consultants experienced in providing diverse populations with technical expertise in substantive topics related to the development of the projects. (10 points)

(d) Capability and expertise in maintaining and managing contracts where diverse projects will be implementing selected models. (10 points)

2. *Understanding of proposed methodology.* Applicants must evidence an understanding of the following: (20 points)

(a) Provide a clear and concise discussion of violent juvenile crime, its causes and consequences, and the variety of methods which might be used to overcome these problems. (10 points)

(b) The required steps in the development of promising models, recommended program guidelines, technical assistance to potential contractors in the application process and management of the subcontracts, including the necessary OJJDP approval at each decision point. (10 points)

3. *Management Capability* (30 points)

Applicants must evidence management capability as follows:

(a) The completeness of the plan with respect to organization, models identification, guideline recommendation, management of the project selection process, and management of the subcontracts. (10 points)

(b) The feasibility of the workplan with respect to milestones, time frames and costs. (5 points)

(c) The understanding of research and data requirements and the ability to coordinate with the National Evaluator. (5 points)

(d) The completeness of the plan for assuring compliance with LEAA, administrative and fiscal requiements. (10 points)

J. *Evaluation Requirements*

A separate award will be made by the National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) for the evaluation of both parts of the Violent Offender Initiative. The National Coordinator and all subcontractors will be required to work jointly with the National Evaluator to ensure that action projects meet the R&D design requirements.

K. *Definitions*

1. *Violent Juvenile Offender* is a person under 18 who is adjudicated and found involved (guilty) in one or more violent offenses (murder, forcible sexual intercourse, armed robbery, kidnapping, aggravated assault, robbery—with injury requiring professional medical treatment, or arson—of an occupied dwelling).

2. *Adjudication* is the process of determining guilt or innocence in juvenile court proceedings by either a counseled plea of guilty or a formal fact-finding hearing.

3. *Disposition* is that procedure in the juvenile court process which results in the imposition of a sentence, e.g., probation or commitment.

4. *Delinquency* is the behavior of a juvenile, in violation of a statute or ordinance in a jurisdiction, which would constitute a crime if committed by an adult.

5. *Jurisdiction* is any unit of general local government such as a city, county, township, borough, parish, village or combination of such units.

6. *Juvenile* is a child or youth, defined as such by state or local law, who by such definition is subject to the jurisdiction of the juvenile court.

7. *Juvenile Justice System* refers to official structures, agencies and institutions with which juveniles may become involved including, but not limited to, juvenile courts, law enforcement agencies, probation, aftercare, detention facilities, and correctional institutions.

8. *Private Not-For-Profit Agency* is any agency, organization, or institution with two years experience in dealing with youth, designated tax exempt by the Internal Revenue Service under Section 501(c) of the Internal Revenue Code.

9. *Program* refers to the national initiative to establish projects supported by OJJDP and the overall activities related to implementing the projects.

10. *Project* refers to the specific set of activities at given site(s) designed to achieve the overall goal of reducing violent delinquent behavior through the implementation of selected/approved methods.

11. *An 8–A organization* is a firm which is designated as minority owned by the Small Business Administration.

12. *National agency or organization* is a public or private agency or organization that has a national office and/or offices and has experience in the development, coordination of management of national scope programs.

L. *Civil Rights Compliance*

1. All recipients of LEAA assistance must comply with:

(a) Section 815(c) of the Justice System Improvements Act (JSIA), and its implementing regulations, found at 28 CFR 42.201, *et seq.;*

(b) Title VI of the Civil Rights Act of 1964, and its implementing regulation, found at 28 CFR 42.101, *et seq.;*

(c) Section 504 of the Rehabilitation Act of 1973, as amended; and its implementing regulations;

(d) The Age Discrimination Act of 1975, as amended, and its implementing regulations; and

(e) Executive Order 12138, 44 FR 29637 (May 22, 1979), requiring recipients of federal financial assistance to take appropriate affirmative action in support of women's busines enterprise.

2. Each recipient of LEAA assistance within the criminal justice system that has 50 or more employees and that has received grants or subgrants totaling $25,000 or more since the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and that has a service population with a minority representation of 3% or more is required to formulate, implement and maintain an Equal Employmnent Opportunity Program (EEOP). Where a recipient has 50 or more employees, and has received grants or subgrants of $25,000 or more, and has a service population with a minority representation of less than 3%, such recipient is required to formulate, implement and maintain an EEOP relating to employment practices affecting women. This requirement shall be satisfied prior to the award. An applicant for LEAA assistance for $500,000 or more must submit its EEOP with the application. *The EEOP must be approved by OJARS' Office of Civil*

Rights Compliance prior to award. Failure to address this requirement will result in rejection of the proposal.

3. Applicants that do not meet any of the criteria in (2) above, educational institutions and private not-for-profit organizations shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other receipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights complaince obligations under any grant award.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-9731 Filed 3-31-80; 8:45 am]

BILLING CODE 4410-18-M

National Institute of Justice

Solicitation; Supervised Release Program Test Design

The National Institute of Justice announces a competitive research cooperative agreement program to conduct an evaluation of the Supervised Release Program Test Design of the National Institute. The evaluation will be a comparative assessment of the impact of the program design on three Criminal Justice operating agencies.

The solicitation asks for the submission of preliminary proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than midnight, May 30, 1980.

The cooperative agreement award is planned for July 1, 1980 with funding support not to exceed $300,000 or 24 months duration. To maximize competition for this award, both profit-making and non-profit making organizations are eligible to apply, but no fee can be charged. Organizations which have actively participated in this program as primary contractor, sub-contractor or grantee are ineligible to bid on this solicitation.

Further information and copies of the solicitation can be obtained by contacting Frank J. Vaccarella or Joyce Cason, Office of Program Evaluation, NIJ, 633 Indiana Avenue, N.W., Washington, D.C., 20531, or by phone (301) 492-9085.

Dated: March 20, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-9719 Filed 3-31-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Uniroyal Merchandising Co., Inc., et al.; 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, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. 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.

Pursuant to 29 CFR 90.13, 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 April 11, 1980.

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 April 11, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of March 1980.

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
Uniroyal Merchandising Company, Inc. (company).	Houston, Texas	2/25/80	2/20/80	TA-W-7,399	Automobile tire, sales.
Westinghouse Electric Corp. (IBEW)	Richmond Kentucky	2/15/80	2/8/80	TA-W-7,400	Minature lamps for automobiles.
Springfield Machine & Stamping, Inc. (workers).	Warren, Michigan	2/20/80	2/13/80	TA-W-7,401	Automotive body side molding.
Reed Plating Company (UAW)	Centerline, Michigan	2/28/80	2/25/80	TA-W-7,402	Polishing, buffing, nickel and chrome plating.
Whitaker Cable Corp. (IBEW)	St. Joseph, Missouri	3/3/80	2/25/80	TA-W-7,403	Cable manufacturing for Chrysler and Ford.
Patapsco & Back River Railroad Company (U.T.U.).	Sparrows Point, Maryland	3/28/80	2/25/80	TA-W-7,404	Rail transportation.
Mickey Madann Handbags (International Leather Goods, Plastic & Novelty Workers Union).	New Bedford, Mass.	3/3/80	2/26/80	TA-W-7,405	Man made handbags.
Essex Group, Inc., Automotive Products Division (IAM & AW).	Carey, Ohio	2/28/80	2/25/80	TA-W-7,406	Water pumps, ignition kits, battery cables, booster cables.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Aerospace & Communications Corp. (IUE).	Bedford, Indiana	2/29/80	2/11/80	TA-W-7,407	Windshield washer pump, electronic fuel senders, purge control valves, hose and harness assemblies and central fuel injection pumps.
Union Carbide, Metals Div. (USWA)	Sheffield, Alabama	3/5/80	2/29/80	TA-W-7,408	Ferro alloys.
Marcy Sportswear (company)	Newark, New Jersey	3/4/80	2/28/80	TA-W-7,409	Ladies' outerwear.
Carole Manufacturing (ILGWU)	East Newark, New Jersey	3/4/80	2/28/80	TA-W-7,410	Contractor of ladies' coats.
Utah International (workers)	Cedar City, Utah	3/4/80	2/27/80	TA-W-7,411	Mine raw iron ore.
Camp International, Inc. (ILGWU)	Warrior, Alabama	3/4/80	2/29/80	TA-W-7,412	Mastectomy bars, private label girdles and brassieres.
Weinbrenner Shoe Company (United Food & Commercial Workers Union.	Merrill, Wisconsin	3/5/80	2/1/80	TA-W-7,413	Work and safety shoes, outdoor boots.
Ameri-Tex Industries (company)	Skowhegan, Maine	3/5/80	2/26/80	TA-W-7,414	Soles and heels for shoes.
Strausbaugh Dodge, Inc. (workers)	Youngstown, Ohio	3/10/80	2/29/80	TA-W-7,415	Car sales.
Farwell Manufacturing, Inc. (company)	Farwell, Michigan	3/11/80	3/6/80	TA-W-7,416	Rear Window molding.
Seiberling Latex Products, Inc. (URW)	Oklahoma City, Oklahoma	3/12/80	3/7/80	TA-W-7,417	Latex gloves, also breathing bags.
Ligia Fashions, Inc. (ILGWU)	Newark, New Jersey	3/4/80	2/28/80	TA-W-7,418	Contractor of ladies' blazers.
Olympic Juniors, Inc. (ILGWU)	Newark, New Jersey	3/4/80	2/28/80	TA-W-7,419	Ladies' sportswear and suits.
N.J. Ladies' Coats (ILGWU)	Newark, New Jersey	3/4/80	2/28/80	TA-W-7,420	Ladies' jackets.
General Foods Corp., Maxwell House Coffee Division (Amalgamated Food & Allied Workers of America).	Hoboken, New Jersey	3/5/80	2/25/80	TA-W-7,421	Coffee in all forms.
Frank Saltz & sons, Inc. (workers)	New York, New York	2/29/80	2/27/80	TA-W-7,422	Men's suits.
Sherman Oaks Industries, Inc. (company)	Coldwell, New Jersey	2/28/80	2/25/80	TA-W-7,423	Knitted and woven fabrics.
Central Foundry Company (workers)	Holt, Alabama	3/5/80	2/22/80	TA-W-7,424	Cast iron pipes and fittings.
Bluestone Coal Corporation, Keystone Strip Mine (UMWA).	McDowell County, West Virginia	2/29/80	2/27/80	TA-W-7,425	Metallurgical coal.
Chicago Pneumatic Tool Company (IAM & AW).	Franklin, Pennsylvania	3/13/80	3/10/80	TA-W-7,426	Portable and stationary air compressors also, rotary drill rigs and gas Booster compressor.
Lear Seigler (Seating Division) (UAW)	Ferguson, Kentucky	2/25/80	2/20/80	TA-W-7,427	Automobile seat frames, also compressor housing.
Arvin Automotive Distribution Center (Carpenters & Joiners of America).	Indianapolis, Indiana	2/27/80	2/19/80	TA-W-7,428	Warehousing and distribution of automotive exhaust systems.
Maranda Dress (ILGWU)	Saugerties, New York	3/7/80	3/3/80	TA-W-7,429	Women's dresses and sportswear.
La Moda Fashions (ILGWU)	Garfield, New Jersey	3/10/80	3/6/80	TA-W-7,430	Women's coats.
Acme Optical Manufacturing Company, Inc. (company).	Providence, Rhode Island	3/11/80	3/4/80	TA-W-7,431	Metal eyeglass frames.
Thornton Polishing & Buffing Company (workers).	Clawson, Michigan	3/5/80	2/27/80	TA-W-7,432	Automotive parts, Bumper guards and trim grills.
P.C. Fashions (formerly Marileather Fashions) (workers).	Passaic, New Jersey	2/29/80	2/26/80	TA-W-7,433	Men's and women's Leather coats and jackets.
Harwood Manufacturing Company, Marion Plant, Shipping Department, (workers).	Marion, Virginia	2/10/80	1/29/80	TA-W-7,434	Shipping of robes, pajamas, and men's and boys' shorts to the customers.
Tack's Greenhouse's (company)	Salinas, California	2/29/80	2/28/80	TA-W-7,435	Propagation and cutting of carnations.
The Richton Jewelry Company, Inc. (Amalgamated Jewelry Workers Union).	Providence, Rhode Island	2/21/80	2/15/80	TA-W-7,436	Costume Jewelry.

[FR Doc. 80-9613 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6314]

M and M Valley Sportswear; Revised Determination on Reconsideration

On March 7, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of M and M Valley Sportswear, Holsopple, Pennsylvania. This determination was published in the **Federal Register** on March 14, 1980 (45 FR 16651).

The petitioner claims that workers at M and M Valley Sportswear, a contractor, were denied trade adjustment assistance while their manufacturer was importing children's outerwear.

The Department's review revealed that workers of M and M Valley Sportswear, whose major product was children's snow pants, were denied because they did not meet the "contributed importantly" test of the Trade Act of 1974. The denial was based on a customer survey.

The Department found in its reconsideration investigation that workers at Tidy Products, Columbia, Pennsylvania, which was the sole manufacturer for M and M Valley Sportswear, were certified eligible for trade adjustment assistance, TA-W-6453, on the basis that its selling arm, Tidykins, had increased its own imports of infants' and children's outerwear in 1979 compared to 1978. Tidykins' imports had not been reported on the original survey.

M and M Valley Sportswear shut down its Holsopple, Pennsylvania, plant on August 31, 1979.

U.S. imports of women's, misses' and children's slacks and shorts (which includes snow pants) increased in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of women's and children's outerwear and sportswear contributed importantly to the total or partial separation of workers and former workers at M and M Valley Sportswear, Holsopple, Pennsylvania. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers engaged in the production of women's and children's outerwear and sportswear at M and M Valley Sportswear, Holsopple, Pennsylvania, who became totally or partially separated from employment on or after May 15, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of March 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-9614 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6391, 6392 and 6393]

Babcock and Wilcox, Tubular Products Division, Beaver Falls Works; Affirmative Determination Regarding Application for Reconsideration

On February 29, 1980, the petitioner supported by the company requested administrative reconsideration of the

Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers producing steel tubing and fittings at the Beaver Falls, Ambridge and Koppel, Pennsylvania, plants of Babcock and Wilcox. This determination was published in the Federal Register on February 12, 1980, (45 FR 9399).

The petitioner and company officials, in a meeting in Washington, D.C., on March 20, 1980, provided the Department with tables showing increased imports of the products which the Beaver Works produces since they claim that the Department's import data did not represent their products. The company officials also supplied a new list of customers that they think are importing.

Conclusion

After review of the application, I conclude that the claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 21st day of March 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foregin Economic Research.

[FR Doc. 80-9815 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-15; Exemption Application No. D-156]

Exemption From the Prohibitions for Certain Transactions Involving the Mead Retirement Auxiliary Trust Located in Dayton, Ohio

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption retroactively permits the involvement of the Mead Retirement Auxiliary Trust (the Trust) in the construction of an office building (the Building) in Dayton, Ohio and retroactively and prospectively permits the involvement of the Trust in the financing and operation of the Building. The exemption also retroactively and prospectively permits the leasing of the Building to Mead Corporation (Mead), the sponsoring employer of the Mead Retirement Plan.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 6, 1979, notice was published in the Federal Register (44 FR 64154) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the involvement of the Trust, through a partnership, in the construction, financing and operation of the Building and the subsequent lease of such Building to Mead. A correction with respect to the notice was published on November 16, 1979 (44 FR 66103). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirement for notification to all interested persons contained in the notice of pendency of the proposed exemption.

Four comments were received by the Department regarding the proposed exemption. One commentator supported the exemption and felt no public hearing was needed with respect to the exemption. Two comments indicated that the notice of pendency was not received in sufficient time to enable comment prior to the expiration of the comment period. For these individuals the comment period was extended for another thirty days; however, no further comment was received from either commentator. The fourth commentator objected to the granting of the proposed exemption and requested that a public hearing be scheduled so that formal objections could be presented. Because this commentator did not indicate the basis for his objection to the transactions that are the subject of this exemption, the Department requested that the commentator specify the nature of his objection to the proposed exemption. This request for clarification was communicated to the commentator who was afforded an additional period of time to elaborate upon his initial objection. The elaboration by the commentator did not object to any specific aspect of the transactions nor challenge any of the representations that had been made by the applicant. The commentator did however object to the "concept of investing pension funds for future benefits of its members in interests of the employer."

While the Act does recognize the possibility for abuse when company pension funds are used or invested in projects that benefit the sponsoring employer, the administrative exemption procedure provides the Department the opportunity to review such transactions to ensure that the criteria pursuant to which relief from the prohibited transaction rules of the Act and the Code have been satisfied. The Department does not believe that there is sufficient evidence to indicate that a public hearing would be useful in determining whether the criteria for an administrative exemption have been satisfied with respect to the subject transactions. Accordingly, the Department has reviewed the application and supporting documentation and has determined to grant the proposed exemption.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is 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.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include 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 or her 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 the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and 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 determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective January 1, 1975 to the Trust's participation, through a partnership, in transactions relating to the construction, financing, leasing and operation of the Building.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 26th day of March 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-9760 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1644]

Proposed Exemption for Certain Transactions Involving the Young Electric Sign Co. Employee Profit Sharing Plan Located in Salt Lake City, Utah

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code (the Code). The proposed exemption would exempt proposed loans of funds by the Young Electric Sign Company Employee Profit Sharing Plan (the Plan) to the Young Electric Sign Company (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, the Employer, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before May 6, 1980.

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, N.W., Washington, D.C. 20216, Attention: Application No. D–1644. The application 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, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander, of the Department of Labor, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and the Plan, pursuant to section 408(a) of the Act and 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, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 235 participants. Mr. Henry Schutte (Schutte) and Mr. Thomas Young, Jr. (Young) are the trustees of the Plan and jointly maintain sole responsibility for the investment decisions of the Plan. Schutte is an officer and director of the Employer, and Young is the president, a director, and the principal shareholder of the Employer. As of June 30, 1979, the Plan had net assets of approximately $1,970,079. Prior to July 1, 1974, it had been a customary practice for the Plan to loan funds secured by equipment (the Pre-Act Loans) to the Employer. As of June 30, 1979, the Plan had outstanding loan balances due from the Employer amounting to $172,940. This amount represents approximately nine percent (9%) of the Plan's net assets as of June 30, 1979.

2. The Employer is a manufacturer, installer, maintainer and lessor of electrical advertising signs and billboards. As of December 31, 1978, the Employer had a net worth of approximately $4,457,000.

3. It is proposed that the Plan loan funds (the loans) to the Employer for the purchase by the Employer of equipment to be used in its business. The Loans will not exceed an amount equal to twenty-one percent (21%) of the Plan's net assets. This percentage figure will include the outstanding balance due the Plan from the Pre-Act loans. As the Pre-Act Loans are retired by the Employer the Plan may enter into Loans provided that the total aggregate outstanding balance from the Pre-Act Loans and the

Loans do not exceed an amount equal to twenty-one percent (21%) of the Plan's net assets. The Loans will only be made by the Plan for three years from the date of the grant of the final exemption involving the Loans.

4. Before a Loan is made by the Plan, the Plan will obtain a written statement from a local bank that such bank would provide financing to the Employer for the specific item of equipment the Plan proposes to finance and will set forth the terms of such financing. Each Loan will be represented by a cognovit promissory note bearing an interest rate at least one quarter of one percent (¼%) above the interest rate the local bank would charge the Employer for financing the specific item of equipment the Plan proposes to finance. In no event will a Loan bear a rate of interest less than twelve percent (12%) per annum. The Loans will be repaid by the Employer in equal monthly installments. The term of any Loan will not exceed a period of five years.

5. Each Loan will be secured by equipment to be purchased by the Employer (the Collateral). The Collateral will consist of: (a) diesel-powered, over-the-road three axle tractors; (b) gasoline-powered heavy duty trucks; (c) heavy duty booms and cranes capable of installation upon tractors and trucks; (d) production equipment such as metal lathes, sheet metal forming equipment and heavy duty hydraulic presses; (e) a six-place propeller driven aircraft; and (f) light duty transportation equipment such as pickup trucks, vans and automobiles. The Plan will have a perfected first security interest in the Collateral through the execution and filing by the Employer of security agreements on behalf of the Plan. The Employer will warrant title to the Collateral and warrant to maintain such title in the Collateral during the term of a Loan. The Collateral will be kept fully insured at the Employer's expense against fire, theft, or other casualty, and the Plan will be the named insured. If the Collateral is damaged and its value diminished, the Loan will be repaid pursuant to the Rule of 78.

6. The value of the Collateral will at all times during the term of each Loan be worth at least 150 percent of the outstanding Loan balance. Spano Crane Sales & Service Corporation located in Long Beach, California, and Servis-Likens Truck Company, Inc. located in Paramount, California, sellers and dealers of specific items of the Collateral, have stated that the market value of the Collateral is not expected to decrease appreciably over the term of a Loan, and that the Collateral is marketable if it is to be resold.

7. The Commercial Security Bank in Salt Lake City, Utah, (the Bank) which is independent of the Plan and the Employer, other than maintaining a payroll account for the Employer, will serve as the collection agent for the Plan with respect to the Loans. The Bank will have responsibility to pursue collection procedures in the event the Employer defaults with respect to a Loan. The Bank will represent annually to the trustees that the value of Collateral will at all times during the term of each Loan be worth at least 150 percent of the outstanding Loan balance.

8. The Employer will execute a corporate guarantee with respect to the Loans. Additionally, Young will personally guarantee that he will immediately repay to the Plan the outstanding balance and accrued interest due on a Loan if a Loan is more than thirty (30) days in arrears or if the Employer fails to comply with any conditions or terms of a Loan. Young has a personal net worth in excess of $1,000,000.

9. In summary, the applicants represent that the Loans will satisfy the criteria of section 408(a) of the Act because (a) the Plan trustees represent that the Loans are in the best interests of the Plan; (b) the Loans will enable the Plan to realize a rate of return greater than that which could be realized from investments with unrelated third parties; (c) the Loans when aggregated with the outstanding balances from the Pre-Act Loans will not exceed twenty-one percent of the Plan's net assets; (d) an independent party, the Bank, will serve as the collection agent for the Plan and will completely monitor the transactions; (e) the Plan will have a perfected first security interest in insured collateral which will have a fair market value at all times at least equal to 150 percent of the outstanding Loan balances; (f) the Employer will execute a corporate guarantee with respect to the Loans and the Employer's principal shareholder, Young, will personally guarantee the repayment of any Loan; (g) the Loans will only be made within a period of three years from the date of the final exemption, if granted; and (h) the term of any Loan will not exceed a period of five years.

Notice to Interested Persons

Within five days after its publication in the **Federal Register** a copy of this notice of proposed exemption will be mailed directly to all participants and beneficiaries of the Plan, and employees of the Employer. Such notice shall inform these persons of their right to comment on or request a hearing regarding the requested exemption.

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 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 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) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and 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

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and 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.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application

for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and Section 4975(c)(2) of the Code 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 taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of funds by the Plan to the Employer as described above.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of March, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-9761 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1346]

Proposed Exemption for Certain Transactions Involving Prevue Products, Inc. Retirement Plan and Prevue Products, Inc. Pension Plan Located in Manchester, N.H.

AGENCY: Department of Labor.

ACTION: Extension of Time for Comments and Hearing Requests for a Proposed Exemption.

1. On Tuesday, January 8, 1980, the Department of Labor (the Department) published in the **Federal Register** (45 FR 1707), a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, and from certain taxes imposed by the Internal Revenue Code of 1954. The proposed exemption dealt with an application filed on behalf of the Prevue Products, Inc. Retirement Plan and the Prevue Products, Inc. Pension Plan (collectively, the Plans).

2. In the Summary of Facts and Representations portion of the proposed exemption, it was represented that the redemption of Zvi Cohen's and the Plans' shares of Prevue Products, Inc. (Prevue) first preferred stock would not be consummated until an exemption was granted.

3. By letter dated February 15, 1980, the Plans informed the Department that except for the Plans' shares, all of the shares of Prevue first preferred stock, including Zvi Cohen's, had already been redeemed. Therefore, a retroactive exemption is now requested for the redemption of Zvi Cohen's shares of first preferred stock.

4. The Department believes that this change in circumstances from what was represented in the proposed exemption, warrants an extension of time for comments and hearing requests from interested persons.

5. Therefore, the time period for receipt of comments and/or requests for a public hearing on the proposed exemption is hereby extended to May 10, 1980, so that interested persons may have the opportunity of commenting on the proposed exemption in its modified form.

6. All interested persons who were previously given notice of the proposed exemption will again be notified within ten days of the publication of this notice in the **Federal Register.** The notice will contain a copy of the January 8, 1980, proposed exemption and a copy of this notice. The notice will also specifically inform each recipient of his/her right to comment on and/or request a hearing within the period set forth in this notice. Employees of Prevue will be notified by posting the notice on the employees' bulletin board. All other persons will be notified by first class mail.

7. All written comments and requests for a public 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, N.W., Washington, D.C. 20216. Attention: Application No. D–1346.

Signed at Washington, D.C., this 26th day of March 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-9762 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

March 27, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northeastern Wisconsin in Green Bay, Wisconsin, to serve Adams, Green Lake, Marquette, Ozaukee, Sheboygan, Washington and Waushara Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-9751 Filed 3-31-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

March 27, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Western Wisconsin Legal Services in LaCrosse, Wisconsin, to serve Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, Lafayette, Richland, and Sauk Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-9750 Filed 3-31-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

March 27, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Wisconsin Judicare in Wausau, Wisconsin, to serve Clark and Waupaca Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-9749 Filed 3-31-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80-21)]

NASA Advisory Council (NAC); Meeting

The NASA Advisory Council's Informal *Ad Hoc* Advisory Subcommittee for the New Directions Symposium will meet on April 23 to 25, 1980, in room 7002, Federal Building 6, 400 Maryland Avenue, SW, Washington, DC 20546. The meeting will be open to the public up to the seating capacity of the room (about 60 persons, including subcommittee members and other participants). Visitors will be requested to sign a visitor's register.

The Informal *Ad Hoc* Advisory Subcommittee for the New Directions Symposium was established under the NASA Advisory Council to organize and conduct a one week symposium aimed at exploring promising new directions for future space activities. The specific areas to be studied are Human Role in Space, Life Sciences, Applications, and Solar Physics and Solar-Terrestrial Applications. Other promising opportunities will also be examined, and the subcommittee will report its findings to the Council and to NASA. The chairperson of the subcommittee is Dr. John E. Naugle and the subcommittee is composed of seven other members of the Council who will meet with other invited symposium participants to complete final plans for the symposium. The agenda for this meeting is given below. For further information, contact the executive secretary, Mr. Nathaniel B. Cohen, Area Code 202-755-8383, NASA Headquarters, Washington, DC 20546.

Agenda

April 23, 1980

8:45 a.m.—Introductory Remarks
9:00 a.m.—NASA Program Background Briefings
Space Science
Life Sciences
Space and Terrestrial Applications
Space Technology; Energy Programs
Space Transportation Systems
Space Tracking and Data Services
4:00 p.m.—Review of 1979 Innovation Study
5:00 p.m.—Adjourn

April 24, 1980

8:30 a.m.—Introduction of Symposium Topics
8:45 a.m.—Discussion of Topic "Human Role in Space"
11:00 a.m.—Discussion of Topic "Other Opportunities"
2:30 p.m.—Discussion of Topic "Applications"
5:00 p.m.—Adjourn

April 25, 1980

8:30 a.m.—Discussion of Topic "Solar Physics and Solar-Terrestrial Interactions"
11:00 a.m.—Discussion of Topic "Life Sciences"
2:30 p.m.—Closing Discussion
4:00 p.m.—Adjourn

Russell Ritchie,

Deputy Associate Administrator for External Relations.

March 25, 1980.

[FR Doc. 80-9721 Filed 3-31-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Employment Policy will hold its nineteenth formal meeting on April 25, 1980, in the Mount Vernon Room of the Sheraton Carlton Hotel, 16th and K Streets NW. The meeting will begin at 9 a.m. and adjourn at 4 p.m.

The National Commission for Employment Policy was established pursuant to Title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act charges the Commission with the broad responsibility of advising the President, and the Congress, as well as Federal agency administrators on national employment issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The Agenda will be concerned with possible recommendations on responses to the current economic situation and updates on the staff's work on the labor market status of women and on the linkage between economic development and employment.

The business meetings are open to the general public. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Acting Director not later than two days before or seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Acting Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda, the amount of time requested, the individual's qualifications to speak on the subject matter, and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection at the Commission's headquarters located at 1522 K Street NW., Suite 300, Washington, D.C.

Signed at Washington, D.C., this twenty-fifth day of March 1980.

Ralph E. Smith,

Acting Director, National Commission for Employment Policy.

[FR Doc. 80-9612 Filed 3-31-80; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Committee Management; Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the Alan T. Waterman Award Committee is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat Staff, General Services Administration, pursuant to Section 14(a)(1) of the Federal Advisory Committee Act and OMB Circular No. A–63, Revised.

Authority for the Alan T. Waterman Award Committee shall expire on April 13, 1982, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Dated: March 27, 1980.

Richard C. Atkinson,

Director.

[FR Doc. 80–9829 Filed 3–31–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Applied Physical, Mathematical, and Biological Sciences and Engineering of the Advisory Committee for Engineering and Applied Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Applied Physical, Mathematical, and Biological Sciences and Engineering Sciences of the Advisory Committee for Engineering and Applied Science.

Date and Time: April 21–22, 1980—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Type of meeting: Closed.

Contact Person: Dr. L. Vaughn Blankenship, Director, Division of Applied Research, Room 1126, National Science Foundation, Washington, D.C. 20550. Telephone (202) 634–6260.

Purpose of Subcommittee: To provide advice and recommendations concerning support for applied research in the applied physical, mathematical, and biological sciences and engineering.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 27, 1980.

[FR Doc. 80–9837 Filed 3–31–80; 8:45 am]

BILLING CODE 7555–01–M

Subcommittee for Applied Social and Behavioral Sciences of the Advisory Committee for Engineering and Applied Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Applied Social and Behavioral Sciences of the Advisory Committee for Engineering and Applied Science.

Date and Time: April 24–25, 1980—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. L. Vaughn Blankenship, Director, Division of Applied Research, Rm. 1126, NSF, Washington, D.C. 20550. Telephone 202/634–6260.

Purpose of Subcommittee: To provide advice and recommendations concerning support for applied research in the social and behavioral sciences.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 27, 1980.

[FR Doc. 80–9836 Filed 3–31–80; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16698; SR–Amex–79–12]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 26, 1980.

On August 21, 1979, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which deletes Amex Rules 921.05, 921.06, regarding options third party discretionary accounts, and investment partnership and investment club accounts; and Rule 924.01 regarding options discretionary accounts.

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. 34–16151, August 30, 1979) and by publication in the **Federal Register** (44 FR 53825, September 17, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–9671 Filed 3–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11101; 812-4532]

Beneficial National Life Insurance Co., et al.; Application

March 25, 1980.

In the matter of Beneficial National Life Insurance Company, the Dreyfus Rainbow Annuity Variable Account A, Two Park Avenue, New York, NY 10016; and Dreyfus Liquid Assets, Inc., Dreyfus A Bonds Plus, Inc., 767 Fifth Avenue, New York, NY 10022.

Notice is hereby given that Beneficial National Life Insurance Company ("Beneficial"), a stock life insurance company organized under the laws of the State of New York, The Dreyfus Rainbow Annuity Variable Account A (the "Separate Account"), a separate account of Beneficial's registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, Dreyfus Liquid Assets, Inc. ("DLA") and Dreyfus A Bonds Plus, Inc. ("A Bonds") (collectively referred to as the "Funds"), diversified, open-end management companies registered under the Act (hereinafter Beneficial, the Separate Account and the Funds are collectively referred to as "Applicants"), filed an application on September 6, 1979, and amendments thereto on November 13, November 26, and December 7, 1979, and March 3, and March 21, 1980, pursuant to Section 11 of the Act for an order approving certain offers of exchange, and pursuant to Section 6(c) of the Act for an order of exemption from Sections 26(a)(2)(C) and 27(c)(2) of the Act.

The Separate Account was established by Beneficial pursuant to the laws of the State of New York in connection with the issuance of individual, single purchase payment, variable annuity contracts (the "Contracts") offered by Beneficial. Contract owners make purchase payments to Beneficial which are invested in one or both of the underlying Funds.

Section 11

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end investment company or any principal underwriter therefor to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants propose to permit shareholders of the Funds to exchange their shares for the Contracts. Such shareholders will be notified of the offer of exchange and will be permitted to make such an exchange without payment of a fee, sales load or transfer charge. Only purchase payments for the Contracts in the form of shares of DLA will be invested by the Separate Account in DLA. Purchase payments for the Contracts in the form of cash or shares of A Bonds will be invested by the Separate Account in A Bonds. In addition, Contract owners who have DLA as the investment underlying their Contracts may reallocate such underlying investment to A Bonds. However, Contract owners who have A Bonds as the investment underlying their Contracts may not reallocate such underlying investment to DLA. Applicants state that the exchange privilege is proposed to be so limited because of a recent regulation of the Federal Reserve Board placing reserve requirements on any increase in average assets of money market funds subsequent to March 14, 1980. As a result of this regulation, the Board of Directors of DLA has decided to limit future sales of additional shares of DLA.

Applicants submit that the proposed exchange privilege allowing Fund shareholders to exchange their shares for Contracts is consistent with the policy of Section 11 of the Act since any exchange would be made at net asset value and would not be subject to a fee, sales load or transfer charge. Applicants state that any such exchange would be solely at the election of existing shareholders of the Funds. Applicants further state that such an exchange privilege will permit Fund shareholders to add annuity features to their financial plans while retaining the investment orientation they already possess. In addition, DLA shareholders may change their investment orientation while adding the annuity features. Similarly, Applicants believe that it is in the best interest of Contract owners to permit the investments underlying their contracts to be reallocated from DLA to A Bonds. Such an exchange privilege would be of benefit to those Contract owners whose changing personal economic needs make it desirable for them to change their investment vehicle.

Sections 26(a) and 27(c)(2)

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian. Section 26(a)(2)(C) provides that a payment to the depositor shall not be allowed as an expense to the custodian of a unit investment trust except for the payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself. Section 27(c)(2) applies the same restrictions to periodic payment plan certificates.

Applicants have requested an exemption pursuant to Section 6(c) of the Act from Sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the custodian, Bradford Trust Company of Boston (the "Custodian"), to be allowed as an expense payments to the Company (A) to reimburse the Company for Development Allowances advanced by the Company to the Custodian (B) for Contract Expense Reimbursement, and (C) for insurance commissions indirectly paid by Contract owners.

Reimbursement of Advances to Custodian

Beneficial will advance $55,000 to the Custodian to reimburse the Custodian for expenses ("Development Allowance") in developing computer systems and making operational preparations associated with the annuity program. The Custodian will repay this amount to Beneficial, without interest, in stages as Contracts are issued with the full amount to be repaid after 50,000 Contracts have been issued. This amount will be repaid to Beneficial out of the Custodian's share of the Contract Administrative Charge. In the event the Custodian has not reimbursed Beneficial for the full amount of the Development Allowance by December 31, 1980, Beneficial will treat the unreimbursed amount as an expense to which the Contract Expense Reimbursement (described below) applies. Any Development Allowance thereafter repaid by the Custodian will be credited against the Contract Expense Reimbursement.

Contract Expense Reimbursement

Applicants state that on December 31 of each year each Contract then in effect for at least 60 days will be charged a pro rata portion (based on the total number of such Contracts in effect on December 31 of such year) of Beneficial's accumulated expenses for performing services through such date which are not covered by the Contract Administrative Charge (currently $30 a year). The maximum amount of this "Contract Expense Reimbursement" for any year is $5.00 per Contract. To the extent any actual expenses are not reimbursed during any year or years as a result of the $5.00 limitation, these expenses will be carried over to the next year or years. The types of expenses for which reimbursement will be made include start-up and maintenance costs which Beneficial has and will incur in establishing and maintaining the Dreyfus annuity program; annual regulatory costs, and outside legal, actuarial, accounting and other outside professional costs in establishing and maintaining the Dreyfus annuity program; compensation and fringe benefits to Beneficial's employees whose duties are limited to performing services relating to the variable annuity program; and all other out-of-pocket costs directly allocable to the Dreyfus annuity program. Beneficial will be entitled to reimbursement only for expenses which are verified by its independent accountants. Beneficial will not be entitled to reimbursement for distribution expenses. The Contract Expense Reimbursement will be deducted by the Custodian from the Contract values of the respective Contracts, and will be paid by the Custodian to Beneficial.

Insurance Commissions

Applicants state that the Contracts will be distributed through Dreyfus Service Organization, Inc., ("DSO"), which is affiliated with the investment adviser for the Funds. Beneficial has agreed to pay insurance commissions to DSO for its services as an insurance general agent in distributing the Contracts. The insurance commissions payable to DSO range between zero and .675% of annuity business in force on each anniversary of the effective date of the offering.

Contract owners pay no sales load upon purchase of the Contracts. However, Beneficial will deduct from the Separate Account an amount which is equal on an annual basis to 1% of the daily net asset value of the Separate Account. The 1% amount is an insurance charge and will be retained by Beneficial to compensate it for mortality risks which inhere in the annuity tables forming a part of the Contracts, and to provide a profit to Beneficial. Beneficial will profit from the insurance premium to the extent that actual mortality experience is more favorable than expected and to the extent that it is not required to bear unreimbursed expenses. Since Beneficial will not be reimbursed for insurance commissions paid to DSO, its profit will be reduced to the extent of these commissions.

Applicants state that Beneficial will pay insurance commissions out of its general funds, and not directly, "out of" the insurance premium. To the extent that Beneficial's unreimbursed expenses and mortality experience are such that it realizes a profit from the 1% insurance premium, this profit will increase the pool of general company surplus which is available to pay commissions. Such profit may not in fact occur, in which case Beneficial must still pay the commissions and represents that it will not seek reimbursement from the Contract owners. In order to remove any possible uncertainty that the Custodian is, in effect, being allowed as an expense amounts which are indirectly paid towards distribution expenses, Applicants seek an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit such payments. Applicants acknowledge the Commission policy against investment companies bearing distribution expenses. However, Applicants submit that the Contract charges are consistent with the industry norm and argue that charging an additional sales load would not be in the best interest of the Contract owners.

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 of transaction, or any class or classes thereof, from any provision of the Act or its Rules and Regulations, if and to the extent necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants have consented that any order granting the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act be made subject to the conditions that (1) the charges under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purpose, and (2) the payment of sums and charges out of the assets of the Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums or charges. In addition, Applicants agree that if the requested exemptions are granted, the exemptive order shall remain in effect only so long as there is no increase in the Contract Administrative Charge.

Notice is further given that any interested person may, not later than April 21, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any of fact or law proposed to be controverted, or that person may request notification if the Commission should order a hearing theron. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–9741 Filed 3–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11100; 812-4426]

Centennial Capital Cash Management Trust: Application

March 24, 1980.

Notice is hereby given that Centennial Capital Cash Management Trust ("Applicant"), One New York Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as a no-load, open-end, diversified management investment company, filed an application on November 2, 1979, and an amendment thereto on March 11, 1980, for an order of the Commission pursuant to Section 6(c) of the Act Amending in the manner described below a prior order (the "Prior Order") which exempted Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its price per share for the purposes of sales and redemptions of its shares to the nearest one cent on a share value of one dollar. The Prior Order was issued in Investment Company Act Release No. 10777 (July 13, 1979). Applicant represents that in all other respects its portfolio securities are valued in accordance with Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money-market" fund whose investment objective is seeking the best obtainable yields on "money-market" securities consistent with low capital risk and that its portfolio may, as a matter of fundamental investment policy, be invested only in U.S. government or agency obligations, bank obligations and instruments secured thereby, commercial paper and certain debt obligations and certain other obligations meeting specified tests; all portfolio securities must mature in twelve months or less from the date of purchase or be subject to repurchase agreements so maturing.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to current market value for portfolio securities with respect to which market quotations are readily available and for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786, the Commission issued an interpretation of rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for cetain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

In the application for the Prior Order, Applicant represented that, to the extent necessary, its Trustees (who perform the functions of a board of directors of a corporation) would consider the advisability of temporarily suspending the payment of dividends or making a capital gains distribution (if and to the extent that capital gains have not been reflected in prior dividends) to maintain a $1.00 price per share if the net asset value per share declined to a value below $0.997 or rose to a value of above $1.003, respectively; such representation is repeated as part of this application. Applicant also, in such prior application, consented that in order to attempt to assure the stability of its net asset value per share, it would adhere to the following conditions (which are set forth in the Prior Order):

(1) Applicant's Trustees, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsiblity within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not purchase a portfolio security unless it matures in twelve months or less from the date of purchase or is subject to a repurchase agreement so maturing, or has been called for redemption within twelve months where Applicant's investment adviser shall have determined that the risk that such redemption will not take place is minimal; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(3) Applicant will invest only in obligations issued or guaranteed by the U.S. government or its agencies or instrumentalities; bank time deposits, certificates of deposit, bankers acceptances and other bank obligations; high-grade commercial paper and other debt obligations rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investors Service, Inc. or issued by companies having an outstanding debt issue rated at least "AA" by Standard & Poor's Corporation or at least "Aa" by Moody's Investors Service, Inc.; other obligations accompanied by a guarantee of principal and interest issued by a bank or corporation whose certificates of deposit or commercial paper may otherwise be purchased; such obligations and guarantees must be due within twelve months or less from the date of purchase; and repurchase agreements for the obligations of the types listed above. Investments in bank time deposits, certificates of deposit, bankers acceptances, and other bank obligations are limited to domestic banks or savings and loan associations subject to regulation by the U.S. government having in excess of U.S. $1 billion in total assets. Investments in repurchase agreements are limited to transactions with a financial institution believed by Applicant's investment adviser to present minimal credit risks.

Applicant requests that the Commission issue an order amending the Prior Order by deleting condition (3) of the Prior Order as set forth above and substituting in place thereof the following condition (3):

(3) Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which are denominated in U.S. dollars and which the Trustees of Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Trustees.

Applicant submits that the detailed "quality" restrictions of condition (3) of the Prior Order are not necessary if there is substituted therefor the responsibility for quality determinations by the Trustees of Applcant as set forth above in the proposed new condition (3). Applicant also submits that the quality control restrictions which are contained in condition (3) of the Prior Order in substance embody the present fundamental policies of Applicant (except to the extent that the conditions, but not the policies, prohibit investment in the obligations of foreign banks or in the obligations of domestic banks having total assets of less than U.S. $1 billion) and that, because of the Prior Order, the shareholders of Applicant are unable to change many fundamental policies of Applicant, as they are entitled to do under Section 13(a)(3) of the Act, without the possibility of loss of the exemption contained in the Prior Order. Applicant further submits that

exemption orders issued by the Commission in related areas after the issuance of the Prior Order (for example, Investment Company Act Release No. 10824, August 8, 1979) have contained quality restrictions similar to that applied for rather than the detailed quality restrictions contained in the Prior Order.

Section 6(c) of the Act provides, in part, that the Commission, may upon application, exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 18, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notied if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–9742 Filed 3–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 16696; File Nos. SR–CBOE–79–9, SR–Amex–79–11, SR–MSE–79–18, SR–PSE–79–13, SR–Phlx–79–7, and SR–NYSE–79–45]

Chicago Board Options Exchange, Inc., et al.; Order Approving Proposed Rule Changes

March 26, 1980.

In the Matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604; American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006; Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603; Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, California 94104; Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103; and New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005.

The self-regulatory organizations ("SROs") listed above have each filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of proposed rule changes to amend their rules in response to certain recommendation of the Commission's Special Study of the Options Markets.[1]

Notice of each proposed rule change together with the terms of substance of each proposed rule change was given by publication of a Commission release and by publication in the **Federal Register.**[2]

All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are 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 PSE and NYSE rule proposals prior to the thirtieth day after the date of publication of the final amendments thereto since those amendments are substantially identical to amendments filed by the other SROs noted above which were published for public comment for the requisite period of time. In addition, the Commission believes that simultaneous approval of all of the SROs proposals is necessary and appropriate in order to achieve a consistent and equal regulatory scheme for standardized options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–9869 Filed 3–31–80; 8:45 am]

BILLING CODE 8010–01–M

[1] The proposed rule changes were filed and amended on the following dates: (1) Chicago Board Options Exchange, Incorporated ("CBOE"), filed August 16, 1979, amended December 19, 1979; (2) American Stock Exchange, Inc. ("Amex"), filed August 27, 1979, amended January 7, 1980; (3) Midwest Stock Exchange, Incorporated ("MSE"), filed September 4, 1979, amended September 18, 1979, September 26, 1979, October 2, 1979, November 26, 1979, January 21, 1980, February 4, 1980, and February 13, 1980; (4) Pacific Stock Exchange Incorporated ("PSE"), filed September 11, 1979, amended December 12, 1979, and March 5, 1980; (5) Philadelphia Stock Exchange, Inc. ("Phlx"), filed September 13, 1979, amended October 25, 1979, January 21, 1980, and January 25, 1980; and (6) New York Stock Exchange, Inc. ("NYSE"), filed November 2, 1979, amended March 11, 1980.

[2] Notice of each proposed rule change and amendments thereto was given by publication of a Commission release and by publication in the **Federal Register,** as follows: (1) CBOE, original filing published in Securities Exchange Act Release No. 34–16127, August 21, 1979, 44 FR 50111, amendment published in Securities Exchange Act Release No. 34–16466, January 3, 1980, 45 FR 2122; (2) Amex, original filing published in Securities Exchange Act Release No. 34–16145, August 29, 1979, 44 FR 52763, amendment published in Securities Exchange Act Release No. 34–16477, January 7, 1980, 45 FR 8407; (3) MSE, original filing published in Securities Exchange Act Release No. 34–16245, October 5, 1979, 44 FR 59974, amendments published in Securities Exchange Act Release No. 34–16577, February 14, 1980, 45 FR 11642; (4) PSE, original filing published in Securities Exchange Act Release No. 34–16234, October 2, 1979, 44 FR 57543, amendments published in Securities Exchange Act Release No. 34–16667, March 17, 1980; (5) Phlx, original filing published in Securities Exchange Act Release No. 34–16253, October 5, 1979, 44 FR 59692, amendments published in Securities Exchange Act Release No. 34–16539, January 28, 1980, 45 FR 7661; and (6) NYSE, original filing published in Securities Exchange Act Release No. 34–16359, November 21, 1979, 44 FR 69388, amendment published in Securities Exchange Act Release No. 34–16676, March 18, 1980.

[Rel. No. 21490; 70–6431]

Eastern Utilities Associates, EUA Service Co., et al.; Request for Exception From the Consolidated Tax Allocation Provisions

March 25, 1980.

In the matter of Eastern Utilities Associates, EUA Service Company, P.O.

Box 2333, Boston, Massachusetts 02107; Blackstone Valley Electric Company, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Company, 36 Main Street, Brockton, Massachusetts 02403; and Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and its electric utility subsidiaries Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), together with its service company subsidiary EUA Service Corporation ("Service Company"), have filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

EUA and its subsidiaries join annually in the filing of consolidated federal income tax returns. The consolidated federal income tax liabilities are allocable among the members of the consolidated group in accordance with the provisions of Section 1552 of the Internal Revenue Code of 1954 ("Code") and other applicable requirements of Rule 45(b)(6) under the Act, subject to modification for years subsequent to 1962 as authorized by Commission order dated May 28, 1963 (HCAR No. 14880). Under Section 1552(a)(1) of the Code, as modified by said order, (i) the tax and surtax (46%) on consolidated taxable income is apportioned in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income, and (ii) each of the subsidiaries included in the consolidated tax return is given the full investment credit that it contributes to the total investment credit allowed on the consolidated return. It is stated that under the circumstances hereinafter described, certain inequities and distortions will result if the allocation of the group's consolidated federal income tax liabilities for 1979 is effected pursuant to the provisions of Rule 45(b)(6) set forth above.

The estimated 1979 separate taxable income and losses (i.e., income or loss as determined solely for the purpose of computing federal income tax liability, and not for purposes of financial reporting) of the members of the EUA system (adjusted to take into account the consolidation and, thus, comprising in the aggregate the consolidated net taxable income) are as follows:

Company	Estimated taxable income (loss)
EUA	$(2,629,466)
Service company	.....
Blackstone	(949,200)
Eastern Edison	4,516,305
Montaup Consolidated	(1,297,323)
Total	(357,684)

The estimated consolidated federal income tax refund before investment tax credits is $171,688. In order to allocate such consolidated tax refund equitably, declarants request the following exception from the provisions of Rule 45(b)(6) for the tax year 1979:

(i) that the reduction in the consolidated tax liabilities arising from the net operating losses contributed to the consolidated tax return by Blackstone and Montaup be allocated in their entirety to Blackstone and Montaup (but that each other operating company be allowed to offset its liability to Blackstone and Montaup by its full investment credits earned); and

(ii) that in years in which Blackstone and Montaup have taxable income and may be entitled to tax credits under the operating loss carryback and carryover provisions of Section 172(b) of the Code, in order to comply with the separate return limitations of Rule 45(b)(6), any tax credits remitted to Blackstone and Montaup as a result of the exception from said rule herein requested shall be applied to reduce any credits in future years to which Blackstone and Montaup may otherwise be entitled under any separate return limitations of Rule 45(b)(6).

The proposed method of allocation would continue to be subject to the provision of Rule 45(b)(6)(ii) that the aggregate tax liability allocated to each subsidiary should not exceed the amount of such subsidiary's tax based upon a separate return computed as if such subsidiary had always filed its tax return on a separate return basis.

A comparison of the taxes allocated under the method prescribed by Rule 45(b)(6) and under the proposed method is as follows (all figures before investment tax credits):

Company	Under rule 45	Under proposed method
EUA	.....	.....
Service Company	.....	.....
Blackstone	.....	($566,602)
Eastern Edison	($171,688)	1,035,315
Montaup	.....	(640,401)
Total	(171,688)	(171,688)

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,500, including legal fees at $1,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 18, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9743 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21489; 70-6362]

Indiana & Michigan Electric Co.; Proposed Changes in Short-Term Borrowing Authorization

March 25, 1980.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility

subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rules 50(a)(2) and 50 (a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By prior order in this proceeding (HCAR No. 21247, October 12, 1979), I&M was authorized to issue and sell notes to banks and commercial paper to a dealer in an aggregate amount not to exceed $150,000,000, such notes and commercial paper maturing no later than June 30, 1981. By supplemental order in this proceeding (HCAR No. 21444, February 21, 1980), I&M was authorized to (1) add the Marine Midland Bank, New York, N.Y. as one of the banks which is extending to I&M a line of credit; (2) increase the line of credit at Mellon Bank, N.A., Pittsburgh, PA. from $9,000,000 to $20,000,000 and (3) change its credit arrangements to total $329,655,000 with 43 banks. The previously ordered limit of $150,000,000 on outstanding notes was not changed.

By post-effective amendment I&M proposes to amend its application by: (1) increasing its credit arrangements with 43 banks to total $334,655,000; (2) increasing the line of credit at Irving Trust Company from $10,000,000 to $25,000,000; and (3) incurring short-term indebtedness in an aggregate amount not to exceed $200,000,000. It is stated that the authorization for an increase in the maximum amount of short-term debt outstanding from $150,000,000 to $200,000,000 is necessary because it appears that Kentucky Power Company, an affiliate of I&M, will not be authorized to acquire an interest in the Rockport Plant before the end of 1980 (see File No. 70–6198). An increase in the maximum amount of short-term debt outstanding will allow for greater financing flexibility.

For purposes of borrowing, the 43 banks are of three classes. Each note to be issued to a Class I bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable at any time without penalty. I&M's credit arrangements with these banks require it to maintain compensating balances equal to a percentage of the line of credit made available by the bank plus a percentage of any amount actually borrowed, generally not in excess of 10 percent of the line of credit and 10 percent of the amount borrowed. Borrowings from a Class I bank would generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time.

Each note to be issued to a Class II bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable by I&M at any time without premium or penalty. I&M's credit arrangements with these banks require it to maintain compensating balances of 5 percent of the line of credit and to pay a fee, which is equal to 4 percent of the bank's prime commercial rate then in effect times the size of the line. The combination of 5 percent compensating balances and the fee is generally equivalent to compensating balances not in excess of 10 percent of the line of credit made available. In addition, I&M must pay interest on the borrowings at the rate of up to 108.5 percent of the bank's prime commercial rate then in effect. In the case of one bank, borrowings may be made in Eurodollars; the interest rate on such borrowings will be a designated percent of the London Interbank Offering Rate. The total cost of borrowings from Class II banks would not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10 percent of the line of credit and 10 percent of the amount borrowed. It is stated that if the balances maintained and the fees paid by I&M with and to the Class I and II banks were maintained and paid solely to fulfill requirements for borrowings by I&M, the effective annual interest cost under either such arrangements, assuming full use of the line of credit, would not exceed 125 percent of the prime commercial rate in effect from time to time, or not more than 23.75 percent on the basis of a prime commercial rate of 19 percent.

With respect to the Class III banks, I&M has money market facilities at each of two named banks in an aggregate amount of $20,000,000. These money market facilities do not represent a formal commitment or engagement by these banks to I&M, but represent merely the ability of I&M to request unsecured borrowings in the form of promissory notes, on a case-by-case basis. These money market facilities are available for unsecured borrowings in domestic dollars and/or in Eurodollars for periods of up to 180 days after the date of issuance, and any such borrowings will be prepayable by I&M at any time without premium or penalty. No compensating balances are required. The interest rate which is presently to be negotiated on a case-by-case basis (using a 360 day year), is pegged to either the London Interbank Offering Rate plus a designated percent, if the borrowings are made in Eurodollars, or to a designated percent of the bank's prime rate, if the borrowings are made in domestic dollars. It is stated that interest rates on these notes will be lower than the effective interest rates for bank borrowings made from Class I and II banks, including the effect of any compensating balances and fees paid.

I&M also proposed to issue commercial paper, in the form of promissory notes, in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; such notes will not be prepayable prior to maturity. The commercial paper notes will be sold directly by I&M to Lehman Commercial Paper Incorporated (the "Dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper will be issued having a maturity of more than 90 days if such commercial paper would have an effective interest cost which exceeds the effective interest cost at which I&M could borrow from commercial banks. The Dealer will reoffer the commercial paper notes to not more than 200 of the Dealer's customers identified and designated in a nonpublic list prepared by the Dealer in advance, at a discount rate of ⅛ of 1% less than the discount rate at which such notes were purchased from I&M. It is expected that such customers will hold such commercial paper notes to maturity, but if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper and reoffer it to other customers on its nonpublic list.

I&M claims exemption from competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof and requests exemption from such requirements for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5)(ii) thereof.

The fees and expenses to be incurred in connection with the proposed transaction will not exceed $100. No state commission and no federal commission, other than this

Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 18, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9744 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16695; SR-NYSE-80-4]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

On February 20, 1980, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change rescinding NYSE Rules 318(a) and 318.22 requiring that the primary purpose of every NYSE member organization be the transaction of business as a broker or dealer of securities and presumes that the "primary purpose" test is met only if at least 50 percent of a member organization's gross income is derived from such activities.

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. 34-16612 (Feb. 27, 1980), 19 SEC Docket 763 (March 11, 1980)) and by publication in the **Federal Register** (45 FR 14734 (March 6, 1980)). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9865 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11099; 812-4425]

Oppenheimer Monetary Bridge, Inc.; Application

March 24, 1980.

Notice is hereby given, that Oppenheimer Monetary Bridge, Inc. ("Applicant"), One New York Plaza, New York, N.Y. 10004, registered under the investment Company Act of 1940 ("Act") as a no-load, open-end, diversified management investment company, filed an application on November 2, 1979 and an amendment thereto on March 11, 1980, for an order of the Commission pursuant to Section 6(c) of the Act amending in the manner described below a prior order (the "Prior Order") which exempted Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its price per share for the purposes of sales and redemptions of its shares to the nearest one cent on a share value of one dollar. The Prior Order was issued in Investment Company Act Release No. 10776 (July 13, 1979). Applicant represents that in all other respects its portfolio securities are valued in accordance with Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose investment objective is seeking the maximum current income that is consistent with stability of principal and that its portfolio may, as a matter of fundamental investment policy, be invested only in bank or corporate debt obligations, commercial paper, U.S. treasury bills and other short-term debt instruments issued by the U.S. government or its agencies, maturing in or called for redemption in one year or less.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to current market value for portfolio securities with respect to which market quotations are readily available and for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In IC-9786, the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

In the application for the Prior Order, Applicant represented that, to the extent necessary, its Board of Directors would consider the advisability of temporarily suspending the payment of dividends or making a capital gains distribution (if and to the extent that capital gains have not been reflected in prior dividends) to maintain a $1.00 price per share if the net asset value per share declined to a value below $0.997 or rose to a value of above $1.003, respectively; such representation is repeated as part of this application. Applicant also, in such prior

application, consented that in order to attempt to assure the stability of its net asset value per share, it would adhere to the following conditions (which are set forth in the Prior Order):

(1) Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not purchase a portfolio security unless it matures in one year or less or is subject to a repurchase agreement, the delivery under which does not exceed one year, or has been called for redemption within one year where Applicant's investment adviser shall have determined that the risk that such redemption will not take place is minimal; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(3) Applicant will invest only in debt obligations payable in dollars issued or guaranteed by the federal government, federal governmental agencies, or certain banks, savings and loan associations, and corporations. Investments in banking obligations will be limited to certificates of deposit issued by domestic banks or savings and loan associations which have total assets in excess of $1 billion and bankers acceptances or letters of credit guaranteed by U.S. commercial banks having total assets in excess of $1 billion. The commercial paper purchased by Applicant shall be (i) rated Prime–1 or Prime–2 by Moody's Investors Service, Inc., or A–1 or A–2 by Standard & Poor's Corporation, or (ii) issued by companies having an outstanding debt issue rated at least Aa by Moody's Investors Service, Inc. or at least AA by Standard & Poor's Corporation. Other obligations purchased by Applicant will be either debt instruments issued by domestic corporations rated Aa or better by Moody's Investor Services, Inc., or AA or better by Standard & Poor's Corporation or obligations issued by other entities accompanied by a guarantee or principal and interest by a bank or corporation whose certificates of deposit or commercial paper may otherwise by purchased by Applicant. Investments in repurchase agreements will be limited to transactions with a financial institution believed by Applicant's investment adviser to present minimal credit risks.

Applicant requests that the Commission issue an order amending the Prior Order by deleting condition (3) of the Prior Order as set forth above and substituting in place thereof the following condition (3):

(3) Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which are denominated in U.S. dollars and which the Board of Directors of Applicant determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

Applicant submits that the detailed "quality" restrictions of condition (3) of the Prior Order are not necessary if there is substituted therefor the responsibility for quality determinations by the Board of Directors of Applicant as set forth above in the proposed new condition (3). Applicant also submits that the quality control restrictions which are contained in condition (3) of the Prior Order in substance embody the present fundamental policies of Applicant except that the conditions, but not the policies, prohibit investment in the obligations of foreign banks or in the obligations of domestic banks having total assets of less than U.S. $1 billion while the policies permit investment in the obligation of domestic or foreign banks having total assets in excess of U.S. $500 million and that, because of the Prior Order, the shareholders of Applicant are unable to change many fundamental policies of Applicant, as they are entitled to do under Section 13(a)(3) of the Act, without the possibility of loss of the exemption contained in the Prior Order. Applicant further submits that exemption orders issued by the Commission in related areas after the issuance of the Prior Order (for example, Investment Company Act Release No. 10824, August 8, 1979) have contained quality restrictions similar to that applied for rather than the detailed quality restrictions contained in the Prior Order.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 18, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9745 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16699; SR-PCC-80-1]

Pacific Clearing Corporation ("PCC"); Order Approving Proposed Rule Change

March 26, 1980.

On February 12, 1980 PCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, a proposed rule change changing the definition of "block delivery," from securities having an aggregate value of $50,000 or more, to securities having an aggregate value of $25,000 or more.

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. 16579, February 14, 1980) and by publication in the **Federal Register** (45 FR 11649, February 21, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing

agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9868 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16694; File No. SR-PHLX-80-6

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given that on March 24, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("Act"), hereby proposes to amend Rule 1014 ("Obligations and Restrictions Applicable to Specialists and Registered Options Traders") as follows: (brackets indicate deletions; italics indicate words to be added)

RULE 1014

. . . Commentary

.01 An ROT electing to engage in Exchange options transactions is designated as a specialist on the Exchange for all purposes under the Securities Exchange Act of 1934 and the rules and regulations thereunder with respect to options transactions initiated and effected by him *on the floor* in his capacity as an ROT. *For purposes of this commentary, the term "transactions initiated and effected on the floor" shall not include transactions initiated by an ROT off the floor, but which are considered "on-floor" pursuant to Commentaries .07 and .08 of Rule 1014.*

.15 An ROT may not initiate orders from off the floor as a market maker in reliance upon the market maker exemption contained in Section 11(a)(1) of the Securities Exchange Act of 1934.

PHLX's Statement of Basis and Purpose Under the Act for Proposed Rule Change

The proposed amendment to Commentary .01, which the Securities and Exchange Commission ("Commission") has requested the PHLX to adopt, limits the scope of this commentary to transactions initiated and effected on the Exchange floor. The amendment further makes it clear that, regardless of whether or not an ROT transaction is considered "on-floor" for purposes of Rule 1014, such transaction must actually be initiated on the floor if the ROT is to qualify for the specialist exemptions from the net capital rule,[1] Regulation T and Section 11(a) of the Act.

The proposed new Commentary .15, which the Commission has also requested the Exchange to adopt, provides that an ROT's orders, initiated off the floor, may not be made in reliance on the market maker exemption contained in Section 11(a) of the Act.

The proposed rule change is being made at the specific request of Commission staff, apparently on the basis that it is consistent with Section 6(d) of the Act and enhances the Exchange's ability to enforce compliance with the Act.

No comments were solicited or received.

The proposed amendment may impose burdens on competition which, in view of the Commission's position, appear to be justified by the regulatory purposes of the Act.

On or before May 6, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

March 25, 1980.

[FR Doc. 80-9866 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[1] It is PHLX's understanding, however, that consistent with the provisions of the net capital rule, an ROT who engages in an occasional non-specialist transaction will not thereby lose his specialist exemption from the net capital rule.

[Rel. No. 16697; SR-Phlx-79-8]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 26, 1980.

On October 25, 1979, the Philadelphia Stock Exchange, Inc. ("Phlx"), 17th Street and Stock Exchange Place, Philadelphia, Pa. 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which deletes Phlx Rules 1024.04, 1024.05, 1024.06, regarding options fiduciary accounts, third party discretionary accounts; and investment partnership and investment club accounts; and Rule 1027.01, regarding options discretionary accounts.

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. 34-16349, November 16, 1979) and by publication in the **Federal Register** (44 FR 67260, November 23, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-9870 Filed 3-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16701/March 26, 1980]

Termination of the Options Moratorium

AGENCY: Securities and Exchange Commission.

ACTION: Policy Statement.

SUMMARY: The Commission announces its determination to terminate the voluntary options moratorium and discusses general policies regarding further expansion of the standardized options market.

DATES: Not applicable.

ADDRESSES: Interested persons are invited to provide written comments regarding this policy statement and the issues discussed herein. Commentators should file six copies of their submissions with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7–772 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gene E. Carasick, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Room 346, 500 North Capitol Street, Washington, D.C. 20549 (202) 272–2409.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Securities and Exchange Commission ("Commission") today announced its determination to terminate the voluntary options moratorium and to begin to permit further expansion of the standardized options markets. In order to provide guidance to those self-regulatory organizations ("SROs") which currently trade, or contemplate trading, standardized options regarding the manner in which the Commission plans to permit expansion of the options markets following termination of the moratorium, the Commission is issuing this general statement of policy regarding the listing of additional put and call options classes, the expansion of multiple trading [1] and the filing of expansionary rule proposals.

II. Background

Pursuant to Section 9(b) of the Securities Exchange Act of 1934 ("Act"), the Commission has been granted plenary authority to regulate all aspects of options trading on exchanges and to assure that such trading occurs in a manner calculated to eliminate the manipulative and fraudulent uses of options.[2] In 1973, the Commission adopted former Securities Exchange Act Rule 9b–1,[3] which athorized establishment of pilot programs for exchange trading of standardized options [4] and granted the application of the Chicago Board Options Exchange, Incorporated ("CBOE") to register as a national securities exchange in order to permit the CBOE to "test the market" for listed options "within a controlled environment."[5] The Commission noted in its approval order that it intended "to maintain a close surveillance over the progress of the CBOE's 'pilot program' " and to "maintain flexibility in regulating this new type of exchange market." The Commission emphasized the particular need for close surveillance of pilot options programs, which the Commission stated "may involve complex problems and special risks to investors and to the integrity of the marketplace." Subsequently, the Commission approved pilot options trading programs for the American Stock Exchange, Inc. ("Amex"),[6] the Philadelphia Stock Exchange, Inc. ("Phlx"),[7] the Pacific Stock Exchange Incorporated ("PSE") [8] and the Midwest Stock Exchange, Incorporated ("MSE").[9]

The rapid growth in standardized options trading volume after 1973 and the appearance of abuses in the trading and selling of standardized options generated Commission concern about the adequacy of the regulatory framework within which standardized options trading occurred. Consequently, in July, 1977, the Commission requested each national securities exchange that listed options (the "options exchanges") to refrain voluntarily from listing any options classes in addition to those listed on July 15, 1977, and announced it would commence a general review of standardized options trading. At that time, the Commission also announced that it did not expect to approve any SRO rule proposals designed to initiate new programs for the trading of standardized options or to expand existing programs.[10]

Subsequently, the Commission announced the commencement of its comprehensive investigation and study of the standardized options markets (the "Options Study"), in order to "determine whether standardized options trading is occurring in a manner and in an environment which is consistent with fair and orderly markets, the public interest, the protection of investors, and other objectives of the Act," and to ascertain "what, if any, additional action is necessary and proper to aid in the enforcement of the Act and the rule thereunder to protect investors and to ensure fair dealing in the trading of standardized options and their underlying securities." [11] In announcing

[1] Multiple trading refers to the trading of the same security in more than one marketplace.

[2] See H.R. Rep. No. 1383, 73d Cong., 2nd Sess. 15 (1934). Section 9 of the Act prohibits the trading of options by use of any facility of a national securities exchange "in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors." 15 U.S.C. 78i(b)

Section 9 of the Act was enacted in large part as a result of widespread manipulative and fraudulent practices in the securities industry involving the concurrent trading of options and their underlying securities, exposed by a series of Congressional and private studies in the early 1930's. *See, e.g.*, Senate Comm. on Banking and Currency, "Stock Exchange Practices," S. Rep. No. 1455, 73d Cong., 2d Sess. (1934).

[3] 17 CFR 240.9b–1 (1974). Rule 9b–1 prohibited transactions in options through the facilities of national securities exchanges except in accordance with plans filed by the exchanges and approved by the Commission, designed to regulate such transactions. Rule 9b–1 was rescinded by the Commission upon adoption of Rule 19b–4 under the Act (17 CFR 240.19b–4), which provides procedures for Commission review of rule proposals filed by self-regulatory organizations pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)). *See* Securities Exchange Act Release No. 11604 (August 19, 1975), 40 FR 40512.

[4] Securities Exchange Act Release No. 10552 (December 13, 1973), 38 FR 34665.

[5] Securities Exchange Act Release No. 9985 (February 1, 1973), 1 SEC Docket 11 (February 13, 1973).

[6] Securities Exchange Act Release No. 11144 (December 19, 1974), 40 FR 3258.

[7] Securities Exchange Act Release No. 11423 (May 15, 1975), 6 SEC Docket 894 (May 28, 1975).

[8] Securities Exchange Act Release No. 12283 (March 30, 1976), 41 FR 14454.

[9] Securities Exchange Act Release No. 13045 (December 8, 1976), 41 FR 54783.

[10] *See* Securities Exchange Act Release No. 13760 (July 18, 1977), 42 FR 38035. In addition to the options exchanges, the SROs participating in the voluntary moratorium included the New York Stock Exchange, Inc. ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"). *See also* Securities Exchange Act Release Nos. 14878 (June 22, 1978), 43 FR 35770, and 15026 (August 3, 1978), 43 FR 35772.

[11] Securities Exchange Act Release No. 14056 (October 17, 1977), 42 FR 56706. The Commission also announced and invited comment on proposed Rule 9b–1(T), which, if adopted, would have deferred temporarily the expansion of existing standardized options trading programs and the initiation of new programs. Commission action on the proposed rule was deferred pending implementation of the recommendations of the Options Study. The Commission also announced at that time the initiation of a disapproval proceeding for all expansionary rule proposals relating to standardized options, including proposals by the NYSE and the NASD to initiate programs for the trading of standardized options. (*See* Securities Exchange Act Release No. 14057, October 17, 1977; 42 FR 56706). The expansionary proposals subsequently were withdrawn at the Commission's

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the Options Study, the Commission expressed concerns regarding, among other things, (1) the ability of SRO surveillance systems to detect and prevent fraudulent, deceptive, and manipulative activity, both in options and in underlying securities; (2) the adequacy of existing Commission and SRO rules to prevent fraudulent, deceptive and manipulative acts, practices, devices and contrivances in connection with options trading; and (3) the development of the standardized options markets in a manner which is consistent wih the public interest and the perfection of the mechanisms of a national market system.

The Options Study Report was released to the public on February 15, 1979.[12] In general, the Options Study found that

[T]o those who understand * * * (options, they may offer an alternative to short term stock trading at lower commission costs and a smaller commitment of capital * * * (and) also provide a means for shifting the risk of unfavorable short term stock price movements from owners of stock who have, but do not wish to bear, those risks, to others who are willing to assume such risks in anticipation of possible rewards from favorable price movements.[13]

The Options Study also concluded, however, that the purchase and sale of standardized options involves a high degree of financial risk, and that only investors who understand the risks and are able to sustain the costs and financial losses associated with options should trade in standardized options. In this regard, the Options Study found that too often public investors had been encouraged to use standardized options without regard to the suitability of options for their investment needs. The Options Study also found other regulatory inadequacies in the options markets. Accordingly, the Options Study recommended certain steps that the SROs, their members and the Commission should take to improve the regulatory framework within which standardized options trading occurs and to increase the protection of investors.

On February 22, 1979, the Commission issued a release announcing its plan for implementing certain of the Options Study recommedations and for terminating the options expansion moratorium.[14] In that release, the Commission requested the SROs to address the Options Study recommendations contained in Category I of the release before the Commission would permit further expansion of the standardized options markets. The Category I recommendations generally called either for SRO rule proposals or for improvements in SRO compliance and surveillance procedures. In addition, those recommendations called for Commission inspections of the SRO's compliance and surveliance programs.

The Commission today has approved rule change proposals submitted by each of the options exchanges and the NYSE which are designed to address most of the Category I Options Study recommendations.[15] The Commission has determined that, for the most part, the proposals responsibly address the objectives of the Category I Options Study recommendations that called for SRO rule proposals and, to the extent the new rules are adhered to by the broker-dealer community and enforced by the SROs, should provide significant additional protections for public investors.[16]

The Commission also has received undertakings from the options exchanges to revise their broker-dealer examination and compliance procedures in response to the Options Study recommendations. The Commission's review of these responses indicates that the options exchanges have undertaken to implement procedures generally responsive to the Options Study recommendations. The Commission intends later this year to inspect each options exchange to verify that these procedural enhancements have been implemented. Finally, the Commission has conducted oversight inspections of the surveillance system of each of the options exchanges and has concluded that, if effectively utilized by each options exchange and if systems improvements are made in the normal course of business or in response to requests from the Commission's staff, these surveillance systems will be adequate to detect most currently recognized trading abuses involving options.[17]

The Commission believes that the regulatory framework that has been established in response to the Options Study recommendations improves the likelihood that effective regulation can be achieved for the options markets. Of course, in order to achieve effective regulations, the SROs must rigorously enforce their rules and fully utilize their surveillance systems and compliance and examination procedures, as well as continuously enhance these systems and procedures in order to provide the most effective means available for fulfilling their regulatory responsibilities. Similarly, broker-dealer firms must establish and exercise adequate internal controls over the activities of their employees.

In summary, the Commission believes that the major regulatory deficiencies identified by the Options Study have been addressed responsibly by the SROs. The Commission therefore has determined that it is appropriate at this time to terminate the voluntary options moratorium and to begin to permit further expansion of the standardized options markets. In connection with this determination, the Commission is issuing the following general statement of policy regarding the listing of additional put and call options classes, the expansion of multiple trading and the filing of expansionary rule proposals. In general, the Commission believes it would be appropriate for the existing options exchanges to begin to list additional put and call options classes in an orderly manner, taking into consideration each exchange's operational and surveillance capabilities, as well as the capacity of member firm back offices to accommodate the increased options trading volume associated with the additional of new put and call classes. The Commission also has determined to defer any expansion of multiple trading at this time for the reasons set forth below.

III. Puts Expansion

In 1977, the Commission authorized each of the options exchanges to list and trade put options on five underlying securities. At that time, the Commission indicated that it would consider further expansion of puts trading after reviewing the options exchanges' experience with puts trading and the exchanges' progress in resolving the

Footnotes continued from last page
request, and the disapproval proceeding was dismissed. (*See* Securities Exchange Act Release No. 15027, August 3, 1978; 43 FR 35766).

[12] Report of the Special Study of the Options Markets to the Securities and Exchange Commission, 96th Cong., 1st Sess. (Comm. Print 1978). ("Options Study Report").

[13] Options Study Report, *supra* note 12, at 1.

[14] Securities Exchange Act Release No. 15575, (February 22, 1979), 44 FR 11876.

[15] Securities Exchange Act Release No. 16696 (March 28, 1980). The filing of corresponding rule change proposals by the NASD has not been completed. The Commission expects to consider the NASD proposals in due course.

[16] With regard to those few recommendations which, in the Commission's view, have not been addressed adequately by the options exchange, the Commission intends to initiate formal rulemaking proceedings to determine whether Commission rules mandating compliance with such recommendations would be appropriate.

[17] Additional work also is necessary to reduce the number of position adjustments at the Options Clearing Corporation and to assure adequate surveillance of such adjustments by the SROs.

Commission's concerns regarding their options surveillance and regulatory efforts.[18] As a result of the moratorium, each options exchange has been limited since mid-1977 to the listing and trading of five put classes.

The Commission has not identified any surveillance or compliance problems unique to puts trading and perceives certain benefits with respect to the listing of puts and calls on the same underlying security. The Commission believes the expansion of listed puts will provide investors with an additional investment vehicle to complement call options in the formulation of trading strategies. In addition, simultaneous listing may improve the markets for both the puts and calls, since market professionals will be able to utilize both puts and calls concurrently in hedging and arbitrage transactions and may also reduce the need for options marketmakers to use underlying securities in connection with hedging strategies. Accordingly, the Commission believes that the options exchanges, limited only by their operational and surveillance capabilities and the ability of member firm back office operations to handle the increased volume resulting from listing additional puts, should be permitted to list puts on securities underlying their respective call classes, including those few multiply traded call classes.[19]

In order to assure that puts expansion occurs in an orderly manner, with due regard for exchange operational and surveillance capabilities and member firm back office capacity, the Commission is requesting each options exchange to furnish the Commission with a proposed schedule for its puts expansion program. Concurrently, or at a subsequent date, each exchange should file rule proposals pursuant to Section 19(b) of the Act to increase the number of its authorized puts classes in accordance with that schedule. In the absence of significant operational or surveillance problems encountered by the filing exchange or back office difficulties experienced by the member firms in handling current or anticipated trading volume, the Commission anticipates giving expedited treatment to puts expansion submissions made by the options exchanges.

[18] Securities Exchange Act Release No. 13401 (March 23, 1977), 42 FR 17547.

[19] While the Commission recognizes that its intention to permit exchanges to list puts on multiply traded call classes will result in some expansion of multiple trading, the Commission believes that the benefits derived from puts trading on those securities outweigh the marginal fragmentation and fair competition concerns arising from that action. *See* discussion *infra* accompanying notes 43–48.

IV. Call Expansion

As discussed in more detail below,[20] the Commission has reserved for further consideration a decision on general expansion of multiple trading. Nonetheless, the Commission believes that it is appropriate at this time to permit the options exchanges to begin to list additional call options classes. However, in view of the continuing restriction on multiple trading expansion and in view of the limited number of attractive new stocks which the Commission understands meet the current options listing standards,[21] a fair method of allocating additional call options among the existing options exchanges must be formulated. The Commission, therefore, requests the options exchanges to formulate and jointly submit to the Commission an appropriate plan to allocate additional call options.

In this regard, the Commission already has received a proposal from the options exchange, other than the Amex, which, in the absence of additional multiple trading, would provide for a lottery to select additional call listings.[22] The proposal provides that each existing options exchange [23] would participate in the lottery. The proposal also provides that, if an options exchange voluntarily delists an options class, the exchange could participate in a second lottery in order to replace the delisted class.[24] While the Commission believes that the formulation of this plan is a positive step towards an acceptable call allocation plan, for the reasons set forth below the plan does not meet certain of the Commission's concerns.

First, the plan has not been agreed to by all of the options exchanges. Second, in view of the sixteen additional call classes that the CBOE will list as a result of the combination of its options program with that of the MSE,[25] the Commission has concluded that, in order to assure fair and equitable treatment for all the options exchanges,[26] those MSE classes must be taken into account in formulating the call expansion plan by deferring CBOE participation in the selection process until the other options exchanges have each selected sixteen additional call listings. Thus, the Commission believes that an appropriate call expansion plan must be agreed to by all the options exchanges and must provide for the equitable allocation of the limited number of new call options among the existing options exchanges, including accounting for the sixteen call classes the CBOE will list as a result of the MSE combination as the CBOE's initial sixteen selections. The plan should also provide that, in order for an exchange to retain the right to list options allocated pursuant to the plan, trading must commence within a specified period of time.

Since the plan currently before the Commission appears to be inadequate, the Commission does not intend to consider permitting any of the options exchanges to list new call classes (including CBOE listing of the MSE's classes), until the options exchanges formulate and submit jointly an appropriate call expansion plan to the Commission. Provided the Commission is satisfied that such plan is fair and equitable, the Commission, as it has in the past, will consider rule proposals by the options exchanges, pursuant to Section 19(b) of the Act, to increase the number of authorized call classes to accommodate the additional classes. The Commission also will consider at that time a CBOE rule proposal to increase the number of its authorized call classes in order to consummate the

[20] *See* discussion *infra*, accompanying notes 41–53.

[21] *See, e.g.*, letter dated August 8, 1979, to Chairman Harold M. Williams, SEC, from Walter E. Auch, Chairman and Chief Executive Officer, CBOE, at 2, contained in File No. S7–772.

[22] "Each participating SRO would be assigned, by lot or another random selection method, a number of 1 through 4. The SROs would then select qualified underlying securities in the order of 1–2–3–4–4–3–2–1–2–3–4–1–1–4–3–2–3–4–1–2–2–1–4–3–4–1–2–3–3–2–1–4. At that point those SROs which had voluntarily delisted one or more classes of options would have the right, in an order to be chosen by lot, to select next." *Id.*

[23] Due to the combination of the CBOE and MSE options programs, described in note 25 *infra*, these two exchanges would participate in the proposed lottery as one exchange.

[24] Since the Commission does not propose to place a ceiling on the number of call classes each options exchange may select, it does not believe it is necessary to conduct the second phase of the lottery, as proposed.

[25] On April 24, 1979, the Commission approved the combination of the options markets of the CBOE and the MSE to be consummated upon the termination of the moratorium (Securities Exchange Act Release No. 15762 (April 24, 1979), 44 FR 25538). Upon consummation of the combination, the MSE would cease to provide a market for those options listed on the MSE, and the CBOE would list the previously listed MSE classes. The consummation of the combination was delayed by the Commission pending termination of the moratorium because the Commission determined that it was not appropriate to permit the CBOE to obtain the additional MSE options listings which would result from the consummation of the combination at a time when the other options exchanges were precluded by the moratorium from listing additional classes. The Commission, however, permitted the MSE to relocate its options trading floor to the CBOE floor in order to alleviate certain cost burdens, but the MSE options program remains a separate entity until consummation of the combination. The relocation was effected in May, 1979.

[26] MSE volume in its current sixteen call classes, in 1979, accounted for more than 3% of the total volume of calls traded on the options exchanges.

combination and accommodate the MSE classes. The Commission intends to consider the call expansion rule proposals of all of the options exchanges together and to give them expedited treatment. As with put expansion, call expansion would be limited only by SRO operational and surveillance capabilities and the ability of member firm back office operations to handle the increased volume resulting from the additional call classes.

While the NYSE and the NASD have filed proposals to initiate standardized options trading programs,[27] the call expansion plan outlined above does not contemplate their participation. The initiation of standardized options trading programs by either the NYSE or the NASD raises certain discrete issues that must be resolved before such programs may be permitted. The Commission does not believe that expansion of current standardized options trading programs should be delayed pending resolution of these issues, some of which are discussed below.

The NYSE's standardized options plan, submitted to the Commission in 1977, provided that no option would be traded in the same room as its underlying security.[28] The plan did not, however, restrict physical access by NYSE options marketmakers and NYSE stock specialists, or by their affiliates, to the other trading floor, which was to be physically adjacent under the NYSE plan.[29] Thus, the proposal raised the prospect of having options trading in close physical proximity to the trading of the underlying stock in the market center which is the "primary market" for that stock. The Commission is concerned that such market integration may raise significant questions regarding, among other things, misuse of market information and potential for stock/options manipulation. Moreover, the Commission is concerned about the ability of both the NYSE and the Commission to conduct adequate trading surveillance in such an environment.[30]

In addition, the NYSE has stated its intention to trade options classes already traded on other options exchanges. Because of the NYSE's dominant market position in trading stocks eligible for options trading, the issue of NYSE entry into the options market presents the Commission with a number of special concerns in carrying out its statutory responsibility to assure the "maintenance of fair and orderly markets" for listed options, including, particularly, assuring "fair competition" among exchange markets for those securities.[31] These concerns may extend beyond those raised by a general expansion of multiple trading in the absence of NYSE entry.[32] In view of these unresolved questions, the Commision believes it is premature to permit the NYSE to participate in the call allocation process contemplated above.

The NASD proposal contemplated the trading of standardized options in the NASDAQ system, which would establish an over-the-counter market for standardized options trading. The NASD proposed to trade standardized options with respect to both underlying securities traded exclusively in the over-the-counter markets and underlying securities listed on the stock exchanges. In addition, the NASD proposed to allow registered NASDAQ marketmakers to make simultaneous markets in NASDAQ options and their underlying securities. Accordingly, the NASD proposal to trade standardized options raises significant internalization, market information and market surveillance questions, in addition to those posed by options trading on exchanges, which must be resolved before the NASD could initiate a standardized options trading program.[33]

V. Multiple Trading—Introduction and Background

The Commission's determination to end the voluntary options moratorium and permit limited expansion of the trading of put and call options raises certain fundamental market structures issues which were addressed, but not resolved, by the Options Study. In particular, the Commission must consider whether to continue its current policy of restricting multiple trading in exchange-traded options or whether to permit a more unfettered competitive environment in which an options exchange would be free to trade any eligible options class, subject to the adequacy of its surveillance and other self-regulatory capabilities.[34]

The Securities Acts Amendments of 1975 ("1975 Amendments") [35] charged the Commission "with an explicit and pervasive obligation to eliminate all present and future competitive restraints that [can]not be justified by the purposes of the Exchange Act," [36] and directed the Commission "to remove existing burdens on competition and to refrain from imposing, or permitting to be imposed, any new regulatory burden on competition 'not necessary or appropriate in furtherance of the purposes' of the Exchange Act." [37] However, while the Congress recognized the benefits which might result from increased competition in the securities markets, it did not choose to elevate competition above the other goals or purposes of the Act. To the contrary, while the Congress has explicitly required the Commission to consider the competitive effects of its regulatory policies, the Congress has also indicated that competition would not thereby become "paramount to the great purposes of the Exchange Act," [38] such as the protection of investors and the maintenance of fair and orderly markets.

Moreover, despite the pervasive changes made in the Act directing the Commission to consider the competitive consequences of its actions, the 1975 Amendments do not require adoption of the least anti-competitive alternative available.[39] Rather, the legislative history of the 1975 Amendments describes the interaction of the statutory purposes as follows:

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[27] These proposals were withdrawn at the Commission's request pending termination of the moratorium.

[28] Options Study Report, *supra* note 12, at 985.

[29] In addition, it should be noted that a contemporaneous NYSE rule filing would have eliminated current NYSE prohibitions on specialist options trading and would have permitted NYSE stock specialists to trade options on their specialty stocks.

[30] For a detailed discussion of these concerns, *see* Options Study Report, *supra* note 12, at 983–1028.

[31] *See, e.g.*, Sections 3(a)(36), 11(a)(2), 11A(a)(1)(C)(ii), 11A(c)(1)(F), 15(c)(5), and 17A(a)(2), [15 U.S.C. 78c(a)(36), k(a)(2), k–1(a)(1)(C)(ii), k–1(c)(1)(F), o(c)(5)]. *See also* discussion *infra* accompanying notes 43–48.

[32] Options Study Report, *supra* note 12, at 991–1007.

[33] *Id.* at 945–972. In addition, the absence of real-time reporting in underlying securities traded exclusively in the OTC market raises other concerns. *Id.* at 930–945.

[34] There has been limited experience, to date, with multiple tradifng of options. In February, 1976, the CBOE became the first options exchange to permit trading in an options class which was already traded on another exchange. Subsequently, other options exchanges engaged in multiple trading. However, in aggregate only 22 classes have been traded simultaneously on more than one options exchange and, at present, only 15 options classes are multiply traded.

[35] Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975).

[36] Senate Comm. on Banking, Housing & Urban Affairs, *Report to Accompany S. 249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 13 (Comm. Print 1975) ("Senate Report"), reprinted in (1975) U.S. Code Cong. & Ad. News 179, 191.

[37] Committee of Conference, H. Conference Rep. No. 94–229, H.R. Rep. No. 94–229, 94th Cong., 1st Sess. 94 (1975) ("Conference Report") reprinted in (1975) U.S. Code Cong. & Ad. News 321, 324.

[38] Senate Report, *supra* note 36, at 14, (1975) U.S. Code Cong. & Ad. News at 192.

[39] In this connection, it should be noted that the 1975 Amendments do not require the Commission to pursue competition *per se*, but instead stress the need to assure "*fair* competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets." Section 11A(a)(1)(C)(ii) (15 U.S.C. 78k–1(a)(1)(C)(ii)) (emphasis added).

This explicit obligation to balance, against other regulatory criteria and considerations, the competitive implications of self-regulatory and Commission action should not be viewed as requiring the Commission to justify that such actions be the least anti-competitive manner of achieving a regulatory objective. Rather, the Commission's obligation is to weigh competitive impact in reaching regulatory conclusions.[40]

Thus, in considering whether to permit an expansion of multiple trading in the options markets, the Commission must balance the benefits of increased competition against any adverse consequences, including any deterioration of competition in the options markets over the long term, which might result from that action.

Discussion

The Commission believes that multiple trading may have a number of positive effects on the options markets. Data gathered by the Options Study suggests that multiple trading may improve the quality of the markets for multiply-traded options classes, at least in the short term.[41] Moreover while the Commission recognizes that multiple trading in options often does not reflect direct competition for orders on the basis of securities price, the existence of alternate marketplaces has to a limited extent operated to discipline the quotations of marketmakers on the primary market and has contributed to the depth and liquidity of the market for a particular options class.

The Options Study also noted a number of additional concrete benefits resulting from multiple trading. Specifically, the Options Study found that multiple trading resulted in increased competition among options exchanges in the types of services offered to the brokerage and investor community. For example, multiple trading occasionally resulted in options floor members reducing their brokerage charges to attract more orders. Similarly, a desire to attract order flow in multiply-traded options classes has encouraged the CBOE to make certain enhancements to its floor operations and both the CBOE and Amex to develop automated systems intended to reduce the costs of executing orders on their exchanges.[42]

In summary, the Commission believes that an expansion of multiple trading in options may be beneficial to public investors and market professionals. In addition to the direct effects of intermarket competition in terms of increased depth and liquidity, multiple markets provide brokers and dealers with alternative markets in which to execute orders for a particular options class, thereby assuring that securities market participants are given an effective means of influencing market centers to provide more efficient pricing, execution and clearing services. Moreover, without the discipline provided through competition among marketmakers and among market centers resulting from multiple trading, the Commission would have to assume an undesirable oversight role in the allocation of securities to particular markets.

Notwithstanding the possible benefits that may be obtained from multiple trading, the Commission recognizes that the expansion of options multiple trading in the current market environment may have certain adverse effects. Specifically, to the extent that an expansion of multiple trading results in a significant dispersion of order flow among competing options exchanges, it may raise concerns regarding market fragmentation and may create difficulties for brokers attempting to route their customer orders to the best available market. For example, options prices in a fragmented market may be less likely to reflect a complete assessment of all buying and selling interest than would be possible if all orders for a given option were brought together and permitted to interact. Furthermore, because the mix of buy and sell orders in a particular market may differ significantly from the mix in other markets, multiple trading may result in pricing disparities among markets trading the same options class, particularly at the opening, which may create difficulties for brokers in obtaining the best execution for their orders.[43]

Perhaps even more significantly, expansion of multiple trading, in the present environment, may impede "fair competition" among market centers and among marketmakers. Most large brokerage firms do not route orders on an individual basis to the market displaying the best quotation. Instead, these firms use their order routing systems to automatically transmit small customer orders to a designated market center. Although the factors on which designation is based may vary from firm to firm, the Options Study found that a principal factor that firms consider is the volume of orders which are executed on each exchange.[44] Because of the importance placed on volume by many firms,[45] the designation decisions of a few large firms may cause virtually all retail order flow to be routed to a single exchange.[46] Accordingly, the Commission is concerned that, in the current market environment, meaningful competition among market centers resulting from an expansion of multiple trading may be, at best, a transitory phenomenon lasting only until one exchange is designated as the "primary market" for a particular options class.[47]

[40] Senate Report, *supra* note 36, at 13, (1975) U.S. Code Cong. & Ad. News at 191.

[41] Options Study Report, *supra* note 12, at 809–824.

[42] Options Study Report, *supra* note 12, at 805.

[43] For example, on September 1, 1978, a number of Bally option series opened on the CBOE and Amex at widely disparate prices. *See*, Options Study Report, *supra* note 12, at 840–841. However, despite these few instances of significant pricing disparities resulting from unusual market conditions on one, or both, competing exchanges and more frequent (but still unusual) limited pricing disparities in the normal course of trading (particularly at the opening), the Commission believes that the markets for multiply-traded options classes have generally been fair and orderly. Accordingly, the Commission does not believe, on the basis of existing information, that the potential for pricing disparities alone is sufficient to outweigh the benefits which would be obtained from an expansion of multiple trading.

[44] As the Options Study noted * * * the exchange with the most volume in multiply traded class will receive all automatically routed customer orders and more volume. As a result, exchanges other then the exchange designated as primary are effectively precluded from competing for automatically routed customer orders. Without exposure to customer orders it may be unlikely that an exchange will be able to improve the quality of its market and thereby to attract more orders in the future. Such improvements may be unlikely because marketmakers on the secondary exchanges will not be able to assess accurately the supply of and demand for, or to adjust their positions easily with respect to, multiply traded classes if they do not have an opportunity to be exposed to, and trade with, customer orders. Options Study Report, *supra* note 12, at 854.

[45] The Options Study found that brokerage firms also consider, albeit to a lesser extent, (i) the experience of their traders regarding the depth and liquidity of the competing markets, (ii) the speed with which executions can be otained and reported in each market center and (iii) the operational efficiency at each exchange. *Id.* at 831.

[46] Brokerage firm automated order routing techniques have had a dramatic effect on the ability of other options exchanges to compete with the primary market for order flow in multiply-traded option classes. Data generated by the Options Study indicated that the PSE, Phlx and MSE have been unable to maintain any continuous market in classes which are traded both on their floors and by either the CBOE or Amex. While at least some option classes which are multiply-traded on CBOE and Amex remain actively traded in both markets, in each case, either the CBOE or Amex has emerged as clearly predominant in a particular multiply-traded option class. While the remaining exchange may continue to be successful in attracting some firm proprietary and institutional orders which are individually routed by the firm's "upstairs" trading desk, it has been unable to attract a significant percentage of the automatically routed retail order flow. *See* Options Study Report, *supra* note 12, at 829–836 and Table 12.

[47] It should also be noted that, to the extent that the profitability of the Phlx and PSE is significantly related to their options programs, an expansion of multiple trading, under present market conditions, might adversely affect, to a material degree, the financial condition of these regional exchages. While the Commission has consistently stated that the preservation of any particular market cannot

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Moreover, this phenomenon may only be exacerbated in the event the NYSE were permitted to multiply trade options.[48]

While the Commission remains concerned over the fragmentation and fair competition concerns discussed above, it presently is of the view that, under appropriate circumstances, the benefits of expansion of multiple trading appear to outweigh any adverse consequences. To the extent that fragmentation and fair competition concerns are exacerbated by an expansion of multiple trading, Congress has indicated that the solution should lie not in centralizing all trading of a particular options class in one market center,[49] but instead, to the extent possible, in the development and implementation of communications and data processing equipment to create a single "integrated [securities trading] system."[50]

In this regard, the Commission believes that certain of the concerns arising from expanded options multiple trading might be alleviated through the development of technical facilities to integrate the options markets ("market integration facilities"). Accordingly, while the Commission, at this time, is inclined toward expansion of multiple trading, it believes that the near term development of market integration facilities might create a fairer, more efficient market structure within which multiple trading would occur. As a result, the Commission is deferring further action on the general expansion of multiple trading at this time[51] in order to afford the SROs an opportunity to consider whether, and to what extent, the development of market integration facilities would minimize concerns regarding market fragmentation and maximize competitive opportunities in the options markets. The Commission requests that the SROs jointly discuss the desirability of implementing these types of facilities in connection with multiple trading expansion. If the SROs determine that the development of market integration facilities for the options markets may alleviate such concerns, the Commission requests the SROs to submit within six months of the date of this release[52] a description of the facilities needed and a plan (including projected timetable) for the implementation of these facilities.[53] Thereafter, the Commission will consider what further action should be taken, in light of the SRO response and any comments received on this release, with respect to the expansion of multiple trading.

Market Integration Facilities

In order to expedite the deliberations of the SROs, the Commission believes that it would be useful to provide a preliminary discussion regarding possible market integration facilities or systems for the options markets. As a conceptual matter, the Commission believes that the perceived adverse effects of multiple trading in the options markets might be ameliorated by three complementary or alternative approaches. First, a market linkage system similar to the Intermarket Trading System ("ITS")[54] implemented by various stock exchanges might be developed which would provide a prompt and efficient means of sending and receiving orders to purchase or sell multiply-traded options among all market centers that permit the trading of those options. Second, brokerage firms handling retail options order flow might route those orders on an individual basis to the market center disseminating the best quotation accompanied by a quotation size equalling or exceeding the order in question. Finally, an order exposure system for options public limit orders might be developed which would provide for simultaneous representation of public limit orders in all options exchanges and give floor participants on those exchanges access to these public limit orders.

While either of the first two approaches (an intermarket linkage system or the individualized routing of retail orders) might theoretically ameliorate certain of the concerns raised by multiple trading, commentary submitted by various options exchanges raises questions as to whether either approach is feasible at this time. The successful implementation of either a market linkage system or individualized routing of retail orders is virtually entirely dependent upon the quality and reliability of quotation information disseminated by each market center (i.e., the extent to which published quotations from options exchanges can be considered "firm"). However, the Commission has received significant commentary that a firm quotation rule (such as that currently in place for stocks) could not be applied to options.[55] First, it has been argued that, because options are derivative securities, a change in the price of the underlying stock may require adjustments in quotations for some, if not all, of the options series related to the stock. Accordingly, the argument has been made that it would be physically impossible for a marketmaker on an options exchange floor to monitor the market in the underlying stock and numerous related options series in order to update quotations in these options on

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alone be considered the controlling factor in weighing the competitive consequences of any particular action, the Commission is nevertheless concerned that immediate expansion of multiple trading might jeopardize the ability of those regional exchanges to participate as meaningful competitors in the continuing development of a national market system for stocks. *See* Options Study Report, *supra* note 12, at 864–870.

[48] *See* discussion *supra* accompanying notes 43–48.

[49] In an analogous situation, Congress specifically refused to resolve concerns regarding fragmentation in the stock market by requiring all trading for a security to occur in one market. The Senate Committee on Banking and Currency perhaps best explained this position two years prior to the passage of the 1975 Amendments when it stated * * * There appears to be general agreement that the success and quality of an auction market depend on a concentratioin of public buying and selling orders in the market * * *. Therefore, looking at (the question) solely from this point of view any "diversion" of orders away from the primary market would be inimical to the public interest. It does not, however, follow from this that all orders should be "brought back" to the NYSE. What does follow is that all steps possible should be taken to develop promptly a national market system within which the full interplay of supply and demand can properly be reflected. Report of the Senate Committee on Banking and Currency Pursuant to S. Res. 109, 92nd Congress, 2nd Sess. at 44. *See also* Conference Report, *supra* note 37, at 92, (1975) U.S. Code Cong. & Ad. News at 323.

[50] Conference Report, *supra* note 37, at 92, (1975) U.S. Code Cong. & Ad. News at 323.

[51] The Commission has determined, however, to permit options exchanges to list (and multiply trade) puts on securities which underlie those few existing multiply-traded call classes. *See* discussion *supra*, accompanying notes 18–19.

[52] If the SROs determine that implementation of such facilities is unnecessary, not feasible or otherwise inappropriate, the Commission requests the SROs to so advise the Commission, together with the reasons therefor.

[53] Any submission made by the SROs should contain more than a generalized policy discussion of the issues raised by the development of market integration facilities for the options markets.

[54] The ITS was developed jointly by several exchanges and is designed to permit orders for the purchase and sale of multiply-traded securities to be routed among market centers. The Commission in 1979 extended its approval of ITS for an additional three years to permit observation of the effects of that system on the markets and to better evaluate the possible role of ITS in a national market system for stocks. *See* Securities Exchange Release No. 16214 (September 21, 1979), 44 FR 56069.

[55] In addition to concerns raised by the accuracy and reliability of options quotations, a market linkage system such as the ITS might prove too slow and cumbersome a mechanism to provide for coordinated openings among options market centers. Because options are derivative securities, the price at which an options series should be opened cannot be determined until the underlying stock has opened. Since only one series at a time may be traded at the opening, coordinated openings for all related options series would have to be accomplished very quickly in order to avoid significant delays in the commencement of open trading of all options series. Thus, any market linkage system which, like ITS, depends on the sending of administrative messages among market centers might cause unacceptable delays in completing a coordinated opening rotation.

a timely basis.[56] Second, the competing marketmaker system currently employed by the CBOE, MSE and PSE results in substantially larger trading crowds for options than in stocks. Accordingly, the CBOE has strenuously argued that a firm quotation rule would create extreme operational problems on its floor since it would be difficult to quickly and accurately report all quotation changes in price and size. Finally, the CBOE has argued that enforcement of a firm quotation rule would be problematic because of the difficulties in identifying the particular member of a large crowd who was responsible for a displayed quotation.[57]

In summary, it would appear that, if a firm quotation rule similar to the one currently applicable to stocks were applied to the options markets, it might impede the orderliness of the market, significantly increase risks for options marketmakers and create unwarranted disincentives to the continued maintenance of competing marketmaker systems. Moreover, if a firm quotation rule were devised which would not subject options marketmakers to inappropriate risks, perhaps by providing an exception to firmness for a period of time after a change in the price of the underlying stock long enough to permit options marketmakers to revise, where needed, their options quotations, the additional exceptions to firmness might effectively emasculate the rule.

Thus, the Commission has serious concerns whether a market linkage system such as the ITS [58] or individualized order routing of retail orders will, due to the dependence of each alternative on accurate quotation information, provide a basis for alleviating the problems arising from options multiple trading. However, as a preliminary matter, an order exposure system would not appear to have similar limitations.[59] An order exposure system would not be dependent on the accuracy and reliability of quotation information. Instead, the system's effectiveness would be based on the display of public limit orders which are, by their nature, revised less often than quotations and therefore may be considered firm until actually withdrawn from the system.[60] Moreover, while a market linkage system and individualized routing of retail orders force users, because of exceptions to firmness and relatively long response time, to assume risks if the quotation sought to be executed against is no longer available by the time an order is routed to it, an order exposure system does not require users to assume similar risks because floor members on each options exchange would be able to automatically execute against orders contained in the system.[61] Accordingly, the Commission believes that, in an options trading environment, an order exposure system may have certain operational advantages over other types of market integration facilities.[62]

The Commission also believes that the concerns which have been raised over the proposal of analogous facilities for stocks [63] (namely that the preference for public limit orders contained in such a facility would create disincentives to marketmaking and would force virtually all trading to be centralized in that facility) [64] may not be equally applicable to an order exposure system for options. First, three of the five existing options exchanges currently permit only public orders on their books and generally provide those orders with a preference

[56] *See* letter to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, from Joseph W. Sullivan, President, CBOE, dated August 1, 1977 at 4–5.

[57] *Id.* at 2–4.

[58] The Commission recognizes that an intermarket linkage system, perhaps modeled after ITS, might prove useful even if no firmness requirement for options quotations were in place. For example, in cases in which substantial pricing disparities exist between two exchanges trading the same options class, floor members on one exchange might more easily engage in arbitrage activity by routing orders to the second exchange, and by so doing reduce the pricing disparities between the two exchanges. Similarly, in cases where there is an imbalance of supply and demand for a particular multiply-traded options series on one exchange, a linkage system which provided a prompt and efficient means for marketmakers to "lay-off" that imbalance on another exchange might enhance the price continuity and liquidity of the options markets. However, the implementation of such a system without firm quotations would do little to enable brokers to execute their customers' orders in the best market and may therefore be ineffectual in achieving best execution of customer orders or in achieving a fair field of competition.

[59] The Commission anticipates that an order exposure system would consist of an electronic facility which (1) permits brokers to directly enter and retrieve public limit orders from the system from either an exchange floor or from the brokers' upstairs offices; (2) queues those orders for execution on the basis of price and, with respect to orders at the same price, on the basis of time; (3) provides a display summary of those orders on each options exchange; (4) provides floor members on each options exchange an equal opportunity to automatically execute against orders contained in the system; and (5) provides the floor member executing against the limit order and the broker who inserted the order an immediate report of the execution obtained.

The Commission believes that, in order to minimize any disruptive effects an order exposure system may have on the manner in which options are currently traded, only public limit orders should be included in the system. However, there would appear to be no technical impediments to also including other types of orders in the system and therefore the Commission believes that the SROs should consider whether it would be more desirable to include all limit orders in an order exposure system.

[60] The Commission would anticipate that the options exchanges would each adopt rules which would provide, with no exceptions, that all public limit orders contained in the system may be executed against by any floor member on any options exchange until they are executed or cancelled.

[61] In addition, due to the short response time of an order exposure system, it would appear that it might be an efficient mechanism for providing openings among all markets that permit the trading of an options class.

[62] The CBOE is presently implementing, on a phased basis, an order support system ("OSS") which when completed will consist of an automated limit order book and order routing system for its options market. The OSS will, among other things, provide CBOE member firms with the ability to electronically route public limit orders to, and retrieve those orders from, an automated book. In addition, when a transaction occurs involving a public limit order, the OSS will automatically provide a report of that execution to the member firm. Because the characteristics of OSS appear to correspond to the minimum characteristics necessary for an order exposure system, it may be that OSS, or a similar system, could be adapted to serve as an order exposure system.

The Commission recognizes, however, that the adaptation of OSS to an order exposure system would, in certain respects, change the manner of trading on the floor. Under current CBOE rules, which would continue to apply even after full implementation of OSS as presently contemplated, an execution involving the book occurs the moment a floor participant indicates to the Order Book Official that he wants to execute against a particular limit order. If an order exposure system were implemented, however, it would be necessary to provide all competing market centers with an equal opportunity to execute against limit orders contained in that system. Accordingly, all executions against booked public limit orders would have to occur within the system with marketmakers on any exchange required to wait for an execution report before being assured that their transaction was effected.

[63] On January 26, 1978, the Commission issued a policy statement which set forth its views as to those steps which it believed should be taken to facilitate development of a national market system for stocks. Among the steps proposed by the Commission in that statement was the development of a central limit order file ("Central File") into which public limit orders could be entered, queued for execution by price and, with respect to orders at the same price, by time, and providing a preference for those orders over all other orders at the same price. Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354. *But see* Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360.

[64] A number of commentators argued that the existence of a central depository for limit orders, accessible to all markets, as well as the proposed preference provided public limit orders through the Central File, would provide a major trading advantage for those orders which would result in investors almost exclusively employing limit orders. In their views, as the percentage of public orders routed directly to the Central File increased, the incentives for marketmaking on an exchange floor would correspondingly decrease, resulting in many exchange specialists relinquishing their exchange memberships and choosing instead to make markets upstairs. As a result, commentators argued that the final result of a Central File for stocks would be elimination of traditional exchange markets and an inexorable movement to an automated trading system. *See* letters from Richard B. Walbert, President, MSE, to George A. Fitzsimmons, Secretary, SEC (May 30, 1978) at 34–38 and from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC (May 31, 1978), contained in File No. S7–735–A.

over other orders (with certain exceptions). Despite the "trading advantages" currently provided public limit orders on these options exchanges, the Commission has observed no tendency for all or most orders routed to those exchanges to be designated as limit orders. The Commission believes that this result is caused, at least in part, by the fact that a significant percentage of public trading activity in options involves spreads and other combination orders which cannot be readily entered into the limit order book.

Second, because the order exposure system could be limited to public orders, there should continue to be substantial professional trading on option exchanges. This professional trading in options involves a larger percentage of total transactions than is the case in stocks because of the heavy reliance by options marketmakers on spreading strategies to reduce their marketmaking risks and because of the large professional trading crowds which exist on most options exchanges.

For these reasons, the Commission believes that an order exposure system could be implemented by the options exchanges without the potential for unnecessary disruptive effects on the current options markets.[65]

The foregoing discussion is not intended as a Commission mandate for implementation of any order exposure system or to indicate a Commission judgment that other types of market integration facilities would not be appropriate for the options markets. To the contrary, it may be feasible for the SROs to develop more traditional market linkages, similar to the ITS. However, in the event that the SROs determine that market integration facilites should be developed which are, in large part, dependent on the reliability of displayed options quotation information, the SROs should specifically discuss in their submission the manner in which they would establish firm quotations for options.

VI. Expansionary Rule Filings

In connection with the termination of the moratorium, the Commission has determined to begin to consider, pursuant to Section 19(b) of the Act, expansionary SRO rule proposals relating to options, including the NYSE and NASD proposals to initiate standardized options trading programs if the NYSE and NASD wish to resubmit those proposals. Expansionary options rule proposals will be considered by the Commission on a case-by-case basis. In view of the Commission's limited resources, however, the Commission requests the SROs to stagger the filing of such rule proposals and, to the extent feasible and appropriate, to establish priorities jointly with the Commission.

VII. Solicitation of Comment

The Commission solicits comments on any of the issues associated with matters addressed in this release. Commentators should file six copies of their submission with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and should refer to File No. S7–772. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, NW, Washington, D.C.

By the Commission.

Dated: March 26, 1980.

George A. Fitzsimmons,

Secretary.

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BILLING CODE 8010-01-M

[65] If the SROs remain concerned, however, over the effects that an order exposure system might have on the trading environment, they might wish to consider providing public limit orders placed in that system with only nation-wide price protection rather than a preference over other orders at the same price. Limiting the "trading advantages" of public limit orders might eliminate any disincentive to marketmaking stemming from the creation of an order exposure system and might further assure that a substantial percentage of public order flow continues to be routed to the floors of the various exchanges. The Commission is concerned, however, that a determination to only require inter-market price protection for options public limit orders held in the order exposure system would probably cause those options exchanges presently providing a trading preference in their own market to public limit orders to eliminate that preference. Accordingly, if the SROs choose not to grant public limit orders inserted into the system a trading preference, they should specifically discuss in their submission to the Commission the basis for their decision.

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Executive Board; Public Meeting

The Small Business Administration Region I Advisory Council Executive Board will hold a public meeting from 1:00 p.m. to 4:00 p.m. on Wednesday, June 11, 1980, in the Conference Room, 60 Batterymarch Street, 10th Floor, Boston, Massachusetts, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Edward F. Jesser, U.S. Small Business Administration, 60 Batterymarch Street, Boston, Massachusetts 02110—(627) 223–0408.

Dated: March 26, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-9735 Filed 3-31-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, Mississippi, will hold a public meeting at 9:00 a.m. (CST), Wednesday, April 23, 1980, at the Research and Development Tower Building, 7th Floor Conference Room, 3825 Ridgewood Road, Jackson, Mississippi, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Sid Spiro, Acting District Director, U.S. Small Business Administration, Suite 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201–(601) 969–4363.

Dated: March 25, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-9732 Filed 3-31-80; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, Iowa, will hold a public meeting at 9:30 a.m., Thursday, May 1, 1980, at the Savery Hotel, 4th & Locust, Des Moines, Iowa, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Conrad E. Lawlor, District Director, U.S. Small Business Administration, 210 Walnut Street, Des Moines, Iowa 50309—(515) 284–4567.

Dated: March 25, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-9734 Filed 3-31-80; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting from 9:00 a.m. to 3:30 p.m., Friday, April 25, 1980, at the Community Room, First National Bank in Sioux Falls, 100 South

Phillips, Sioux Falls, South Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call E. George Peterson III, Acting District Director, U.S. Small Business Administration, Security Building, Suite 101, 101 South Main, Sioux Falls, South Dakota 57102—(605) 336–2980, Ext. 231.

Dated: March 25, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-9733 Filed 3-31-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax Forms Coordinating Committee; Public Hearings and Request for Forms Suggestions

As part of its annual forms review process, the Internal Revenue Service will hold public hearings to receive comments and suggestions concerning its tax return forms, instructions, and related schedules. It should be emphasized that the comments may apply to any tax form issued by IRS. The hearings will be held in 4 separate cities on Thursday, May 1, 1980. The hearings will be held in Atlanta, Georgia, Omaha, Nebraska, Burlington, Vermont, and Seattle, Washington, beginning at 10 a.m. local time.

A person wishing to speak at one of these hearings should write or call the Internal Revenue Service at the address or phone number given below for the city of the particular hearings he or she plans to attend. If IRS is contacted by letter, the letter should be marked "Attention: Public Hearings on Forms" and should give both the return address and telephone number of the person desiring to speak.

The addresses and phone numbers to contact IRS regarding the hearings, as well as the hearing locations, are listed below:

Atlanta

Internal Revenue Service, 275 Peachtree St., N.E., Room 512, Atlanta, Georgia, 30303; phone 404–221–4501.
Hearing location: Internal Revenue Service, 275 Peachtree St., N.E., Room 556, Atlanta, Georgia.

Omaha

Internal Revenue Service, Attn: Public Affairs, P.O. Box 1052, Omaha, Nebraska, 68101; phone 402–221–3504.
Hearing location: Civic Center, Legislative Chamber, 1819 Farnam Omaha, Nebraska.

Burlington

Internal Revenue Service, 11 Elmwood Ave., Burlington, VT 05401; phone 802–951–6354.
Hearing location: City Hall, Contois Auditorium, Church Street, Burlington, VT.

Seattle

Internal Revenue Service, Public Affairs Office, P.O. Box 854, Seattle, Washington, 9811; phone 206–442–5515.
Hearing location: Internal Revenue Service, 915 2nd Ave., North Auditorium, Seattle, Washington.

Although not required, it would be helpful to receive a copy of any written comments and suggestions a speaker may prepare. These should be sent to the appropriate mailing address listed above or may be left with the hearing panel on the day of the hearing.

In order to afford as many speakers as possible a chance to participate, each speaker's remarks will be limited to 10 minutes. Persons who have advised IRS that they wish to speak at the hearings will be notified in advance concerning the approximate time for their scheduled appearance. The last date for submitting requests to speak is April 22, 1980. However, if there is time remaining after scheduled speakers have been heard, the remaining time will be offered to persons in attendance not previously scheduled who wish to speak.

The panel for each hearing will be made up of representatives from the District Director's Office concerned and the National Office in Washington, D.C.

Request for Written Forms Suggestions

In addition to receiving comments at the public hearings, the Service also desires to receive written comments and suggestions for improving its tax return forms, instructions, and related schedules from those persons unable to attend the hearings. Again, it should be emphasized that the comments may apply to any tax form issued by IRS. The written submissions should be self-explanatory and in sufficient detail to communicate clearly what is being suggested. Careful consideration will be given to all comments and suggestions received. However, individual responses to the submissions will not be made because of the volume of correspondence involved.

In order to meet our work schedule and early printing deadlines, it is requested that written submissions be made on or before June 1, 1980.

Comments and suggestions should be sent to the Chairman, Tax Forms Coordinating Committee, Room 5577, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Further information concerning this notice may be obtained by calling 202–566–6254.

Dated: March 17, 1980.

Gerald G. Portney,

Assistant Commissioner (Technical).

[FR Doc. 80-9942 Filed 3-31-80; 8:45 am]

BILLING CODE 4830-01-M

Office of Revenue Sharing

Final Revenue Sharing Allocations for Entitlement Period Eleven

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Notice.

SUMMARY: This notice announces the date of the final general revenue sharing allocations for Entitlement Period Eleven (October 1, 1979–September 30, 1980).

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226, telephone 202–634–5166.

SUPPLEMENTAL INFORMATION: Pursuant to § 51.23(a) of the revenue sharing regulations (31 CFR 51.23(a)) published in the **Federal Register** on September 22, 1977 (42 FR 47997), final allocations applicable to Entitlement Period Eleven (October 1, 1979–September 30, 1980) will be computed on or about April 10, 1980. The final allocation for Entitlement Period Eleven reflects changes made in the data factors since the initial Entitlement Period Eleven allocations. Any difference between the initial and final allocations for Entitlement Period Eleven for most State and local governments will be added to or subtracted from their last quarterly payment for Entitlement Period Eleven in October, 1980. In other cases, where the amount of a negative adjustment exceeds the projected October payment, the adjustment first will be subtracted from the recipient government's July, 1980 payment. Governments will be requested to refund any additional amounts due.

Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as amended, (31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's general revenue sharing payments for an entitlement period unless a demand for adjustment has been made by either the

recipient government or the Secretary of the Treasury, within one year after the end of that entitlement period. A demand by the Director or the Deputy Director of the Office of Revenue Sharing will be treated as a demand for adjustment by the Secretary of the Treasury. A demand by a recipient government must be made in writing and contain evidence and documentation to fully justify the proposed data corrections. Any adjustments after the final allocations will affect only the recipient governments for which a demand for adjustment has been made. For Entitlement Period Eleven, all demands for adjustment must be received by September 30, 1981.

Dated: March 27, 1980.

Kent Peterson,

Acting Director, Office of Revenue Sharing.

[FR Doc. 80-9809 Filed 3-31-80; 8:45 am]

BILLING CODE 4810-28-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 64
Tuesday, April 1, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: VOL. 45, NO. 59; TUESDAY, MARCH 25, 1980, P. 19422.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:45 am, Friday, March 28, 1980.

CHANGES IN THE MEETING: Enforcement Matters—Canceled.

[S-646-80 Filed 3-27-80; 4:10 pm]

BILLING CODE 6451-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 19116; March 24, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., March 26, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

CP-6—CP80-93 and CP80-75 (phase I), Border Gas, Inc.; CP80-89, Texas Eastern Transmission Corp.; Florida Gas Transmission Co.; Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. and Transcontinental Gas Pipe Line Corp.; CP80-90, Texas Eastern Transmission Corp.; CP80-91, Florida Gas Transmission Co.; CP80-92, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; ST80-12, Lo-Vaca Gathering Co.; SA80-51, Border Gas, Inc.; and SA80-52, Texas Eastern Transmission Corp.

Lois D. Cashell,
Acting Secretary

[S-647-80 Filed 3-27-80; 4:51 pm]

BILLING CODE 6450-85-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

March 28, 1980.

TIME AND DATE: 2:30 p.m., March 28, 1980.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Published Alternate Fuel Prices for Phase I, Incremental Pricing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb. Secretary, telephone (202) 357-8400.

[S-651-80 Filed 3-28-80; 2:47 pm]

BILLING CODE 6450-85-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

March 28, 1980.

TIME AND DATE: 10 a.m., Tuesday, April 1, 1980.

PLACE: Hearing room A, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will meet to discuss with principal staff matters of general concern as they affect the Commission's oil, natural gas, and electric power jurisdictional responsibilities.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

[S-652-80 Filed 3-28-80; 2:47 pm]

BILLING CODE 6450-85-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., April 4, 1980.

PLACE: 1700 G Street, NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED: Regulation on Electronic Fund Transfers.

No. 331, March 28, 1980.

[S-654-80 Filed 3-28-80; 3:05 pm]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR, p. 20618; March 28, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., April 2, 1980.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting: Application to Acquire Control of—First Savings and Loan Association of Midland, Midland, Texas BY Southern Union Company AND Southern Union Financial Corporation, Dallas, Texas.

Announcement is being made at the earliest practicable time.

No. 330, March 28, 1980.

[S-657-80 Filed 3-28-80; 3:59 pm]

BILLING CODE 6720-01-M

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 28, 1980; 45 FR 20619.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., April 3, 1980.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

4. Special Docket No. 683: Application of Flomerca Line for the Benefit of U.S. Department of Agriculture, A.S.C.S. Commodity Officer—Review of Settlement Officer's decision.

[S-656-80 Filed 3-28-80; 3:05 pm]

BILLING CODE 6730-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

March 25, 1980.

TIME AND DATE: 10 a.m., Wednesday, April 2, 1980.

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. Old Ben Coal Company, Docket No. VINC 75–267, IBMA 76–21.
2. Co-Op Mining Company, Docket No. DENV 75–207, etc., IBMA 77–30.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S-6820-12 Filed 3–28–80; 10:12 am]

BILLING CODE 6820–12–M

9

NATIONAL CREDIT UNION ADMINISTRATION

NOTICE OF CHANGE IN TIME.

The previously announced open meeting of the National Credit Union Administration Board, scheduled for Monday, March 31, 1980 at 2 p.m. has been changed to 11 a.m. the same day.

The meeting will be held in the agency's board room at 1776 G Street NW., Washington, D.C. seventh floor.

Information regarding this meeting may be obtained from Beatrix Fields, Acting Secretary of the Board, (202) 357–1030.

[S-655-80 Filed 3–28–80; 3:05 pm]

BILLING CODE 7535–01–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, April 2, 1980.

PLACE: Commissioners conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

2 p.m.

1. Briefing by AIF on Review of NRC Action Plan (approximately 1½ hours, public meeting).
2. Affirmation Session (approximately 10 minutes, public meeting).
   a. Accident Considerations Under NEPA.
   b. Review of Delegation of Authority to Director, ADM.
   c. Reporting of Misadministration of Byproduct Material.
3. Time Reserved for Discussion and Vote on Affirmation Items (approximately 15 minutes public meeting) (if required).
4. Time Reserved for Discussion of Management-Organization and Internal Personnel Matters (approximately 1½ hours, closed—Ex. 2 and 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR DAILY UPDATE: (202) 634–1498.

Roger M. Tweed,
Office of the Secretary.
March 26, 1980.

[S-650-80 Filed 3–28–80; 11:12 am]

BILLING CODE 7590–01–M

11

POSTAL RATE COMMISSION.

TIME AND DATE: 2 p.m., Monday, March 31, 1980.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO CONSIDERED:

1. Docket No. MC76–5.
2. Docket No. MC79–2 (Express Mail Metro Service) (Closed pursuant to 5 U.S.C. § 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, room 500, 2000 L Street NW., Washington, D.C. 20268, telephone (202) 254–5614.

[S-649-80 Filed 3–28–80; 10:12 am]

BILLING CODE 7715–01–M

12

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION.

Proposed agenda for meeting of the Board of Trustees, Monday, April 14, 1980, 10 a.m., 712 Jackson Place NW., Washington, D.C. 20006.

1. The call to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of September 10, 1979 meeting.
4. Report of the Chairman:
   a. Status of the meeting of the Truman Library Institute on Saturday, May 3, 1980 and Awards Ceremony for 1980 Truman Scholars on Sunday, May 4, 1980 at Harry S. Truman Library, Independence, Missouri.
   b. Comments on results of 1980 Regional Review Panels and progress of scholarship program.
   c. Discussion of ETS.
   d. Discussion of Doremus.
   e. Discussion of proposed date of next Board of Trustees meeting, Monday, September 8, 1980.
   f. Resolution to empower the Chairman to renew contracts and conclude other Foundation agreements and business.
5. Report of the Executive Secretary
   a. Statistical overview of the scholarship program.
   b. 1980 Regional Review Panel results.
   c. Report on work-experience program.
   d. Update on ETS and Doremus.
   e. Foundation operations.
6. Discussion of Awards Ceremony.
7. Selection of Truman Scholars, 1980–81.
8. New business.
9. Set a date for next Board meeting in September 1980.
10. Adjournment.

[S-653-80 Filed 3–28–80; 2:47 pm]

BILLING CODE 6115–02–M

federal register

Tuesday
April 1, 1980

Part II

Reader Aids

List of Libraries That Have Announced Availability of Federal Register and Code of Federal Regulations

LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS

In order to direct the public to facilities where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge, the Office of the Federal Register is publishing a list of libraries which have requested inclusion. A complete listing of *Government Depository Libraries* is available without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Service, GSA, Washington, DC 20408, or phone (202) 523–5240, giving the name and address of the library. (*FR only. †CFR only.)

ALABAMA

Birmingham:
Government Documents Department
Birmingham Public Library
2020 Park Place
Birmingham, AL 35203
(205) 254–2551

Gadsden:
Gadsden Public Library
254 College Street
Gadsden, AL 35901
(205) 547–1611

ALASKA

Anchorage:
Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Bureau of Land Management Library
Fairbanks District Office
P.O. Box 1150
North Post of Ft. Wainwright
Fairbanks, AK 99707

Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

ARIZONA

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Phoenix Public Library
Business, Science & Technology—Documents
12 E. McDowell Road
Phoenix, AZ 85004
(602) 262–6451

Tempe:
Arizona State University
College of Law Library
Government Documents
Tempe, AZ 85281

Government Documents Department
Arizona State University Library
Tempe, AZ 85281

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

ARKANSAS

Searcy:
Beaumont Memorial Library
Harding University
P.O. Box 928
Searcy, AR 72143
(501) 268–6161

CALIFORNIA

Arcata:
Documents Department
The Library
Humboldt State University
Arcata, CA 95521

Burlingame:
The San Mateo Foundation*
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342–2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

Long Beach:
Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666

Redwood City:
San Mateo County Superintendent of Schools Office
Educational Resources Center
333 Main Street
Redwood City, CA 94063
(415) 364–5600

Riverside:
Field Solicitor, Law Library
U.S. Department of the Interior
3610 Center Avenue, Suite 104
Riverside, CA 92506

Sacramento:
Regional Solicitor, Law Library
U.S. Department of the Interior
Room E–2753
2800 Cottage Way
Sacramento, CA 95825

San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102

University of California
Hastings College of the Law Library
198 McAllister Street
San Francisco, CA 94102

Vallejo:
California Maritime Academy*
P.O. Box 1392
Vallejo, CA 94590
(707) 644–5601

COLORADO

Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclamation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

Colorado State Library
1362 Lincoln Street
Denver, CO 80203

Regional Solicitor, Law Library
U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

Rocky Mountain Regional Office Library
National Park Service
655 Parfect Street
P.O. Box 25287
Denver, CO 80225

COLORADO—Continued

Lakewood:
Villa Library*
455 South Pierce Street
Lakewood, CO 80226
(303) 936–7407

CONNECTICUT

Bloomfield:
Prosser Public Library
1 Tunxis Avenue
Bloomfield, CT 06002

Danielson:
Quinebaug Valley Community College
P.O. Box 59
Danielson, CT 06239
774–1130

Hartford:
The Stanley Osborne Library*
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566–2198

Middletown:
Olin Library
Wesleyan University
Middletown, CT 06457

Waterbury:
Silas Bronson Public Library
Business, Industry & Technology Department
267 Grand Street
Waterbury, CT 06702

Wethersfield:
Wethersfield Public Library
515 Silas Deane Highway
Wethersfield, CT 06109

DISTRICT OF COLUMBIA

Community Services Administration
Law Library
1200 – 19th Street, N.W.
Room 525
Washington, DC 20506

Natural Resources Library
U.S. Department of the Interior
Washington, DC 20240

Office of the Federal Register
1100 L Street, N.W.
Room 8301
Washington, DC 20408

FLORIDA

Sarasota:
The University of Sarasota
2080 Ringling Blvd.
Sarasota, FL 33577
(813) 955–4228

Tampa:
Tampa–Hillsborough County Public Library
900 North Ashley Street
Tamba, FL 33602
(813) 223–8969

GEORGIA

Atlanta:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
148 Cain Street, N.E., Suite 405
Atlanta, GA 30303

Elberton:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Samuel Elbert Building
Elberton, GA 30635

Office of the General Counsel
Law Library
Southeastern Power Administration
U.S. Department of Energy
Samuel Elbert Building
Elberton, GA 30635

IDAHO

Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724

Pocatello:
The Library
Idaho State University
Pocatello, ID 83209

ILLINOIS

Chicago:
Government Publications Department
Chicago Public Library
425 N. Michigan Avenue
Chicago, IL 60611
(312) 269–3002

University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Documents Department
University of Illinois at Chicago Circle
The Library, P.O. Box 8198
Chicago, IL 60680
(312) 996–2716/996–2738

Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838–0500

Normal:
Milner Library
Illinois State University
Normal, IL 61761

Rockford:
Rockford Public Library
215 North Wyman Street
Rockford, IL 61101
(815) 965–6731

Springfield:
Energy Information Library*
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

INDIANA

Fort Wayne:
The Public Library of Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

IOWA

Ames:
Library—Government Publications Department
Iowa State University
Ames, IA 50010
(515) 294–2834

Des Moines:
State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 281–5125

State Library Commission of Iowa
Historical Building
East 12th & Grand
Des Moines, IA 50319

Dubuque:
Whalert Memorial Library
Loras College
1450 Alta Vista
Dubuque, IA 52001

KANSAS

Pittsburg:
Library
Pittsburg State University
Pittsburg, KS 66762

KENTUCKY

Bowling Green:
Western Kentucky University
Helm–Cravens Library
Bowling Green, KY 42101

Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564–2480

Louisville:
University of Louisville
The Library
Louisville, KY 40208

LOUISIANA

Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

Louisiana State Library
P.O. Box 131
760 N. Riverside Mall
Baton Rouge, LA 70821
(504) 389–6651

LOUISIANA—Continued
Lafayette:
University of Southwestern Louisiana
University Libraries
Lafayette, LA 70501
New Orleans:
U.S. Court of Appeals Library
5th Circuit
600 Camp Street
Room 106
New Orleans, LA 70130
(504) 589–6510

MAINE

Portland:
Donald L. Garbrecht Law Library
246 Deering Avenue
Portland, ME 04102
(207) 780–4350

MARYLAND

Aberdeen:
Department of the Army
U.S. Army Environmental Hygiene Agency
ATTN: Librarian, Bldg. E–2100
Aberdeen Proving Ground, MD 21010
Annapolis:
Maryland State Law Library
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401
Baltimore:
Enoch Pratt Free Library
400 Cathedral Street
Baltimore, MD 21201
Oakland:
Garrett County Planning Office*
323 East Oak Street
Oakland, MD 21550
(301) 334–4200
Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

MASSACHUSETTS

Boston:
Government Documents Department
Boston Public Library
Copley Square
Boston, MA 02117
Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 306
1 Gateway Center
Newton Corner, MA 02156
Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103
Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935–4000

MICHIGAN

Ann Arbor:
Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 48106
(313) 973–3300
Detroit:
Downtown Library*
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City–County Building
Detroit, MI 48226
East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824
Flint:
Flint Public Library
General Reference Department
1026 E. Kearsley Street
Flint, MI 48502
(313) 232–7111
Mount Clemens:
Macomb County Library
16480 Hall Road
Mount Clemens, MI 48044
469–5300
Mt. Pleasant:
Library – Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774–3414
Pontiac:
Adams–Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library*
2100 Pontiac Lake Road
Pontiac, MI 48054
Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377–2476
University Center:
Learning Resources Center
Delta College
University Center, MI 48710

MINNESOTA

Blaine:
Anoka County Library
707 Highway 10
Blaine, MN 55434
Edina:
Southdale–Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 830–4900
Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331–5571
St. Paul:
Government Publications Office
St. Paul Public Library
90 West Fourth Street
St. Paul, MN 55102
292–6178
Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864–5161 ext. 336

MISSOURI

Jefferson City:
Federal Documents Department
Missouri State Library
P.O. Box 387
303 E. High Street
Jefferson City, MO 65102
St. Louis:
Missouri Botanical Garden*
(back issues held 1 year)
2345 Tower Grove Avenue
St. Louis, MO 63110
(314) 772–7600

Thomas Jefferson Library
University of Missouri–St. Louis
8001 Natural Bridge Road
St. Louis, MO 63144
(314) 453–5954

Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301

Springfield:
Southwest Missouri State University
The Library
Springfield, MO 65802
(417) 831–1561

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Lincoln:
University of Nebraska–Lincoln
Libraries
Lincoln, NE 68588

NEVADA

Boulder City:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 427, Park Street
Boulder City, NV 89005

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271–3777
New London:
Fernald Library
Colby–Sawyer College
New London, NH 03257

NEW JERSEY

Elmer:
Arthur P. Schalick High School
Elmer–Centerton Road
R.D. 1
Elmer, NJ 08318
Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601
Jersey City:
Hudson Health Systems Agency
Library
871 Berger Avenue
Jersey City, NJ 07306
Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430
Pomona:
Stockton State College
Pomona, NJ 08240
(609) 652–1776, ext. 266
Toms River:
Ocean County College
Learning Resources Center
College Drive
Toms River, NJ 08753
(201) 255–4000 ext. 385
Trenton:
New Jersey State Law Library
185 West State Street
P.O. Box 1898
Trenton, NJ 08625
(609) 292–6230

NEW MEXICO

Albuquerque:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1696
Albuquerque, NM 87103

The University of New Mexico
General Library
Albuquerque, NM 87131
(505) 277–4241 and 277–5441
Santa Fe:
Office of the Solicitor, Law Library
U.S. Department of the Interior
U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

NEW YORK

Albany:
The New York State Library
The State Education Department
Cultural Education Center
Empire State Plaza
Albany, NY 12230
Garden City:
Adelphi University
Swirbul Library
South Avenue
Garden City, NY 11530
(516) 294–8700 ext. 7345
Greenvale:
C. W. Post Center—Long Island
University
B. Davis Schwartz Memorial Library
Greenvale, NY 11548
Niagara Falls:
Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305
(716) 278–8113
Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305
Syracuse:
Reference Department
Onondaga County Public Library
335 Montgomery Street
Syracuse, NY 13202
475–8458
Uniondale:
Nassau Library System
900 Jerusalem Avenue
Uniondale, NY 11553
(516) 292–8920

NORTH CAROLINA

Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629–3329
Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607
Charlotte:
Public Librarty of Charlotte and
Mecklenburg County
310 N. Tryon Street
Charlotte, NC 28202
(704) 374–2540
Gastonia:
Gaston County Public Library*
Headquarters: Gaston–Lincoln
Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865–3418

NORTH DAKOTA

Bismarck:
Bismarck Junior College*
Schafer Heights
Bismarck, ND 58501

North Dakota State Library
Highway 83 North
Bismarck, ND 58505
224–2490

Office of Program Planning*
All Nations Circle – Bldg. 35
United Tribes Educational Technical
Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Cincinnati:
Municipal Reference Library
224 City Hall
Cincinnati, OH 45202

National Institute for Occupational
Safety and Health
Division of Technical Services
Robert A. Taft Laboratories
4676 Columbia Parkway
Cincinnati, OH 45226

Ohio River Basin Commission Library
Suite 208–20, 36 East 4th Street
Cincinnati, OH 45206
(513) 684–3831
Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District*
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781–6600 ext. 219
Cleveland Heights:
Cleveland Heights—University
Heights Public Library
2345 Lee Road
Cleveland Heights, OH 44118
(216) 932–3600

OHIO—Continued

Columbus
The State Library of Ohio
65 South Front Street
Columbus, OH 43215
(614) 466–2694

Findlay:
Marathon Oil Company
Law Library, Room 854–M
539 South Main Street
Findlay, OH 45840
(419) 422–2121 ext. 3376

Shafer Library
Findlay College
1000 N. Main Street
Findlay, OH 45840
(419) 422–8313

Marion:
Marion Public Library*
445 E. Church Street
Marion, OH 43302
(614) 387–0992

Toledo:
Toledo–Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 242–7361 ext. 241

Wooster:
Andrews Library
The College of Wooster
Wooster, OH 44691

OKLAHOMA

Aradarko:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 397
Aradarko, OK 73005

Muskogee:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1508
Muskogee, OK 74401

Oklahoma City:
Oklahoma Department of Libraries
U.S. Documents Regional Depository
200 N.E. 18th Street
Oklahoma City, OK 73105
(405) 521–2502

Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056

Stillwater:
Documents Department
Edmon Low Library
Oklahoma State University
Stillwater, OK 74074
(405) 624–6546

Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

OREGON

Salem:
Oregon State Library
State Library Building
Salem, OR 97310
(503) 378–4276

PENNSYLVANIA

Aliquippa:
B.F. Jones Memorial Library*
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375–7174

Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104

Harmony:
Library
Seneca Valley Senior High School*
Southwest Butler County School District
R.D. 2
Harmony, PA 16037

Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787–7343

Hazleton:
Hazleton Area Public Library
Church and Maple Streets
Hazleton, PA 18201
454–2961/454–0244

Loretto:
Pius XII Memorial Library
Saint Francis College
Loretto, PA 15940

Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872–5411 ext. 552, 542

Philadelphia:
Government Publications Department
Free Library of Philadelphia
Logan Square
Philadelphia, PA 19103

Pittsburgh:
Baldwin Borough Public Library
3344 Churchview Avenue
Pittsburgh, PA 15227

U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213

Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257

Swarthmore:
The Swarthmore College Library
The McCabe Library
Swarthmore, PA 19081
(215) KI 4–7900

Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228–6747

West Chester:
Francis Harvey Green Library*
West Chester State College
West Chester, PA 19380
(215) 436–2869

Wilkes–Barre:
Institute of Regional Affairs*
Wilkes College
Wilkes–Barre, PA 18703

RHODE ISLAND

Kingston:
Government Publications Office
University of Rhode Island Library
Kingston, RI 02881
(401) 792–2602

Providence:
Brown University Library
Documents Department
Providence, RI 02912
(401) 863–2522

Providence Public Library
150 Empire Street
Providence, RI 02903
(401) 521–7722

Rhode Island College
James P. Adams Library
Documents Department
600 Mt. Pleasant Avenue
Providence, RI 02908
(401) 274–4900 ext. 331

Warwick:
Warwick Public Library
600 Sandy Lane
Warwick, RI 02886
(401) 739–5440

SOUTH CAROLINA

Charleston:
Baptist College of Charleston
P. O. Box 10087
Charleston, SC 29411

Charleston County Library
404 King Street
Charleston, SC 29403

Citadel
Charleston, SC 29409

College of Charleston
66 George Street
Charleston, SC 29401

Clemson:
Clemson University
Clemson, SC 29631

Columbia:
Benedict College
Blanding & Harden Streets
Columbia, SC 29204

Richland County Public Library
1400 Sumter Street
Columbia, SC 29201

SOUTH CAROLINA—Continued

South Carolina State Library
1500 Senate Street
Columbia, SC 29201

University of South Carolina
Columbia, SC 29208

Conway:
Coastal Carolina (of University of SC)
Route 6
Conway, SC 29526

Due West:
Erskine College*
Due West, SC 29639

Florence:
Florence County Library
319 S. Irby Street
Florence, SC 29501

Francis Marion College
Florence, SC 29501

Greenville:
Furman University
Greenville, SC 29613

Greenville County Library
300 College Street
Greenville, SC 29601

Greenwood:
Larry A. Jackson Library
Lander College
Greenwood, SC 29646

Orangeburg:
South Carolina State College
College Avenue
Orangeburg, SC 29117

Rock Hill:
Winthrop College
Rock Hill, SC 29733

Spartanburg:
Spartanburg County Library
P. O. Box 2409
333 S. Pine Street
Spartanburg, SC 29304

SOUTH DAKOTA

Aberdeen:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 549
Aberdeen, SD 57401

TENNESSEE

Clarksville:
Woodward Library
Austin Peay State University
Clarksville, TN 37040
(615) 648–7346

Nashville:
Documents Unit
Joint University Libraries
Nashville, TN 37203

Tennessee State Library
Tennessee State Library and Archives
403 Seventh Avenue North
Nashville, TN 37219
(615) 741–2451

TEXAS

Amarillo:
Amarillo Public Library*
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

Field Solicitor
U.S. Department of the Interior
P.O. Box H–4393, Herring Plaza
Amarillo, TX 79101

College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843

Dallas:
U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270

Victoria:
University of Houston†
Victoria Campus
2302–C Red River
Victoria, TX 77901
(512) 575–7436

UTAH

Cedar City:
Southern Utah State College Library
Cedar City, UT 84720

Ephraim:
Lucy A. Phillips Library
Snow College
Ephraim, UT 84627

Logan:
Documents Department
Merrill Library, UMC 30
Utah State University
Logan, UT 84322

Ogden:
Weber State College Library
Ogden, UT 84403

Provo:
Harold B. Lee Library
Documents and Maps Section
Brigham Young University
Provo, UT 84602

Law Library
Brigham Young University
Provo, UT 84602

Salt Lake City:
Regional Solicitor
U.S. Department of the Interior
Suite 6201, Federal Building
125 South State Street
Salt Lake City, UT 84138

Supreme Court Library
State Capitol
Salt Lake City, UT 84114

College of Law Library
University of Utah
Salt Lake City, UT 84112

Government Documents
Eccles Health Sciences Library
University of Utah, Bldg. 89
Salt Lake City, UT 84112

Government Documents Division
Marriott Library
University of Utah
Salt Lake City, UT 84112

Utah State Library Commission
2150 South 300 West, Suite 16
Salt Lake City, UT 84115

VIRGINIA

Arlington:
Office of Hearings and Appeals
Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203

Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691–2741

Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501

Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510

Reston:
U.S. Geological Survey
Library
National Center, Mail Stop 950
Reston, VA 22092

Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community
College
P.O. Box 12084
Richmond, VA 23241
(804) 264–3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219

Virginia Beach:
Public Law Library
Municipal Center
City of Virginia Beach
Virginia Beach, VA 23456

Williamsburg:
Documents Department
Earl Gregg Swem Library
College of William and Mary
Williamsburg, VA 23185

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676–3075

Cheney:
Eastern Washington University
The Library
Cheney, WA 99004
(509) 359–2475

Olympia:
Washington State Law Library
Temple of Justice
Olympia, WA 98504

Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442–5554

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

WEST VIRGINIA

Beckley:
National Mine Health and Safety Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

WISCONSIN

Appleton:
Appleton Public Library
121 South Oneida Street
Appleton, WI 54911
734–7171

Kenosha:
Library/Learning Center
University of Wisconsin–Parkside
Wood Road
Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

WYOMING

Laramie:
Coe Library—Documents Division
University of Wyoming
Box 3334, University Station
Laramie, WY 82071
(307) 766–2174

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federal register

Tuesday
April 1, 1980

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Conditional Approval of the Permanent Program Submission From the State of Montana Under the Surface Mining Control and Reclamation Act of 1977

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Conditional Approval of the Permanent Program Submission From the State of Montana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule implementing conditional approval of Montana's permanent regulatory program.

SUMMARY: On August 3, 1979, the State of Montana submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and the capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Montana program meets the minimum requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies discussed below under "Supplementary Information." Accordingly, the Secretary of the Interior has conditionally approved the Montana program.

A new Part 926 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective April 1, 1980. This conditional approval will terminate as specified in 30 CFR 926.11, adopted below, unless the deficiences identified below have been corrected in accord with 30 CFR 926.11.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4225.

ADDRESSES: Copies of the Montana program and the administrative record on the Montana program, including the letter from the Montana Department of State Lands agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

Montana Department of State Lands, 1625 Eleventh Avenue, Capitol Station, Helena, Montana 59601, Telephone: (406) 449–2074.
Montana Department of State Lands, Field Office, 1245 North 29th Street, Billings, Montana 59101, Telephone: (406) 657–2217.
Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421.
Office of Surface Mining, Room 135, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240, Telephone: (202) 343–4728.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being enacted in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program has been in effect since December 13, 1977, when the Secretary of the Interior promulgated interim program rules, 30 CFR Parts 710–725 and 795, 42 FR 62639 *et seq.*

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA.

The Federal rules for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), Parts 795 and 865 (originally Part 860) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15312–15463 (March 13, 1979). Corrections were published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979), 44 FR 53507–53509 (September 14, 1979) and 44 FR 66195 (November 19, 1979). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), at 44 FR 75303 (December 19, 1979), 44 FR 77440–77447 (December 31, 1979) and 45 FR 2626–2629 (January 11, 1980). Portions of these rules have been suspended, pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979) and 45 FR 6913 (January 30, 1980).

General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The Federal rules governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the State to make additions or modifications to the program, and an opportunity for public comment, the Secretary may either approve the program unconditionally, approved it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If the program is disapproved, the State may submit a revision of the program to correct the items which needed change to meet the requirement of SMCRA and the applicable Federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Federal program is implemented.

The Secretary, in reviewing State programs, is complying with the provisions of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. With respect to the Montana program, the Secretary has used as criteria the Federal rules as corrected, amended, and suspended in the Federal Register notices cited above under "General Background on the Permanent Program."

State programs must contain provisions which regulate coal mining in accordance with the requirements of SMCRA and consistent with the Secretary's regulations. The requirements under SMCRA and 30 CFR Chapter VII for special bituminous coal mines in Wyoming and anthracite mines in Pennsylvania are inapplicable in Montana.

With respect to suspended regulations, the following standards are being applied in reviewing State program submissions:

1. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation.

2. A State program must be able to implement all provisions of SMCRA which are part of the regulation of coal mining during the permanent program, including those provisions of SMCRA

upon which the suspended regulations were based.

3. A State program may not contain any provision which is inconsistent with a provision of SMCRA. A State program may not include provisions implementing a suspended regulation if that regulation was suspended because it was inconsistent with the Surface Mining Act. There were two such suspensions, relating to 30 CFR 805.13(d) and 808.12(c).

4. Subject to public comment and agency analysis in the context of a particular State program, it would appear that any other suspended provision, if included in a State program, could probably be characterized as more stringent than the Secretary's remaining rules. Accordingly, its inclusion in the State program could not ordinarily be grounds for disapproval under Section 503 of the Surface Mining Act, 30 U.S.C. 1253. Alternatively, a State may delete or suspend its corresponding regulation as long as standard 2 is met.

5. Upon promulgation of new regulations to replace those which have been suspended, the Secretary will afford States which do not have approved programs a reasonable opportunity to amend their programs, as appropriate. In general, we expect that the provisions of 30 CFR 732.17 will govern this process for States with approved programs.

After the Secretary published the Federal regulations for the permanent program, they were challenged in a lawsuit brought in the United States District Court for the District of Columbia (*In re: Permanent Surface Mining Regulation Litigation*, No. 79-1144 (D.D.C. February 26, 1980)). Because of the large number of regulations being challenged the Court decided to hear the case in two rounds. Approximately half the issues were briefed in the first round and argued at a hearing held on November 16, 1979. The remaining issues were briefed and argued in the second round, which followed behind the first round schedule by approximately two months.

On February 26, 1980, the court ruled on the regulations challenged in the first round. The court upheld most of the challenged regulations, but did remand the following regulations to the Secretary for further consideration and rulemaking:

1. 30 CFR 732.15(b)(7) and 840.13(a)—These sections state that State programs must be consistent with 30 CFR Part 845 which establishes a point system for assessing civil penalties; the court held that the Secretary could not require the States to establish a point system for penalty assessment;

2. 30 CFR 761.5(a)(2)(i)—This definition of "valid existing rights" requires that all permits necessary for mining must have been obtained before August 3, 1977, if an operation is to be eligible to mine in those areas where mining is prohibited under Section 522(e) of SMCRA; the court held that it is only necessary for the operator to establish that a "good faith" effort was made to acquire the necessary permits before August 3, 1977;

3. Those provisions of 30 CFR Parts 779, 780, 783, and 784 which require information for the "mine plan area" and the definition of that term set forth in § 701.5—These provisions require information in the permit application and reclamation plan for areas which will not be in the permit area under the current application but which will be in future permit areas; the court held that the informational requirements of 30 CFR Parts 779, 780, 783 and 784 should be limited to the permit area unless otherwise required by the Act;

4. 30 CFR 779.20 and 780.16—These regulations require that each permit application and reclamation plan contain detailed information on fish and wildlife resources, but the court held that there was no statutory authority for requiring this information;

5. 30 CFR 779.21 and 783.21—These sections require permit applications to include soil survey information where the lands do not qualify as prime farmlands; the court concluded that, under the Act, soil surveys can only be required for prime farmland;

6. 30 CFR 807.11(e)—This section was remanded because it does not provide that, in informal hearings on bond release, the regulatory authority may arrange for citizens to accompany an inspector on a mine site inspection;

7. 30 CFR 808.14(b)—This section allows forfeiture of the entire bond amount, even if this amount will exceed the cost of reclamation; but the court ruled that bond forfeitures should be limited to the amount needed to cover reclamation costs;

8. 30 CFR 785.19(d)(2) (iii) and (iv)—These paragraphs require one year of hydrologic data and water quality analyses for alluvial valley floors, but the court held that such data can be provided for a shorter period of time or on the basis of extrapolations from existing information rather than requiring one year of data in all cases;

9. 30 CFR 785.19(e)(2)—This paragraph defines as a "significant" effect on farming any mining on an alluvial valley floor which removes from production, over the life of the mine, sufficient acreage to decrease the farm's income from agricultural activity; the court held that the Act authorized permit approval when the mining activity will have a "negligible impact" on farm productivity;

10. 30 CFR 785.19(e)(1)—This section prohibits mining on alluvial valley floors if it will cause hydrologic damage to undeveloped range land or small farm land areas; instead, the court ruled that this regulation should incorporate the statutory exemption of section 510(b)(5)(A) to allow mining in such areas;

11. 30 CFR 816.115, 817.115, 823.11(c), 823.15 (b) and (c)—These sections were remanded because they require that, after mining and before bond release, the land must actually be used for grazing or cropland as a measure of the success of revegetation; the court held that there was no statutory basis for such an actual use standard;

12. 30 CFR 817.116(b) and 816.116(b)—These sections were remanded because they require the operator to be responsible for revegetation for five years beginning with the achievement of required vegetative cover, rather than beginning with the last year of augmented seeding and fertilizing;

13. 30 CFR 816.133(c)(4), (c)(9) and 817.113(c)(4), (c)(9)—These sections require that, before certain postmining land uses can be approved, the operator must provide written commitments of financing or management to the regulatory authority; the court held that only a reasonable likelihood of postmining land use is required by the Act and that letters of commitment should not be required.

The Montana program was submitted to the Department before the court's decision and contains provisions based on these remanded regulations. After the Secretary has had an opportunity to review the court's opinion in depth, he will determine what action to take while pursuing an appeal of the decision, if any is taken, or while reconsidering the remanded rules. To the extent any of the rules listed above are suspended or modified pending appeal or reconsideration, Montana will be given opportunity to amend its program to reflect the changes adopted by the Department.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Montana will be found in 30 CFR Part 926.

Background on the Montana Program Submission

On August 3, 1979, OSM received a proposed regulatory program from the State of Montana. The program was submitted by the Montana Department of State Lands, the agency which will be the primary regulatory authority under the Montana permanent program. Notice of receipt of the submission initiating the program review was published in the August 13, 1979, **Federal Register** (44 FR 47414–47415) and in newspapers of general circulation within the State. The announcement noted information for public participation in the initial phase of the review process relating to the Regional Director's determination of whether the submission was complete.

On September 12, 1979, a public review meeting on the program and its completeness was held by the Regional Director in Helena, Montana. September 12, 1979, was also the close of the public comment period on completeness, which had begun August 13, 1979.

On October 5, 1979, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be complete (44 FR 57851). The notice specified that the submission included all elements required by 30 CFR 731.14(c).

On November 13, 1979, the Montana Department of State Lands submitted amendments to the August 3, 1979, Montana program submission which contained:

1. A revision of the text portion of the Montana permanent program submission.

2. Additional supporting documentation to be placed in Appendix D (forms used by the Department of State Lands).

3. An errata sheet for the section-by-section comparison of the Montana Act and regulations to SMCRA and permanent program rules (Appendix C, C–1, C–2).

4. Responses to questions raised during the Regional Director's review of the Montana program submission which were presented to the Montana Department of State Lands during a meeting on October 18, 1979.

The revisions and clarifying information submitted by the Montana Department of State Lands addressed a number of substantive and non-substantive modifications.

On November 20, 1979, the Regional Director published notice in the **Federal Register** (44 FR 66761–66764) and in newspapers of general circulation within the State that the revisions to the Montana permanent program submission were available for public review and comment. The notice set forth procedures for the public hearing and comment period on the substance of the Montana program.

On December 20, 1979, the Regional Director held a public hearing on the Montana submission in Billings, Montana. The public comment period on the Montana permanent regulatory program ended on December 24, 1979.

Subsquent to the close of the public comment period on December 24, 1979, the Montana Department of State Lands submitted policy memoranda, clarifying information and changes to the Montana State permanent regulatory program in response to comments received during the public comment period, at the public hearing and during meetings between OSM and the Montana Department of State Lands. The following documents were provided:

1. January 4, 1980, memoradum from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Brace Hayden, John North and Dennis Hemmer regarding the penalty policy for the Coal and Uranium Bureau;

2. January 9, 1980, memorandum from Dennis Hemmer, Chief, Coal and Uranium Bureau, Montana Department of State Lands to Donald Crane, Regional Director, OSM, regarding typographical errors in Montana's rules;

3. January 10, 1980, letter from John F. North, Chief Legal Counsel, Montana Department of State Lands to Donald A. Crane, Regional Director, OSM, concerning 30 CFR 776.14(a);

4. January 10, 1980, letter from Brace Hayden, Administrator Reclamation Division, Montana Department of State Lands to Donald A. Crane, Regional Director, OSM, regarding cultural resource protection provisions in Montana's State program;

5. January 12, 1980, letter from Brace Hayden, Administrator, Reclamation Division, Montana Department of State Lands, to Donald A. Crane, Regional Director, OSM, regarding endangered species and habitats of endangered species; and

6. Janauary 13, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Donald A. Crane, Regional Director, OSM, concerning public notice of decisions on State surface mining permit applications.

On January 13, 1980, the Regional Director submitted to the Director of OSM his recommendation that the Montana program be conditionally approved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On January 28 and 29, 1980, OSM and the Montana Department of State Lands met in Washington, D.C. to discuss issues raised during the Regional Director's and Director's reviews of the Montana permanent program submission. This meeting was open to the public. Prior to and following the meeting, the Montana Department of State Lands submitted the following clarifications and modifications to the Montana permanent program submission:

1. January 4, 1980, letter from John F. North, Chief Legal Counsel, Montana Department of State Lands to Harriet B. Marple, Chief, Division of Enforcement, OSM, regarding penalty assessments;

2. January 30, 1980, memorandum from Dennis Hemmer, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding marcasite and pyrite analyses;

3. January 30, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding State inspections;

4. January 30, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding engineer certification of Class I roads;

5. January 30, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding bonding of political subdivisions of the State;

6. Janaury 30, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding renewal of permits;

7. January 30, 1980, letter from Leo Berry, Jr., Commissioner, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, regarding notification of local governmental officials;

8. February 1, 1980, letter from John F. North, Chief Legal Counsel and Special Assistant Attorney General, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, presenting an opinion on Montana Rule XXIV(1), authority to enter a mine site to inspect without a search warrant, authority to require interim steps, interpretation of Article II, Section 9 of the Montana Constitution, Montana 82–4–215(2), bonding regulations and Montana 82–4–23, authority to require certification of design and construction or reconstruction of roads by a qualified

certified professional engineer and Montana Rule III; and

9. February 1, 1980, letter from John F. North, Chief Legal Counsel, Montana Department of State Lands to Paul Reeves, Deputy Director, OSM, describing the Montana civil penalty assessment system.

On January 30, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Montana program.

On February 1, 1980, the Director published notice in the **Federal Register**, reopening until February 6, 1980, the public comment period on the Montana program to enable the public to review and comment on the amendments submitted by the Montana Department of State Lands and on summaries of the January 28 and 29, 1980, meeting between OSM and Montana on these amendments (45 FR 7320).

On February 13, 1980, the Director of OSM published in the **Federal Register** a notice of the availability of the views on the Montana program submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and other Federal Agencies (45 FR 9800–9801).

On February 20, 1980, John F. North, Chief Legal Counsel and Special Assistant Attorney General, Montana Department of State Lands, in a letter to Paul Reeves, Deputy Director, OSM, provided comments and clarifying information on the issues raised by the Public Lands Institute and Environmental Policy Institute during the reopened comment period which closed on February 6, 1980.

On February 25, 1980, the Director published notice in the **Federal Register**, reopening the period for review and comment on portions of the Montana regulatory program until March 3, 1980. The new comment period provided opportunity for the public to review and comment on supplemental information submitted by the Montana Department of State Lands after the close of the public comment period on February 6, 1980 (45 FR 12366–12367).

On March 17, 1980, the Director recommended to the Secretary that the Montana program be conditionally approved.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Montana has, subject to the exception in finding 4(1), 4(h)(i), 4(h)(iii), 4(o), 4(j)(vi), and 4(g)(i) below, the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Montana Strip and Underground Reclamation Act (Montana SURA) and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Montana in accordance with SMCRA;

(b) The Montana SURA provides sanctions for violations of Montana laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Montana Department of State Lands or its inspectors;

(c) The Montana Department of State Lands has sufficient administrative and technical personnel and sufficient funds to enable Montana to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Montana law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Montana;

(e) Montana has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Montana has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations;

(g) Montana has fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below in findings 4(l), 4(h)(i), 4(h)(iii), 4(o), 4(j)(vi), and 4(g)(i);

2. As required by Section 503(b) (1)–(3) of SMCRA, 30 U.S.C. 1253(b) (1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Montana program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Montana program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, 33 U.S.C. 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*; and

(c) Held a public review meeting in Helena, Montana, on September 12, 1979, to discuss the Montana program submission and its completeness and held a public hearing in Billings, Montana, on December 20, 1979, on the substance of the Montana program submission;

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds that the State of Montana has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Montana program submission, including the section-by-section comparison of the Montana law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public hearings, and other relevant information, that:

(a) The Montana program provides for Montana to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII.

(b) Montana has proposed the following alternate approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13:

(i) Civil Penalty System—Montana has proposed an alternative to the Federal civil penalty system, 30 CFR Part 845. Under the Montana proposal, there would be no formal point system, but Montana would assess penalties equal to or greater than those that would be assessed by OSM under the point system contained in 30 CFR Part 845. In light of the District Court's decision on February 26, 1980, the Montana proposal can be approved because it meets the requirements of Section 518 of SMCRA without requiring that civil penalties be assessed through a point system.

Also, Montana's law and regulations omit time limits for certain portions of its penalty assessment process, but Montana would commit to abide by the stated time limits set forth in a memorandum from John North to Richard H. Hall, dated February 1, 1980.

In reviewing this alternative the Secretary considered the circumstances unique to Montana. Montana has a very small number of producing mines at present (11), and does not expect any significant increase in this figure in the

next 10 years. A number of the mines in Montana are quite large (over 200 acres). Montana intends to inspect these mines more frequently than is required under the permanent program. Montana's statute authorizes fines of up to $5,000 per day, which is the same as the fines authorized under Section 518(a) of SMCRA. Montana always assesses a penalty, whereas OSM does not in approximately one-third of its cases. Finally, Montana uses the same four criteria as OSM in determining what penalty to assess.

Montana was asked to establish that it has assessed and will continue to assess penalties in a range comparable to OSM's or higher. The State sent OSM a statement concerning its past assessment practices for the most typical violations in four categories:

Category I—Minimal or no damage, no negligence, no previous violations of that type, and good faith points earned.

Category II—Low damage, low negligence, one or two previous violations of that type, and good faith points earned.

Category III—Moderate damage, moderate negligence, two or three previous violations of that type, and good faith points earned.

Category IV—Serious to high damage, gross to willful negligence, 3 or more previous violations of that type, and negative good faith points awarded.

The violations considered were typical, common violations: contamination or burying of topsoil, failure to pass all sediment through a sediment pond, disturbance off the permit area, and failure to reclaim in a timely manner.

Also, the State sent, and OSM reviewed, copies of its files on all of its enforcement and assessment actions taken during the past two years, except a group of cases involving very minor violations for which a penalty would not be issued under OSM's system. It was found that in most cases the Montana civil penalty assessed was at least as high as OSM's would have been. The remaining cases were discussed with the State on January 24, 1980, and it was found that in all cases except one, when more facts were provided by the State, Montana's assessment resulted in a civil penalty at least as high as that of OSM.

The Secretary finds that the Montana statement concerning its past assessment practices as amended by a memorandum explaining the workings of the State assessment system provides an acceptable basis for implementing Section 518 of SMCRA. The State has also provided explanations as to how Montana will assess violations under its new statutory scheme as opposed to its past practice, how violations involving an obstruction of an inspection are to be assessed, and that the term "negligence" includes both recklessness and willfulness in determining the degree of fault to be considered in assessing a civil penalty.

In accordance with 30 CFR 731.13, it is determined that:

(A) The proposed alternative contained in the Montana program is in accordance with Section 518 of SMCRA because the State system results in civil penalties which are at least as stringent as those of OSM; and

(B) The proposed alternative is necessary because of local requirements. Montana has a small number of large mines which are inspected twice per month.

(ii) Analysis of Pyrite and Marcasite—30 CFR 779.14(b)(v) and 783.14(a)(2)(iv) require an analysis of the sulfur, pyrite and marcasite content of the coal seam. The purpose of this requirement is to identify the principal forms of inorganic sulfur in the coal that may be subject to oxidation when exposed to air and water and which may lead to acid drainage from the mined areas. The differentiation between marcasite and pyrite (organic forms of sulfur) is useful to identify areas where the theoretically faster oxidized marcasite predominates and where acid drainage conditions may thus be more likely.

Montana 82–4–222 requires an analysis of sulfur content, but not of pyrite and marcasite. Montana has submitted evidence that its coal is low in sulfur content and thus that identification of total sulfur is a sufficient measure of the potential for acid mine drainage. Montana maintains that a sulfur content higher than that normally encountered would alert the State to a potential acid mine drainage problem even though the sulfur content would not be considered out of the ordinary for a "higher sulfur" area. If above normal sulfur is encountered, Montana does have the ability under Rule II(3)(g) to require a further breakdown of the sulfur analysis (i.e., marcasite and pyrite).

Acid mine drainage usually comes from (1) oxidation of sulfur from the coal remaining in the rooms and pillars of an underground mine, or (2) industrial wastes from coal processing plants which contain sulfide minerals such as pyrite and marcasite. Montana has one underground coal mine and no coal processing facilities.

Montana does require chemical and physical analyses of any material that may be acid producing. The Montana program also reiterates the Federal requirements to conduct all activities to minimize disturbances to the hydrologic balance, selectively to place and seal acid- and toxic-forming materials, to avoid drainage from acid- and toxic-forming spoil, to backfill material to minimize adverse effects on ground water, to cover acid- and toxic-forming material with a minimum of eight feet of non-toxic and non-combustible material, to backfill to prevent leaching, to keep acid- and toxic-forming materials out of drainage channels, and to design mines to prevent acid mine drainage. Thus any acid-forming coal materials which might be encountered would have to be addressed in the context of complying with these protective measures included in the Montana program.

In accord with 30 CFR 731.13, it is determined that:

(A) The proposed alternative contained in the Montana law and Montana program is in accordance with Section 515 and 516 of the SMCRA and consistent with 30 CFR Part 779 and 30 CFR Part 783; and,

(B) The proposed alternative is necessary because of the local environmental condition that Montana's coal is low in sulfur. Furthermore, there is only one underground mine and no coal processing plants, and if a potentially acid producing area were encountered Montana has the ability to require a separate pyrite and marcasite analysis.

(iii) Reclamation of Mined Land—Montana proposed that its statutory requirement to reclaim mined lands to native range as applied to the reclamation of marginal farmlands be considered under 30 CFR 731.13. The State was concerned that an interpretation of the Federal postmining land use rule, 30 CFR 816.133, could provide a basis for operators to argue that marginal farmland contained in mine operations should be reclaimed to that same status, which is a condition less stringent than the basic Montana statutory requirement. Upon review of the proposal, the Secretary finds that the Montana provision is a more stringent requirement, rather than an alternative approach, and therefore is consistent with 30 CFR 816.133 and Section 505 of SMCRA. An analysis of the proposal is contained in finding 4(c)(v) below.

(c) The Montana Department of State Lands has the authority under Montana laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Montana program includes provisions to do so. The Montana law and regulations on performance standards are consistent with SMCRA and 30 CFR Chapter VII, Subchapter K. Special

performance standards for mountaintop removal and operations on steep slopes are not included in the Montana law or regulations because these types of mining are specifically prohibited under Montana law or regulations. Approval is based on the following representations made by Montana concerning Montana law and regulations on performance standards:

(i) Montana statute 82–4–203 and 221 and Rule II cover coal processing and loading facilities at or near the mine site to the same extent they are covered in SMCRA Section 701(28) and 30 CFR 827.

(ii) Montana statutes and regulations do not specifically require that the design and construction or reconstruction of Class I type roads be certified by a registered qualified professional engineer in accordance with 30 CFR 816.150(d)(1) and 30 CFR 817.150(d)(1). However, as stated in a policy letter dated January 30, 1980, Montana shall require all Class I type roads to be designed and certified by a registered qualified professional engineer under authority of Section 82–4–222(2)(m) of its law which provides that the Department of State Lands may request any permit information that it requires.

(iii) The analyses of the coal seam for sulfur, pyrite and marcasite required by 30 CFR 779.14(b)(v) and 30 CFR 783.14(a)(2)(iv), shall be performed under a 30 CFR 731.13 "State window" procedure as set forth above in paragraph 4(b)(ii).

(iv) 30 CFR 816.53 requires that both the operator and the surface owner request transfer of ownership of an exploratory or monitoring well in order to use it as a water well. Montana law does not specifically state that a request from the surface owner is required . However, under Rule VII(14)(c), Montana requires the surface owner to assume primary liability for the well, including bonding. Such assumption of liability shall be in writing.

(v) Montana statute 82–4–233(1)(a) mandates that mined land be returned to native rangeland capable of supporting livestock grazing and wildlife habitats; a use which is considered higher than marginal farmland. This mandate is compared to 30 CFR 816.133 which allows reclamation to a condition capable of supporting uses prior to mining. Montana believes the Federal regulations could result in marginal farmland being reclaimed to marginal farmland.

Eastern Montana coal fields have considerable acreage of such marginal land. This land has historically been cultivated during periods when grain prices are high and abandoned and allowed to revert to range. During the long reversion process such lands are without adequate protective vegetative cover and have suffered a decrease in their productive capabilities as a result of wind and water erosion. Substantial Federal funds have been expended over the last decades on the range restoration of such marginal farmlands.

By requiring that land be reclaimed to rangeland, Montana believes that the land will be productive regardless of the agricultural economics at the time of bond release. By restricting non-rangeland reclamation to only those areas approved in accordance with Montana's alternate revegetation provisions in Rule XVI, the Department of State Lands can assure that such areas will be capable of maintaining the alternate use over the long-term.

Montana maintains that grazing and wildlife habitat requirements for revegetation are more stringent than other postmining land uses. Wildlife and grazing habitats must be established as diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land affected. These habitats are more complex than crop, residential, and other postmining land uses, because they form communities which are in equilibrium with the environment and are not maintained artificially by man. (Whittaker, R. H., *Communities and Ecosystems,* Ontario, Macmillan Co., 1970, page 158.)

Montana Rule IX provides that a seeding or planting program for rangeland must incorporate a timing schedule, mulching procedures, and a selection of plant species suited for the community and its components. Grazing and wildlife habitats must be developed that allow managed grazing on a sustained yield basis.

Alternate non-rangeland reclamation only shall be approved in accordance with Montana's alternate revegetation provisions contained in Rule XVI. These provisions assure that such areas shall be capable of maintaining the alternate use over the long term. Part 1 of Rule XVI requires specific plans showing: (a) The nature of the alternate reclamation; (b) how use of the alternate reclamation allows a postmining land use which is consistent with the purposes of Montana law; (c) why the results are not attainable by use of nonalternate reclamation methods; (d) that the alternate reclamation is more or at least as environmentally protective, during and after the proposed strip or underground mining operations, as non-alternate reclamation methods, and will not reduce the protection afforded public health and safety below that provided by non-alternate reclamation methods; (e) that the applicant will conduct appropriate special monitoring, as determined by the Montana Department of State Lands, during the bonding period designed to identify, as soon as possible, potential risks to the environment and public health and safety from use of the alternate reclamation; (f) the reclamation methods which will be implemented in the event the objective of the alternate reclamation plan is not attained; and (g) for areas proposed for alternate revegetation, the area(s) of undisturbed land to which the mined and reclaimed land shall be compared for bond release purposes.

Part 2 of Rule XVI provides for public notice, review and comments. Notice will also be given to OSM.

Part 3 of Rule XVI establishes the criteria for approval of such proposals, including: (a) The plan meets the requirements of Part 1 above; (b) the plan is based on a clearly defined set of objectives which can reasonably be expected to be achieved; and (c) The permit contains conditions that specifically limit the alternate reclamation authorized to that granted by the Montana Department of State Lands, impose enforceable environmental protection standards, and require the permittee to conduct the periodic monitoring and reporting program set forth in the plan.

Part 3 also specifies that the Montana Department of State Lands must find, in writing, that the criteria are met as part of any decision to approve the reclamation plan.

Part 4 of Rule XVI establishes review procedures including consultation with OSM and specifically directs the Montana Department of State Lands to issue notices of modification or changes to ensure full protection of the environment and public health and safety.

Part 5 of Rule XVI establishes general and specific criteria for qualifying a postmining land use alternate to the Montana program requirement to return lands to native range. These criteria are substantial and are consistent with those of Section 515(c)(3) of SMCRA and 30 CFR 816.133.

Rule XVI(1) mandates that the alternative reclamation practice will be granted only if it is necessary for the approved alternative postmining land use. It also mandates notice to OSM and accommodation of OSM findings on each request for use of Rule XVI prior to a decision. It is the finding of the Secretary that the Montana provisions as described are more stringent than SMCRA and 30 CFR Part 816.

(d) The Montana Department of State Lands has the authority under Montana laws and regulations and the Montana program includes provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G. The Montana program includes no requirements for mountain-top removal and operations on steep slopes. These permit requirements are not applicable to Montana because these types of mining are specifically prohibited under Montana law or regulation. In addition, there are no provisions for experimental practices because Montana law and regulations do not allow experimental practices. Section 82–4–221(1) of the Montana SURA provides the authority for Montana to prohibit surface coal mining and reclamation operations without a permit issued by the Montana Department of State Lands. Approval is based on the following representations made by Montana concerning Montana law and regulations on permit requirements:

(i) 30 CFR Chapter VII contains numerous references to the availability of information to the Public. Article II, Section 9 of Montana's Constitution states that "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of State government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure." Montana maintains that this constitutional provision has been interpreted very broadly in favor of public disclosure. The 1972 Montana Constitutional Convention indicated that the exception applies only to personnel matters, litigation, tax and welfare records, jury deliberations, court deliberations, and attorney-client communications. Recent case law has held that the right of privacy was unavailable to a corporation. Thus, there are types of information which could be protected under SMCRA but which could not be kept private under Montana law, and Montana's provisions are therefore determined to be more stringent than Federal law.

(ii) Under Section 514 of SMCRA, 30 U.S.C. 1264(a), and 30 CFR 786.23(b)(1)(ii), if an informal conference on a permit application is held, a decision shall be made by the regulatory authority within 60 days of the conference. Montana law or regulation does not provide such a time limit, but does require a decision on a permit application within 240 days after the receipt of a complete application. Montana maintains that not requiring a decision within 60 days of an informal conference allows a conference to be held earlier in the permit review and analysis process and thus is more meaningful to the public as well as to the State. This is more stringent than the 60 day Federal requirement. Montana's provisions regarding informal conferences are consistent with 30 CFR 786.23.

(iii) 30 CFR 786.23(f) requires the regulatory authority to notify local government officials in the local / political subdivisions in which the area of land to be affected is located when a permit has been issued. Montana regulations do not contain this provision, but Montana maintains that since mining is conducted only in six counties and because the issuance of a permit entitles the county to share in the severence tax, local officials are well informed regarding mining activities. Additionally, Montana has stated that as a matter of policy the Montana Department of State Lands will notify the local government officials in the local political subdivision within ten days after granting a mining or test pit prospecting permit. Therefore, Montana's provisions for notice to local officials are consistent with SMCRA and 30 CFR 786.23(f).

(iv) Section 82–4–221(1) of the Montana law requires that an operator apply for a permit renewal at least 30, but no more than 60, days prior to the permit expiration date. In order to meet the public disclosure and comment period provided by 30 CFR 786.11–14 and 30 CFR 788.14, additional time is necessary. Montana maintains that because the provision in its regulations protects the State from receiving applications far in advance of the necessary renewal date, the Montana Department of State Lands has the authority to extend the period during which renewal applications may be received and thus provide opportunities for public comment. Based on the revised State policy providing for a minimum 75 day review period as set forth in Montana Rule III, the Montana law and regulations are consistent with 30 CFR Parts 786 and 788.

(e) Section 82–4–226 of the Montana SURA provides the Montana Department of State Lands with the authority to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815, and the Montana program includes provisions to do so;

(f) Montana laws and the Montana program do not provide an exemption for coal extraction incidental to government-financed construction. Thus, the Montana program is more stringent than SMCRA and 30 CFR Part 707;

(g) The Montana Department of State Lands has the authority under Section 82–4–205 and 82–4–221 of the Montana SURA and Rule XXIV of the Montana regulations to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Montana. Approval of this program is based on the following representations made by Montana concerning Montana law and regulations on the ability to enter, inspect, and monitor:

(i) Montana Rule XXIV(1) requires that the Montana Department of State Lands inspect to ensure "substantial" compliance with Montana law and regulations. The Secretary is concerned that "substantial" compliance might be interpreted to mean something less than complete compliance. Montana has stated that this rule does not relieve the operator of the duty to comply completely with Montana law and regulations; that Sections 82–4–231 to 235 require complete compliance with the reclamation plan and performance standards; that Section 82–4–251 requires issuance of a notice of violation or suspension order for every violation; and that Section 82–4–254 requires a penalty to be assessed for every violation. Therefore, Montana maintains, complete compliance with the program is required. Additionally, while Montana Rule XXIV requires at least the minimum number of inspections in accordance with 30 CFR Part 840, Montana interprets the rule to require the Montana Department of State Lands to make additional inspections if necessary to ensure substantial compliance with the Montana law and regulations. However, Montana has agreed as a condition of program approval to clarify its policy by removing the word "substantial" from Rule XXIV(1).

(ii) 30 CFR 840.11 describes "partial" and "complete" inspections and requires them to be on-site reviews of permit conditions. The Montana Department of State Lands interprets Montana Rule XXIV to require that partial and complete inspections be on-site, on-the-ground inspections. Furthermore, in Montana a complete inspection is an inspection of the entire permit area for complete compliance with all applicable requirements of Montana law and regulations. Therefore, Montana's inspection provisions are determined to be in compliance with 30 CFR Part 840.

(iii) 30 CFR 840.12 requires the regulatory authority to be able to inspect

without a search warrant. This item is not specifically addressed in Montana law or regulation. The State submitted an Attorney General opinion dated February 1, 1980 which declares that Montana has the power to inspect without a search warrant. Montana maintains that the coal industry in Montana has been a closely regulated industry since passage of the first Montana reclamation act in the late 1960's. Since that time, the Montana Department of State Lands has conducted frequent and detailed inspections without search warrants to enforce the reclamation act. This practice has never been challenged. No other Montana rule or statute requires the Department of State Lands to obtain a search warrant. Therefore, Montana is able to conduct inspections without warrants, and complies with 30 CFR Part 840.

(h) The Montana Department of State Lands has the authority under Montana laws and the Montana program includes provisions to implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. The performance bond and liability insurance provisions of Sections 507(f), 509, 510, and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J are incorporated in Sections 82–4–221, 222, 223, 232, and 235 of the Montana SURA and in Rule XIX and XX of the Montana regulations. Approval of the Montana regulatory program is based on the following representations made by Montana concerning performance bonds:

(i) Section 524 of SMCRA, 30 USC 1274, provides that political subdivisions which engage in surface coal mining operations are subject to the full requirements of SMCRA. Montana SURA 82–4–223 gives the Department of State Lands discretion in requiring a bond from a political subdivision. The Montana Department of State Lands will, by policy dated January 30, 1980, require a bond for any mining operation operated by a political subdivision of the State in the same manner as required of all other operators.

In order to comply with Section 524 of SMCRA, Montana must revise its regulations to specify that a political subdivision must obtain a bond if it is directly conducting a coal mining operation. However, since at present no political subdivision is conducting such an operation, it is determined the Department of State Lands' policy statement is sufficient until the agreed date by which Montana will have changed its regulations.

(ii) 30 CFR 806.12 require bonds to be non-cancellable, with an exception for that portion which covers lands not disturbed. Terms and conditions contained in Montana's bond form allow cancellation of bond only for undisturbed areas. Because this form is not a rule, the question arose as to the legal relationship of the form to Montana law and regulations. Montana has stated that the bond form has in the past been a rule, but that recently the Montana Secretary of State, who publishes the Administrative Rules of Montana (ARM) and has authority over format, has prohibited the promulgation of forms as rules. Section 82–4–23 of the Montana SURA directs the Montana Department of State Lands to require a bond which guarantees faithful performance of the permanent program. Montana maintains that this statutory provision does not allow the Montana Department of State Lands to accept a bond which permits cancellation as to disturbed areas. Therefore, the Montana provision and bond form are in compliance with 30 CFR 806.

(iii) 44 FR 67943 (November 27, 1979) suspended portions of 30 CFR 805.13(d) (concerning the revegetation requirements when a long term agricultural land use is involved) and 30 CFR 808.12(c) (concerning a limitation on the areal liability under a bond) as being inconsistent with the SMCRA. Montana Rule XX(3)(b) corresponds to 30 CFR 805.13(d), but also references Rules XVI (Alternate Reclamation) and thereby avoids the inconsistent language of 30 CFR 805.13(d). In 30 CFR 808.12(c), the phrase "with respect to protection of the hydrologic balance" was suspended. Montana Rule XX(13)(b)(ii) contains provisions that mirror the suspended Federal regulation. As such, Montana Rule XX(13)(b)(ii) is determined to be inconsistent with SMCRA. Montana has agreed to amend its regulations to remove the suspended phrase.

(i) The Montana Department of State Lands has the authority under Sections 82–4–254 and 45–3–312 of the Montana SURA, and the Montana program includes provisions to provide for civil and criminal sanctions for violation of Montana law, regulations, conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA, 30 U.S.C. 1268. Approval of the Montana regulatory program is based on the following representations made by Montana concerning providing for civil and criminal sanctions for violations of Montana law, regulations and permit conditions and exploration approvals, including civil and criminal penalties in accordance with Section 518 of SMCRA:

(i) Montana maintains that it interprets Section 82–4–254(1) of the Montana SURA to operate so that the $750 per day mandatory minimum daily penalty applies to the permittee from his failure to abate within the time specified in the notice of abatement until the actual abatement of the violation, unless a court or an administrative body grants temporary relief or otherwise suspends the permittee's obligation to abate. Since the State asserts that Montana 82–4–254(1) is precisely the same as SMCRA Section 518(h) in this regard, the Montana SURA provides the necessary civil penalty authority for failure-to-abate violations.

(ii) Montana's civil penalty assessment criteria are not listed in any of its statutes or regulations, but are found in a January 4, 1980, policy memorandum. The Department of State Lands maintains that Montana case law provides that agency action, such as the determination of the size of civil penalty, will not be overturned by its courts except in the case of abuse of agency discretion. The Montana program submission provides the necessary civil penalty assessment criteria.

(iii) 30 CFR 843.15(a) states, in part, that, "Expiration of a notice or order shall not affect the Director's right to assess civil penalties for the violations mentioned in the notice of order." The Montana rules contain no comparable statement. However, under Section 82–4–254(1) of the Montana SURA, the Department of State Lands is required to assess a civil penalty for every violation that is detected. The Montana provision is more stringent than the Federal regulation.

(iv) Montana provides in Section 82–4–254(2) of the Montana SURA that the assessed penalty must be placed in escrow after the administrative adjudicatory hearing and before judicial review. The Federal scheme requires the penalty to be placed in escrow before the administrative hearing. 30 CFR 845.18, however, gives an alleged violator the right to an assessment conference prior to his placing the alleged penalty in escrow. Montana provides for no such assessment conference. The Secretary believes that a violator is entitled to one hearing, whether formal or informal, prior to having to place the assessed penalty in escrow in order to further contest the fact of the violation or the amount of the penalty. Since the Montana program entitles a violator to one hearing, and

that hearing is a formal hearing, prior to having to place the assessed penalty in escrow in order to further contest the fact of the violation or the amount of the penalty, it is determined that Section 82–4–254(2) of the Montana SURA provides an escrow provision which is consistent with Section 518 of SMCRA.

(v) Montana has chosen to utilize an alternate civil penalty assessment system under the criteria provided in 30 CFR 731.13. The Montana provisions are discussed in detail above in finding 4(b)(i). Montana maintains that State case law provides that agency action such as a determination of the size of penalty will not be overturned by State courts except in the case of abuse of agency discretion; thus, the fact that Montana's criteria for setting the amount of the civil penalties are not contained in its laws or regulations will not hamper the Department of State Lands in successfully assessing penalties as high as under Section 518(a) of SMCRA. Based on these representations by Montana, the Montana provisions for assessment of civil penalties are in compliance with Section 518(a) of SMCRA.

(j) The Montana Department of State Lands has the authority under Montana laws, and the Montana program contains provisions, to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA, 30 U.S.C. 1271, and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements, except for the provision discussed in (vi) below. The enforcement authorities in Section 521 of SMCRA and the applicable provisions of 30 CFR Chapter VII, Subchapter L are contained in Sections 82–4–205, 221, 251, and 254 of the Montana SURA and in Rule XXIV of the Montana regulations. Approval of the Montana regulatory program is based on the following representations made by Montana concerning issuing, modifying, terminating, and enforcing notices of violation, cessation orders, and show-cause orders:

(i) 30 CFR Part 842 provides for a citizen's right of informal review of a decision not to inspect or enforce and the adequacy and completeness of inspections in general. Montana maintains that because of the small population and the availability of the Commissioner of the Montana Department of State Lands to the public, no formal rules on this matter are necessary. As a matter of policy, after an inspection to investigate a citizen's complaint or a decision not to so inspect, the Montana Department of State Lands routinely sends a letter to the citizen stating the findings of the inspection, and the Commissioner personally reviews each such compliant. The letter also explains that if the citizen disagrees with the findings, he or she may consult with the Commissioner. In addition, the State will handle informal review of completeness and adequacy of inspections in the same manner as review of a decision not to inspect or enforce. This procedure provides the necessary guarantee of citizen rights consistent with 30 CFR Part 842.

(ii) 30 CFR Part 843 requires the regulatory authority to have the authority to require interim remedial steps in notices of violation. Montana maintains that Section 82–4–251(2) of the Montana SURA requires the Commissioner of the Montana Department of State Lands or his authorized representative to issue an order requiring abatement and that the authority to require complete abatement includes the authority to require interim steps necessary to achieve complete abatement. The Commissioner and his authorized representatives have authority to require interim steps in the notice of violation. This Montana procedure for requiring interim abatement steps is in compliance with 30 CFR Part 843.

(iii) 30 CFR 843.12(c) provides that the total abatement time under a notice of violation, including all extensions, will not exceed 90 days. Section 82–4–251(2) of the Montana SURA provides that the Department of State Lands must fix a reasonable time, not exceeding 90 days, for abatement. The next sentence in the Montana SURA begins: "If, upon expiration of the period of time originally fixed *or subsequently extended* * * *." (emphasis added). The question has arisen that the underlined language could be construed as allowing an extension beyond 90 days. Montana maintains that the sentence setting forth the 90-day requirement is the only one dealing with the setting of a time frame and that the next sentence, partially quoted above, does not authorize extensions, but merely refers to extensions authorized by the previous sentence. Montana holds that the original time for abatement and any extention, when added together, cannot exceed 90 days. Based on this representation, the Montana provision complies with 30 CFR 843.12(c).

(iv) Montana maintains that Section 82–4–254(3) of the Montana SURA requires the Montana Attorney General to bring suit if requested to do so by the Commissioner, Department of State Lands. Montana contends that its law is more stringent than Section 521(c) of SMCRA, which merely authorizes the Secretary of the Interior to request suit by the Attorney General, and does not require the Attorney General to bring the suit. Montana also notes that in the event of the refusal of an operator to permit inspection of monitoring equipment, Montana law empowers the Commissioner to request the Attorney General and the Attorney General, under general law, is empowered to bring an injunction action in support of the Commissioner for such a violation. Based on this representation, Montana has the necessary authority to request civil relief in circumstances which are consistent with SMCRA Section 521(d) and 30 CFR 843.19.

(v) 30 CFR 843.13(a)(1) states, in part, that, "violations by any person conducting surface coal mining operations on behalf of the permittee shall be attributed to the permittee, unless the permittee establishes that they are acts of deliberate sabotage." Montana maintains that as a matter of agency law, the permittee is already liable for the acts of his agents and employees on the mine site. The question of deliberate sabotage has never arisen in Montana and has never been addressed by the State. Based on this representation, Montana law adequately provides that violations are attributable to the permittee.

(vi) 30 CFR 843.11(a)(2) provides that if a cessation order will not completely abate the imminent danger or harm in the "most expeditious manner physically possible," affirmative obligations shall be imposed by the authorized representative of the regulatory authority. Furthermore, the affirmative obligation may require the use of existing or additional personnel and equipment without consideration of cost (44 FR 15301). Montana SURA and regulations do not explicitly contain these provisions. Montana maintains that abatement of imminent danger or of a significant environmental harm provided in Montana 82–4–251(1) would require complete abatement in order to eliminate the danger or harm. Furthermore, complete abatement would have to be as expeditious as possible and would require the use of additional personnel or equipment without regard to cost in order for the State to avoid action under its common law of mandamus. The Secretary believes that the abatement of imminent dangers or harm in an expeditious manner is an important item to be addressed in a State regulatory program. While

Montana feels that it has the necessary authority and as a matter of policy would require abatement in accord with 30 CFR 843.11(a)(2), the Secretary believes that this procedure must be set forth in Montana law or regulation. The State has agreed to revise its regulations.

(k) The Montana Department of State Lands has the authority under Section 82–4–227 of the Montana SURA, Rule XXII and XXIII and the Montana program contains provisions to designate areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Chapter F. It should be noted that Montana Rule XXII(4), which specifies procedures for processing mine applications which might involve areas where mining is prohibited or limited, does not provide for immediate administrative review, but offers review through the permitting process.

Under 30 CFR Chapter VII, a determination of valid existing rights as a part of a permit application is subject to administrative or judicial review under 30 CFR 787.11 and 12. A hearing is required within 30 days of a request for a hearing on the reasons for a final decision. The Montana program does not discuss review in Rule XXII(1) on valid existing rights. However, the Montana program contains an administrative review procedure in Rule III(7) which mirrors the requirements of 30 CFR Part 787. Therefore, the Montana law and regulations are in compliance with 30 CFR Chapter VII, Subchapter F.

(l) The Montana Department of State Lands has the authority under Montana's Administrative Procedures Act, SURA Section 82–4–252, and Rule III and the Montana program contains provisions for public participation in the development and revision of Montana regulations. Montana also has the authority to provide for public participation in the permitting process and in the enforcement of its laws and regulations, with one exception.

The Montana program does not provide for award of costs in administrative proceedings, including attorneys fees, in accordance with Sections 520 and 525 of SMCRA and 43 CFR 4.1290 *et seq.* Although Montana has enacted the basic authority for the award of costs and expenses, SMCRA and 30 CFR Chapter VII require that a State program include the regulations which detail such matters as who may file, contents of a petition, and who may receive an award. The preamble to the Federal rules, 44 FR 15297, states in part,

> The Office believes that a State program must meet the following minimum criteria with respect to citizen participation: * * * (3) It must authorize award of costs and expenses in administrative and judicial proceedings provided under Section 520 (d) and (f) and 525(e) of the Act and 43 CFR 4.

In light of this language, the Secretary believes that a State program must include provisions similar to 43 CFR 4.1290 *et seq.* The Montana SURA does not make provision for such awards consistent with 43 CFR 4.1290. Montana has agreed to make the necessary revision.

Montana's provision for the award of attorney fees in judicial proceedings, SURA Section 82–4–252(5), is identical to Section 520(d) of SMCRA. There are no Federal regulations implementing Section 520(d). However, as is discussed in the response to comment 50, the Secretary believes that Montana's provision is intended to require that attorney fees may be awarded against citizen groups only where they act in bad faith.

Approval of this program is based on the following representations made by Montana concerning Montana law and regulations on public participation:

(i) Montana SURA 82–4–252(1) requires that a person who believes that the Montana SURA is not being enforced must file a written statement with the Department of State Lands. Such a statement must be under oath, and knowingly making a false statement or charge subjects the affiant to penalties. Montana has stated that Sections 45–7–202 and 45–7–203 of its statutes provide a misdemeanor charge for making a false statement or report regardless of whether a statement is made under oath and penalties under each Section are the same. Under 18 U.S.C. 1001, submission of a false report to OSM is a felony. Therefore, Montana's provisions are consistent with Federal provisions regarding penalties for making a false report, and the requirement that statements be under oath does not create any more of a chilling effect on the exercise of citizen suit rights than does 18 U.S.C. 1001.

(ii) Section 520 of SMCRA provides that after 60 days from filing a notice of intent to sue with the regulatory authority, the plaintiff may file suit against the State. Montana SURA 82–4–252(2) provides that, after an "unreasonable time" following notification, a person may sue. Montana has stated in an Attorney General opinion that any delay beyond 60 days would be "unreasonable," especially since Montana requires inspections approximately every two weeks. Furthermore, Montana notes that in cases of an imminent threat to the health or safety of the plaintiff, an immediate response by the Department of State Lands would be deemed essential. In such a situation, a citizen could bring suit immediately after notification of the Department of State Lands. The Secretary believes that the Montana program provides the same requirements as Section 520 of SMCRA in that an "unreasonable time" to respond to a notice of intent to sue is anytime beyond 60 days, and that a citizen may bring an immediate action in cases of an imminent threat to health or safety.

(iii) Section 520(a) of SMCRA sets forth the causes for which a suit may be filed against the governmental agencies and other persons and Section 525(e) provides for the award of attorney fees in administrative proceedings. Montana SURA 82–4–252 contains essentially the same language except that the Montana statute refers to "part" rather than the SMCRA reference to "the Act." A Montana Attorney General opinion dated February 20, 1980, confirms that "part" under the Montana statutory structure refers to the Montana SURA. Therefore, Montana's provision is in compliance with Section 520(a) and 525(e) of SMCRA.

(iv) Montana explains that Article II Section 9 of the State Constitution has been interpreted very broadly in favor of public disclosure. It protects personnel records, and the right of privacy under case law is unavailable to a corporation. Montana has provided an Attorney General's opinion to this effect. Thus, the State provision is more stringent since there are types of information which could be protected under SMCRA which could not be kept private under Montana law. Therefore, Montana provides public disclosure of documents consistent with SMCRA and the Federal regulations.

(m) The Montana Department of State Lands has the authority under Montana laws and the Montana program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Montana Department of State Lands and the Montana Board of Land Commissioners consistent with 30 CFR Part 705. The prohibitions against financial interests in coal mining operations are contained in Rule XXVII of the Montana regulations.

(n) The Montana Department of State Lands has the authority under Montana regulations to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Montana has no regulations on the

training, examination, and certification of persons engaged in blasting because 30 CFR 732.15(b)(12) does not require a State to implement regulations governing certification and training of persons engaged in blasting until six months after Federal regulations for these provisions have been promulgated. The Federal regulations have not been promulgated at this time.

(o) The Montana Department of State Lands has the authority under Montana laws and the Montana program contains provisions in Rule XXVI to provide small operator assistance. However, Montana 82–4–222 implements the small operator assistance program only to the extent that the State has received Federal funds for this purpose. Such a limitation is not consistent with Section 705(c) of the SMCRA. Montana maintains that it has only approximately six operators eligible for assistance at present. The Federal funds currently available to Montana for small operator assistance are sufficient to meet the present needs of Montana. However, this may not be the case in the future and thus it is determined that the Montana law and regulations concerning small operator assistance do not fully comply with Section 705(c) of SMCRA and 30 CFR Part 795. Montana has agreed to remove the restrictive provision from its law and regulations.

(p) The Montana Department of State Lands has the authority under Section 82–4–254(7) of the Montana SURA and the Montana program contains provisions to provide protection of employees of the Montana Department of State Lands in accordance with the protection afforded Federal employees under Section 704 of SMCRA.

(q) Montana has the authority under its laws and the Montana program contains provisions for administrative and judicial review of State program actions in accordance with Section 525 of SMCRA and 30 CFR Chapter VII, Subchapter L. Authority is found in Montana Section 82–4–251 of ARM Title 2, Chapter 4, Parts 6 and 7, and Rules XXIV and XXV. The basic administrative review provision is 82–4–251(6). It is noted that the second line of this section refers to an "order of abatement," rather than a cessation order, and that lines 3, 4, and 5 of the section refer only to orders, and not notices. Montana maintains that:

> The deficiency pointed out is the result of undetected typographical errors. The department intends to interpret the statute as applying to both notices of violation and cessation. It is the opinion of the department's legal staff that a court would arrive at a similar interpretation. The department will propose introduction of legislation into the 1981 Legislature to correct this error. (Item 22, Montana's Reponse to the initial OSM Review (October 18, 1979) of Montana's Permanent Program Submission, submitted as part of the revisions to the program submission, November 13, 1979.)

These errors do not affect the State's authority in this area. The authority to issue cessation orders is clearly established in 82–4–251(1). Because the State intends to afford administrative review for cessation orders, no deficiency exists. Similarly, 82–4–251(6) refers to notices elsewhere in the subsection, and the omission noted above would not affect administrative review of notices of violation.

Montana chose not to adopt an analogue to section 525(c) which allows temporary relief from a notice or order pending completion of administrative review. This omission is consistent with the SMCRA since the result is more stringent than SMCRA.

(r) The Montana Department of State Lands has the authority under Montana law and the Montana program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. The provisions for cooperation, coordination, and provision of documents are contained in Rule III and Rule V of the Montana regulations. Additionally, Article II, Section 9 of the Montana Constitution provides for public examination of documents relating to government decisions.

(s) The following laws and regulations of Montana affecting its regulatory program, with the exceptions discussed below, do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII: The Montana SURA and regulations adopted thereunder; the Montana Strip and Underground Mine Siting Act; the Montana Coal Conservation Act; the Montana Department of State Lands' Rules and Regulations adopted pursuant to the Montana Strip and Underground Mine Reclamation Act (Administrative Regulations of Montana (ARM), Title 26, Chapter 10, Subchapter 10); the Montana Department of State Lands' Rules and Regulations adopted pursuant to the Montana Strip and Underground Mine Siting Act (ARM, Title 26, Chapter 10, Subchapter 18); the Montana Department of State Lands Rules and Regulations adopted pursuant to the Montana Coal Conservation Act (ARM, Title 26, Chapter 10, Subchapter 14); Article II of the Montana Constitution; Section 1–1–204 MCA—General provisions for use of Montana Codes—Terms denoting state of mind; Section 1–1–302 MCA—General laws and definitions of Montana Codes—Computation of time; Title 27, Chapter 19, Part 3 MCA—Provisions for injunctions; Section 76–1–113 MCA—Preventing a planning board from zoning against mining;

Section 76–2–209 MCA—Preventing County Commissioners from zoning against mining; Section 77–2–313 MCA—Designating certain state lands subject to taxation; Section 77–2–231 MCA—Allowing the sale of state lands; Section 45–12–213 MCA—Accountability for conduct of a corporation; Title 82, Chapter 4, Part 4 MCA—Montana Opencut Mining Act; Title 82, Chapter 4, Part 3, MCA—Montana Hard Rock Mining Act; Title 2, Chapter 15, Part 32 MCA—Formation of the Department of State Lands; Title 75, Chapter 2 MCA—The Clean Air Act of Montana; Title 75, Chapter 5 MCA—The Montana Water Quality Act; Title 2, Chapter 4, Part 6 MCA—Contested cases; Title 2, Chapter 4, Part 7 MCA—Judicial review; ARM Title 16, Chapter 14, Subchapter 10—The Montana Department of Health and Environmental Sciences rules adopted pursuant to the Montana Water Quality Act; ARM Title 16, Chapter 14, Subchapter 1—The Montana Department of Health and Environmental Sciences rules adopted pursuant to the Clean Air Act of Montana; and other laws and regulations of Montana.

As discussed in 4(h)(iii), Montana has agreed to remove the phrase in its Rule XX(13)(b)(ii) that was suspended from 30 CFR 808.12(c) in 44 FR 67943 (November 27, 1979), and to revise its statute 82–4–222 that implements the small operator assistance program only to the extent that the State has received Federal funds for this purpose. There are no Montana laws inconsistent with SMCRA which are being set aside in this approval.

The 1979 Montana Legislature passed three bills amending the Montana Strip and Underground Mine Reclamation Act (Montana SURA):

> House Bill 739 (Chapter 196, Laws of 1979)
> House Bill 406 (Chapter 172, Laws of 1979)
> Senate Bill 515 (Chapter 550, Laws of 1979)

The first two of these laws became effective on July 1, 1979. Chapter 550 becomes effective upon approval of Montana's permanent regulatory program by the Secretary. The Montana Coal Conservation Act was made part of the Montana SURA as a result of the passage of Chapter 550. On July 16, 1979, the Montana Department of State Lands adopted rules pursuant to the SURA and Chapter 550.

(t) The Montana Department of State Lands and other agencies having a role in the program have sufficient legal, technical, and administrative personnel and sufficient funds to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable State and Federal laws.

Disposition of Comments

The comments received on the Montana program during the public comment periods further described under "Background on the Montana Program Submission" raised several issues. The Secretary considered these comments in evaluating Montana's program, as indicated below.

1. The National Park Service (NPS) commented that a NPS official should have the opportunity to accompany State inspectors on visits to coal mines which may affect resources on NPS land. It asked for advance notice of such inspections and for copies of inspection reports. However, the Secretary's regulations do not require the States to have such arrangements, and he lacks authority to require a State to do more than the Federal regulations require.

2. The Environmental Protection Agency (EPA) was concerned by the lack of a definition of "complete inspection." The Environmental Policy Institute (EPI) also expressed the concern that there needs to be a definition of partial inspection such that it is connected with a review of compliance with selected permit conditions in Montana Rule XXIV(1), and that a complete inspection must be defined as a review of all permit conditions. They believe a change in Montana Rule XXIV is the best method of resolving this concern.

Montana amended its program on January 30, 1980 to clarify that inspections referred to in Rule XXIV are on-site, on-the-ground inspections and provided a definition of a complete inspection which states that "a complete inspection is an inspection of the entire permit area for complete compliance with all applicable requirements of the law and rules." The Secretary has found this clarification acceptable and no rule change has been requested (see Finding 4(g)(ii)).

3. EPA also pointed out Montana's lack of a point system similar to 30 CFR Part 845 for determining the amount of civil penalties. However, as discussed in the Finding 4(b)(i), the Secretary has found Montana's system for determining the amount of civil penalties to satisfy the requirements of Section 518 of SMCRA.

4. EPA also pointed out that Montana has no public participation in enforcement provisions as required by 30 CFR 840.15. However, this rule requires that States have provisions consistent with 30 CFR Parts 842, 843, and 845 and 43 CFR Part 4, Subchapter L. Montana has such provisions in its counterparts to these regulations, except for the provision discussed in Finding 4(1).

5. The Forest Service (FS), the Department of Energy (DOE), and NPS felt that the program for designating areas unsuitable for mining is not described in sufficient detail or is not a finalized plan. However, Montana's statute 82–4–227 and Rule XXIII closely parallel the Federal regulations, and the Secretary's review of Montana's budget and staffing indicates that the State's designation process is satisfactory.

6. NPS characterized Montana's designation procedure as "restricted to development by a computerized data base" and stated that decisions should not be made by machines. Most of the information in the data base for the computer comes from experience and on-site analysis. Information from the data base will be utilized by the Department of State Lands in making designation decisions.

7. NPS commented that it should be involved in the establishment of buffer zones around NPS land under the definitions of "fragile lands" contained in 30 CFR 762.5. The Secretary believes that Montana's system is designed so that all agencies may have an input into unsuitability designations.

8. The Heritage Conservation and Recreation Service (HCRS) stated that Montana's budget for development of the unsuitability program is inadequate. The Secretary believes that the first year budget will be adequate for initiation of the program. If it proves inadequate, the State can re-budget for later years.

9. HCRS also advanced recommendations for Montana to consider in developing its unsuitability program. HCRS comments have been forwarded to Montana.

10. The Soil Conservation Service (SCS) stated that the entire profile of the soil consisting of A, B and C horizons in Montana's Rule XV (Prime Farmland) needs to be fully explained and segregated. The Secretary believes that this question is adequately addressed under Rule XV(2)(a)(i), which states that "At a minimum, the operator shall segregate surface soil horizons from subsurface soil horizons in topsoil salvage operations as specified in Rule VIII(1)."

11. SCS objected to Montana's revegetation regulation, Rule IX(15)(b)(v), which allows the use of introduced species as up to 49 percent of seeded mixture, and suggested several alternative provisions: The seed should be either all native or all introduced, or a smaller percentage of introduced species should be allowed. Montana's Rule IX(2) requires that the permanent, diverse vegetative cover must be "predominantly" made up of native species, and further defines "predominantly" to mean a minimum of 51% native species. The Secretary believes that Montana's rule complies with the Federal rule 30 CFR 816.112 concerning use of introduced species for revegetation. The requirements of 30 CFR 816.112(a), (b) and (d) are met by Montana's Rule IX(2). The requirement of 30 CFR 816.112(c) that the introduced species be compatible with the local plant and animal species is met by Rule IX(5) with regard to animals; with regard to plants, the compatibility requirement is met by the diversity requirement which is the measure of success of revegetation.

12. SCS expressed the concern that Montana's Rule IX speaks of revegetation to a "good or better range condition." Since the only range condition better than "good" is "excellent," the commenter feels that it would be better to say "good or excellent range condition." The Secretary believes that this is a minor word change, and that Montana's language is satisfactory.

13. SCS objected to Montana's Rule IX, which provides that the success of revegetation for operations of less than 100 acres may be based on approved USDA or USDI Technical Guides. The commenter suggested that the 100 acre limitation be dropped, since the Federal rules do not have such a limitation. However, the Secretary considers the Montana rule to be more stringent than the Federal standard in 30 CFR 816.116(a) for measuring success of revegetation. The Federal rule allows the operator to use either the USDA or USDI Technical Guides or reference areas, while the State allows only the former alternative.

14. The SCS objected to the lack of a definition of "topsoil" in Montana's program, suggesting that it should be defined as the A horizon layer of the three major soil horizons. However, the Montana SURA 82–4–203 defines "topsoil" in a broader manner than the Federal definition. Montana Rule VIII(1) concerning topsoil removal further restricts this definition by stating that the operator shall segregate surface soil material (A and possibly portions of underlying B and C horizons) from

subsurface soil material (B and C horizons) in the salvage, stockpiling and redistribution of topsoil.

15. The Fish and Wildlife Service (FWS) argued that Montana should be more specific concerning coordination with Federal fish and wildlife laws. However, under Montana statute 82–4–227(2), mining is prohibited in areas where threatened or endangered species or critical habitat are identified. The Secretary believes that the State statute provides sufficient protection and that formal citing of the many Federal laws is unnecessary.

16. FWS suggested that the wording used in 30 CFR 776.13(b)(2) regarding protection of threatened and endangered fish and wildlife and their critical habitat be used in the State submission relating to 30 CFR 776.11 and 776.13. FWS also suggested that Montana's provisions for a fish and wildlife plan should more clearly define the species and habitat to be covered. The Secretary believes that the State requires protection of fish and wildlife, including threatened and endangered species and their habitat, prior to all mining and exploration under Section 82–4–227(2) of the Montana SURA, Rule II(3)(1) and Rule III(1)(e).

17. FWS argued that Montana's submission concerning compliance with Federal statutes and regulations in diverting stream channels should "provide an avenue" for this compliance. FWS noted that the Fish and Wildlife Coordination Act would apply to such diversions. However, Montana Rule VII(5)(b)(ii) mirrors the Federal rule, 30 CFR 816.44(a)(3), in requiring compliance with Federal statutes and rules. The Secretary believes that more specificity is neither necessary nor required by the Federal rules.

18. FWS also questioned the adequacy of Montana's program in the manner in which it deals with prevention of harm to ground water, fish and wildlife by in situ processing. The Secretary believes that proper protection of these resources is provided in the hydrologic balance section in Montana Rule XVIII(2)(a).

19. EPA commented that Montana has no apparent provisions for temporary storage, handling, or transportation of coal processing waste and that there are no provisions concerning the use of coal processing waste in temporary dams and impoundments. However, Montana Rule IV (1)(h) requires that coal processing waste be buried under at least eight feet of plant growth material and does not allow storage as waste banks or dams. Montana's statute covers temporary storage and protection of the waste stockpile under Sections 82–4–231(3)(g), 82–4–222(2)(g), and 82–4–231(2). EPA also stated that there is no apparent provision for disposal of coal processing wastes from outside the permit area. Under 30 CFR 816.81(b), these materials may be disposed of in the permit area only if approved by the regulatory authority based on a showing that it will not harm water or vegetation, create a public health hazard, or cause instability in the disposal areas. Montana's Rule IV(1)(h) meets these protective requirements.

20. EPA commented that Montana's Rule II(3)(o)(i)(E) specifies that the permit application must show the location of gas and oil wells within 1,000 feet of the permit area but does not require, as does 30 CFR 779.25(j), that their depth if available be shown. However, under Montana statute 82–4–222, the Department of State Lands has authority to request this information, and it has stated that it will do so in a letter of January 14, 1980, from Leo Berry, Commissioner, DSL to Roger Williams, Regional Administrator, EPA. The information involved is also on file with the State Oil and Gas Commission and available to the Department of State Lands if required.

21. EPA also stated that Montana does not require that the permit application contain information on known uses of ground water, as in 30 CFR 779.15(a)(3) and 783.15(a)(3). However, Montana's Rule II(3)(e)(i) requires this information because it requires that the applicant's hydrologic report include a list of all known or readily discoverable wells and springs located within certain distances.

22. EPA stated that Montana does not require as a permit condition that the permittee specifically warn persons whose health or safety are in imminent danger due to noncompliance with the terms of the permit, as 30 CFR 786.29(a)(3) requires. However, Montana statute 82–4–251(1) allows the DSL to impose affirmative obligations on operators to take whatever steps it considers necessary to abate the problem. Thus, the DSL has authority to require warnings, as in the Federal regulation, and it has stated that it will so exercise its authority in a letter of January 14, 1980, from Leo Barry, Commissioner, DSL to Roger Williams, Regional Administrator, EPA.

23. EPA pointed out a typographical error in Montana's Rule VII(3)(a). The Secretary is satisfied through correspondence with Montana that this error will be corrected in the next printing. See letter of January 14, 1980, from Leo Berry, Commissioner, DSL to Roger Williams, Regional Administrator, EPA.

24. The Northern Plains Resource Council (NPRC) stated that at one time it had reservations about Montana's alternative reclamation provisions, 82–4–232 (7) and (8). The Council stated that Montana's program would be legally stronger if some of the regulations implementing Rule XVI had been incorporated into the statute. The Council was also concerned that although Montana's provision was acceptable, it would set a bad precedent if regarded as a general variance provision. However, the Secretary believes that Montana's rule is adequately authorized by the statute and neither the Secretary nor Montana interprets it as a general variance. Furthermore, as the Council itself noted, the absence of a requirement that approved alternatives not be larger or more numerous than necessary does not render Montana's provision less stringent than the Federal regulations, since Rule XVI is analogous to the Federal alternative postmining land use provisions rather than to the experimental practices provision.

25. The Western Energy Company (WEC) objected to the lack of safeguards for protection of confidentiality of certain proprietary information required by the State. The State constitution, Article II, Section 9, requires that all such information be made public unless the need for individual privacy clearly exceeds the merits of public disclosure. The State's program provides at least as much disclosure as do the Federal requirements, and the Secretary is not empowered to require the State to do more to protect proprietary information.

26. NPS expressed its concern that the natural flora of NPS lands could be harmed by more competitive species introduced for reclamation purposes. However, Montana's Rule IX(2) contains protective provisions to ensure that this harm does not occur.

27. SCS objected to the requirement in Montana's alternative revegetation section, Rule XVI(b)(a)(ii), that an area be leveled to slope gradients of no greater than 5 percent. SCS argued that with proper conservation practices, cropland could have a larger slope gradient. However, Montana's requirement is more stringent than the Federal requirement, since it requires a smaller slope gradient. The Secretary lacks authority to require the State to allow a greater slope.

28. Four commenters, EPA, NPS, FWS, and the Bureau of Land Management (BLM), expressed concern over the informality of the DSL's system for consulting with other State and Federal agencies under 30 CFR 731.14(g)(10).

They recommended that formal cooperative agreements or memoranda of understanding should specify the cooperation between these agencies. Montana provisions for consultation with other agencies have been found to be acceptable. No formal agreement is required by the Federal Act or regulations.

29. EPA argued that Montana's program should cite all State regulations which might affect surface mining and that any conflicts which might weaken Montana's surface mining regulations should be addressed by the State's Attorney General. Under 30 CFR 732.15(c), the Secretary must find that the State laws and regulations do not contain provisions which would weaken the provisions of the SMCRA and the Federal regulations. The Secretary has determined, based upon the list of other State laws and regulations directly affecting surface mining regulations on page 2 of Montana's program narrative and Appendix B of their program, that no such conflicts exist.

30. NPS objected to the lack of a provision in Montana's program for informing the public and agencies of permit decisions. Under 30 CFR 786.23(e)(1)(i), the regulatory authority must give a copy of its decision to any person or government official who filed a written objection or comment on the permit application. As stated in a letter of January 30, 1980, from DSL Commissioner Leo Berry, Jr., to Paul Reeves, Deputy Director, OSM, it is DSL's policy to give such notice.

31. FWS suggested that Montana should require operators to consult with State and Federal fish and wildlife management agencies during preliminary surveys and mine plan preparation. However, the Federal regulations 30 CFR 779.20 and 30 CFR 786.17(a)(2) require only that the regulatory authority consult with such agencies in determining the level of detail and area of fish and wildlife studies which the permit applicant must prepare and that the regulatory authority must consult with these agencies in determining the adequacy of the plan. Montana's Rules II(3)(1) and III(1)(e)(i)(B) include these requirements. The Secretary believes that these provisions are adequate to fulfill applicable consultation requirements. Moreover, due to the District Court's decision of February 26, 1980, remanding § 779.20, the Montana rules may now be more stringent than the Federal requirements. Once amended Federal regulations have been promulgated, Montana may amend its corresponding rules if it wishes.

32. The Geological Survey (GS) recommended that the State be informed of the responsibilities of GS, OSM, and BLM under the Memorandum of Agreement between these agencies in order to avoid confusion, delay in processing exploration plans on Federal land, and duplication of Federal effort. A copy of the Memorandum of Agreement has been sent to the State.

33. The Department of Energy (DOE) criticized Montana's public participation requirements as unclear and suggested that the low level of public comment on the proposed modifications to the State's rule raises a question as to the extent to which public participation is actively solicited. The Secretary believes that the public participation requirements of the Federal regulations are adequately met by Montana's submission, as discussed in his findings.

34. DOE recommended that Montana's submission identify its staffing and budget in terms of the levels of effort necessary to process the anticipated number of permits and perform the expected number of inspections. Montana has submitted revised figures for staffing and budgeting which show the level to be more than adequate.

35. The Forest Service (FS) suggested that the list of resources entitled "Technical and Professional Personnel Available from Other Agencies" on page 71 of Montana's submission should include the Montana State Department of Natural Resources as a source of technical and professional personnel and the Montana State Foresters Office as a source of trees and shrubs needed for reclamation. FS also suggested that it could provide the State with information which would be helpful in determining suitability for mining. FS comments have been forwarded to Montana.

36. HCRS suggested that it be added to Montana's Table 1 entitled "Resource Categories and Data Sources to be Inventoried for Montana's Designation Program" as a data source under the archaeologic resource category. HCRS comments have been forwarded to Montana.

37. NPS suggested that it be added to Table 1 as a data source in the recreational and scenic categories. NPS comments have been forwarded to Montana.

38. NPS argued that Montana fails to state who is the final authority on designation of archaeological, historical, ethnological, and cultural values and significant or unique scenic or geologic formations or sites under Rule II(3)(b). It suggested that the State should clarify that DSL is the final authority and that it must consult with and preferably obtain concurrence from the agency managing the resources. However, the Secretary believes that under Rule II(3)(b) the DSL is the final authority. Concurrence is not required under 30 CFR 779.12(b) and 786.19(e), and Montana is committed to consultation as required by 30 CFR 731.14(g)(10).

39. HCRS pointed out that the reference on page 31 of Montana's submission to 30 CFR is incorrect and that the correct reference should be to Section 106 of the National Historic Preservation Act of 1966. The Secretary agrees that this is the intended reference.

40. The Advisory Council on Historic Preservation (ACHP) maintained that Montana should require on-site cultural surveys in situations where existing information is not adequate in identifying properties eligible for inclusion in the National Register of Historic Places. The Secretary believes that the State does require such surveys in Rule II(3)(b) and in Montana statute 82–4–227.

41. HCRS commented that State Rule XXIII(5)(d)(i) should provide for withholding from public disclosure specific locations of certain types of areas, such as archaeological sites and declining species sites, for the protection of these sites. The Federal rules upon which the Secretary must make his decision at this time contain no such requirement. The Secretary notes, however, that changes to the present regulations will be required to comply with the Archaeological Resources Protection Act of 1979 and that a revision to the Montana program may then be necessary.

42. NPS suggested that it should receive a copy of each notice of a permit application so that it can decide which mines might affect NPS resources and comment before the State decides on permit approval or disapproval. It also asked that it receive copies of prospecting permits. The Secretary is satisfied that under its Rule III(1)(a)(ii) Montana will notify the NPS of all permit applications.

43. BLM expressed concern that the Montana program would require Federal coal prospecting to be permitted by the State and that this would increase duality of administration and unnecessary complications. It suggested that Federal agencies should be exempt where Federally-owned surface or subsurface are involved. In addition, BLM argued that the requirement of a State permit for all surface mining would allow Montana to refuse to issue a permit for Federal coal that BLM has planned to lease. This would, in effect, allow the State to declare Federal coal unsuitable for mining. It suggested that

the State program should provide that State permits to mine leased Federal coal cannot be denied without the concurrence of the Secretary of the Interior. However, the Secretary believes that the SMCRA is intended to allow States to regulate surface coal mining on Federal land through cooperative agreements between the Secretary and the State. The Secretary retains authority to approve or disapprove mine plans on Federal land, and the State has no power to deny such mining (30 U.S.C. 1273(c)). Thus BLM's fear that the DSL would deny a permit to mine on other than the approved programmatic basis is groundless.

44. The ACHP suggested additional language for Montana to consider including in its program. The language was suggested as a means for the State to comply with Section 106 of the National Historic Presevation Act (NHPA). The proposed language would: (1) Provide for a system for consulting with State and Federal agencies having responsibility for the protection or management of historic, cultural, and archaeological resources; (2) provide for coordination of review of permits with the applicable requirements of NHPA; and (3) provide procedures and criteria for identifying and protecting properties under the provisions of NHPA. Adoption of the suggested language by the State of Montana is not required at this time. However, once the Secretary promulgates new rules to replace regulations concerning historic preservation suspended November 27, 1979 (44 FR 67942), Montana will have an opportunity to amend its program to be consistent with these new rules.

45. EPA commented that there is no apparent provision for treating mine drainage in underground sumps. Under 30 CFR 817.45(h), the operator must use appropriate sediment control measures using the best technology currently available to treat such drainage. However, Montana's Rule VII(3)(a) requires that all surface drainage from the disturbed areas be passed through sediment ponds and that the DSL may require additional treatment facilities. Further, under Rule VII(6)(b), sediment control measures include "but are not limited to" a specified list. Under these rules, the DSL has authority to require treatment of mine drainage in underground sumps.

46. The U.S. Army Corps of Engineers (COE) commented that the Montana program was deficient to some extent in compliance with 30 CFR 816.93, concerning coal processing wastes used in the construction of dams and embankments. This appears to be a misinterpretation of the Montana program. Montana statute 82–4–231 and Rule IV(1)(h) prohibit the surface disposition of coal processing wastes. All such wastes must be buried under at least eight feet of non-toxic and non-combustible material. No wastes will be used in dams or embankments.

47. The COE commented that the proposed Montana program was deficient to some extent concerning the discharge of dredged or fill material into waters of the United States. The Secretary believes that Montana regulations involving protection of the hydrologic balance (Rule VII), disposal of excess spoil (Rule IV), coal processing wastes (Rule IV and statute 82–4–231), alluvial valley floors (Rule XIV and statute 82–4–227), and the Montana Water Quality Act adequately address the discharge of material into waters of the United States.

48. PLI and EPI object to the requirement of Montana's 82–4–252(1) that persons wishing to exercise mandamus to force the State to enforce or implement the program must make a written statement of the facts under oath and subject to a perjury penalty. They argued that this will have a chilling effect on the exercise of citizens suits rights. In addition, they stated that the provision is contrary to Congress' intentions, pointing out that Congress deleted a similar provision in the Federal Act. Montana SURA Section 82–4–252 subjects the person to a misdemeanor charge of "making a false swearing" under Section 45–7–202 of the Montana Code. Under this section, a person who knows he or she is making a false statement may be subject to a penalty of six months and/or a fine of up to $500. The Montana Code also provides, in Section 45–7–203, a penalty for a person "making a false report." Similar penalties to those under 45–7–202 apply under this section. These penalties would apply when a statement is not made under oath, thus, the current provisions of the State program should have no more of a chilling effect than would exist if the citizen was not required to make a statement under oath. It should be noted that under 18 USC 1001, submission of a false report to OSM is a felony with more severe penalties than would exist under the proposed Montana State Program. Thus, any chilling effect that may result from the Montana provision is less severe than under existing Federal criminal law.

49. PLI and EPI objected to the absence of a provision allowing the award of attorney fees against the State. Under Montana laws of mandamus, the right to collect attorney fees from the State goes with any mandamus action against the State. This conclusion is based on the State common law, and reflects a number of consistent cases for approximately 75 years. The State references *Kadillak* vs. *Anaconda Company, et. al* (602 P.2d 147). This case specifically relates to the Department of the State Lands. The Secretary believes that the State program adequately provides for the award of attorney fees against the State.

50. PLI and EPI object to the fact that SURA Section 82–4–252 does not mandate "one-way" attorney fees. They argue that it should require that attorney fees may be awarded against citizen groups only when they act in bad faith. They state that Sections 520 and 525 of SMCRA allow the award of attorney fees against citizen groups only if such groups act in bad faith.

The Secretary agrees that under 30 CFR 840.15 and 43 CFR 4.1294 costs may be awarded against citizen groups in administrative proceedings only if such groups act in bad faith. As discussed in Finding 4(1), Montana has agreed to change its regulations to conform to 43 CFR 4.1290 *et seq.*

In the case of judicial proceedings Section 520(d) does not specifically address the standards to be applied to the various parties in citizen suits, however, the legislative history of SMCRA, S. Rep. No. 128, 95th Cong., 1st Sess. 59 (1977), makes clear the Congressional intent that attorney fees be "one way." A stated purpose of the amendment of the Montana SURA was to bring it into compliance with SMCRA. For this reason the secretary believes that State courts will interpret this provision in a manner consistent with the parallel provision of SMCRA and award attorney fees against citizen groups only when they act in bad faith.

51. PLI and EPI question whether the standing requirements under Montana's Statute 82–4–252 are as liberal as those under Federal case law. They argue that Montana must affirmatively show that access to State courts is equivalent to the access to Federal courts under SMCRA. Montana SURA Section 82–4–252(2) allows a "resident or person having an interest which is or may be adversely affected" to bring a mandamus action; 82–2–252(3) allows "any person having an interest that is or may be adversely affected" to sue to compel compliance with Montana's laws; and 82–4–252(4) allows "any person who is injured in his person or property" by a violation to sue for damages. This is the same standing language as appears in Sections 520 (a) and (f) of SMCRA. The Secretary does

not believe he is authorized to require the State to demonstrate that State courts will interpret the language in the same way as would Federal courts. In view of the stated purpose of Montana SURA Section 82–4–202(2) to meet the State program requirements of SMCRA, the Secretary believes that Montana's standing provision is clearly intended to be equivalent to the Federal provision.

52. PLI and EPI challenge Montana's deletion of the requirement in Section 520(b) that the State respond to a notice of intent to sue the State within 60 days. Montana SURA Section 82–4–252(2) provides instead that if the designated public officer or employee fails to enforce or implement the law for "an unreasonable time", the complaining person may bring a mandamus action. The commenters argue that this vague time requirement abridges citizens' rights. In addition, PLI and EPI object to Montana's lack of a provision similar to the SMCRA Section 520(b)(2) provision waiving the 60-day time limit where the violation or order complained of presents an immediate threat to the plaintiff's health or safety or would immediately affect the plaintiff's legal interest. The Montana provision for a response within a "reasonable" time is based on the State law as it existed before the amendments were made to comply with SMCRA. The State requires inspections approximately every two weeks under its program, and a delay of more than 30 days would likely be judged unreasonable. An Attorney General's opinion dated February 20, 1980 indicates that to replace the "reasonable time" requirement with the 60 day requirement would weaken the Montana Act. SMCRA section 520(b)(2) does not provide for waiver of the requirement for notice before a citizen suit is filed in the case of an imminent threat to the health or safety of the plaintiff. Rather, SMCRA permits the filing of a suit to commence immediately after such notification. The Montana Attorney General opinion referenced above notes that under Montana's standard of "reasonable," an immediate response to the notice of intent to sue would be deemed essential if an imminent threat was involved. The Secretary believes the State program contains essentially the same requirements as and is consistent with SMCRA and 30 CFR Chapter VII.

53. PLI and EPI commented that it is unclear whether Montana's Statute 82–4–252 (2) and (3) envisions the same causes of actions as under Section 520(a) of SMCRA and that the State's Attorney General should issue an opinion clarifying the matter. Under Section 520(b) of SMCRA, two causes of action exist: one for "violation of the provisions of this Act or of any rule, regulation, order or permit," and one for failure of the Secretary or the State regulatory authority to "perform any act or duty under this Act which is not discretionary . . . ." Under the Montana law, there are also two causes of action, one for failure by a public officer or employee to enforce or implement the requirement or rule, 82–4–252 (1) and (2), and one for violation of the statute, rule, order, or permit, 82–4–252(3). The language is essentially the same except that Section 82–4–252 of the Montana statute refers to "part" rather than "the Act." "Part" under the State statutory structure refers to the Montana SURA. The Secretary, therefore, concludes that the scope of the causes of action in the Montana SURA is as broad as those in SMCRA. See Attorney General opinion dated February 20, 1980.

54. PLI and EPA also commented at length on Montana's administrative review provisions. First, they argued that the Montana Administrative Procedures Act does not appear to provide as much citizen access to administrative proceedings as under the Federal intervention regulation, 43 CFR 4.1110, which is explained at 43 FR 34378 (August 3, 1978). Under Section 2–4–102(7) of the Montana Administrative Procedures Act.

> "Party" means any person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but nothing herein shall be construed to prevent an agency from admitting any person as a party for limited purposes.

Subsection (c)(1) of the Federal rule allows intervention of those who had a statutory right to initiate the proceeding. Subsection (c)(2) grants the right to intervene to those having an interest which is or may be adversely affected. These persons have a non-statutory right to intervene. Those persons who have a right to intervene under (c) also have the right to intervene under the Montana language which states that a party is a person "properly seeking and entitled as a right to be admitted as a party * * *". Subsection (d) also grants OSM the authority to allow intervention of parties who do not have a right to intervene. The Department of State Lands can also allow this type of intervention under the language providing that a party is "any person named or admitted as a party." Thus, the scope of intervention under Federal regulations and the Montana Administrative Procedures Act is the same.

55. PLI and EPI also criticize as "unclear" Montana's submission concerning citizens' discovery rights in administrative proceedings. During the past year the Attorney General of Montana has adopted model rules for implementation of the Montana Administrative Procedures Act. Model Rule 13 provides that Rule 2b and Rules 28 through 37 (except Rule 37(b)(1) and 37(b)(2)(d)) of the Montana Rules of Civil Procedures are in effect for administrative hearings. The Department of State Lands has adopted the model rules and is compelled to give the same rights of discovery as would apply in State court. Rule 13 gives the same four rights of discovery found in the Federal regulations plus a fifth right related to "physical and mental examination."

56. PLI and EPI also commented that the State must have a provision for attorney fees in administrative proceedings similar to 43 CFR 4.1290–.1296. The Secretary agrees that Montana must provide, as in 43 CFR 4.1294, that attorneys fees may be awarded against citizens only when the action is brought in bad faith. (See response to question 50 and Secretary's Finding 4(1).)

57. PLI and EPI also described Montana's attorney fees provision as unclear regarding whether attorneys fees can be awarded in informal administrative proceedings, such as permit hearings and designation proceedings, as well as formal proceedings. They stated that Section 525(e) of SMCRA clearly envisions that attorneys fees can be awarded in these informal administrative proceedings. The Montana provision related to the award of fees contains the same language as SMCRA. Attorney fees can be provided for any proceedings under the Montana SURA.

58. PLI and EPI also criticized Montana's lack of a counterpart to Section 517(h) of SMCRA, which provides for informal review of the adequacy and completeness of inspections and of agency decisions not to inspect or take enforcement action, 30 CFR 842.12(d)(3), 842.14 and 842.15. They argue that the absence of equivalent provisions in Montana's program violates the public participation requirements of 30 CFR 732.15(b)(10). Montana has submitted a statement that anyone who wishes such informal review may see the Commissioner of the DSL, but these commenters consider the statement inadequate for two reasons. First, the commenters argue that such a policy statement provides none of the procedural requirements of a written decision with a statement of reasons subject to specific time frames. Second,

these commenters argue that under the settlement in *Council of the Southern Mountains, Inc., et al. vs. Andrus,* C.A. No. 77–1521 (D.D.C., 1979), there is now a Federal right to impartial, formal administrative review of the agency's informal review decisions. The Secretary finds Montana's informal review process to be consistent with the Federal program because of the small population of both the State and the regulated community. Citizen complaints in Montana are rare, and access to public officials is relatively simple, thus making a structured informal review process unnecessary. Additionally, the Commissioner personally reviews all such complaints so another layer of review is not required (see Finding 4(j)(i)).

59. PLI and EPI criticized several aspects of Montana's inspection provisions. They argued that under Montana's statute, 82–4–221 and 82–4–203(4) and (19), DSL lacks jurisdiction over off-site processing or loading facilities as under Section 701(28) of SMCRA. Although Montana argues that it has this authority, these commenters believe that the Montana statute should be amended to specifically provide the authority. The Secretary finds the February 1, 1980, explanation of the Attorney General acceptable, and has not conditioned approval of the Montana program on statutory change to include specific language covering off-site processing and loading facilities. (See Finding 4(c)(i).)

60. PLI and EPI also criticized the language of Montana Rule XXIV(1), which states that DSL shall conduct inspections as necessary "to ensure substantial compliance" with the statute, rules, and permit conditions. Although Montana submitted an Attorney General's opinion dated February 1, 1980, stating that this rule does not relieve the operator from his duty to comply with all legal requirements, these commenters argue that the opinion fails to assert that the inspector has a duty to see that the operator is in complete compliance pursuant to 30 CFR 840.11. They also disagree with Montana's concern that such a requirement would subject the State to strict liability where an inspector fails to observe a violation, arguing that the State would not be liable as long as the inspections are diligent and all observed violations are cited. This comment concludes by stating that Montana must inspect for complete compliance. As discussed in Finding 4(g)(i), the Secretary agrees that the word "substantial" must be removed and Montana has agreed to change its regulations.

61. EPI and PLI made several comments on Montana's submission concerning civil penalties. They criticized Montana statute 82–4–254(2) for not requiring that the proposed penalty be placed in escrow before administrative review, as in Section 518(c) of SMCRA, 30 CFR 840.13 and 30 CFR Part 845. However, the Secretary considers the Montana provisions consistent with the Federal requirements as discussed in Finding 4(i)(iv). Montana does not have informal conferences prior to the adjudicatory hearing.

62. EPI and PLI commented that Montana should allow citizens to attend and participate in any informal conferences or meetings which the State plans to conduct concerning civil penalties. The Federal rule, 30 CFR 845.18(b)(2), provides that any person may attend and participate in the informal conference. However, Montana does not provide for informal conferences, so the Federal citizen participation provision is inapplicable.

63. EPI and PLI commented that the record does not show how Montana's consideration of the four civil penalty criteria leads to assessment of specific levels of civil penalties. However, as discussed in Finding 4(b)(i), the Secretary has determined that Montana's system will result in penalties at least as high as under the Federal system.

64. EPI and PLI challenged as "vague" and "nonsensical" the language of Montana SURA Section 82–4–254(1) concerning when the $750 daily non-abatement fine begins to run when the operator challenges the abatement requirements. These commenters argued that Montana's language could be interpreted contrary to Section 518(h) of SMCRA and 30 CFR 845.15. However, Montana has stated that its statute has the same meaning (meeting of January 28 and 29, 1980) as the Federal provisions, and in view of the stated purpose of Montana's law to comply with SMCRA and the Federal regulations, the Secretary does not believe a statutory change is necessary (see Finding 4(i)(i)).

65. PLI and EPI also criticized Montana's enforcement provisions in several respects. They point out that the Montana program does not provide for a minimum mandatory suspension of a permit for at least three days as in 43 CFR 4.1194. The only reference to 43 CFR Part 4 in the enforcement sections of the Federal regulations is in 30 CFR 840.15 which states that, "Each State program shall provide for public participation in enforcement of the State program consistent with 30 CFR Parts 842, 843 and 845 and 43 CFR Part 4." Thus, all provisions of 43 CFR not addressing public participation are not required to be a part of a State program. It is not necessary for a State to have every procedural rule that is contained in the Federal program. Therefore, the Secretary finds the Montana statute and rules to be consistent with those of the Federal regulations regarding a pattern of violations.

66. PLI and EPI describe as "unclear" the Montana counterparts to 30 CFR 843.13(c) and 43 CFR 4.1194(a), which require, as explained at 44 FR 15303, that a permit must be suspended or revoked after a finding that there has been a pattern of violations. Since the Montana provisions, Section 82–4–251(3) and Rule XXV, are the same as the Federal provisions, SMCRA Section 521(a)(4) and 525(d) and 30 CFR 843.13, the Secretary finds the Montana program to be consistent with the Federal program regarding automatic permit suspension or revocation, and rejects this comment.

67. PLI and EPI stated that Montana does not clearly limit the total abatement period for notices of violation, including extensions, to 90 days, as under 30 CFR 843.12(c). Montana submitted an Attorney General's opinion dated February 1, 1980, stating that Montana SURA Section 82–4–251(2) does not allow over 90 days for abatement. These commenters believe that a regulation change is necessary, since an Attorney General opinion is not "binding" on the courts. However, the Secretary considers the Attorney General opinion to be adequate. It is not intended to bind the State courts; rather, an Attorney General opinion is designed to serve as an accurate prediction of how the State courts would interpret the statutory language.

68. PLI and EPI also objected to Montana's lack of a counterpart to 30 CFR 843.12, which provides that a notice of violation may prescribe remedial action, including interim steps. Montana submitted an Attorney General's opinion dated February 1, 1980, stating that Montana SURA Section 82–4–251(2), which requires the DSL to require complete abatement, authorizes the DSL to require interim steps. They recommend that the Secretary impose that DSL seek a statutory amendment to include "interim step" provisions in the Montana SURA. The Attorney General states that Montana SURA 82–4–251(2) requires that the Commissioner or his authorized representative issue an order

requiring abatement, and that the authority to require such abatement includes the authority to impose interim steps necessary to achieve complete abatement. The Secretary has found the explanation of the Attorney General acceptable and has not conditioned approval of the Montana program on a statutory change to specifically indicate that interim steps may be imposed (see Finding 4(j)(ii)). The Secretary further believes that Montana's authority to impose interim steps necessarily includes authority to enforce the implementation of these steps.

69. EPI and PLI question whether Montana SURA Section 82-4-251(2) requires that inspectors issue notice of violation in the field. Section 82-4-251(2) of the Montana SURA authorizes the Commissioner or his authorized representative to issue cessation orders. SMCRA in the counterpart section uses the term "Secretary." Montana law and administrative organization are comparable to Federal law and organization in that it is generally assumed that the Commissioner will carry out his responsibility through representatives. Montana has stated in a November 13, 1979 letter that it intends to have notices of violation issued in the field by authorized inspectors.

70. PLI raises several concerns regarding Montana's imposition of affirmative obligations on a violator who has been issued a cessation order. PLI states that Montana (1) has deleted the phrase "in the most expeditious manner physically possible," (2) does not empower the authorized representative to require, if necessary, the use of existing or additional personnel or equipment, (3) has not made it clear whether cost may be considered, and (4) in the SURA seemingly authorizes only the Commissioner, and not his authorized representative, to determine the steps necessary to abate a violation in the most expeditious manner physically possible. The Secretary believes that the abatement of imminent dangers or harm in an expeditious manner is an important item to be addressed in a State regulatory program. While Montana has stated in an Attorney General opinion dated February 20, 1980, that it has the necessary authority and as a matter of policy would require abatement in accord with 30 CFR 843.11(a)(2), the Secretary believes that this procedure must be set forth in Montana law or rules and has conditioned approval of the Montana program on a regulation change. See Finding 4(j)(vi).

71. EPI expresses a broad concern regarding the use of Attorney General opinions and policy statements to resolve issues in the Montana program. EPI wished to know whether these statements and Attorney General opinions are binding on the State; whether the opinions of Mr. John North, Monana Special Assistant Attorney General, are considered as Attorney General opinions; whether these submissions are legally enforceable; whether they are part of the approved program; what is their legal standing in courts and administrative proceedings; and what legal authority exists for use of these kinds of submissions. The Secretary believes that all parts of the State's submission are binding upon the State, and that policy statements submitted as part of the State program have standing with the State's statute and regulations. Where the State has submitted statements that it will exercise its discretion in a particular way, the Secretary has stated in his findings that his approval of the program is based upon Montana's assurances that it will operate in accordance with these statements. Because these policy statements are incorporated in the Secretary's findings, they are binding upon the State and, if not followed, may result in withdrawal of program approval. Consequently, these policy statements are legally enforceable and are a part of the Montana program, once approved, and are subject to the program amendment procedures of 30 CFR 732.17. This result is provided by 30 CFR 732.15, which states that the Secretary shall not approve a program unless he finds, "on the basis of information contained in the program submission, comments, testimony and written presentations at the public hearings, and other relevant information," that the listed criteria are met. The Attorney General opinions are equally a part of the State's submission. Their status is different from policy statements in that they are, by their nature, not binding promises or statements of fact, but legal opinions concerning the interpretation of the State's constitution, statutes and regulations by the State courts. As such, they are predictions rather than promises. The State Attorney General is familiar with the State's case law and with the legislative history of its statute, and the Secretary regards Attorney General opinions as a valuable aid to his understanding of how the State courts would interpret the State statute and regulations.

72. EPI also questions the Secretary's authority for the "substitution" of policy statements and Attorney General opinions for "statutory and regulatory obligations." The Secretary does not believe that the policy statements and Attorney General opinions have been used as substitutes for such obligations. Under Section 503(A) of SMCRA, it is the "State program" which must demonstrate the State's capability of carrying out the provisions of SMCRA. Policy statements and Attorney General opinions have been used merely to fill in some details in a strong statutory and regulatory program. The Secretary has not accepted policy statements of Attorney General opinions where the State lacks the requisite authority to carry out the promises in its policy statement, or where he felt that the statute or regulation was clear on its face. The Secretary believes that Mr. John North, a Special Assistant Attorney General and Chief Legal Counsel for the DSL, is authorized to render legal opinions concerning the Montana Strip and Underground Mine Reclamation Act, and that Mr. North's opinion of February 1, 1980, has the same standing as an Attorney General's opinion. This is in accordance with 30 CFR 731.14(c) as explained in the preamble, 44 FR 14954, which states that, "the required legal opinion may be prepared by either the Attorney General or the regulatory authority's chief legal officer."

73. EPI believes that Montana should clarify its warrantless inspection capability in an Attorney General opinion and also urges that warrantless entry be an explicitly stated condition of mining permits issued by DSL. They state that inclusion of this condition in the permit will diminish the chances of potential litigation over this power of the DSL. An Attorney General opinion dated February 1, 1980, indicates that the coal industry in Montana has been a closely regulated industry since passage of the first reclamation act in the late 1960's. Since that time DSL has conducted frequent and detailed inspections without search warrants to enforce the reclamation act. No rule or statute in the interim or permanent programs requires DSL to obtain a search warrant. The Attorney General concludes that DSL may inspect coal prospecting or mining operations for compliance with the permanent program without a search warrant. The Secretary found this clarification acceptable and has chosen not to require additional permit conditions (see Finding 4(g)(iii)).

74. EPI strongly urges that a regulatory or statutory amendment be added comparable to 30 CFR 843.19(g) to avoid ambiguities that may occur in the field concerning inspection of monitoring

equipment. EPI maintains that the ability of an inspector to assert what is in his jurisdiction is enhanced when such authority is firmly established in the surface mining statute and regulations rather than in the body of "general law." The Montana statute tracks the language in Section 521(c) of SMCRA, and Montana has provided sufficient information to indicate that the DSL can take all necessary action should an operator accept or refuse inspection of monitoring equipment. The Secretary has not required additional documentation on this matter (see Finding 4(j)(iv)).

75. While EPI concurs with the Attorney General opinion that Article II Section 9 of the State constitution is a broad-based provision for public disclosure, EPI calls attention to the fact that the court decision holding that only natural persons and not corporations have the right of privacy is a lower court decision and questions the weight to be accorded to a transcript of the Constitutional convention on the exceptions to the privacy rule. Barring Montana's desire to incorporate explicit regulatory disclosure provisions such as 30 CFR 842.12(e) and 843.14(d), EPI believes the burden of responsibility is left unresolved. EPI requests a policy statement addressing this question for all of the OSM regulatory provisions concerning availability of information. The Secretary has no basis for questioning the validity of the Attorney General opinion on the interpretation of Article II Section 9 of the Montana Constitution. Further, the State has represented that the information required by 30 CFR 842.12(e) and 843.14(d) would be provided, and that under the Montana Constitution nothing which is required to be disclosed to the public under the Federal rules can be kept confidential under the Montana provisions. The Secretary has found the Montana program no less stringent than the Federal regulations (see Findings 4(d)(i), 4(l)(iv), and 4(r)).

76. EPI maintains that the language of SMCRA 507(c) is clear in its requirements for financial assistance from the regulatory authority for small operators and point out that Montana law 82–4–222(3) makes this assistance contingent upon DSL's receipt of Federal funds to cover the costs of SOAP. The Secretary agrees with this concern and has conditioned approval of the Montana program on deleting the limitation on SOAP funding from the Montana statute (see Finding 4(o)).

77. EPI finds that the discretionary authority of Montana SURA 82–4–223(2), allowing DSL to require a bond of a political subdivision, is sufficient when interpreted in light of the January 30, 1980 policy statement on this subject but believes that a change in the regulations to limit the exception from bonding to coal exploration should be required. The Secretary agrees with EPI's analysis and has conditioned approval of the Montana program on promulgating a regulation limiting the discretion of the Board to exempt State and local agencies from bonding requirements (see Finding 4(h)(i)).

78. EPI considers the January 30, 1980 policy statement by DSL that notice required by 30 CFR 786.23(f) would be provided to local governmental officials to be adequate. However, EPI would like the DSL to incorporate this concern in a "housekeeping" regulation change. The Secretary has found that the policy statement by DSL meets Federal requirements and has not required the State to initiate a regulation change. Should the DSL decide to incorporate this provision in regulations at some future time, the Secretary would support this action (see Finding 4(d)(iii)).

79. EPI maintains that, although the State only "requests" government agencies to submit boundary information for unsuitability determinations within 30 days of DSL's request, this voluntary provision is adequate. They point out that since OSM itself has no authority to compel an agency to comply with this timetable, the choice of words is largely one of semantics than substance. EPI would like to see a policy statement on the procedure that would be followed by DSL, that is, how the DSL would estimate the proper boundary and allow for a margin of safety between the estimated boundary and the permit boundaries, subject to revision when more accurate data would be on hand. The Secretary agrees that this issue is largely one of semantics and has not requested additional information from the State.

80. EPI finds Montana's interim terms and conditions of bond in the bond form and not in the regulations to be unacceptable and suggests the State should promulgate these terms and conditions as regulations. EPI questions whether the form will provide adequate protection if these terms should be challenged by a company or if another administration in Montana decides to draw up new bond forms with less stringent requirements. The terms and conditions included in the Montana bond form meet all applicable Federal requirements. The State has provided, in a February 1, 1980 Attorney General opinion, an explanation for not including these provisions in the Montana rules. The Secretary finds the inclusion of the provisions as a part of the bond form rather than as rules to meet all applicable requirements. The Secretary is approving the State program which includes the bond forms; should the State wish to change these provisions the program must be amended following the procedures outlined in 30 CFR 732.17 (see Finding 4(h)(ii)).

Conditional Approval

As indicated above under Secretary's finding 4(l), 4(o), 4(h)(i), 4(h)(iii), 4(j)(vi), and 4(g)(i), there are six minor deficiencies which the Secretary requires be corrected. In all other respects, the Montana program meets the criteria for approval.

The first deficiency, as indicated in finding 4(l), is the absence of regulatory provisions providing for recovery of costs and expenses, including attorneys fees, in accordance with 43 CFR 4.1290–4.1296.

The second deficiency, as indicated in finding 4(o), is the Montana statutory provision that the Department of State Lands will implement the Small Operator Assistance Program only to the extent that it has received Federal funds for this purpose. Montana currently has only approximately six operators eligible for assistance and receives Federal funds adequate to cover this requirement.

The third deficiency, as indicated in finding 4(h)(i), concerns the lack of a State regulation requiring a political subdivision to file a bond in the event it directly undertakes coal mining. Montana currently has no political subdivision engaging in coal mining and maintains that if any did so in the future, the political subdivision would probably do so through a contractor. The contractor would be fully liable for a bond.

The fourth deficiency, as indicated in finding 4(h)(iii), concerns Montana's inclusion in its regulations of a phrase from Federal regulations relating to bonding that was determined to be inconsistent with the SMCRA. Montana has agreed to remove the phrase.

The fifth deficiency, as indicated in finding 4(j)(vi), concerns the need for Montana to revise its regulations on imposing affirmative obligations to abate an imminent danger or harm.

The sixth deficiency, as indicated in finding 4(g)(i), concerns the need for Montana to revise its regulations to remove the word "substantial" in reference to ensuring compliance with Montana law and regulations.

Given the nature of these deficiencies and their magnitude in relation to all the

other provisions of the Montana program, the Secretary of the Interior has concluded they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i), because:

1. The deficiencies are of such a size and nature as to render no part of the Montana program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Montana has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Montana has agreed, by letter dated March 20, 1980, to correct the regulation deficiencies by November 1, 1980, and statutory deficiency by July 1, 1981.

Accordingly, the Secretary is conditionally approving the Montana program. This approval shall terminate if regulations correcting the five deficiencies are not enacted by November 1, 1980 or if State legislation correcting the statutory deficiency is not enacted by July 1, 1981.

This conditional approval is effective April 1, 1980. Beginning on that date, the Montana Department of State Lands shall be deemed the regulatory authority in Montana and all Montana surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Montana shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Montana, the permanent regulatory program consists of the State program approved by the Secretary.

On Federal lands, the permanent regulatory program consists of the Federal rules made applicable under 30 CFR Chapter VII, Subchapter D—Parts 740–745. In addition, in accordance with Section 523(a) of SMCRA, 30 U.S.C. 1273(a), the Federal lands program in Montana shall include the requirements of the approved Montana permanent regulatory program. The approved Federal/State Cooperative Agreement contained in 30 CFR Part 211 (44 FR 33640, June 11, 1979) will terminate within 120 days of this approval of the Montana regulatory program. Montana and the Department of the Interior will have the opportunity to enter into a revised Cooperative Agreement to include the requirements of the approved Montana permanent regulatory program.

The Secretary's approval of the Montana program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Montana may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

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 conditional approval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: March 26, 1980.

Cecil D. Andrus,

Secretary of the Interior.

A new Part, 30 CFR Part 926, is adopted to read as follows:

PART 926—MONTANA

Sec.

926.1 Scope. [Reserved]
926.10 State program approval.
926.11 Conditions of State program approval.

Authority: Pub. L. 95–87, 30 U.S.C. 503.

§ 926.1 Scope. [Reserved]

§ 926.10 State program approval.

The Montana State program, as submitted on August 3, 1979 and amended and clarified on November 13, 1979, January 4, January 9, January 10, January 12, January 13, January 30, February 1, and February 20, 1980, is conditionally approved, effective April 1, 1980. Copies of the approved program together with copies of the letter of the Montana Department of State Lands agreeing to the conditions in 30 CFR 926.11, are available at:

(a) Montana Department of State Lands, 1625 Eleventh Avenue, Capitol Station, Helena, Montana 59601, Telephone: (406) 449–2074

(b) Montana Department of State Lands, Field Office, 1245 North 29th Street, Billings, Montana 59101, Telephone: (406) 657–2217

(c) Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837–5421

(d) Office of Surface Mining, Room 135, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4728

926.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in § 926.10 will terminate on November 1, 1980 unless Montana submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 43 CFR 4.1290–4.1296, relating to the award of costs, including attorneys fees, in administrative proceedings, or otherwise amends its program to accomplish the same result;

(b) The approval found in § 926.10 will terminate on November 1, 1980, unless Montana submits to the Secretary by that date, copies of fully enacted regulations narrowing the discretion found in Montana 82–4–223 which states that "a political subdivision or agency of the State need not file a bond unless required to do so by the board" so that this provision is applied in a same or similar manner as Section 524 of Pub. L. 95–87, or otherwise amends its program to accomplish the same result;

(c) The approval found in § 926.10 will terminate on July 1, 1981, unless Montana submits copies of fully enacted legislation and, if necessary, regulations removing the present limitation in Montana 82–4–222(3) providing that the small operator assistance program will be implemented "to the extent that it has received Federal funds for this purpose", or otherwise amends its program to accomplish the same result;

(d) The approval found in § 926.10 will terminate on November 1, 1980 unless Montana submits to the Secretary by that date, copies of fully enacted regulations removing from Rule XX(13)(b)(ii) the phrase "with respect to protection of the hydrologic balance", or otherwise amends its program to accomplish the same result;

(e) The approval found in Section 926.10 will terminate on November 1, 1980 unless Montana submits to the Secretary by that date, copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 843.11(a)(2) relating to: (1) Imposing affirmative obligations if a cessation order will not completely abate the imminent danger or harm in the "most expeditious manner physically possible" and (2) an affirmative obligation may require the use of additional personnel or equipment without regard to cost, or otherwise amends its program to accomplish the same result; and

(f) The approval found in § 926.10 will terminate on November 1, 1980 unless Montana submits to the Secretary by that date, copies of fully enacted regulations removing from Rule XXIV(1) the word "substantial" in reference to ensuring compliance with Montana law and regulations, or otherwise amends its program to accomplish the same result.

[FR Doc. 80-9799 Filed 3-31-80; 8:45 am]

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Tuesday
April 1, 1980

Part IV

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare Program; Proposed Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on and After July 1, 1980

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Medicare Program; Proposed Schedule of Limits on Hospital Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or After July 1, 1980

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Notice.

SUMMARY: This notice sets forth a proposed schedule of limits on hospital inpatient general routine operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after July 1, 1980. The notice explains several proposed changes in our methodology for computing the limits.

This is an annual update of the schedule, and would replace the interim schedule published in the Federal Register on August 9, 1979 (44 FR 46949). The proposed schedule of limits would cover total inpatient general routine operating cost, and would apply to the entire cost reporting period of a hospital whose cost reporting period begins on or after July 1, 1980. It would not apply to the costs of special care units or ancillary services, to capital-related costs, or to the costs a provider allocates to approved medical education programs.

DATE: To assure consideration, comments should be received by: June 2, 1980.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, Md. 21235.

If you prefer, you may deliver your comments to: Room 5220, Switzer Building, 330 C Street, SW., Washington, D.C.; or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Md.

Please refer to File Code BPP–26–PN.

Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 5220 of the Department's offices at 330 C Street, SW., in Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202 245–0950).

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, (301) 594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) as amended by section 223 (Limitation on Coverage of Costs) of Pub. L. 92–603, the Social Security Amendments of 1972, authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, limits on hospital inpatient general routine service costs were published annually from 1974 through 1978.

On June 1, 1979, we published in the Federal Register (44 FR 31806) a schedule of limits on hospital inpatient general routine operating costs applicable to cost reporting periods beginning on or after July 1, 1979. In that notice, we explained the ways in which the methodology used to derive that schedule differed from the methodology used to derive previous schedules.

On August 9, 1979, we published an interim schedule of limits that replaced the June 1 schedule (44 FR 46949). The methodology we used to derive the interim schedule was exactly the same as the methodology set forth in the June 1 publication except that, in deriving the interim schedule, we set the limits for each comparison group of hospitals at the 80th percentile of the group costs rather than at 115 percent of the mean of those costs. In the August 9 notice, we also specifically requested public comment on the single issue of whether the limits should be set at 115 percent of the group mean, at the 80th percentile of group costs, or at some other level.

In response to the notice of August 9, 1979, we received approximately 125 comments from representatives of national, State, and individual provider organizations. We considered all of those comments in developing the methodology we used to derive the proposed schedule of limits set forth below, on which we are now requesting public comment. We have made several further refinements in the methodology used for the August 9, 1979 schedule, as explained below.

Summary of Proposed Changes

The proposed new schedule would provide for:

1. *Separate treatment of labor-related and non-labor components of per diem costs.*

In the notice published on August 9, 1979, we established, for each hospital comparison group, a single basic limit set at the 80th percentile of group costs. Each hospital's individual limit was computed by multiplying a constant portion (60.04 percent) of the group basic limit by the wage index for the hospital's location, and adding the non-wage portion of the group limit to arrive at a wage-adjusted limit. The cost-of-living adjustment (for hospitals in Alaska and Hawaii), covered days of care adjustment (if applicable) and the cost reporting year adjustment (if applicable) were then applied to the hospital's wage-adjusted limit to determine the individual limit for the particular hospital.

In developing the proposed schedule, we have used mean-based rather than percentile-based limits, have increased the percentage of per diem costs subject to adjustment by the wage index, and also have provided an adjustment for increased routine per diem costs generated by approved medical education programs. These proposed changes are described in items 2, 3 and 4 below. In addition, we have used a new method to compute the individual limits for hospitals in each comparison group.

Under the proposed method, we would obtain actual hospital inpatient general routine per diem operating cost data for hospitals in each comparison group, increase those data for inflation and adjust the data to remove the effect of cost differences due only to differences in hospital levels of teaching activity. We would then separate each hospital's per diem cost into labor-related and non-labor portions, and divide the labor-related portion by the wage index for the hospital's location. However, the non-labor and labor-adjusted portions of per diem cost would not be recombined to arrive at a single basic limit for each group, as was done in deriving the June 1, 1979, and August 9, 1979, schedules. Instead, separate group means would be computed for the labor-related and non-labor components of per diem cost. Each group mean would then be multiplied by 112 percent. For each group, the resulting amounts are shown in Tables I and II.

To arrive at an individual hospital's limit, the labor-related component for the group would be multiplied by the wage index for the hospital's location. The resulting amount then would be added to the non-labor component for the group to arrive at a labor-adjusted limit. This limit would then be adjusted

by the cost-of-living adjustment (for hospitals in Alaska and Hawaii), education adjustment, days-of-care adjustment, and the adjustment for the cost reporting year, as applicable, in order to arrive at the individual limit for each hospital.

We have made this change in our methodology in order to improve the accuracy with which individual hospitals' limits are computed. Under our previous methodology, a constant percentage of each hospital's per diem cost was divided by the wage index in deriving each group basic limit. The same percentage of each group limit was multiplied by the wage index to arrive at a wage-adjusted individual hospital limit. However, use of a wage index which has an average value of other than 1.0 to adjust the per diem cost data will increase or decrease the ratio of wages to non-wage costs in the group limit. This is avoided if separate means are computed for labor-related and non-labor costs, and the wage index is applied to 112 percent of the mean labor-related cost.

2. *Limits set at 112 percent of the mean labor-related and mean non-labor costs of each comparison group.* The majority of commenters on our August 9, 1979, notice proposed that we set the limits at the 80th percentile plus 10 percent of the group median as was done in deriving previous schedules. Other commenters suggested various other levels at which to set the limit, e.g., at the 80th percentile, at the 80th percentile plus 20 percent of the group median, at the 90th percentile, at the 90th percentile plus 10 percent of the group median, at 120 percent of the group mean, or at 125 percent of the group mean.

As explained in the August 9 notice, we believe that setting the limit at a percentage of the mean rather than at the 80th percentile or some other percentile is preferable because use of percentile-based limits implies that a certain percentage of the hospitals in each group would be judged inefficient, even where actual cost variations in the group are relatively minor. Therefore, we decided not to adopt the comments suggesting that we return to the use of percentile-based limits.

Prior to the interim cost limit schedule published on August 9, 1979, in establishing percentile-based cost limits, we used an explicit margin factor of 10 percent of the group median to account for variations in costs that our classification system did not recognize. Our exclusion from the interim limits of capital-related costs and costs allocated to approved medical education programs, together with the direct adjustment of the wage portion of the group limits by use of the wage index, made such an explicit margin factor unnecessary. The interim schedule did, however, reflect an implicit margin in that the limits were set at the 80th percentile rather than the median (50th percentile) of costs of the group.

Under our proposed limits, we have increased the percentage of per diem costs subject to adjustment by the wage index and also have provided an adjustment for increased routine per diem costs generated by approved medical education programs. We believe these refinements to our methodology for deriving and adjusting the limits significantly improve the precision with which individual hospitals' limits can be determined, and thereby justify use of an implicit margin factor that is smaller than the 15 percent allowance we used in establishing the mean-based limits we published on June 1, 1979. Despite these refinements, we still believe that a margin concept is appropriate to take account of any remaining variations in costs not recognized under the classification system and limit adjustment methodologies. Therefore, we are proposing that the limits be set at 112 percent, rather than at the group mean. We believe the 12 percent allowance above mean costs is a reasonable margin factor and that adopting suggestions to set limits at a higher percent of the group mean would defeat the purpose of limits by allowing reimbursement of costs due to inefficiency.

3. *Application of the hospital wage index to employee benefits, professional fees, costs of business services, and other miscellaneous expenses.* In developing the schedules published on June 1 and August 9, we used a hospital wage index to account for area wage differences. We applied the wage index to the wage component of each hospital's per diem inpatient routine operating costs (estimated at 60.04 percent) based on the national average wage component in the market basket (see Table III). We then added the adjusted wage portion of cost to the non-wage cost for each hospital to obtain a wage-adjusted per diem cost and to calculate the group basic limit.

To obtain a hospital's limit, we instructed intermediaries to multiply the wage portion of the applicable group basic limit (60.04 percent) by the wage index for the hospital's location, and add the non-wage portion of the limit. These calculations were needed to arrive at a wage-adjusted limit for each hopsital.

In response to previous notices, several commenters have stated that the wage index adjustment is inadequate in that it applies only to wages, and not to other labor-related hospital costs. In the proposed schedule, we have provided an adjustment that applies to five categories of labor-related costs: wages, employee benefits, professional fees, business service costs, and other miscellaneous costs.

For purposes of the adjustment, employee benefits include such items as FICA tax, health insurance, life insurance, hospital contributions to employee retirement funds, and all other compensation a hospital records in the "employee health and welfare" cost center on its Medicare cost report. (The Medicare Provider Reimbursement Manual (HIM–15), Chapter 4, and the instructions to the HCFA cost reporting forms describe the types of costs that are to be recorded in that cost center.) Professional fees include payments for consulting, auditing, legal, and other professional services furnished by independent contractors. Business services costs include costs of banking, contract laundry, telephone, and other services hospitals purchase at retail from outside suppliers. Other miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket (Table III).

By including these additional categories, we propose to apply the wage index to the total portion of cost (79.53 percent) attributable to wages, fringe benefits, professional fees, business service costs, and other miscellaneous expenses, rather than to the wage portion (60.04 percent) only.

We are proposing this change because our analysis of the data we used to develop the limits shows that area variations in routine per diem costs are closely correlated with area variations in prevailing wage levels. We believe that applying the wage index to the other categories of labor-related costs specified above, rather than to wages only, will result in individual limits that are more appropriate to each hospital's actual market environment.

We developed the current hospital wage index from data supplied by the Bureau of Labor Statistics (BLS). The data used are those for the "hospital industry", a standard BLS reporting category. The hospital wage index is based on data for the year 1978, and is the latest available data. Data for 1979 will not be available until late in 1980.

To develop the hospital wage index we first computed the national Standard Metropolitan Statistical Area (SMSA), or New England County Metropolitan Area (NECMA) average hospital wage. We then divided this average into the

average hospital wage for each SMSA (or NECMA). The result is expressed as an index number, which is used to adjust the labor-related component. For non-SMSA areas, we developed the index by computing the national non-SMSA average hospital wage and dividing this average into the average hospital wage for all non-SMSA counties in a State. The index then applies to all non-SMSA counties in the State.

4. *An adjustment to the limits for increased costs due to approved medical education programs. In deriving the schedules published on June 1, August 9, and this proposed schedule, we excluded the education program costs that hospitals normally record in the interns and residents (in approved programs) and nursing school accounts on their Medicare cost reports. (The Medicare Provider Reimbursement Manual (HIM–15), Chapter 4, and the instructions to the HCFA cost reporting forms describe the types of costs that are to be recorded in those cost centers.) Thus, those education program costs would not be subject to the proposed limits.*

Our analysis of the data we used to derive the proposed limits shows that, even after education program costs have been removed, there is a high degree of correlation between a hospital's level of general inpatient routine operating costs and the extent of its teaching activity. Generally, hospitals with approved graduate medical education programs incur higher per diem operating costs than non-teaching hospitals of similar bed size and geographic location. Among teaching hospitals of similar size and location, costs increase in direct proportion to the number of interns and residents (in approved programs) the hospital employs to furnish services to its patients.

We believe these increases in per diem cost occur because the provision of graduate medical education causes increases in certain types of costs that are only indirectly related to education programs. For example, a hospital with an approved medical education program may be required, for training purposes, to maintain more detailed and complete medical records than a non-teaching hospital. However, medical records costs are not considered educational expenses, and, therefore, are not excluded from the costs subject to limitation under the current schedule.

To prevent a disproportionate number of teaching hospitals from being adversely affected by the limits, we have, in the proposed schedule, provided an automatic adjustment for the costs generated by approved medical education programs. Based on the data we used to derive the proposed limits, we have estimated that a hospital's general inpatient routine operating costs may be expected to increase by a factor of .047 for each increase of .1 (above zero) in the ratio of its full-time equivalent (FTE) interns and residents (in approved programs) to its number of beds. In deriving the proposed limits, we adjusted each hospital's routine per diem cost to account for cost variations due only to differences in various hospitals' levels of teaching activity. We made this adjustment before the wage index adjustment.

Specifically, this adjustment was made by dividing each hospital's intern-and-resident to bed ratio by .1, and multiplying the result by the teaching adjustment factor (.047). We then added 1.0 to the product of that calculation, and divided each hospital's routine per diem operating cost by the resulting amount.

In applying the limits, we propose to increase each hospital's otherwise applicable limit by this teaching adjustment factor (.047) for each increase of .1 (above zero) in that ratio.

To obtain this adjustment, a teaching hospital would not be required to identify explicitly the costs for which the adjustment is being made. Instead, the hospital would be required only to report to its Medicare intermediary, 30 days before the beginning of each cost reporting period, the total full-time equivalent (FTE) interns and residents (in approved programs) it will employ on the first day of the period. (For purposes of this report, the hospital would be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs and those who are on the hospital's payroll but furnish services at another site would not be taken into account in making this adjustment.) The intermediary would then compute the ratio of FTE interns and residents to beds, determine the percentage amount of the adjustment the hospital is entitled to, and increase the hospital's limit by that percentage.

Use of Market Basket Index and Covered Days of Care Adjustment

In deriving the limits published on June 1, 1979, August 9, 1979, and proposed limits, we used what we call a "market basket" of goods and services typically used by a hospital and a "market basket index" for adjusting cost data and cost limits in accordance with increases in the costs of these goods and services. The market basket comprises the most commonly used categories of hospital routine operating expenses. The categories we used are based on those currently used by the American Hospital Association (AHA) in its analysis of costs, by the U.S. Department of Commerce in publishing price indexes by industry, and by HCFA in its cost reports. These categories are listed in Table III below.

The categories of expenses are weighted according to the estimated proportion of hospital routine operating costs attributable to each category. These weights are based on surveys by the AHA, on the Department of Commerce's input-output studies, and on our analysis of Medicare cost reports. Column 2 of Table III below specifies the weights for each category.

Our next step in developing the market basket index was to obtain historical and projected rates of increase in the resource prices for each category. The table, in columns 3 and 4, specifies the price variables and sources of the forecasts used in this process. Based on the rate of increase for each category and the weights assigned to each category, we developed estimates of the overall rates of increase in hospital inpatient general routine operating expenses for periods after June 30, 1979. The resulting rates of increase are shown in the description of our cost limit methodology below (see item 1—*Data*). As explained in that item, the projected rate of increase in the market basket index will be adjusted to actual if the actual rate of the increase is more than .3 of 1 percentage point above the estimated rate.

In the cost limit schedules we published on June 1, 1979, and August 9, 1979, we included a "covered days of care" adjustment. We have also included this adjustment in the proposed schedule. This adjustment increases the otherwise applicable limits for hospitals in certain parts of the country that have shorter lengths of stay that are alleged to result from higher intensity of routine services. We decided to continue to use this adjustment in order to prevent any disadvantage to hospitals in States with below average utilization due to more intensive routine services. The States for which a covered days of care adjustment will be made, and the adjustment factors that will be used, are set forth in Table V below.

These features of our methodology, which have been summarized here for the convenience of the reader, do not represent changes from the methodology we used to derive the June 1, 1979, and August 9, 1979 schedules. For more

detailed information on the derivation and use of the market basket index and covered days of care adjustment, the reader should refer to the notices published on March 1, 1979 (44 FR 11612) and June 1, 1979 (44 FR 31806).

Methodology for Determining Per Diem Routine Operating Cost Limit.

1. *Data.* The limits have been determined by using actual hospital inpatient general routine operating cost data obtained from the latest Medicare cost reports available as of July 18, 1979. In determining the limits, we excluded capital-related costs and the costs allocated to approved medical and nursing education programs.

These cost report data were projected from the midpoint of the cost report period used in the data collection to July 1, 1979. The market basket index data were used to project from July 1, 1979, to the midpoint of the first cost reporting period to which the limits will apply.

The percentage increases over the previous year which were used for this projection are:

	Percent
1977	10.0
1978	10.0
1979 (⅓ to ⅚)	10.5
1979 market basket (⅓ to ¹⁵⁄₃₁)	[1] 9.3
1980 market basket	[1] [2] 10.1
1981 market basket	[1] [2] 9.8

[1] Estimated percentage; to be adjusted to actual percentage as soon as necessary data are available.
[2] Based on hospital industry wages.

The projected rate of increase in the market basket index will be adjusted to actual if the actual rate of the increase is more than .3 of 1 percentage point above the estimated rate. The actual rate of increase will be published in the **Federal Register** and will be used to adjust a hospital's cost limit at time of final settlement.

2. *Adjustment for Education Costs.* After each hospital's per diem routine operating cost is adjusted for inflation, the per diem cost is divided by 1.0 plus the product of the education adjustment factor (.047) and the individual hospital's adjusted intern-and-resident to bed ratio. That adjusted ratio is determined by dividing the number of full-time equivalent interns and residents for the cost reporting period to which the per diem cost applies by the hospital's bed size for that period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1.

3. *Use of Wage Index to Adjust Cost Data.* Each hospital's adjusted per diem routine operating costs were then divided into labor-related and non-labor portions. The labor-related portion of costs was determined by using the 79.53 percent factor from the market basket. This portion of per diem cost was divided by the wage index applicable to the hospital's location (see Table IV) to arrive at an adjusted labor-related portion of routine cost.

4. *Group Means.* Separate means of routine labor-related and non-labor operating costs were calculated for each group established in accordance with the hospitals' urban/non-urban location and bed size.

5. *Components of Limit.* For each group the mean labor-related and mean non-labor costs were multiplied by 112 percent (see Tables I and II.)

6. *Adjustment of Labor-Related Component by Wage Index.* To arrive at a labor-adjusted limit for each hospital, the labor-related component for the hospital's group is multiplied by the wage index developed from the wage levels for hospital workers in the area in which the hospital is located. (See Table IV.) The adjusted limit which would apply to any hospital will be the sum of the non-labor component, plus the adjusted labor-related component, unless the hospital qualifies for one or more of the adjustments described in steps 7, 8, and 9 below.

Example—Calculation of Adjusted Limit for a 686-bed Hospital Located in Los Angeles, California.

Non-Labor Component—$29.19 (published in Table I).

Labor-related Component—$99.32 (published in Table I).

SMSA Wage Index—1.2920 (published in Table IV A).

Computation of Adjusted Limit

$99.32×1.2920 (Wage index)=$128.32—Adjusted Labor Component.

$128.32+$29.19=$157.51—Adjusted limit.

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Tables IVA and IVB.

7. *Adjustment for Covered Days of Care.* If a hospital is located in a State which is entitled to a covered day of care adjustment (See Table V) the limit will be computed as follows. Determine the adjusted limit for the hospital and multiply that limit by the applicable factor from Table V.

Example—A hospital in California has an adjusted limit of $157.51. The adjustment factor from Table V is .07015.

Adjusted limit $157.51×Adjustment factor .07015=$11.05.

$157.51+$11.05=$168.56 which is the hospital's limit after application of the covered days of care adjustment.

8. *Education Cost Adjustment.* If a hospital has a graduate medical education program approved under 42 CFR 405.421, the hospital's limit as computed under steps 1–6 will be increased by .047 for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The hospital will report to its fiscal intermediary, 30 days before the start of each cost reporting year, the number of full-time equivalent interns and residents it will employ on the first day of that year. An adjustment will be made at final settlement if, for a cost reporting year, a hospital actually employed more or fewer FTE interns and residents than it reported it would employ.

Example—A 686-bed hospital has an adjusted limit of $157.51. The hospital employs 77 FTE interns and residents in approved teaching programs.

77÷686=.1122 Ratio of FTE Interns and Residents to Beds.

Ratio .1122÷.1=1.122 Adjusted ratio.

The Education Adjustment Factor is .047.

Adjusted limit $157.51 x [1 + (education adjustment factor .047 x adjusted ratio 1.122)] = $157.51 x 1.0527 = $165.81 Education—adjusted limit.

9. *Adjustment for Cost Reporting Year.* If a hospital has a cost reporting period beginning on or after August 1, 1980, the published limit will be revised upward by a factor of .8167 percent for each elapsed month between July 1, 1980, and the month in which the hospital's cost reporting period starts. This factor represents the monthly rate that was derived from the projected annual increase in the market basket index and is used to account for inflation in costs which will occur after the date on which the limits become effective.

Example—Hospital A's cost reporting period begins January 1, 1981.

The otherwise applicable limit for the hospital is $140.

Computation of Revised Hospital Limit

Individual Hospital Adjusted Limit—$140.

Plus Adjustment for 6-month period.

6 x .8167 percent = 4.9 percent

1.049 x $140 = $146.86

Revised limit applicable to hospital A for cost reporting period beginning January 1, 1981, $146.86.

If a hospital uses a cost reporting period which is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .8167 percent is based on an assumed 12 month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The hospital's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following per diem limits, when published in final form, would apply to hospital inpatient general routine operating costs (including the inpatient routine nursing salary differential) for cost reporting periods beginning on or after July 1, 1980. The adjusted limits (using the wage index published in Table IV) would be computed by the fiscal intermediaries and each hospital would be notified of its applicable limit.

Table I.—*Hospitals Located in SMSA (NECMA)*[1]

Bed size	Labor related component	Nonlabor component
Less than 100	$98.20	$26.62
100 to 404	97.19	27.12
405 to 684	94.49	26.47
685 and above	99.32	29.19

Table II.—*Hospitals Located in Non-SMSA (non-NECMA) Areas*[1]

Bed size	Labor related component	Nonlabor component
Less than 100	$93.95	$22.65
100 to 169	93.16	22.72
170 and above	90.07	22.36

[1] Limits for hospitals located in States of Alaska and Hawaii will be increased by the following cost-of-living adjustments:

	Percent
Alaska	25
Hawaii (Island):	
Oahu	15
Kauai	17.5
Molokai	15
Mau and Lanai	12.5
Hawaii	15

Table III.—*Derivation of "Market Basket" index for Routine Inpatient Hospital Operating Costs*

Category of costs	Routine cost weight (percent)[1]	Forecaster,[2] percent changes 1979–80	"Price" variable used
1. Wages and salaries	60.04	DRI–CFS	A. For the period calendar year 1979: Percentage change in average hourly earnings of service industry workers. Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," (monthly) Table C–2.
		DRI–CFR	B. For the period calendar year 1980 and thereafter: Percentage change in average hourly earnings of hospital industry workers (sic 806). Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," (monthly) Table C–2.
2. Employee benefits	7.88	DRI–MM	Percentage changes in supplements to wages and salaries per worker in nonagricultural establishments. Sources: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, "Survey of Current Business" (monthly) table 7 (1.12) July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics "Employment and Earnings," (monthly) table B–4.
3. Professional fees, other (legal, auditing, consulting, etc.).[3]	.50	DRI–MM	Percentage changes in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," (monthly), table 18.
4. Malpractice insurance premiums	1.88	HEW, HCFA	Percentage changes in hospital malpractice insurance premiums per hospital. Data obtained from the American Hospital Association for the period 1967–1978. HEW, Health Care Financing Administration projected this data for 1979–1982.
5. Food	5.90	DRI–MM	A. Percentage changes in food and beverages component of consumer price index, all urban (weight, 2.95). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 27.
		DRI–MM	B. Percentage changes in processed foods and feeds component of producer price index (weight 2.95). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 26.
6. Fuel and other utilities	3.08	DRI–MM	A. Percentage changes in implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of consumer price index) (weight 1.20). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis "Survey of Current Business," (monthly) table 26 (7.11).
		DRI–MM	B. Percentage changes in implicit price deflator—consumption of electricity (derived from electricity component of consumer price index) (weight 0.85). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis Unpublished data provided to Data Resources Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI–MM	C. Percentage changes in implicit price deflator for natural gas (derived from utility (piped) gas component of consumer price index) (weight 0.64). Source: Same as electricity above.
		DRI–CFS	D. Percentage changes in water and sewerage maintenance component of consumer price index (weight 0.39). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 23.
7. Drugs	1.39	DRI–CFS	Percentage changes in pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Producer Prices and Price Indexes" (monthly), table 6.
8. Chemicals and cleaning products	2.61	DRI–MM	Percentage changes in chemicals and allied products component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 26.
9. Surgical and medical instruments and supplies	1.22	DRI–CFS	Percentage changes in special industry machinery and equipment component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 26.
10. Rubber and miscellaneous plastics	1.10	DRI–MM	Percentage changes in rubber and plastic products component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 26.
11. Business travel and motor freight	1.43	DRI–CFS	Percentage changes in Transportation component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 23.

Table III.—*Derivation of "Market Basket" index for Routine Inpatient Hospital Operating Costs*—Continued

Category of costs	Routine cost weight (percent)[1]	Forecaster,[2] percent changes 1979–80	"Price" variable used
12. Apparel and textiles	1.86	DRI–MM	Percentage changes in Textile products and apparel component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 26.
13. Business services	3.87	DRI–MM	Percentage changes in services component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 23.
14. All other miscellaneous expenses [4]	7.24	DRI–MM	Percentage changes of consumer price index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, "Monthly Labor Review," table 23.
Total	100.00		

[1] Routine operating cost weights for 1977 were derived from special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and data from HCFA Medicare cost reports. A laspeyres price index was constructed using 1977 weights and "price" variables indicated in this table. In calendar 1977 each "price" variable has an index value of 100.00. The relative routine operating cost weights change each period in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, D.C. 20006, (Forecast: CFS 793) DRI–MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, (Forecast: Control 112179) HEW–HCFA = Dept. of Health, Education, and Welfare, Health Care Financing Administrative, 330 "C" Street, SW., Washington, D.C. 20201.

[3] Medical professional fees are included as part of nonroutine costs.

[4] This is a residual category of routine operating costs not included in the 13 specific categories above. It consists primarily of miscellaneous and unallocated items.

Table IV A.—*Wage Index for Urban Areas*

SMSA area	Wage index
Abilene, TX	.8481
Akron, OH	1.0320
Albany, GA	.7842
Albany-Scenectady-Troy, NY	1.0334
Albuquerque, NM	1.1020
Alexander, LA	1.0370
Allentown-Bethlehem-Easton, PA–NJ	1.0503
Altoona, PA	1.0890
Amarillo, TX	.9902
Anaheim-Santa Ana-Garden Grove, CA	1.1640
Anchorage, AK	1.5154
Anderson, IN	.9279
Ann Arbor, MI	1.2504
Anniston, AL	.7995
Appleton-Oshkosh, WI	.9062
Asheville, NC	1.1131
Atlanta, GA	.9283
Atlantic City, NJ	1.0029
Augusta, GA–SC	1.0763
Austin, TX	.9090
Bakersfield, CA	1.0756
Baltimore, MD	1.1347
Baton Rouge, LA	.9252
Battle Creek, MI	1.2281
Bay City, MI	1.0451
Beaumont-Fort Arthur-Orange, TX	.8623
Billings, MT	.8598
Biloxi-Gulfport, MS	1.0588
Binghamton, NY–PA	.9257
Birmingham, AL	.9981
Bismarck, ND	.9145
Bloomington, IN	.9596
Bloomington-Normal, IL	.8299
Boise City, ID	1.0848
Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	1.1350
Bradenton, FL	.8447
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1199
Brownsville-Harlingen-San Benito, TX	.9067
Bryan-College Station, TX	.7831
Buffalo, NY	.9071
Burlington, NC	.8621
Canton, OH	.9152
Cedar Rapids, IA	.8940
Champaign-Urbana-Rantoul, IL	1.0868
Charleston-North Charleston, SC	1.0184
Charleston, WV	1.0340
Charlotte-Gastonia, NC	.9270
Chattanooga, TN–GA	.9698
Chicago, IL	1.2160
Cincinnati, OH–KY–IN	1.0909
Clarksville-Hopkinsville, TN–KY	.8271
Cleveland, OH	1.1715
Colorado Springs, CO	.9160
Columbia, MO	1.2111
Columbia, SC	.9938
Columbus, GA–AL	.8541
Columbus, OH	1.0265
Corpus Christi, TX	.9116
Dallas-Fort Worth, TX	.9445

Table IV A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Davenport-Rock Island-Moline, IA–IL	.9182
Dayton, OH	1.1527
Daytona Beach, FL	.9472
Decatur, IL	.9368
Denver-Boulder, CO	1.1153
Des Moines, IA	1.0633
Detroit, MI	1.1782
Dubuque, IA	.9012
Duluth-Superior, MN–WI	.8756
Eau Claire, WI	.8429
El Paso, TX	.9356
Elkhart, IN	.7974
Elmira, NY	.8019
Enid, OK	.8322
Erie, PA	.9712
Eugene-Springfield, OR	.9602
Evansville, IN–KY	1.0216
Fargo-Moorhead, ND–MN	1.0060
Fayetteville, NC	1.1280
Fayetteville-Springdale, AR	.8744
Flint, MI	1.1327
Florence, AL	.7965
Fort Collins, CO	.8239
Fort Lauderdale-Hollywood, FL	1.1340
Fort Myers, FL	.9622
Fort Smith, AR–OK	.8411
Fort Wayne, IN	.9039
Fresno, CA	1.1467
Gadsden, AL	.8998
Gainesville, FL	1.1184
Galveston-Texas City, TX	.9947
Gary-Hammond-East Chicago, IN	1.1593
Grand Forks, ND–MN	.8749
Grand Rapids, MI	.9099
Great Falls, MT	.8898
Greeley, CO	.8225
Green Bay, WI	.9409
Greensboro-Winston-Salem-High Point, NC	.8985
Greenville-Spartanburg, SC	.8875
Hamilton-Middleton, OH	1.0662
Harrisburg, PA	1.0532
Hartford-New Britain-Bristol, CT	1.0732
Honolulu, HI	1.1681
Houston, TX	1.0320
Huntington-Ashland, WV–KY–OH	.9516
Huntsville, AL	.8290
Indianapolis, IN	1.0498
Iowa City, IA	1.3027
Jackson, MI	.9839
Jackson, MS	.8991
Jacksonville, FL	.9335
Janesville-Beloit, WI	.8381
Jersey City, NJ	1.0724
Johnson City-Kingsport-Bristol, TN–VA	.9523
Johnstown, PA	.9989
Kalamazoo-Portage, MI	1.1365
Kankakee, IL	.9602
Kansas City, MO–KS	.9893
Kenosha, WI	1.0454

Table IV A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Killfen-Temple, TX	1.0601
Knoxville, TN	.8515
Kokomo, IN	.9341
La Crosse, WI	.8542
Lafayette, LA	.8531
Lafayette-West Lafayette, IN	.8917
Lake Charles, LA	.8536
Lakeland-Winter Haven, FL	.8486
Lancaster, PA	1.0422
Lansing-East Lansing, MI	1.0500
Laredo, TX	.8382
Las Cruces, NM	.7816
Las Vegas, NV	1.1850
Lawrence, KS	.8388
Lawton, OK	.8750
Lewiston-Auburn, ME	.8734
Lexington-Fayette, KY	1.0328
Lima, OH:	.9432
Lincoln, NE	1.0119
Little Rock-North Little Rock, AR	1.1028
Long Branch-Asbury Park, NJ	1.0597
Longview, TX	.7931
Lorain-Elyria, OH	.9881
Los Angeles-Long Beach, CA	1.2920
Louisville, KY–IN	1.0123
Lubbock, TX	.8444
Lynchburg, VA	.8621
Macon, GA	.9181
Madison, WI	1.0250
Manchester-Nashua, NH	.8709
Mansfield, OH	.8716
Mcallen-Pharr-Edinburg, TX	.7834
Melbourne-Titusville-Cocoa, FL	.9061
Memphis, TN–AR–MS	1.0624
Miami, FL	1.1277
Midland, TX	.8826
Milwaukee, WI	1.0166
Minneapolis-St. Paul, MN–WI	.8747
Mobile, AL	.8921
Modesto, CA	.9538
Monroe, LA	.9033
Montgomery, AL	.9934
Muncie, IN	.9159
Muskegon-Norton Shores-Muskegon Heights, MI	.9848
Nashville-Davidson, TN	1.0568
Nassau-Suffolk, NY	1.3094
New Bedford-Fall River, MA	.9676
New Brunswick-Perth Amboy-Sayreville, NJ	1.0690
New Haven-Waterbury-Meriden, CT	1.1532
New London-Norwich, CT	1.0970
New Orleans, LA	.9940
New York, NY–NJ	1.4468
Newark, NJ	1.2800
Newport News-Hampton, VA	1.0437
Norfolk-Virginia Beach-Portsmouth, VA–NC	.9672
Northeast Pennsylvania	1.1039
Odessa, TX	.8798
Oklahoma City, OK	.9317

Table IV A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Omaha, NE–IA	.9560
Orlando, FL	.9118
Owensboro, KY	.7243
Oxnard-Simi Valley-Ventura, CA	1.4090
Panama City, FL	.8602
Parkersburg-Marietta, WV–OH	.9586
Pascagoula-Moss Point, MS	1.1392
Paterson-Clifton-Passaic, NJ	1.0864
Pensacola, FL	.9142
Peoria, IL	1.0533
Petersburg-Colonial Heights-Hopewell, VA	.8919
Philadelphia, PA–NJ	1.1630
Phoenix, AZ	1.0819
Pine Bluff, AR	.7253
Pittsburg, PA	1.1268
Pittsfield, MA	1.0225
Portland, ME	.9551
Portland, OR–WA	1.1207
Poughkeepsie, NY	1.2018
Providence-Warwick-Pawtucket, RI	1.0065
Provo-Orem, UT	.8980
Pueblo, CO	.8622
Racine, WI	.8256
Raleigh-Durham, NC	1.0590
Rapid City, SD	1.1310
Reading, PA	.9930
Reno, NV	1.2480
Richland-Keenewick, WA	.9865
Richmond, VA	.9849
Riverside-San Bernardino-Ontario, CA	1.1704
Roanoke, VA	1.1016
Rochester, MN	.9405
Rochester, NY	1.0831
Rockford, IL	1.0755
Sacramento, CA	1.2026
Saginaw, MI	1.1469
St. Cloud, MN	.9108
St. Joseph, MO	.9106
St. Louis, MO–IL	.9776
Salem, OR	1.0722
Salinas-Seaside-Monterey, CA	1.2117
Salt Lake City-Ogden, UT	.8525
San Angelo, TX	.8083
San Antonio, TX	1.0295
San Diego, CA	1.1268
San Francisco-Oakland, CA	1.3821
San Jose, CA	1.3774
Santa Barbara-Santa Maria-Lompoc, CA	1.0288
Santa Cruz, CA	1.0607
Santa Rosa, CA	1.3227
Sarasota, FL	.8919
Savannah, GA	.9052
Seattle-Everett, WA	1.0068
Sherman-Denison, TX	.7782
Shreveport, LA	1.0308
Sioux City, IA-NE	.9232
Sioux Falls, SD	.8507
South Bend, IN	.8821
Spokane, WA	1.0589
Springfield, IL	1.0571
Springfield, MO	.9473
Springfield, OH	.9657
Springfield-Chicopee-Holyoke, MA	1.0354
Steubenville-Weirton, OH-WV	.9834
Stockton, CA	1.3009
Syracuse, NY	1.2822
Tacoma, WA	1.0409
Tallahassee, FL	.8504
Tampa-St. Petersburg, FL	1.0386
Terre Haute, IN	.8619
Texarkana-TX-Texarkana, AR	1.0377
Toledo, OH-MI	1.0968
Topeka, KS	1.1352
Trenton, NJ	1.1306
Tucson, AZ	1.0737
Tulsa, OK	.9234
Tuscaloosa, AL	1.0316
Tyler, TX	.9152
Utica-Rome, NY	.8679
Vallejo-Fairfield-Napa, CA	1.5380
Vineland-Millville-Bridgeton, NJ	.9381
Waco, TX	1.1777
Washington, DC-MD-VA	1.2764
Waterloo-Cedar Falls, IA	.8488
West Palm Beach-Boca Raton, FL	.9385
Wheeling, WV-OH	.9012
Wichita, KS	1.0385
Wichita Falls, TX	.8074
Williamsport, PA	.9180
Wilmington, DE-NJ-MD	1.1978

Table IV A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Wilmington, NC	.8780
Worcester-Fitchburg-Leominster, MA	.9525
Yakima, WA	.8957
York, PA	.9584
Youngstown-Warren, OH	1.0894

Table IV B.—*Wage Index for Rural Areas*

Non-SMSA area	*Wage index*
Alabama	.9144
Alaska	1.4942
Arizona	1.0843
Arkansas	.8203
California	1.2024
Colorado	1.0483
Connecticut	1.1102
Delaware	1.0193
Florida	.9798
Georgia	.9279
Hawaii	1.3793
Idaho	.9042
Illinois	.8755
Indiana	1.0010
Iowa	.8995
Kansas	.8945
Kentucky	.8846
Louisiana	.8785
Maine	1.0240
Maryland	1.0410
Massachusetts	1.1564
Michigan	1.0877
Minnesota	.7706
Mississippi	.8294
Missouri	.9579
Montana	.9885
Nebraska	.7987
Nevada	1.0372
New Hampshire	1.0555
New Jersey	1.0775
New Mexico	1.0175
New York	.9876
North Carolina	.9697
North Dakota	.8823
Ohio	1.0106
Oklahoma	.9163
Oregon	1.0651
Pennsylvania	1.1269
Rhode Island	1.6469
South Carolina	.8848
South Dakota	.7668
Tennessee	.8295
Texas	.8966
Utah	.7969
Vermont	1.0206
Virginia	.9215
Washington	1.0130
West Virginia	1.1276
Wisconsin	.8949
Wyoming	1.0827

Table V.—*Adjustment to Limits Based on Areas With Covered Days of Care Per 1,000 HI Enrollees Less Than the National Average (1977 Data)*

State or area	Adjustment to limit (percent)
Alaska	12.505
Arizona	4.680
California	7.015
Colorado	1.222
Connecticut	3.645
Delaware	.860
District of Columbia	.517
Florida	2.311
Georgia	2.739
Hawaii	13.782
Idaho	6.932
Louisiana	.461
Maine	1.307
Maryland	.279
Montana	3.021
Nevada	3.501
New Hampshire	2.146
New Mexico	7.549
North Carolina	.077

Table V.—*Adjustment to Limits Based on Areas With Covered Days of Care Per 1,000 HI Enrollees Less Than the National Average (1977 Data)*—Continued

State or area	Adjustment to limit (percent)
Oklahoma	1.287
Oregon	11.581
Rhode Island	3.086
South Carolina	2.847
Utah	17.350
Washington	13.068
Wisconsin	.736
Wyoming	2.161

SOURCE: HCFA, Office of Research, Demonstrations and Statistics Current Utilization Tabulations as of December 28, 1979—Table AA4A—Total Number of Bills, Days of Care, Amount of Covered Charges, and Reimbursement by Period Expense Incurred and Place of Residence.

The published limit would be adjusted by the index so that hospitals in States with low utilization per 1,000 beneficiaries would receive higher per diem limits.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance.)

Dated: March 26, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: March 27, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-9783 Filed 3-31-80; 8:45 am]

BILLING CODE 4110-35-M

federal register

Tuesday
April 1, 1980

Part V

Environmental Protection Agency

Conformity of Federal Actions to State Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52 and 59

[FRL 1406-4]

Conformity of Federal Actions to State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking invites public participation in the Environmental Protection Agency's (EPA) selection of a course of action to ensure the conformity of all relevant federal actions in areas subject to the provisions of a state implementation plan (SIP) approved, conditionally approved or promulgated by EPA. A SIP contains measures to achieve the national ambient air quality standards (NAAQS) in areas which have not yet attained these standards. A SIP also includes measures for the prevention of significant deterioration (PSD) of air quality in clean air areas. Section 176(c) of the 1977 amendments to the Clean Air Act (Pub. L. No. 95-95) requires all federal projects, licenses, permits, financial assistance and other activites to conform to EPA approved or promulgated SIPs. EPA is considering two types of regulations to carry out the intent of the 1977 amendments:

- Regulations requiring state and local review of the conformity findings of federal departments.
- Regulations requiring other federal departments to establish a process for determining the conformity of their actions with SIPs.

Recommendations of alternatives to these types of regulations are also requested. Upon consideration of available data, comments, and recommended courses of action received in response to this notice, EPA will issue a notice of proposed rulemaking or other alternative action.

Prior to the completion of the rulemaking discussed in this notice or an alternative course of action, EPA intends to use the existing National Environmental Policy Act procedures and its authority pursuant to section 309 of the Clean Air Act to monitor the compliance of other federal departments with the section 176(c) requirements. EPA encourages each federal department to make a conformity determination consistent with the criteria described in this notice in each environmental assessment, environmental impact statement (EIS) and finding of no significant impact (FONSI) that it prepares.

DATE: Comments must be received on or before June 2, 1980.

ADDRESS: Comments should be addressed to Cary B. Hinton, Office of Transportation and Land Use Policy (ANR-445), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Cary B. Hinton, Office of Transportation and Land Use Policy, Environmental Protection Agency; telephone (202) 755-0570.

SUPPLEMENTARY INFORMATION: Section 176(c) of the Clean Air Act, as amended, (Pub. L. No. 95-95), provides that no federal department "shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve, any activity which does not conform to a plan (SIP) after it has been approved or promulgated." Section 176(c) further requires that "no metropolitan planning organization (MPO) designated under 23 U.S.C. 134 shall give its approval to any project, program, or plan which does not conform" to an approved or promulgated SIP. MPOs are responsible for carrying out the transportation planning process for urban areas, under programs administered by the U.S. Department of Transportation.

The Part D provisions of the Clean Air Act require each state to submit SIP revisions by January 1, 1979 for those areas where any of the applicable NAAQS have not been attained. The SIP revisions are to provide for attainment of the NAAQS as expeditiously as practicable. Primary standards to protect public health must be attained no later than December 1982 or no later than December 1987 for areas with particularly difficult ozone or carbon monoxide problems. States have submitted or are now submitting adopted SIP revisions for nonattainment areas to EPA for approval.

The fundamental requirements for approval of Part D SIP revisions are set out in Title I of the Clean Air Act and in EPA's 40 CFR Part 51 regulations. On February 24, 1978 the Administrator for EPA issued a memorandum summarizing the elements that an approved SIP must contain to satisfy the Act's requirements for nonattainment areas (43 FR 21673, May 18, 1978; see also General Preamble for Proposed Rulemaking, 44 FR 20371, April 4, 1979 and Supplements, 44 FR 38583, July 2, 1979; 44 FR 50371, August 28, 1979; 44 FR 53761, September 17, 1979; and 44 FR 67182, November 23, 1979).

The Clean Air Act amendments also included new SIP requirements for PSD areas. In 1978 EPA promulgated final regulations (40 CFR 51.24) to assist states in preparing SIP revisions meeting the new PSD requirements. Each state was to have submitted a SIP revision to EPA by March 19, 1979. Two states have had their SIP revisions for PSD areas approved by EPA. Several other states are now submitting SIP revisions for PSD areas to EPA for approval.

On September 5, 1979, EPA proposed (44 FR 51924) to amend its PSD regulations in response to the decision of the United States Court of Appeals for the District of Columbia in *Alabama Power Company v. Costle* which overturned major portions of those regulations. In that notice, EPA proposed to find SIP revisions for PSD areas to be approvable if they meet the minimum requirements of either the existing PSD regulations or the newly proposed PSD regulations. EPA will provide a later opportunity to revise SIPs for PSD areas to come into compliance with EPA's revised PSD regulations.

EPA believes that the Congressional intent of section 176(c) was that federal actions should not be allowed to cause a delay in the attainment or maintenance of the NAAQS in any state or violate the PSD requirements in areas with air cleaner than the NAAQS. In accordance with Clean Air Act requirements for SIPs in nonattainment and PSD areas, EPA intends to establish criteria and procedures to help ensure that federal actions will conform to each SIP. The conformity of a federal action to the SIP includes a requirement that it will be consistent with the state's approach for demonstrating reasonable further progress during the period prior to the attainment of the NAAQS. EPA believes that the increased emissions from all federal actions must be accommodated in the SIP emissions growth increment for a nonattainment or PSD area.

EPA finds that the requirements of section 176(c) augment the restrictions imposed by Executive Order 12088 (October 13, 1978) which had the primary objective of ensuring compliance with section 118 of the Clean Air Act. Executive Order 12088 provides that the head of each federal department is responsible for the compliance of its facilities with all federal, state, interstate and local air pollution control standards and procedures. Each federal department is also required by Executive Order 12088 to cooperative and consult with the Administrator of the EPA and with the appropriate estate, interstate and local

agencies concerning the prevention, control and abatement of air pollution. Section 176(c) requires that any increase in the emission of air pollutants from mobile or stationary sources that result directly or indirectly from the construction and operation of a federal facility must conform to the SIP.

Section 176(c) of the Clean Air Act provides that "the assurance of conformity" of a federal action to a SIP is the "affirmative responsibility of the head of such department." EPA intends to provide opportunities for consultation between the federal department and the state and local agencies with significant SIP responsibilities in the determination of an action's conformity to the SIP. Such agencies include those certified by governors pursuant to section 174 of the Clean Air Act, and where appropriate, the MPO. Significant SIP. responsibilities include SIP development, implementation, and enforcement.

EPA proposes to revise the 40 CFR Part 51 regulations to require each state to revise its SIP to establish criteria and procedures that will help assure that federal actions are in conformity with the SIP. In addition, EPA proposes to publish, concurrent with the proposal to amend the Part 51 regulations, model criteria and procedures for use by the States. This model will also serve as the basis for amending 40 CFR Part 52 regulations where states fail to adopt acceptable SIP revisions which comply with the new Part 51 regulations and necessitate EPA promulgation.

In order to ensure the effectiveness of the SIPs, EPA intends to encourage the establishment of consistent national procedures by which other federal departments will make a conformity determination. To achieve these goals, EPA proposes to promulgate new 40 CFR Part 59 regulations to require the establishment and publication of criteria and procedures by which other federal departments make an affirmative finding of the conformity of their activities to approved or promulgated SIPs. Following the competion of the Part 59 regulations, EPA intends to monitor the compliance of other federal departments through the review of published conformity determination criteria and procedures and through the Agency's existing review of the potential environmental effects of federal actions. The promulgation of the Part 59 regulations will in no manner limit EPA's review authority pursuant to section 309 of the Clean Air Act.

EPA intends to emphasize and support the use of existing notification and review procedures, such as the review of environmental assessments, EISs, and FONSIs developed to meet the NEPA requirements. Most federal departments should be able to incorporate the conformity determination process into their procedures for implementing the NEPA requirements. In most cases, environmental assessments, EISs and FONSIs will provide an appropriate opportunity to address conformity issues, as well as to disseminate conformity determinations for inter-agency and public information purposes. Furthermore, the scoping the tiering procedures in the Council on Environmental Quality's (CEQ) revised NEPA regulations (43 FR 55978) are specifially designed to incorporate emerging environmental obligations.

A conformity determination process for many of EPA's activities has been included in the recently promulgated regulations for implementing the procedural provisions of NEPA (40 CFR Part 6, 44 FR 64174, November 6, 1979). Those EPA actions that are not currently subject to the revised NEPA regulations are being reviewed to determine what additional procedures are necessary for EPA to meet the requirements of section 176(c).

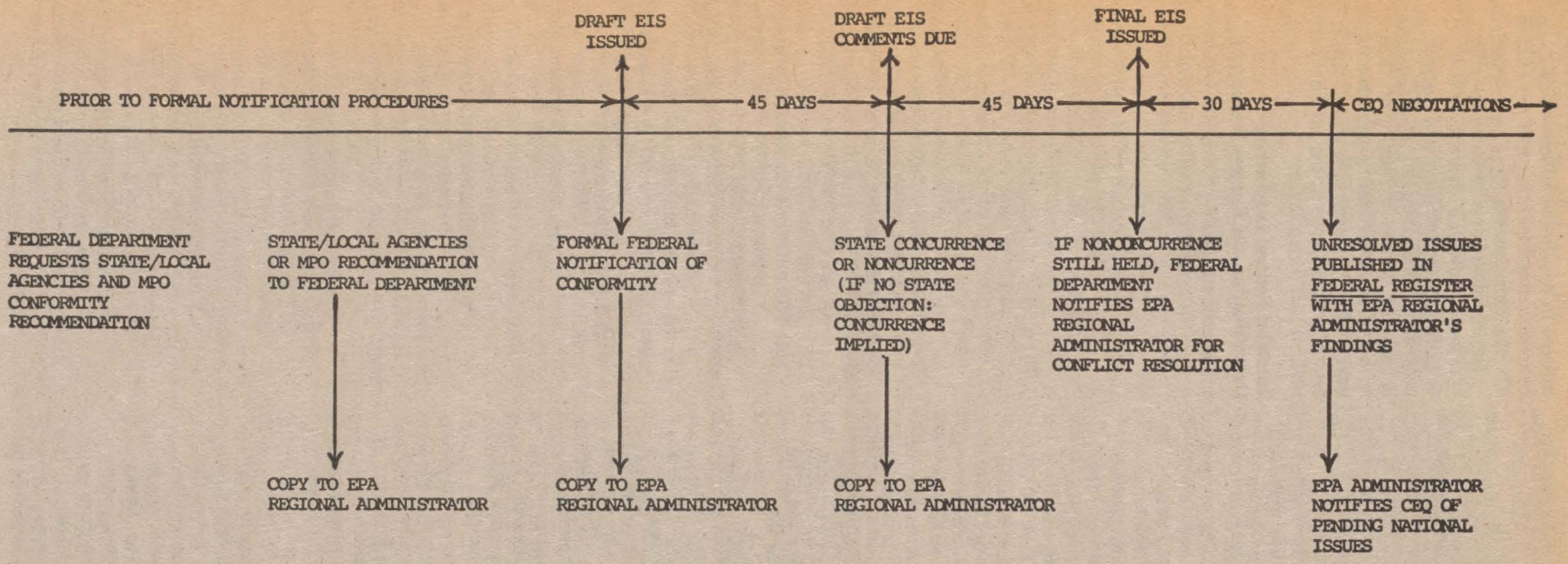
REQUEST FOR COMMENT: EPA is aware that the language of section 176(c) does not specify the nature of the roles to be played either by the states or the Agency itself in the process of determining federal conformity to SIPs. EPA also recognizes, however, the practical need both for coordination by a federal agency with expertise in air quality issues and for consideration of federal actions by the states which have developed the SIPs and are responsible for their implementation. Therefore, at this time EPA is requesting comment on the nature of the role of states and federal departments in the section 176(c) conformity determination process.

Specifically, EPA requests comment on whether or not the Agency should amend 40 CFR Part 51 to require states to adopt specific regulations for participation in the conformity determination process. EPA also request comment on whether or not the Agency should promulgate regulations under 40 CFR Part 59 requiring other federal departments to adopt conformity determination procedures. If EPA does promulgate the Part 59 regulations, the Agency requests comment on whether they should include procedures which require federal departments to submit their conformity determinations to the states for review. And, if EPA does not promulgate the Part 51, 52 and 59 regulations, the Agency requests comment on what alternatives should be utilized to ensure the effective and consistent implementation of the section 176(c) requirements.

To provide a basis for more specific comments, potential elements of a conformity determination and review process are described below. A diagram is included to show the timing of steps in the process. The timing sequence is designed to be compatible with the EIS review process established by CEQ's revised NEPA regulations.

Potential Federal Conformity Determination and Review Procedures

BILLING CODE 6560-01-M



BILLING CODE 6560-01-C

Applicable Actions. All activities (1) engaged in, (2) supported or financially assisted, (3) licensed or permitted or (4) approved by, any department, agency, or instrumentality of the federal government which have potential effects on air quality, including new or modified development projects, federally licensed and permitted activities, federally prepared or approved plans, leases of federal lands, federal grant assistance for state or local activities or other federal grants and contracts, are subject to the conformity determination requirement.

Exemptions. In some instances a federal department will have taken actions that should be exempt from the conformity determination requirement. An automatic exemption would apply when the federal action has received final approval prior to the date that EPA completed rulemaking to approve a SIP revision, pursuant to the requirements of section 110 of the Clean Air Act, for an area in which the project would be located. This exemption would apply to (1) any federal development project that has commenced construction, with the exception of those sequential components of a project that require separate federal approval; (2) the original authorization period of any previously approved federal license or permit; (3) any previously approved federal lease for surface or subsurface lands or rights; (4) any plan in receipt of federal approval, with the exception of projects in the plan that require individual federal approval; or (5) any previously authorized federal grant or contract.

Any applicable federal action which directly results in increased emissions or indirectly induces increased emissions in a nonattainment or PSD area which is subject to the requirements of an EPA approved or promulgated SIP will require a conformity determination. Each federal department will be required to publish in the **Federal Register** criteria and procedures for determining which actions will not result in an increase of direct or indirect emissions and are, therefore, exempt from the conformity determination process. The **Federal Register** publication of a department's conformity determination criteria and procedures should be accompanied by a listing of which actions have been found to be exempt from the conformity determination process due to the absence of a potential to increase emissions.

Notification Responsibility. The federal department proposing an action or receiving a license, permit or funding application will be responsible for providing notice of its conformity determination to EPA and the appropriate state and local air quality agencies. Such state and local air quality agencies shall include those designated by the governor under section 174 of the Clean Air Act and, where appropriate, the MPOs.

Notification Procedure. Federal departments will be encouraged to provide an informal notification of a proposed action to the designated state and local air quality agencies, MPOs and to EPA. The informal notification may request a recommendation as to the conformity of the proposed action with the SIP. A copy of any state, local, or MPO conformity recommendation should be provided to the EPA Regional Administrator.

Federal departments also should provide formal conformity determinations by using existing notification procedures [e.g. reviews of environmental assessments, EISs and FONSIs]. In those cases where it is found that the existing notification procedures are not adequate for this purpose or not applicable, such as when a federal action would increase emissions but would not require the preparation of an environmental assessment, EIS or FONSI, the federal department should submit its conformity determinations to the designated state air quality agency at a minimum of 90 days prior to the approval of the action. In addition, to notifying the applicable state and local agencies and MPOs, the federal department should also submit a copy of the formal conformity determination document or certification to the EPA Regional Administrator.

Determination Requirements. The responsible federal department's formal conformity determination should verify that (1) all necessary state and federal air quality permits have been obtained for the activity, or if a state variance has been issued, it is in conformity with the requirements of the Clean Air Act; (2) all population projections provided in the supporting data base for the action are consistent with the population projections used in the SIP; (3) the stationary, area and mobile source emission growth rates that are provided in the supporting data base for the action are consistent with the emission growth rates used in the SIP; (4) the increased emissions resulting from the action do not conflict with the emission reduction requirements of the SIP; (5) the increased emissions resulting from the action do not exceed the PSD increment for the area; (6) the increased emissions resulting from the action do not contribute to the violation of any NAAQS; (7) the action is consistent with the transportation control measures that are provided for in the SIP; and (8) the action complies with all other special provisions and requirements of the SIP.

State Concurrence. The federal department should provide a 45 day period for the designated state air quality agency to concur or nonconcur with the formal conformity determination. There should be a presumption of state concurrence if a notification of nonconcurrence is not received by the federal department within that period. All state notifications of concurrence with the federal conformity determination should include a record of consultation with the appropriate local air quality agency and MPO. A copy of the state concurrence notification should be submitted to the EPA Regional Administrator. EPA retains its right under section 309 of the Clean Air Act to review the impacts of a federal action and disagree with a state's concurrence of conformity.

State Nonconcurrence. The federal department should not approve an action following a notification of nonconcurrence by the state agency with primary responsibility for the SIP until the objections have been resolved. A copy of the state notification of nonconcurrence should be submitted to the EPA Regional Administrator.

Administrative Conflict Resolution. If the state's objections have not been resolved within 45 days of the notification of nonconcurrence, the federal department should bring any remaining unresolved issues to the attention of the EPA Regional Administrator. The Regional Administrator will then attempt to resolve the issues arising from the state's notification of nonconcurrence with the federal department. If the state's nonconcurrence cannot be resolved within 30 days of the request for administrative conflict resolution, then EPA will publish the Regional Administrator's findings in the **Federal Register.**

A finding by the Regional Administrator that the state's nonconcurrence is unjustified will be accompanied by a verification that the proposed federal action is in conformance with the SIP. If the Regional Administrator finds that the proposed federal action is not in conformance with the SIP, then an EPA verification of conformity may not be concluded. EPA will then use the procedures developed pursuant to section 309 of the Clean Air Act to notify the Council on Environmental Quality for the purpose of resolving the

remaining issues of national concern and to request that the proposed federal action not be implemented until the issues are resolved.

Authority. This advance notice of proposed rulemaking is based on the authority of section 176(c), section 301(a)(1) and section 309 of the Clean Air Act, as amended (42 U.S.C. 7476(c), 7601(a)(1), and 7609).

Dated: March 21, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

[FR Doc. 80-9496 Filed 3-31-80; 8:45 am]

BILLING CODE 6560-01-M

federal register

Tuesday
April 1, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Expansion of Permissive Grain Inspection Criteria

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Expansion of Permissive Grain Inspection Criteria

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final notice.

SUMMARY: This Notice prescribes the expansion of permissive grain inspection under "official criteria" to provide for the testing of *all* classes of wheat for protein content except Mixed and Unclassed wheat, effective May 1, 1980. On that date, each official agency must be prepared to provide requested protein testing services unless an exemption has been obtained from or a temporary waiver granted by FGIS. For export lots of wheat shipped from export port locations, delegated States and FGIS shall continue to use only FGIS-approved near-infrared reflectance (NIR) equipment for official protein testing. For all other lots, including export lots from inland locations, official agencies may use any FGIS-approved protein testing method.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: L. E. Malone, Assistant Deputy Administrator, Program Operations (Staff), USDA, FGIS, Room 1627 South Agriculture Building, 1400 Independence Ave., SW., Washington, D.C. 20250; (202) 447–9166.

SUPPLEMENTARY INFORMATION: Section 7(b) of the United States Grain Standards Act (7 U.S.C. 79(b)), as amended (hereinafter referenced as the Act), authorizes the Administrator of the Federal Grain Inspection Service (FGIS) to cause grain to be officially inspected and certificated either under:

1. The Official United States Standards for Grain as provided for in Section 4 of the Act (7 U.S.C. 76); or

2. "Official criteria" (criteria other than the test and factor information included in the Official United States Standards for Grain) approved by the Administrator whenever, in his judgment, the providing of such service will effectuate any of the objectives stated in Section 2 of the Act (7 U.S.C. 74).

On the basis of these authorities, the FGIS Administrator, in the March 30, 1978, issue of the **Federal Register** (43 FR 13406):

—Authorized, upon request, official protein testing and subsequent certification thereof for the classes Hard Red Winter (HRW) and Hard Red Spring (HRS) wheat, effective May 1, 1978;

—Required FGIS and delegated States to use only FGIS-approved NIR equipment for determining the protein content of export shipments from export port locations;

—Permitted the use of any FGIS-approved method, including the Kjeldahl method, for officially testing for protein content in domestically-marketed HRW and HRS wheat including inbound shipments at export port locations; and

—Prohibited, effective May 1, 1978, official agencies from performing protein testing on HRW and HRS wheat on an unofficial basis.

The FGIS Administrator, in the March 8, 1979, issue of the **Federal Register** (44 FR 12720):

—Announced that the permissive grain inspection criteria established under Section 7 of the Act (7 U.S.C. 79) would be further expanded to provide, when requested, official protein testing of all classes of wheat except Mixed and Unclassed wheat;

—Announced that the action described above would become effective on August 15, 1979;

—Announced that, pursuant to existing regulations and effective August 15, 1979, all official agencies would be required to provide official protein testing services using an FGIS-approved method;

—Proposed that, effective May 1, 1981, only the NIR method be used for official protein testing of wheat;

—Provided for the exemption of any official agency from the above-mentioned requirements if the agency could demonstrate, to the satisfaction of FGIS, that no substantial demand existed for protein testing in the agency's assigned area of responsibility;

—Restated information regarding the prohibition of unofficial protein testing on HRW and HRS, and announced that, effective August 15, 1979, official agencies would be prohibited from performing protein testing on Soft Red Winter (SRW), Durum, and White wheat on an unofficial basis; and

—Afforded the public 30 days in which to comment on the intentions outlined.

FGIS received 13 letters of comment on the March 8, 1979, Notice. To allow FGIS more time to fully consider the comments, the Administrator of FGIS in the September 20, 1979, issue of the **Federal Register** (44 FR 54519–54520) postponed the August 15, 1979, effective date, and announced that final decisions regarding the official protein testing program would be published in the **Federal Register** on or before May 1,1980.

Need for Protein Testing in Soft Wheat

Most of the commentors questioned the need for establishing protein testing services under the Act for SRW wheat and other "soft wheats." They argued that:

—Thus far, there have been few, if any, requests for protein determinations in SRW wheat and an increase in requests appears to be unlikely;

—As a general rule, soft wheats are not sold or offered for sale on the basis of protein content, and there is no premium or discount scale in general trade use that takes into account the protein content of soft wheats; and

—Major millers in SRW producing areas are equipped to conduct their own protein analyses.

Finally, one commentor expressed concern that merchandisers might purchase and store large quantities of soft wheats in a location where protein testing is not performed, and sell the inventory in an area where official protein testing services are used, thereby, causing a possible disruption of the orderly marketing process.

Section 2 of the Act requires FGIS to establish an integrated, nationwide system of grain inspection so that marketing of grain may be conducted in an orderly and timely manner and trading in grain may be facilitated. Such a system requires the uniform application of (1) all official grain grading standards and (2) all permissive grain inspection, under "official criteria", that has been approved by the Administrator.

The expansion of protein testing to include SRW, Durum, and White wheat will enable merchandisers, for the first time, to market all classes of wheat except Mixed and Unclassed wheat on the basis of an officially determined protein content. Since protein content has been proven to be a reliable indicator of end-use quality for wheat, marketing on the basis of percent protein occupies an increasingly critical role in the trading of wheat. The expansion of testing to all classes of wheat, except Mixed and Unclassed wheat, will facilitate trading in wheat by eliminating burdens associated with such trade. Further, in providing official protein testing for these additional classes of wheat, to objective of FGIS, as in the case of HRW and HRS wheat, is to assure (1) the employment of national uniform testing procedures (using only approved and calibrated equipment) and, (2) the achievement of consistent, uniform inter and intramarket results.

Advances in cereal technology, agronomy, and marketing techniques

may lead to an increase in the number of requests for protein analyses of SRW, Durum, and White wheat. Requests for protein testing of soft wheat are already increasing in some Rocky Mountain and West Coast areas. Furthermore, historically, when the protein level in certain soft wheats is high, foreign purchasers have required a protein determination as a condition for sale.

Therefore, based on the above considerations, FGIS is expanding permissive grain inspection under "official criteria" to provide for the testing of all classes of wheat for protein content except Mixed and Unclassed wheat.

FGIS officials stress the voluntary (permissive) nature of protein services under the Act. Official protein testing will be provided strictly on a request basis; buyers and sellers of wheat, both in interstate and foreign commerce, are entirely free to choose whether or not to use official protein testing services. If, in a particular area, there is no substantial demand for official protein testing services, the official agency performing official inspection functions in the area can request an exemption from the requirements that it possess the approved equipment and make such services available. Exempted official agencies will not be responsible for providing official protein testing services if occasional requests for such service arise in their geopgraphic area. Requests for official protein testing services received by an exempted agency will be consigned, with the permission of the appropriate FGIS Field Office, to official agencies capable of providing the service. No person requesting official protein testing services shall be denied or deprived of such services by reason of the official agency providing official inspection in the geographic area being exempted from the requirement that it provide official protein testing service.

NIR Equipment

A number of commentors contended that there should be a delay in the promulgation of the requirement that, effective May 1, 1981, only FGIS-approved NIR equipment be used for the official protein testing of wheat under the Act. They commented that:

—Available NIR equipment tends to drift, and requires frequent correction;

—There is an insufficient data base for requiring the use of NIR equipment for classes of wheat other than HRW and HRS wheat; and

—Since the Kjeldahl method has been used for many years by agencies and laboratories providing protein testing services, and is used by FGIS as a means for calibrating the "master" NIR piece of equipment which thereafter is used to standardize all NIR equipment used in official protein testing, disallowing its use after May 1, 1981, seemed to be unwarranted.

They also argued that the Kjeldahl method should continue to be an officially-approved method because many agencies already providing protein testing services do so by means of the Kjeldahl method. Requiring such agencies to purchase and use NIR equipment would impose an undue economic burden on them.

Currently, the only protein testing method suitable for providing official protein testing services on export grain shipped from export port locations is the NIR method. Such method is the only one capable of providing the rapid and accurate results needed to facilitate the loading of export grain at export port locations. Since loading at export port locations is conducted on a sublot basis, the prompt determination of results is critical.

To establish a uniform, nationwide system for protein testing, FGIS proposed that, effective May 1, 1981, all official protein testing be conducted solely by means of the NIR method; thus assuring that differences in official protein results between locations (i.e., domestic and export port locations) would not be attributable to differences in protein testing methods. However, although FGIS is committed to the continued development of a uniform, nationwide system of grain inspection, it recognizes the economic hardship placed on an official agency that would be required to obtain the equipment needed to install and operate the NIR method. In some instances, this would have necessitated replacement of a Kjeldahl system then being used. Further, FGIS recognizes that, although the Kjeldahl method is not capable of providing the rapid analysis available with the NIR method, the Kjeldahl method has proven to be reliable and adequate when rapid results are not required, and the results obtained with the Kjeldahl method closely approximate results obtained with the NIR method. Therefore, based on the determination that, at this time, differences in official protein results between locations using FGIS-approved protein testing methods will not appreciably affect the official protein testing program and trading in wheat, FGIS rescinds the proposal that as of May 1, 1981, all official testing be conducted using the NIR method. FGIS Notice 80–7 dated January 10, 1980 also noted this action. A copy of FGIS Notice 80–7 may be obtained from Lewis Lebakken, Jr., Director, Issuance & Coordination Staff, USDA, FGIS, Room 1127 Auditors Bldg., 1400 Independence Ave., SW., Washington, DC 20250, (202) 447–3910.

A survey conducted by FGIS prior to this action indicates that, in those areas where protein testing services are likely to be requested, most of the official agencies currently possess FGIS-approved protein testing methods. Also, by reason of the exemption available hereunder, the effect, if any, upon official agencies in other areas is expected to be minimal.

Expansion of Permissive Grain Inspection Criteria

Based on the above-cited considerations, the Administrator hereby:

A. Expands, effective May 1, 1980, the permissive grain inspection criteria established under Section 7(b) of the Act (7 U.S.C. 79(b)) to include protein content in all classes of wheat except Mixed and Unclassed wheat. Consequently, starting May 1, 1980, official protein testing services will be available to all interested parties requesting such services, thereby permitting, for the first time, grain to be traded on the basis of offical protein results.

B. Directs that, effective May 1, 1980, each official agency authorized to inspect grain under the Act shall, unless otherwise exempted as provided in paragraph C below:

1. Possess an FGIS-approved protein testing method, and,

2. Provide, upon request, official protein testing services using only an approved protein testing method required for the service.

FGIS and delegated States providing protein testing services on export lots of wheat shipped from export port locations shall continue to use only FGIS-approved NIR equipment for such service. Official agencies providing official protein testing services on all other lots, including export lots from inland locations may use any FGIS-approved protein testing device for such services.

Official agencies with more than one specified service point in its area of responsibility need only equip one such point with an approved protein testing method. For the purposes of this Notice, a specified service point is a city, town, or other location specified by an agency for the conduct of all or specified official functions and where one or more of its official licensed inspectors or weighers is located.

However, arrangements shall be made to ensure that official certificates stating official protein testing results are issued within the time limits prescribed by the regulations under the Act. If it is found that official certificates are not being issued within the time limits prescribed in the regulations, the Administrator may require that additional specified service points in an agency's area of responsibility be equipped with FGIS-approved protein testing equipment.

To avoid public confusion, after May 1, 1980, no official agency shall perform protein testing on HRW, HRS, SRW, Durum, or White Wheat on an unofficial basis, but shall perform the analysis only on an official basis under the Act.

C. Provides for an exemption from the above-described requirements. To be exempted, an official agency must demonstrate to the satisfaction of FGIS, that a substantial need for official protein testing services does not exist in its assigned area of responsibility.

Requests for exemptions must be submitted to the supervising FGIS field office, in writing, by April 10, 1980. Each request should be accompanied by the results of a survey of the applicants for official inspection services in the agency's area to determine the level of industry interest in receiving official protein testing services. Each request must also contain the following information:

1. Whether the agency currently provides unofficial protein testing services on SRW, Durum, or White Wheats;

2. The number of requests for protein testing services received by the agency within the past year;

3. The number of requests for protein testing or samples for protein testing which the agency has referred to some other party (e.g., private laboratory, trade organization, a State or local Governmental agency, or FGIS) within the past year;

4. The classes of wheat officially inspected by the agency;

5. Whether wheat moves through the area assigned to the agency on a seasonal or a year-round basis;

6. Whether wheat moving into or out of the local market is normally merchandised on protein.

FGIS reserves the right to reevaluate each exemption to determine whether merchandising practices in the area have changed to an extent that there is a substantial need for official protein testing services. If such a finding is made, upon notice, the exemption shall terminate and the agency shall be required to provide requested official protein testing services and to possess the FGIS-approved equipment necessary to do so.

Official agencies applying for but not receiving an exemption will be notified in writing and will be permitted 6 months from the effective date, May 1, 1980, to procure FGIS-approved protein testing equipment. Requests for official protein testing services during this 6-month temporary waiver shall be referred to and handled by the supervising FGIS field office.

This final Notice has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Final Impact Statement is available from Lewis Lebakken, Jr., Director, Issuance and Coordination Staff, Room 1127, Auditors Building, 1400 Independence Ave., SW., Washington, D.C. 20250; (202) 447–3910.

(Secs. 2, 5, and 8, Pub. L. 94–582, 90 Stat. 2867, 2869, and 2870 (7 U.S.C. 74, 76, and 79))

Done in Washington, D.C., on March 27, 1980.

L. E. Malone,

Acting Administrator.

[FR Doc. 80–9861 Filed 3–31–80; 8:45 am]

BILLING CODE 3410–02–M

federal register

Tuesday
April 1, 1980

Part VII

Department of Agriculture

Science and Education Administration

Native Latex Research Grants Program for Fiscal Year 1980; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Native Latex Research Grants Program for Fiscal Year 1980; Solicitation of Applications

Notice is hereby given that pursuant to the authority of Section 9 of the Native Latex Commercialization and Economic Development Act of 1978, Pub. L. 95–592 (7 U.S.C. 178(g)), SEA will award project grants for research in the following area which is further described in Appendix I.

Guayule (Native Latex) Research.....$630,500

Proposals submitted in response to this notice will be evaluated in competition with proposals from other eligible institutions. Eligible institutions submitting research proposals selected by SEA utilizing recommendations of Peer Panels will be awarded grants from funds appropriated for Fiscal Year FY 1980 (Oct. 1, 1979 to Sept. 30, 1980) for projects planned to cover periods of 1 to 4 years.

The grant shall become effective and shall constitute an obligation of Federal funds in the amount and for the purposes stated in the grant agreement, at the time of execution of the grant agreement by the SEA grant award official.

When an original grant award includes a provision for more than one budget period within the project period, SEA presumes that continuation grants for the subsequent budget periods will be awarded, subject to availability of funds and SEA priorities, as determined by the Director, if the grantee:

(1) Has demonstrated satisfactory performance during all previous budget periods; and

(2) Submits no later than 90 days prior to the end of the budget period a continuation application which includes a detailed progress report; a financial statement for the current budget period, including an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the prior grant; a budget for the new budget period; an updated work plan revised to account for actual progress accomplished during the current budget period; and any other reports as may be required by the grant agreement.

Review of continuation applications will be conducted expeditiously. Generally, no extramural review will be required.

Costs incurred after the end of the previous budget period may be allowed under the continuation grant provided that no longer than 30 days has elapsed between the end of the budget period and the execution of the continuation grant agreement.

Neither the approval of a project nor the award of any grant shall commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns, with respect to any approved project or portion thereof.

Application Procedures

1. Eligible Institutions

Grants under Section 9 of Pub. L. 95–592, may be made to States, education institutions, scientific organizations, and Indian tribes as defined in Pub. L. 93–638 (25 U.S.C. 450).

2. Cooperation with Mexico

The U.S. and Mexico entered an agreement dated February 16, 1979 providing for cooperation in native latex research. Grant recipients whose projects appear to be mutually beneficial to the U.S. and Mexico may be requested to participate in the cooperative program. Upon the mutual agreement of SEA and the recipients concerned, appropriate changes to the grant instrument will be negotiated in order to provide for the following:

Cooperation with Mexican scientists designated, jointly, by the National Council on Science and Technology of Mexico (CONACYT) and SEA in the conduct of research.

Sharing of any plant materials collected or produced from plant breeding experiments in accordance with agreements reached with Mexico under the U.S.-Mexico Scientific and Technological Agreement.

Attendance at one joint U.S.-Mexico international meeting per year, funds for which will be budgeted in the project if it is selected for cooperation.

Making available one or more research positions funded by the project to qualified visiting scientists from Mexico for periods of up to one year consistent with employment requirements of the sponsoring institution or organization.

Project proposals should be submitted, initially, without regard to the possibility of the project being included in the cooperative program with Mexico. If the project is selected for cooperation, appropriate adjustments will be made in the budget by SEA Officials in consultation with the Recipient Institution.

3. Proposal Submission

Submit nine copies of each proposal to: Grants Administrative Management Office, Attention: Native Latex Grants Program, U.S. Department of Agriculture, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

A. To be considered for award, proposals must be prepared in the format prescribed in Appendix II and must be received in the SEA Grants Administrative Management Office by the close of business on May 19, 1980. Proposals should not exceed 10 pages (single spaced) excluding the title page, budget, listing of literature citations and vitae appendices. When proposals exceed 10 pages in total, only the first 10 pages, excluding the title page, budget, listing of literature citations and vitae appendices, will be evaluated.

B. Title Page. Format—Appendix III is the format for the title page. An original title page with all relevant signatures must be included with the original proposal. All copies of the proposal should also have a title page.

C. Proposal source Document. Appendix IV is the format for the Proposal Source Document. Only one copy of this document is required to be submitted. This should be a separate document and not attached to the research proposal. The Proposal Source Document provides the SEA Grants Administrative Management Office staff with data for compiling information requested by Government agencies, the Congress, and the grantee community. The items are self-explanatory for the most part.

Please note the following: (a) the Performing Organization is the Organization of the Principal Investigator where the work will be done, and it may be the same or different from the organization which receives the grant; and (b) the Authorized Organizational Representative should be the same as the one given on the Title Page.

D. Special Consideration, Assurance, Certification, and Acceptance (Appendix V). Research Involving Special Consideration. Part I of Appendix V summarizes a number of research situations which require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the Proposal Source Document should so indicate. Since some types of research targeted for SEA support have a high probability of involving either recombinant deocxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal Investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions). A Memorandum of Understanding, Agreement, and approval by the Institutional Biosafety

Committee (IBC) must be provided before a grant can be awarded.

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by SEA grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Public Law 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization that the grantee is in compliance with Department of Health, Education, and Welfare (DHEW) policies, as amended, regarding the use of human subjects.

E. If your institution has not previously submitted a proposal to the Grants Administrative Management Office, you must furnish the organizational information and assurances contained in Part II of Appendix V with your proposal. This information should be submitted with your proposal.

4. Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientists will evaluate the proposals utilizing selection criteria listed in Appendix VI. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, SEA will select the proposals to be funded within the amount available for each area of specific inquiry.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for the proposal or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the list of proposals to be funded for a specific area of inquiry and another proposal selected from those recommended by the peer panel will be funded.

After the grants are awarded, one copy of unfunded proposals will be retained on file for 5 years, the remaining copies will be destroyed. A copy of the summary evaluation made by the peer panel will be provided for unfunded proposal.

5. Points of Contact

For information concerning Administrative guidelines for the awarding of grants, contact the SEA Grants Administrative Management Office, Arlington, Virginia. Telephone number: (703) 235–2680.

For information concerning Program guidelines for special areas of inquiry, contact Edward C. Miller, Assistant Deputy Director, Cooperative Research, Science and Education Administration, Washington, D.C. Telephone number: (202) 447–6050.

6. Budget and Reporting Requirements

The following items apply only to those proposals that are selected for funding:

A. the grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Appendix VII).

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 5 pages, will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objective and research timetable as specified in the project proposal.

D. A comprehensive (performance and financial) final report must be submitted to SEA within 90 days after the termination date of the grant.

E. For continuation grants the above listed reports must be submitted no later than 90 days prior to the end of the budget period. This includes a detailed progress report, a financial statement for the current budget period, including an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the prior grant, a budget for the new budget period, and updated work plan revised to account for actual progress accomplished during the current budget period, and any other reports as may be required by the grant agreement.

7. Terms and Conditions

A. The general provisions for grants and cooperative agreements (SEA Form 638, May 1979) applies to these grants with the exception of Clause 20, Inventions and Patents. Pursuant to Section 12 of Pub. L. 95–592, title to and licensing of inventions shall be governed by the provisions of Sections 9 and 10 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908–9). A copy is available upon request to the SEA Grants Administrative Management Officer.

B. An approved final Impact Analysis Statement is available from the: Grants Administrative Management Office, Science and Education Administration, U.S. Department of Agriculture, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

The Notice has not been determined significant under USDA criteria implementing Executive Order 12044.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1980, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest, and in accordance with E.O. 12044, that it is not possible to publish Notice in proposed form and allow 60 days for public comment.

Done at Washington, D.C., this day 27th of March.

Anson R. Bertrand,

Director, Science and Education.

Appendix I—Subject Matter Guidelines for Fiscal Year 1980 Grants Under Section 9 of Public Law 95–592; Specific Areas of Inquiry

1.0 Guayule (Native Latex) ($630,500 have been made available for fiscal year 1980 funds). Breeding and selection and agronomics projects, consistent with the listing of high priority research objectives below, on Parthenium Argentatum or related varieties of rubber producing plants will be funded. Grant awards will be limited to a maximum of $75,000 per year for a maximum period of 4 years.

Projects that inquire into the following high priority areas will be funded.

1.1 Breeding and selection including, but not limited to the following objectives (in declining order of priority):

Optimized rubber yields.
Improve disease resistance.
Determine or improve herbicide tolerance.
Improve salt tolerance.
Improve efficiency in water utilization.
Expand the range of drought or cold tolerance.
Improve seed germination or define the cause of dormancy.

1.2 Agronomics practices including, but not limited to the following objectives (of equal priority):

Determine optimum transplanting methods.
Determine optimum seeding methods.
Determine optimum irrigation methods and water requirements.
Identification and control of weeds.
Identification and control of insect pests.
Identification and control of nematodes and diseases.

Develop pesticide residue data as required for registration.
Define the mycorrhizae function and its importance.
Define the effects of bioregulators.
Seed selection, treatment of seed, and improvement of germination.
Mechanization for direct seeding, transplanting, or seed harvesting.

Multi-disciplinary projects, investigating as broad a range of specific areas of inquiry as can be meaningfully integrated are encouraged.

Appendix II—Format for Research Proposal

1. Title Page (See Appendix III)

A. Title. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used. Other items of the title page are self-explanatory.

B. Approval Signatures of Appropriate Officials. All proposals from a University, College, or Institution must be signed by an authorized official.

2. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

3. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as: The sampling plan, experimental design, and analyses anticipated. The statement must be time-phased, showing plans, methods, and procedures for each year of the project.

4. Justification. This should describe: (1) The importance of the problem to the needs of the Department of Agriculture and to the States or region, being sure to include estimates of the magnitude of the problem; (2) The importance of starting the work now; and (3) Reasons for the work being performed in your particular institution.

5. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete. The listing of Literature citations should be appended to the proposal and are not included in the 10 page limit.

6. Current Research. Describe the relevancy of the proposed research to on-going and as yet unpublished research at your own and at other institutions. This section may be combined with the Literature Review, if convenient to do so.

7. Facilities and Equipment. The location of the work and the facilities and equipment needed and available should be clearly indicated. This section may be combined with Section 3, Procedures, but the combination must clearly show needed and available facilities and equipment.

8. Research Timetable. Show all important research phases as a function of time.

9. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved include: (1) An estimate of the time commitments necessary; (2) Vitae of the principal investigator, senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae can also be provided as an Appendix and will not be included in the 10 page limit.

10. Budget. A detailed budget is required for each year of the proposed project. Copies of Appendix VII must be used. Cost sharing for Native Latex grants, Section 9 of Public Law 95–592, will be established in accordance with the guidelines of FMC 73–3 and administered in accordance with OMB Circular A–110, Attachment E, as applicable. Instructions follow for the items to be inserted in the format illustrated in Appendix VII. Use a separate page for each year. Remarks and justification should be included on separate pages following the budget.

A. Salaries and Wages. Salaries of the principal investigator and other personnel associated directly with the research should constitute appropriate direct costs in proportion to their effort devoted to the research. Charges by academic institutions for work performed by faculty members during the summer months or other periods outside the base salary period are to be at a monthly rate not in excess of that which would be applicable under the base salary and to other provisions of Section J.6 to the cost principles for educational institutions (OMB Circular A–21). Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for consulting or other time in addition to a regular full-time salary covering the same general period of employment.

The submitting organization may request that senior personnel salary data not be released to persons outside the Government. In this case, the item for senior personnel salaries in the formal proposal may be expressed as a single figure and the work-months represented by that amount omitted. If this option is exercised, however, senior personnel salaries and work-months must be itemized in a separate statement, two copies of which should accompany the proposal. This statement must include all of the information requested in Appendix V for each person involved. The detailed information will not be forwarded to reviewers and will be held privileged to the extent permitted by law.

For research associates and other professional personnel, each position must be listed, with the number of full-time equivalent work-months and rate of pay (hourly, monthly or annually) indicated. For other personnel (graduate students, technical, clerical, etc.) only the total number of persons and total amount of salaries per year in each category are required. Salaries requested must be consistent with the regular practices of the institution.

B. Fringe Benefits. If the usual accounting practices of the performing organization provide that the organizational contributions to employee "benefits" (social security, retirement, etc.) be treated as direct costs, grant funds may be requested to defray such expenses as a direct cost.

C. Total Salaries and Benefits.

D. Nonexpendable Equipment. Nonexpendable equipment is defined as an item of property which has an acquisition cost of $500 or more per unit, an expected service life of 2 years or more, and does not lose its identity when joined or made a part of another piece of equipment. Organizations performing research with the support of a SEA grant are expected to have appropriate facilities, suitably furnished and equipped. Only under very unusual circumstances may grant funds be requested for office equipment and furnishing, air-conditioning, automatic data processing equipment (ADPE), or other "general purpose" equipment which is usable for other than research purposes. This type of equipment requires special justification and arrangement with the Grants Administrative Management Office.

Items of needed scientific equipment or instrumentation should be individually listed by description and estimated cost and adequately justified.

Allowable items ordinarily will be limited to scientific equipment and apparatus which is not already available to conduct the work.

If purchases or lease of expensive, special-purpose equipment having a unit acquisition cost exceeding $10,000 is planned, the proposal must contain a certification that the equipment (a) is essential and not reasonably available or accessible to the proposed project, and (b) will be subject to reasonable inventory controls, maintenance procedures, and organizational policies designed to enhance multiple or shared use on other projects if such use will not interfere with the project for which the equipment is being acquired. Title to any nonexpendable equipment authorized to the procured under a grant will be held by the grantee institutions of higher education or other nonprofit organizations.

E. Material and Supplies. The types of expendable materials and supplies required should be indicated in general terms with estimated costs. Where substantial funds are requested, there should be a more detailed breakdown.

F. Travel. The type and extent of travel and its relationship to the research should be briefly specified. Funds may be requested for field work or for travel to scientific meetings.

Travel in Canada, Puerto Rico, the United States or its possessions is considered domestic travel. All other travel is considered foreign. If foreign travel is planned in connection with the research, the proposal should include relevant information (including countries to be visited) and justification. Travel and subsistence should be in accordance with organization policy.

Irrespective of the organization policy, allowances for airfare will not normally exceed round trip jet economy air accommodations. Persons traveling under Federal grants must travel by U.S. flag air carriers, if available, unless:

The travelers, while enroute has to wait 6 hours or more and no U.S. flag air carrier is available during this period; and

The flight by a U.S. flag air carrier takes 12 or more hours longer than a foreign air carrier.

Air freight must also be under U.S. flag air carriers.

G. Publication Costs. Costs of preparing and publishing the results of research conducted under the grants, including cost of reports, reprints, page charges or other journal costs, and necessary illustrations may be included.

H. Computer (ADPE) Costs. The cost of computer services, including computer based retrieval of scientific and technical information may be requested. A justification based on the established computer service rates at the proposing institution should be provided. Reasonable costs of leasing automatic data processing equipment may be requested, if justified.

I. All Other Direct Costs. Other anticipated direct costs not included above should be itemized. Examples are: space rental at research establishments away from the performing organization, minor alternations, and service charges. Reference books and periodicals may be charged to the grant only if they are related specifically to the research project. Proposed subawards should be disclosed in the proposal so that the grant instrument may contain prior approval, if appropriate. None of the research effort under a SEA grant may be contracted or transferred to another organization without prior Grants Administrative Management Office approval.

Consultant services should be included in this section. Grantees normally are expected to utilize the service of their own staff to the maximum extent in managing and performing the activities supported by grants. Where it is necessary for a grantee to contract for the services of persons who are not its officials or employees, payment shall not exceed the daily equivalent of the current maximum rate paid to a GS–18 (exclusive of indirect cost, travel, per diem, clinical services, vacation, fringe benefits, and supplies.)

If the need for consultant services is anticipated, the proposal narrative should provide appropriate rationale and the Proposal Budget should estimate the amount of funds which may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate.

J. Total Direct Costs.

K. Indirect Costs. The indirect cost rate(s) negotiated by the grantee organization with the cognizant Federal negotiating agency cannot be exceeded in computing indirect cost for a research proposal. Determination of the appropriate indirect cost rate(s) is dependent upon a combination of factors including but not limited to physical location of the work. The proposal official responsible for Federal business relations should review this part of the proposal to see that it properly describes any particular factor which may have a bearing upon the indirect cost rate(s) applicable to the project. Normally, the rate in effect on the date the proposal is recommended for award by the SEA-Cooperative Research Program Manager will be used.

If an organization has no established indirect cost rate and wishes to take indirect costs in should consult the Grants Administrative Management Officer, Grants Administrative Management Office, who will establish liaison with the cognizant Federal negotiating agency for developing an acceptable indirect cost rate for the grantee.

L. Total Direct and Indirect Costs (J plus K).

M. Cost Sharing. The institution is encouraged to contribute to the cost of carrying out the proposed research. Cost participation may be accomplished by contributing to any of the cost elements either direct or indirect, provided such costs are allowable in accordance with cost principles applicable to the research agreement. The institution may elect to cost share their allowable negotiated indirect costs. If this option is selected this should be indicated on the proposal budget (Appendix V).

Appendix III—Title Page for Research Proposal; Science and Education Administration

USDA

For Consideration by _____
(Name of Program)

Title _____
(80 characters or less including spaces and punctuation, see instruction)

Proposed amount _____

Proposed Effective date _____

Proposed Duration months _____

Principal Investigator (PI) Name

Address of Principal Investigator:

Name Co-Principal Investigator

Submitting Institution

Address of Submitting Institution:

Name Co-Principal Investigator

If principal or co-principal investigator(s) have participated in previous SEA grants involving similar subject matter, give previous Special Grant No. ——

Make grant to _____
(Legal Name of Institution or Organization to which Grant should be made)

Internal Revenue Service Number _____

Congressional District Number _____

Endorsements:

Principal Investigator

Name _____

Title _____

Phone No. _____

Date ———
Signature ———
Authorized Organizational Representative
Name ———
Title ———
Phone No. ———
Date ———
Signature ———
Other, if required by submitting organization:
Name ———
Title ———
Phone No. ———
Date ———
Signature ———

Appendix IV—Proposal Source Document

Principal Investigator(s) (PI) Names

	First	Middle	Last
PI #1	———	———	———
PI #2	———	———	———
PI #3	———	———	———

Proposal No. (SEA use)
Program (SEA use)
PI #1 ———
City
PI #1 ———
State 2-letter abbr.
PI #1 ———
ZIP code
PI #1 ———
Department or street address (35 characters)
PI #1 ———
Phone + area code
PI #1 ———
Duration of proposal in months
PI #1 ———
Total requested (Direct and indirect)
PI #1 ———
Institute or subdivision of performing organization (35 characters)
PI #———
Name of performing organization (35 Characters)
———
Authorized Organizational Representative
———
(SEA use)
———
First name
———
Middle name
———
Last name
———
Phone + area code
———
Department or Organizational Unit (35 Characters)
———
City
———
State (2-letter abbr.)
———
Zip code
———
(SEA use)
———
Date Received (SEA use)
———
Grantee Organization (35 Characters)
———
Title of Proposal (maximum 80 Characters)

PROGRAM CODE (Information to be supplied by principal investigator.) Grants Administrative Management Office

A In which area of the Special grants program do you want this proposal considered? Select one program *only*. (Cooperative Research may move it to another area, if appropriate.)

———1.1 Breeding and Selection
———1.2 Agronomic Practice

PROPOSALS CODE

B Which of the following best describes the performing organization of the first principal investigator? Check one choice *only*.

1.——USDA/SEA Laboratory
2.——Other Federal Research Laboratory
3.——State Agricultural Experiment Station (SAES)
4.——Land Grant University, 1862
5.——Land Grant University, 1890 or Tuskegee Institute
6.——Public University or College (Non-land grant)
7.——Private University or College
8.——Private Profit Making Organization
9.——Private Non-Profit Organization
10.——State or Local Organization
11.——Indian Tribes

B. Has the first principal investigator completed the most advanced degree within the last 3 years?

1.———Yes 2.———No

C. Will the work in this proposal deal with recombinant DNA or with human subjects?

1.———Netither 2.———DNA
3.———Human Subjects

D. Congressional District of the grantee organization———.

SUPPORT CODE

Has this proposal been sent to another granting agency?

If so, indicate.

.1———None
.2———Other USDA units
.3———NSF
.4———NIH
.5———Others (Describe)

Appendix V

Part I—Special Considerations

Check appropriate statements. Supply additional information when necessary.

———"This project does not involve human subjects."

———"This project involves human subjects. It was approved by the Institutional Review Board on (date) ———, (is scheduled for review by the Institutional Review Board on (date) ———)." See DHEW regulations regarding the use of human subjects, appearing in Title 45, Code of Federal Regulations, Part 46, Subtitle A.

———"This project does not involve recombinant DNA research."

———"This project involves recombinant DNA research. It was approved by the institutional Committee on (date) ———. (Supply appropriate documents as required by NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131 and subsequent revisions.)

Part II—Organizational Information and Assurances

A. *Prospective Grantee Organizational Information*

The following information is to be submitted:

a. Organization Affiliations. Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organization affiliation are anticipated, describe briefly.

b. Statement of Purposes and Powers. Enclose an official or published statement of the major purposes of the organization and certify as required in c below as to the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws):

1. Chief Executive;
2. Authorized Organizational Representative; and
3. Business Officer.

c. Affiliations of Key Officials. If the organization is other than a college or university or a State or local government, indicate whether or not each official listed in (b) above is affiliated with any Federal, State, or local agency or with any college or university. If so, describe such affiliation.

d. Whether or not the organization currently is a grantee or contractor of any component of the U.S. Department of Health, Education, and Welfare. (Note: This information will assist in implementing certain interagency procedures for which DHEW is the lead agency.)

e. If other than a college or university or a State or local government, also submit the following:

1. A certified statement of financial conditions (usually by Certified Public Accountant) covering at least the preceding 2 years; and
2. Bank or other references.

B. *Required Certifications*

SEA requires that a prospective grantee organization submit a certification signed by the Chief Executive Officer or authorized organizational representative substantially as follows:

a. I certify that (name of institution or organization) has legal authority to accept grants as evidenced by the attached (describe document), and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management, procurement, and property management, which meet those described in Attachments F, N, and O to OMB Circular A–110. (Note: In the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.)

b. Each proposal to the SEA Grants Administrative Management Office will be consistent with the policies and goals of proposed grantee and will be submitted in accordance with its procedures and pursuant to appropriate authority.

c. In the event that a grant is awarded as a result of any such proposal, I agree that proposed grantee organization will:

1. Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed.

2. Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with all the terms and conditions of the grant.

3. Comply with all applicable laws and regulations.

Not Required if Previously Submitted to the SEA Grants Administrative Management Office

Assurance of Compliance With the Department of Agriculture Regulations Under Title VI of the Civil Rights Act of 1964 (As Amended)

Legal name or proposed grantee———

(hereinafter called the "Applicant") HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964, as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Agriculture, 7 CFR Part 15, Subpart A, issued pursuant thereto, to the end that, in accordance with Title VI of that Act and the regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department of Agriculture; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated ———

Authorized Organizational Representative

(Grantee's Mailing Address)

Apendix VI

A. Peer Panel Scoring Form

Proposal Identification No. ———
Institution and Project Title: ———

I. Basic Requirement—

Proposal falls within guidelines?———yes———no

If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria—

	Score 1–10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		5		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and related program support		5		
Total Score				

Summary Comments:

B. Evaluation of Proposals

The peer panel will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria by the peer panel.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criteria utilizing a scale of 1 to 10. A score of one is low for the selection criteria. A score of 10 is high for the selection criteria. A weighting factor is used for each criteria.

BILLING CODE 3410-22-M

APPENDIX VII

36

U.S. DEPARTMENT OF AGRICULTURE
SCIENCE AND EDUCATION ADMINISTRATION

PROPOSAL BUDGET

FORM APPROVED
OMB NO. 040-R4083

ORGANIZATION AND ADDRESS	DURATION PROPOSED	SEA USE ONLY
	Months: _____	Months: _____
PRINCIPAL INVESTIGATOR(S)/PROJECT DIRECTOR(S)	FUNDS REQUESTED BY PROPOSER	FUNDS APPROVED BY SEA (If different)

	SEA FUNDED WORK MONTHS				
	Calendar	Academic	Summer		
A. Salaries and Wages					
1. No. of Senior Personnel					
a. ___(Co)-PI(s)/PD(s)				$	$
b. ___ Senior Associates					
2. No. of Other Personnel (Non-Faculty)					
a. ___Research Associates-Postdoctorate					
b. ___Other Professionals					
c. ___Graduate Students					
d. ___Pre-Baccalaureate Students					
e. ___Secretarial-Clerical					
f. ___Technical, Shop, and Other					
Total Salaries and Wages ►					
B. Fringe Benefits (If charged as Direct Costs)					
C. Total Salaries, Wages, and Fringe Benefits *(A plus B)* ►					
D. Nonexpendable Equipment *(Attach supporting data. List items and dollar amounts for each item.)*					
E. Materials and Supplies					
F. Travel					
1. Domestic *(Including Canada)*					
2. Foreign *(List destination and amount for each trip.)*					
G. Publication Costs/Page Charges					
H. Computer (ADPE) Costs					
I. All Other Direct Costs *(Attach supporting data. List items and dollar amounts. Details of subcontracts, including work statements and budget, should be explained in full in proposal.)*					
J. Total Direct Costs *(C through I)* ►					
K. Indirect Costs *(Specify rate(s) and base(s) for on/off campus activity. Where both are involved, identify itemized costs included in on/off campus bases.)*					
L. Total Direct and Indirect Costs *(J plus K)* ►					
M. Less Residual Funds *(If applicable)* ►					
N. TOTAL AMOUNT of this REQUEST *(L minus M)* ►				$	$
O. COST SHARING ►			$		

NOTE: Signatures required only for Revised Budget — *This is Revision No.* ►

NAME AND TITLE (type or print)	SIGNATURE	DATE
PRINCIPAL INVESTIGATOR/PROJECT DIRECTOR		
AUTHORIZED ORGANIZATIONAL REPRESENTATIVE		

Form SEA-55 (Oct 79) Previous edition is obsolete. USDA-SEA

[FR Doc. 80-9860 Filed 3-31-80; 8:45 am]
BILLING CODE 3410-22-C

Reader Aids

Federal Register
Vol. 45, No. 64
Tuesday, April 1, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, APRIL

21199-21606.....1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

TABLE OF EFFECTIVE DATES AND TIME PERIODS—APRIL 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
April 1	April 16	May 1	May 16	June 2	June 30
April 2	April 17	May 2	May 19	June 2	July 1
April 3	April 18	May 5	May 19	June 2	July 2
April 4	April 21	May 5	May 19	June 3	July 3
April 7	April 22	May 7	May 22	June 6	July 7
April 8	April 23	May 8	May 23	June 9	July 7
April 9	April 24	May 9	May 27	June 9	July 8
April 10	April 25	May 12	May 27	June 9	July 9
April 11	April 28	May 12	May 27	June 10	July 10
April 14	April 29	May 14	May 29	June 13	July 14
April 15	April 30	May 15	May 30	June 16	July 14
April 16	May 1	May 16	June 2	June 16	July 15
April 17	May 2	May 19	June 2	June 16	July 16
April 18	May 5	May 19	June 2	June 17	July 17
April 21	May 6	May 21	June 5	June 20	July 21
April 22	May 7	May 22	June 6	June 23	July 21
April 23	May 8	May 23	June 9	June 23	July 22
April 24	May 9	May 27	June 9	June 23	July 23
April 25	May 12	May 27	June 9	June 24	July 24
April 28	May 13	May 28	June 12	June 27	July 28
April 29	May 14	May 29	June 13	June 30	July 28
April 30	May 15	May 30	June 16	June 30	July 29

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
4	6.50
6	3.75
9 Parts:	
1-199	7.00
13	7.00
14 Parts:	
1200-end	6.00
16 Parts:	
0-149	7.00
150-999	6.00
CFR Index	8.50

CFR Unit (Rev. as of Apr. 1, 1979):

17	12.00
18 Parts:	
0-149	6.50
150-end	7.00
19	7.50
20 Parts:	
1-399	5.50
400-499	7.00
500-end	6.50
21 Parts:	
1-99	5.50
100-199	7.50
200-299	4.00
300-499	7.00
500-599	7.00
600-1299	6.00
1300-end	4.25
1300-end—1308 Table	4.25
22	7.00
23	6.50
24 Parts:	
0-499	8.00
500-1699	7.50
1700-end	6.00
25	7.00
26 Parts:	
1 (§§ 1.0-1.169)	8.00
1 (§§ 1.170-1.300)	6.50
1 (§§ 1.301-1.400)	5.50
1 (§§ 1.401-1.500)	6.00
1 (§§ 1.501-1.640)	6.00
1 (§§ 1.641-1.850)	6.50
1 (§§ 1.851-1.1200)	7.50
1 (§§ 1.1201-end)	8.50
2-29	6.00
30-39	6.00
40-299	7.00
300-499	6.00
600-end	4.25
27	11.00

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0-499	8.00
500-1899	9.00
1900-1919	11.00
1920-end	7.50
30	13.00
31	8.50
32 Parts:	
1-39 (Vol. I)	8.50
1-39 (Vol. II)	11.00
1-39 (Vol. III)	8.50
40-399	8.50
400-699	8.50
700-799	7.50
800-999	7.50
1000-end	6.00
32A	5.50
33 Parts:	
1-199	8.50
200-end	7.00
36	7.00
37	5.50
38	9.00
39	6.00
40 Parts:	
0-49	6.50
50-59	12.00
60-80	6.50
81-99	7.00
100-399	8.00
400-end	12.00
41 Chapters:	
1-2	9.00
3-6	7.50
7	4.00
8	4.00
9	7.00
10-17	6.50
18 (Pts. 1-52 SUPP.)	3.00
19-100	6.00
101-end	12.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1-399	8.00
400-end	8.00
43 Parts:	
1-999	5.50
1000-end	9.00
45 Parts:	
1-99	6.50
100-149	7.00
150-199	7.00
200-499	5.00
500-1199	7.00
1200-end	6.50
46 Parts:	
1-29	4.25
30-40	4.50
41-69	6.50
70-89	4.75
90-109	4.75
110-139	4.25
140-155	5.50
156-165	5.50
166-199	5.25
200-end	8.50
47 Parts:	
0-19	6.50
20-69	8.00
70-79	7.00
48 [Reserved]	
49 Parts:	
1-99	4.75
100-177	7.00
178-199	7.00
200-399	7.00
400-999	7.00
1000-1199	7.00
1200-1299	9.00
1300-end	6.00

PROJECTED 1980 CFR ISSUANCES

First and Second Quarter

This list is a reader aid being introduced in this **Federal Register** issue. It projects the Office of the Federal Register's publication plans for issuing CFR volumes during the first two quarters of 1980. A projected schedule for the third quarter (July—Titles 28 through 41) will appear in the July 1, 1980 **Federal Register** immediately after the CFR Checklist.

The list has been developed in response to numerous requests from CFR subscribers and other members of the public for a pre-publication schedule that would indicate the planned content and revision date for each CFR volume being issued by the OFR. The listing will assist persons interested in ordering specific CFR volumes, or who need to know when volumes will be revised.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16 — January 1
Titles 17–27 — April 1
Titles 28–41 — July 1
Titles 42–50 — October 1

With the exception of Title 11—Federal Elections, whose revision date has been postponed until April 1, 1980, in order to include major revisions published in March, all other CFR volumes are adhering to the regular schedule dates.

With two other exceptions, all volumes are completely revised and supersede any previous edition. The exceptions are Title 7 (Parts 2800–2851) and Title 21 (Parts 1300–end—1308 Table). There have been no further amendments published during the revision period and, therefore, a cover only will be issued for those volumes indicating that the last revised editions published January 1, 1978 and April 1, 1979, respectively, should be retained.

Since these are projected issuances, pricing information is not available at this time on all volumes. Individual announcements of the actual release of CFR volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR Checklist and the Annual Cumulative LSA will continue to provide a cumulative list of CFR volumes actually printed.

Titles to be revised as of January 1, 1980, unless otherwise noted:

Title
1–2
3 Compilation
4
5
6
7 Parts:
0–52
53–209
210–299
300–399
400–699
700–899
900–944
945–980
981–999
1000–1059
1060–1119
1120–1499
1500–1899
1900–2799
2800–2851 (Cover only)
2852
2853–end
8
9 Parts:
1–99
200–end
10 Parts:
0–199
200–499
500–end
11 (Revised as of April 1, 1980)
12 Parts:
1–199
200–299
300–end
13
14 Parts:
1–59
60–199
200–1199
1200–end
15
16 Parts:
0–149
150–999
1000–end
CFR Index

Titles to be revised as of April 1, 1980:

Title
17 Parts:
0–239
240–end
18 Parts:
1–149
150–end
19
20 Parts:
1–399
400–499
500–end
21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–end
1308 Table (Cover only)
22
23
24 Parts:
0–499
500–1699
1700–end
25
26 Parts:
1 (§§ 1.0–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.1200)
1 (§§ 1.1201–end)
2–29
30–39
40–299
300–499
500–599
600–end
27 Parts:
1–199
200–end

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration

OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL RESERVE SYSTEM

17924 3–19–80 / Reserves of member banks; marginal reserve requirements

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Government National Mortgage Association—

14026 3–4–80 / List of attorneys-in-fact; update

LABOR DEPARTMENT

Employment and Training Administration—

14180 3–4–80 / Housing for agricultural workers

14185 3–4–80 / Farm Labor Contractor Registration and housing for agricultural workers; cross reference updated

Pension and Welfare Benefit Programs Office—

14029 3–4–80 / Summary plan descriptions; reporting and disclosure regulations

VETERANS ADMINISTRATION

14045 3–4–80 / Construction contracts; amendments to provisions

List of Public Laws

Last Listing March 31, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2222 / Pub. L. 96–217 To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status. (Mar. 27, 1980; 94 Stat. 126) Price $1.00.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: April 18; May 2, 16, and 30; at 9 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235. Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

LOS ANGELES, CALIF.

WHEN: April 14, 15, and 16; at 9 a.m.
WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif.
RESERVATIONS: Call the Los Angeles Federal Information Center, 213–688–3800.

BOSTON, MASS.

WHEN: April 24; at 9 a.m.
WHERE: Room 2003A, John F. Kennedy Federal Bldg., Government Center, Boston, Mass. 02203.
WHEN: April 25; at 9 a.m.
WHERE: Room E226, Executive Dining Room, John F. Kennedy Federal Bldg., Government Center, Boston, Mass. 02203. (identical sessions).
RESERVATIONS: Call the Boston Federal Information Center, 617–223–7121.

NEW YORK, N.Y.

WHEN: April 28, 29, and 30; at 9 a.m. (identical sessions).
WHERE: Room 305A, 26 Federal Plaza, New York, N.Y. 10007.
RESERVATIONS: Call Dorothy Gemallo, 212–264–3514.

SALT LAKE CITY, UTAH

WHEN: May 19 and 20; at 9 a.m.
WHERE: Room 3421, Federal Bldg., 125 S. State St., Salt Lake City, Utah.
RESERVATIONS: Call Helen Ferderber, Salt Lake City Federal Information Center, 801–524–5353.

SEATTLE, WASH.

WHEN: May 23; at 9 a.m.
WHERE: North Auditorium, Federal Bldg., 915 2nd Avenue, Seattle, Wash.
RESERVATIONS: Call the Seattle Federal Information Center, 206–442–0570.

CHICAGO, ILL.

WHEN: May 28 and 29; at 9 a.m.
WHERE: Room 204A, Dirksen Federal Bldg.
RESERVATIONS: Call Ardean Merrifield, 312–353–0339.

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